The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1132

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Department of Transportation

DATE: March 20, 2013 REVISED: 3/21/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/7 amendments**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.			ATD	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes
B. AMENDMENTS........................ [ ] Technical amendments were recommended
[ ] Amendments were recommended
[ ] Significant amendments were recommended

I. Summary:

CS/SB 1132 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT or department) and various transportation issues. Among those revisions, the bill:

- extends the Florida Transportation Commission's oversight of expressway and bridge authorities to regional tollway authorities created under a new ch. 345, F.S., and repeals provisions relating to the Florida Statewide Passenger Rail Commission;
- requires local governments to adopt noise compatible land use planning regulations as soon as practical, but no later than July 1, and to share equally with FDOT in all costs associated with providing noise mitigation under specified conditions;
- establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminates the current decal program for vehicles powered by alternative fuels, and repeals the Local Alternative Fuel User Fee Clearing Trust Fund;
- revises criteria to be met by certain air carriers to qualify for an exemption from the aviation fuel tax and provides for terminal suppliers and wholesalers to receive a credit or apply for a refund of aviation fuel tax previously paid;

- provides funding for space transportation projects from the State Transportation Trust Fund (STTF);
- authorizes FDOT to fund up to 100 percent of the cost of strategic airport investment projects under specified conditions;
- prohibits FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements;
- amends the process FDOT must follow relating to proposals to enter into a lease of FDOT property for joint public-private development or commercial development;
- revises provisions relating to installation of bus benches or transit shelters within the right-of-way of the State Highway System (SHS);
- revises provisions relating to the uses of fees generated from certain tolls to include the design and construction of a fire station; revises provisions relating to the transfer of certain excess revenues; and removes authority of a water management district to issue bonds or notes;
- revises provisions relating to metropolitan planning organization (MPO) designation to conform language to federal law, provides a cap on the number of voting members of an MPO re-designated as specified, provides that certain authorities or agencies in metropolitan areas may be provided voting membership on the MPO, and makes editorial changes to eliminate redundancy and provide clarity;
- authorizes Enterprise Florida, Inc., to be a consultant to FDOT for consideration of expenditures associated with and contracts for transportation projects and revises the requirements for economic development transportation project contracts between FDOT and a governmental entity;
- includes projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank;
- expands eligibility of intercity bus companies to compete for federal and state program funding;
- revises the types of eligible projects and criteria of the Intermodal Development Program;
- expressly authorizes FDOT to undertake ancillary development within FDOT-owned rail corridors;
- creates the Florida Regional Tollway Authority Act authorizing counties to form a regional tollway authority that can construct, maintain, and operate transportation projects in a region of the state;
- creates the Northwest Florida Regional Tollway Authority, the Okaloosa-Bay Regional Tollway Authority; and the Suncoast Regional Tollway Authority;
- provides for the transfer of the governance and control of the Mid-Bay Bridge Authority System to the Okaloosa-Bay Regional Tollway Authority;
- repeals obsolete language and clarifies ambiguous language; and,
- provides an effective date.

This bill amends the following sections of the Florida Statutes: 20.23, 110.205, 206.86, 206.87, 206.879, 206.91, 206.9825, 212.055, 212.08, 316.530, 316.545, 331.360, 332.007, 334.044, 337.11, 337.14, 337.168, 337.251, 337.408, 338.161, 338.165, 338.26, 339.175, 339.2821, 339.55, 341.031, 341.053, 341.302, 343.82, and 343.922.

The bill repeals the following sections of the Florida Statutes: 206.877, 206.89, and 316.530(3).

The bill creates the following sections of the Florida Statutes: 163.3176, 206.9951, 206.9952, 206.9955, 206.996, 206.9965, 206.998, and chapter 345, consisting of the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, 345.0014, 345.0015, 345.0016, and 345.0017.

II. Present Situation:

Mid-Bay Bridge Authority

The 1986 Legislature created the Mid-Bay Bridge Authority (MBBA)[1] as the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating, and maintaining a bridge over the Choctawhatchee Bay. The MBBA operates the tolled, 3.6-mile long Mid-Bay Bridge across the Choctawhatchee Bay and approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. 98 east of Destin, is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton Counties.[2]

FDOT, under the provisions of a lease-purchase agreement with the MBBA, maintains and operates the existing bridge and remits all of the tolls collected to the authority as lease payments. The term of the lease runs concurrently with the bonds issued by the MBBA, and when the bonds are matured and fully paid, FDOT will own the bridge. As of June 30, 2012, the MBBA's long-term debt obligation to FDOT for operations and maintenance pursuant to the existing agreement was $9.5 million. In accordance with bond covenants, this liability is payable from excess toll revenues, after debt service obligations have been met.

The Florida Turnpike Enterprise provides toll plaza operations for the MBBA. For the fiscal year ending September 2012, toll revenues amounted to $15,765,967. Earned investment income from Revenue and Reserve Funds of $1,395,789, plus $30,886 from SunPass collections, raised total revenue to $17,192,642.[3] Unlike other regional transportation, expressway, and bridge authorities, however, Florida law reflects no state entity currently charged with monitoring the efficiency, productivity, and management of the MBBA.

Overlapping Responsibility for Passenger Rail Systems

Florida Transportation Commission
The Florida Transportation Commission (FTC) has long been charged with periodically reviewing the status of the state transportation system, including rail and other component modes, and with recommending improvements to the system to the Governor and the Legislature. Beginning in 2007, the Legislature also directed the FTC in s. 20.23(2)(b)8., F.S., to:

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[1] Re-created by special act, ch. 2000-411.
[2] Senate Issue Brief 2012-208, *Cost Effectiveness of Regional Expressway and Bridge Authorities,* (September 2011).
[3] *Traffic Engineers' Annual Report for Fiscal Year 2012,* prepared by URS for Mid-Bay Bridge Authority: http://www.mid-bay.com/pdfs/FY2012-Annual-Report.pdf. Retrieved February 23, 2013.

> Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349,[4] including any authority formed using the provisions of part I of chapter 348 and any authority formed under chapter 343 which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

The only publicly funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in ch. 343, F.S.

Florida Statewide Passenger Rail Commission
In 2009, the Florida Legislature provided a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network.[5] The Legislature created the Florida Rail Enterprise, modeled after the Florida Turnpike Enterprise, to coordinate the development and operation of passenger rail services statewide, and established the FSPRC to monitor, advise, and review publicly-funded passenger rail systems.[6]

Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC in s. 20.23(3)(b)1., F.S., with the function of:

> Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

State Public Transportation and Modal Administrator

FDOT recognizes a significant role played by freight mobility as an economic driver for the state and created in the recent past an Office of Freight, Logistics, and Passenger Operations, and the

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[4] Chapter 343 entities include the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348 entities include the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349 establishes the Jacksonville Transportation Authority.
[5] Chapter 2011-271, L.O.F.
[6] The first phase (31 miles) of a commuter rail project, SunRail, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

2012 Legislature directed FDOT to develop a Freight Mobility and Trade Plan to assist in making freight mobility investments that contribute to the economic growth of the state.[7] As part of its focus on freight and intermodal issues, FDOT requested approval from the Department of Management Services (DMS) to change the title of an existing Senior Management Service class position, State Public Transportation and Modal Administrator, to State Freight and Logistics Administrator. DMS approved the requested change on September 2, 2011, but current law does not reflect the title change.[8]

Noise Abatement/Highway Projects

Section 335.17, F.S., requires FDOT to develop all highway projects, regardless of funding source, in conformity with the federal standards for noise abatement contained in 23 C.F.R. 772 as such regulations existed on July 13, 2011. FDOT is directed to make use of noise-control methods as part of highway construction projects involving new location or capacity expansion, with particular emphasis on those highways located in or near urban-residential developments that abut such highway rights-of-way. At a minimum, FDOT must comply with federal requirements for analysis of traffic noise impacts and abatement measures, noise abatement, information for local officials, traffic noise prediction, and construction noise.

Noise barriers are a significant additional cost for highway widening and other capacity improvement projects. FDOT advises that the average cost for one mile of noise barrier – based on a 16' high barrier at an average cost per square foot of $30 – is $2.53 million for one side of the road, or $5.07 million for both sides. FDOT is required to provide project noise study information to local governments per current law to assist local officials and private developers in promoting compatibility between land development and highways. FDOT asserts, however, that the information historically has not been used by local governments in the development of land use plans.

Going forward, FDOT advises that noise abatement will be required for most turnpike and several interstate widening projects unless subdivisions adjacent to these limited-access facilities are planned, permitted, and constructed considering land use controls to minimize the effects of noise from highway traffic.

Natural Gas

Due to increased domestic exploration and production, the supply of natural gas in the U.S. and in Florida is expanding. Expanded supply translates into a significant reduction in fuel costs and increased potential for recognized environmental benefits for both the private and public sector. The discussion surrounding the expansion of the use of natural gas as a motor fuel is in part a "chicken v. egg" dilemma*, i.e.,* which needs to come first: vehicles powered by natural gas, or natural gas refueling infrastructure? Spurred by the benefits of the use of natural gas, the discussion often focuses on the conversion of truck fleets to the use of natural gas and the corresponding, dependent need for natural gas refueling infrastructure.

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[7] Chapter 2012-174, L.O.F.
[8] Section 110.205(2)(j), F.S.

The inherent benefits of natural gas, federal incentives, and favorable treatment of alternative fuel under current state law already appear to be having an impact on the supply of both refueling stations and natural gas powered vehicles. For example, one dealership reports selling as many natural gas vehicles in 2012 than it did in the previous two years combined.[9] According to Transport Topics magazine, LNG and CNG are increasingly found at more fuel islands at truck stops and travel plazas, and in June of last year, Shell Oil Co. announced plans to build more than 200 LNG lanes at approximately 100 locations throughout the country.[10] Similar evidence is found in Florida, where a Tampa-based beer distributor recently ordered 43 CNG tractors with plans to replace its entire 95-unit fleet within the next 36 months, in what is called "one of the first fair market value leases for a CNG vehicle in the United States."[11]

Benefits of Natural Gas

When compared using equivalent units of measure, natural gas is less expensive than gasoline or diesel. In the U.S. Department of Energy's Clean Cities Alternative Fuel Price Report for October 2012, the average price for gasoline in the Lower Atlantic states was $3.66, $3.96 for diesel, and $2.07 for a gasoline gallon equivalent of compressed natural gas (CNG). Natural gas, in this case, CNG,[12] is clearly cheaper than diesel or gasoline. The savings in fuel costs are, of course, offset to a degree by the incremental cost of a natural gas vehicle over a gasoline or diesel-powered vehicle.

Due to the substantially higher fuel usage and the larger fuel price differential associated with CNG-powered fleet trucks, the recovery of the incremental cost is substantially more rapid than for standard passenger vehicles. In a study prepared for the Florida Natural Gas Vehicle Coalition (FNGVC),[13] the incremental cost of a standard passenger vehicle powered by CNG, compared to a standard passenger vehicle powered by gasoline, ranges from $7,000 to $18,500.[14] Assuming each passenger vehicle consumes 531 gallons per year, and applying a gas-CNG price difference of $1.74, the payback period ranges from 7.6 years to 20 years.[15]

In contrast, the incremental cost of a truck powered by CNG over a diesel-powered truck is $76,100.[16] Assuming each vehicle consumes 11,706 gallons per year and assuming a price difference of $1.91, the payback period for conversion of a diesel-powered truck to a CNG-powered truck is only 3.4 years,[17] long before the expected useful life of a fleet truck expires. Further, reduced engine wear and extended service intervals also reduce maintenance costs for

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[9] JSOnline website: http://www.jsonline.com/business/more-fleets-turning-to-compressed-natural-gas-bq8gtko-188512051.html. Retrieved February 18, 2013.

[10] Transport Topics, *Truck Stops Expanding Purchase Options at Fuel Islands to Speed Driver Transactions*, February 4, 2013, p.12.

[11] Market Watch, The Wall Street Journal online: http://www.tampabay.com/news/business/energy/trucks-fueled-by-natural-gas-are-on-a-roll-in-florida/1275519. Retrieved February 18, 2013.

[12] Cost factors, in general, may be different for liquefied natural gas (LNG) vehicles. See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.

[13] Fishkind & Associates*, Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012.

[14] Id. at 17-18.

[15] Id.

[16] Id.

[17] Id.

CNG-powered vehicles.[18] Thus, so long as the cost of natural gas remains low, as is expected, the cost savings on fuel can more than offset and outweigh the added price paid for the purchase of CNG vehicles, prior to the application of any government incentives.

In addition, well-recognized environmental benefits are associated with the use of natural gas.

> "Natural gas, as the cleanest of the fossil fuels, can be used in many ways to help reduce emissions of pollutants into the atmosphere. Burning natural gas in the place of other fossil fuels emits fewer harmful pollutants, and an increased reliance on natural gas can potentially reduce the emission of many of these most harmful pollutants.
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> "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues. These issues include:
>
> - Greenhouse Gas Emissions
> - Smog, Air Quality and Acid Rain
> - Industrial and Electric Generation Emissions
> - Pollution from the Transportation Sector – Natural Gas Vehicles"[19]

The FNGVC highlights the following benefits associated with the use of natural gas for fleet trucks:

- Natural gas vehicles can save a company 30 – 50 percent of its fuel costs.
- Central fuel and maintenance make fleets highly conductive to CNG fueling infrastructure.
- While it is true that Florida currently has relatively few natural gas fueling stations in place, several companies offer no-cost or low-cost options for construction and maintenance of such infrastructure.
- Maintenance on a natural gas vehicle is no more problematic and often easier than traditional diesel trucks. Mechanics can be trained quickly and easily for this purpose.
- The cost of converting to CNG is decreasing. In addition, such costs are offset by savings in direct fuel costs and possible financial incentives for the purchase of natural gas vehicles.20

The FNGVC study recommends resolving the chicken vs. egg dilemma by providing incentives to convert to CNG-powered truck fleets, thereby creating a demand for the re-fueling stations and producing significant stimulation of Florida's economy. In a February 7, 2013, memo[21] by the FNGVC, discussing an update of the 2012 study, the coalition indicates that "…new research reflects a dramatic increase in the positive economic impact of an incentive program targeted toward commercial fleets in one quarter of the previously calculated time: over 20,000 new jobs, $715 million in new wages, and $2.5 billion in economic output – all over a 5-year period rather

[18] See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.
[19] Naturalgas.org website: http://www.naturalgas.org/environment/naturalgas.asp. Retrieved February 15, 2013.
[20] FNGVC website: http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf. Retrieved February 15, 2013.
[21] On file with the Senate Transportation Committee.

than a 20-year period."[22] (The scenario assumed a $12 million per year incentive for 5 years with $30,000 for large trucks and $15,000 for small trucks.)

Existing Federal Incentives for Alternative Fuel under Federal Law
Research reveals existing federal incentives and laws related to natural gas.[23] Among the incentives and laws are the:

- Alternative Fuel Infrastructure Tax Credit - Fueling equipment for natural gas as defined in the bill and installed between January 1, 2006, and December 31, 2013, is eligible for a tax credit of 30 percent of the cost, not to exceed $30,000. If qualified equipment in installed at multiple sites, the fuel station owner may apply the $30,000 credit towards each location.24 Unused credits that qualify as general business tax credits, as defined by the Internal Revenue Service (IRS), may be carried backward one year and carried forward 20 years.
- Alternative Fuel Excise Tax Credit - A tax incentive is available for alternative fuel that is sold for use or used as a fuel to operate a motor vehicle. A tax credit in the amount of $0.50 per gallon is available for sale of alternative fuels as defined in the bill. For an entity to be eligible to claim the credit they must be liable for reporting and paying the federal excise tax on the sale or use of the fuel in a motor vehicle. Tax exempt entities such as state and local governments that dispense qualified fuel from an on-site fueling station for use in vehicles qualify for the incentive. Eligible entities must be registered with the Internal Revenue Service (IRS). The incentive must first be taken as a credit against the entity's alternative fuel tax liability; any excess over this fuel tax liability may be claimed as a direct payment from the IRS. This tax credit is applicable to fuel sold or used between January 1, 2005, and December 31, 2013.25
- Tax credit for purchase of alternative fuel vehicles - Federal law at one time also provided for an income tax credit for the purchase of a new, dedicated alternative fuel vehicle of 50 percent of the incremental cost of the vehicle. An additional 30 percent was allowed if the vehicle met certain tighter emission standards. Ranging from $2,500 to $32,000 depending on the size of the vehicle, the credit was effective after December 31, 2005, and expired on December 31, 2010. Congress did not extend the credit, but it did enact a new bonus depreciation provision that allowed companies to expense 100 percent of the cost of new capital equipment. The 100 percent depreciation level applied to equipment placed in service

[22] Certain assumptions in the original study appear to raise questions. For example, the original study on page 25 cites a 1.6 increase in "construction and ongoing clean fuel technology jobs for every truck provided as part of an alternative fuel network. The clean fuel technology jobs are related to vehicles (production, training, service, and operation), stations (construction, maintenance, and ongoing operation), facilities (upgrades of maintenance facilities for CNG as required by code), and exploration and production (gas demand met by local production)." However, this figure is based not just on operation of the vehicle, but on manufacturing of the truck, development of the fuel network (including temporary construction jobs), and exploration and production. Given that manufacture of natural gas-powered vehicles and exploration or production of natural gas has no significant presence in Florida, it is unclear whether the projected economic impacts will be realized within the State of Florida.
[23] U.S. Department of Energy: http://www.afdc.energy.gov/laws/laws/US/tech/3253. Retrieved February 17, 2013.
[24] A tax credit of up to $1,000 is also available to consumers who purchased qualified residential fueling equipment prior to December 31, 2013.
[25] Fishkind notes that the "fuel-excise tax credit has been one of the most successful programs in terms of driving large deployments of natural gas trucks. In addition, unlike grant funding, the value of a federal tax credit is not considered taxable income to a private entity. It is therefore equivalent to a cash rebate, or grant funding at 100% of the value. When the Federal Tax Credits are combined, expedited payback periods of less than two years can be realized on the incremental investment required for a natural gas truck." Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012, pp. 23-24.

after September 8, 2010, through 2011. For 2012 and through 2013, the bonus depreciation level is at 50 percent.26

Current State Taxation of Gasoline, Diesel, and Alternative Fuel

Motor Fuel

Section 206.41(1)(a), F.S., currently imposes an excise or license tax of 2 cents upon each net gallon of specified motor fuel,[27] designated as the "constitutional gas tax." Section 206.41(1), also imposes on each net gallon of motor fuel an additional 1 cent, designated as the "county fuel tax;" an additional 1 cent, designated as the "municipal fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (f); and an additional tax, designated as the "fuel sales tax," at a rate determined as specified in paragraph (g). An additional tax of 1 cent per net gallon may be imposed by each county, designated as the "ninth-cent fuel tax," as well as an additional tax of between 1 and 11 cents per net gallon, designated as the "local option fuel tax." The SCETS tax rate on motor fuel for 2013 is 5.9 cents and the fuel sales tax rate on motor fuel for 2013 is 12.9 cents.[28]

Diesel Fuel

Section 206.87(1)(a), F.S., currently imposes an excise tax of 4 cents upon each net gallon of specified diesel fuel,[29] except for alternative fuels, which are subject to the fee imposed by s. 206.877, F.S. Section 206.87(1), F.S., also imposes on each net gallon of diesel fuel subject to the tax, an additional 1 cent tax known as the "ninth-cent fuel tax;" an additional 6 cents tax known as the "local option fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate specified in paragraph (d); and an additional "fuel sales tax," at a rate determined as specified in paragraph (e). The SCETS Tax rate on diesel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.[30]

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by ch. 212, F.S.

With reference to the SCETS tax, note that s. 206.608, F.S., after deduction of the specified service charge and administrative costs, requires that 99.35 percent of the proceeds of the SCETS tax levied on *motor fuel* be transferred to State Transportation Trust Fund (STTF),[31] and *all of the proceeds from the SCETS tax on diesel fuel* be transferred to the STTF. These funds may be used only for transportation projects in the adopted work program in the Florida Department of

[26] NGVAmerica, citing Pub. L. no. 111-312 (2010) and Pub. L. no. 112-240 (2012): http://ngvamerica.org/incentives/federalTax.html. Retrieved February 17, 2013.
[27] Section 206.01(9), F.S., defines "motor fuel" or "fuel" to mean "all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle."
[28] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, 2013 *Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.
[29] Section 206.86(1), F.S., defines "diesel fuel" to mean "all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle."
[30] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, 2013 *Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.
[31] The Agricultural Emergency Eradication Trust Fund receives 0.35 percent of the proceeds of the SCETS tax on motor fuel.

Transportation (FDOT) district in which the tax proceeds are collected and, to the maximum extent feasible, shall be programmed for use in the county where collected.

Alternative Fuel

Section 206.86(4), F.S., currently defines "alternative fuel" to mean "any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance." The term includes any form of liquefied petroleum gas (*i.e.*, natural gas, butane gas, propane gas) or compressed natural gas. Section 206.86(5), F.S., currently defines "natural gasoline" as "a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.

Section 206.877, F.S., requires owners or operators of motor vehicles licensed in this state which are powered by alternative fuels to pay, in lieu of the 4 cents per gallon excise tax on diesel fuel, an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph. The taxes imposed on diesel fuel under s. 206.87, F.S., apply to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles that do not have the proper decal. In addition, the sale of alternative fuel is generally subject to sales tax imposed under ch. 212, F.S.[32]

A person fueling vehicles from his or her own facilities must, in addition, pay a local alternative fuel fee in lieu of each cent of excise tax levied by a county under s. 206.87(1)(b) and (c), F.S. Those who do not operate their own fueling facilities must pay the appropriate local fee for the particular county where the vehicles are predominantly used.

Generally, the Department of Revenue (DOR) issues an annual decal to be attached to the upper right corner of the front windshield on the motor vehicle for which the decal is issued, and it is unlawful to operate a vehicle that is required to have a decal unless the vehicle is titled outside the state. Each sale of alternative fuel placed in a motor vehicle displaying a decal must be documented on an invoice that includes the decal number, the motor vehicle license number, and the number of gallons placed into the motor vehicle. Any person who puts or causes to be put liquefied petroleum gas or compressed natural gas into a motor vehicle required to have a decal is guilty of a first degree misdemeanor unless the vehicle has the required attached decal. A state or local governmental agency is not required to obtain a decal and pay the annual decal fee for motor vehicles powered by alternative fuel and operated by the state or local governmental agency.

Section 206.89, F.S., provides that a person may not act as a retailer of alternative fuel unless he or she holds a valid retailer of alternative fuel license issued by DOR, and any person acting as such who does not hold a license must pay a penalty of 25 percent of the tax assessed on the total purchases. A filing fee of $5 is required at the time of filing an application for a license. Terminal suppliers, importers, and wholesalers must also provide a specified bond that must be filed with DOR to ensure payment to the state of the amount of tax, any penalties, and interest. Every person who operates as a retailer of alternative fuel, except those licensed under ch. 206,

[32] Fla. Admin. Code R. 12A-1.059.

F.S., including without limitation a state agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., are deposited into the State Alternative Fuel User Fee Clearing Trust Fund, and the revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are deposited into the Local Alternative Fuel User Fee Clearing Trust Fund, as provided in s. 206.879, F.S. After deducting the specified service charge, the proceeds from state alternative fuel fees are distributed as follows:

- one-half of the proceeds to the State Transportation Trust Fund (STTF);
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with Article XII, Section (9)(c), of the Florida Constitution (first call on the proceeds is to meet debt service requirements, if any, on local bond issues backed by the tax proceeds with the balance credited to the counties' transportation trust funds);
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities (distributed in accordance with criteria contained in ch. 218, F.S.); and
- the remaining 25 percent distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).

The revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are to be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds are returned monthly to the appropriate county.

Annual distributions to the STTF from the State Alternative Fuel User Fee Clearing Trust Fund reported by the Florida Department of Transportation for the current year and the previous 10 fiscal years are as shown below, suggesting an upward trend in the sale of alternative fuel decals in the more recent past.

Alt. Fuel Tax to STTF	
2003	$124,567.28
2004	$141,906.37
2005	$115,870.65
2006	$168,235.78
2007	$ 77,635.60
2008	$ 49,039.66
2009	$ 39,480.07
2010	$ 33,758.92
2011	$ 32,915.48
2012	$ 42,045.66
2013	$ 54,217.96

Aviation Fuel Tax Refunds

Section 206.9825(1), F.S., imposes an excise tax of 6.9 cents per gallon for every gallon of aviation fuel sold in this state or brought into this state for use. Any wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that

increases its Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions after January 1, 1996, is authorized to receive a credit or refund of the 6.9 cents per gallon, if the carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. If the number of full-time equivalent employees created or added to the air carrier's Florida workforce falls below 250 before July 1, 2001, the exemption does not apply during the period in which the carrier has fewer than the 250 additional employees.

Because the current language is tied to job creation for the five years after January 1, 1996, an air carrier that actually has been reducing its workforce since then could qualify for a refund because it employed more workers than it did before January 1, 1996, in numbers still sufficient to meet the thresholds. For five distributions during the current fiscal year, FDOT advises the aviation refund dollar amounts were higher than the incoming revenues and that the Department of Revenue (DOR) was forced to offset the aviation fuel tax refund from other tax sources, such as the motor fuel tax.

FDOT notes that through April 2012 distributions, most STTF tax sources are within a reasonable margin of error as compared to the estimate, but that aviation fuel tax deposited into the STTF is below the estimate by 51.5 percent.

Wrecker Permits/Disabled Vehicles

Current s. 316.515(8), F.S., allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over legal weight, provided that the wrecker is operating under a special use permit. This provision was passed during the 1997 session. During the same session, s. 316.550(5), F.S., was passed to authorize FDOT to issue such overweight permits.[33] However, s. 316.530(3), F.S., (originally passed as s. 316.205(3) in 1976) which allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, was inadvertently overlooked and still remains in current law, despite the direct conflict with subsequently passed legislation.

As the 1997 changes rendered the provisions of s. 316.530(3), F.S., obsolete, the last-passed provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have since that time been enforced.

Commercial Motor Vehicles/Auxiliary Power Units

Section 756 of the Energy Policy Act of 2005, "Idle Reduction and Energy Conservation Deployment Program," amended 23 U.S.C. 127(a)(12) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology ("auxiliary power units" or "APUs")[34] on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created by the 2010 Legislature to provide for a 400-pound

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[33] These changes are consistent with federal law, specifically 23 U.S.C. 127(a) and 23 C.F.R. 658.17, which authorize states to permit nondivisible loads and vehicles (defined to include emergency response vehicles) exceeding maximum weight limits upon the issuance of special permits in accordance with state law.

[34] An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during resting periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants, as well as noise).

reduction in the gross weight of commercial motor vehicles equipped with idling reduction technology when calculating a penalty for exceeding maximum weight limits. The reauthorized Federal-aid highway program, Moving Ahead for Progress in the 21st Century (MAP-21) further amended 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight of APUs.

Space Transportation Facilities

FDOT and Space Florida are currently authorized to enter into a joint participation agreement to effectuate the provisions of ch. 331, F.S., and FDOT is authorized to allocate funds for such purposes in its five-year work program. FDOT is prohibited from funding the administrative or operational costs of Space Florida.

Space Florida is required to develop a spaceport master plan for expansion and modernization of space transportation facilities within defined spaceport territories, containing recommended projects, and is required to submit the plan to FDOT; and FDOT may include the plan within FDOT's five-year work program of qualifying aerospace discretionary capacity improvement projects. FDOT is authorized to participate in the capital cost of eligible spaceport discretionary capacity improvement projects, subject to the availability of appropriated funds. The plan is required to identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF. FDOT's annual LBR must be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.[35]

FDOT advises it programmed $16 million in spaceport projects in both FY 2011-2012 and 2012-2013. FDOT further advises its Tentative Work Program for Fiscal Years 2014-2018 will be submitted to the Governor, the Legislature, the FTC and the Department of Economic Opportunity (DEO) on February 19, 2013, and will reflect a minimum of $20 million a year for 5 years for Space Florida transportation projects.[36]

State Aviation Program

Section 332.007, F.S., requires FDOT to prepare and continuously update an aviation and airport work program that separately identifies development projects and discretionary capacity improvement projects. Subject to the availability of appropriated funds, FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects,[37] unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. FDOT is also authorized, subject to the availability of appropriated funds in addition to aviation fuel tax revenues, to participate in the capital cost of eligible public

[35] "Spaceport discretionary capacity improvement projects" is defined in s. 331.303(21), F.S., to mean capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.
[36] FDOT email, February 7, 2013, on file in the Senate Transportation Committee.
[37] In short, defined in s. 332.004(4), F.S., as "…any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof…."

airport and aviation discretionary capacity improvement projects,[38] again at percentage rates that vary. FDOT notes the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that FDOT does not have a similar investment initiative or authority for the Aviation Program.

Toll Authorities/Lease-Purchase Agreements

In addition to FDOT, various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of FDOT), most, but not all, of the toll authorities are established under ch. 348, F.S., entitled "Expressway and Bridge Authorities." Various sections of ch. 348, F.S., provide the toll authorities the ability to enter into lease-purchase agreements with FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities are authorized under ch. 343, F.S., to enter into lease-purchase agreements with FDOT, and a bridge authority established by special act of the Legislature is similarly authorized. FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows FDOT to lend or pay a portion of the operation and maintenance (O&M) and capital costs of any revenue-producing transportation project located on the SHS or that is demonstrated to relieve traffic congestion on the SHS. FDOT pays such costs using funds from the STTF.

In a typical lease-purchase agreement between FDOT and a toll authority, FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or R&R) costs of the associated toll facility. Upon completion of the lease-purchase agreement, ownership of the facility would be transferred to the State and FDOT would retain all revenues collected, as well as the O&M responsibility.

As required by existing agreements, FDOT paid $9.2 million in O&M expenses in FY 2011-2012 and an additional $32.8 million in R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. These funds accrue to an authority's long-term debt owed to FDOT. When O&M and R&R expenses are not reimbursed by the toll authority on a current basis, *e.g.*, monthly or annually, the STTF monetary advances are added to the authority's long-term debt due to FDOT. As of June 30, 2012, debt owed to FDOT from various toll authorities for expenses paid totaled approximately $419.7 million.

Vehicle Registration/FDOT Contractors

Section 320.02(1), F.S., provides that every owner or person in charge of a motor vehicle operated or driven on the roads of this state shall register the vehicle in this state, except as otherwise provided. Section 320.37, F.S., provides that the registration requirement (and license plate display requirements) does not apply to a motor vehicle owned by a nonresident if the nonresident has complied with the registration law of the foreign country, state, territory, or federal district of the owner's residence. However, s. 320.38, F.S., provides that if a nonresident

[38] Defined in s. 332.004(5), F.S., as "…capacity improvements … which enhance intercontinental capacity at [specified] airports…."

accepts employment or engages in any trade, profession, or occupation in this state, the nonresident must register his or her motor vehicle in this state within 10 days after beginning such employment.

Section 337.11(13), F.S., requires each road or bridge construction or maintenance contract let by FDOT to contain a provision requiring the contractor to provide proof to FDOT, in the form of a notarized affidavit from the contractor, that all motor vehicles that he or she operates or causes to be operated in this state are registered in compliance with ch. 320, F.S.

Transportation Projects/Prequalification/Bidding

Section 337.14(1), F.S., requires that persons "…desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified…." Section 337.14(2), F.S., provides: "Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than $250,000." The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "…with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."

This language could be interpreted as being tied to a bid amount, *i.e.*, so long as the *bid* is not in excess of $250,000, a person would not be required to first be certified prior to bidding. FDOT's bid solicitation notices, however, currently advise: "A prequalified contractor must have a current certificate of qualification in accordance with Rule Chapter 14-22, F.A.C., on the date of the letting to bid on construction projects over $250,000 as established by the Department's budget." Consequently, persons seeking to bid on construction contracts in excess of $250,000 are currently required to be qualified on the date of the letting.

For comparison, revisions to s. 337.14(1), F.S., during the last legislative session with respect to financial statements submitted in connection with the performance of construction contracts of less than $1 million expressly tied that submission to proposed budget estimates, rather than to the bid amount.

Public Records/Identities of Potential Bidders

Section 337.168(2), F.S., currently provides that a document revealing the identity of persons who have requested or obtained bid packages, plans, or specifications pertaining to any project to be let by the department is confidential and exempt from the provisions of s. 119.07(1) for the period which begins 2 working days prior to the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. FDOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.[39] In accordance with s. 337.168(2), F.S., FDOT's Central Office takes the lists down two working days prior to the deadline for obtaining bid packages, plans, or specifications. However,

[39] http://www.dot.state.fl.us/cc-admin/Letting_Project_Info.shtm: Retrieved March 1, 2013. To access a list, click on a letting date in the near future under "2013 Lettings" and then choose "Proposal Holders" under "Important Letting Documents."

the lists include the identity of persons who requested or obtained bid packages, plans, or specifications *before* the 2-day period of exemption begins.

The Florida Transportation Builders' Association advises that small contractors need and rely on access to the identities of potential bidders that are not made exempt under s. 337.168(2), F.S., for the purpose of submitting sub-contract bids to general contractors for their use in preparing bids for FDOT projects.

Unsolicited Lease Proposals

Section 337.251, F.S., *Lease of property for joint public-private development and areas above or below department property,* authorizes FDOT to request proposals for the lease of FDOT property for joint public-private development or commercial development. FDOT may also receive and consider unsolicited proposals for such uses. If FDOT receives an unsolicited proposal to negotiate a lease, FDOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. FDOT must also mail a copy of the notice to each local government in the affected area.

Any unsolicited lease proposal must be selected based on competitive bidding, and FDOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of FDOT by the lessee in lieu of direct revenue to FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, FDOT must determine that the property subject to the lease has a permanent transportation use related to FDOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses, and is therefore not available for sale as surplus property.

Section 334.30, F.S., *Public-private transportation facilities*, authorizes FDOT to lease certain toll facilities through public-private partnerships and also authorizes FDOT to receive unsolicited proposals. That section directs FDOT to establish by rule an application fee sufficient to pay the costs of evaluating a proposal. FDOT is further authorized to engage the services of private consultants to assist in the evaluation.

Unlike s. 337.251, F.S., before approving a proposal, FDOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the SHS; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by FDOT; would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by FDOT upon completion or termination of the agreement.[40] In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

[40] The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

If FDOT receives an unsolicited proposal for a lease through a public-private partnership, FDOT must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for two weeks stating that FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. FDOT must also mail a copy of the notice to each local government in the affected area.

Facilities in the Right-of-Way

Section 337.408, F.S., authorizes cities and counties to authorize the installation of bus benches and transit shelters for the comfort and convenience of the general public, or at designated stops on official bus routes. This authority includes installation within the right-of-way limits of any state road except a limited-access highway. FDOT was previously authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property were endangered or deemed a roadway safety hazard. After FDOT settled a lawsuit against it for failure of such installations to comply with the Americans with Disabilities Act (ADA), the 2012 Legislature amended the law to provide that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities and counties that authorize or have authorized a bench or transit shelter to be installed within the right of way limits of any road on the SHS are responsible for ensuring that the bench or transit shelter complies with all applicable laws and rules, including the ADA, or shall remove the bench or transit shelter. FDOT has no liability for any claims, losses, costs, charges, expenses, damages, liabilities, attorney fees, or court costs relating to the installation, removal, or relocation of any benches or transit shelters authorized by a municipality or county.

A municipality or county that authorizes a bench or transit shelter to be installed within the right-of-way limits of any road on the SHS must require the qualified private supplier, or any other person under contract to install the bench or transit shelter, to indemnify, defend, and hold harmless FDOT in a notarized signed statement that this requirement has been met.

Municipalities and counties that have authorized the installation of benches or transit shelters within the right-of-way limits of any road on the SHS must remove or relocate, or cause the removal or relocation of, the installation at no cost to FDOT, within 60 days after written notice that the installation is unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion of the SHS road.

Toll Collection/Interoperable Facilities

During the 2012 Legislative Session, the Legislature passed both HB 599 and SB 1998, and both contained language relating to FDOT authority to enter into agreements with public or private transportation facility owners (whose systems become interoperable with FDOT's systems) for the use of FDOT systems to collect and enforce for the owner tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner's facility. The language, however, is not identical. Part of the last-passed version of the language contained in HB 599 is potentially ambiguous, leading to more than one possible interpretation, and part of needed language that passed in HB 599 was not included in SB 1998. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Beeline-East Expressway and Navarre Bridge

Section 338.165(4), F.S., authorizes FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in FDOT's adopted work program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.41 The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Alligator Alley Excess Revenues

Section 338.26, F.S., provides that any excess revenues from Alligator Alley, after facility operation and maintenance, contractual obligations, reconstruction and restoration, and the development and operation of a fire station at mile marker 63,[42] *may* be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

FDOT advises that operation of the fire station is expected to begin in Fiscal year 2014; and the FDOT finance plan, based on projections provided to FDOT, contains the following funding for operation of the fire station:[43]

2013	$0
2014	$1,200,000
2015	$1,242,000
2016	$1,285,470
2017	$1,330,461
2018	$1,377,028

With respect to transfers to SFWMD, FDOT and SFWMD entered into a memorandum of understanding on June 30, 1997,[44] under which FDOT agreed to a schedule of payments to SFWMD totaling $63,589,000. FDOT expects to be able to meet its obligations under the current payment schedule by Fiscal Year 2016 as follows:[45]

[41] See s. 338.165(10), F.S.
[42] FDOT indicates that the fire station is currently under construction, and construction is funded by FDOT. FDOT notes that another fire station is located on the Alley in Broward County. Broward County provided the funding for construction of that station and provides the funding for its operation.
[43] FDOT email, March 1, 2013, on file in the Senate Transportation Committee.
[44] On file in the Senate Transportation Committee.
[45] FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

2013	$4,400,000
2014	$5,000,000
2015	$8,000,000
2016	$7,064,000

The agreement further provides that prior to its expiration, FDOT and SFWMD will renegotiate the terms, conditions, and duration of the agreement, taking into account toll revenues from the Alley, future costs to operate and maintain the Alley, reconstruction and restoration activities of the Alley, the transportation funding needs of Broward and Collier counties pursuant to s. 338.165(2), F.S.,[46] and the continuing costs of the Everglades restoration projects.

Metropolitan Planning Organizations/Designation/Membership

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule (23 U.S.C. 134 and 23 C.F.R 450 Part C) require a metropolitan planning organization (MPO) to be designated for each urbanized area[47] or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Section 339.175(2)(a)2., F.S., currently provides that designation of an MPO be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the MPO jurisdiction, as defined by the United State Bureau of the Census, must be a party to such agreement. This language has been superseded by revisions to 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b), which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.[48] Re-designation of an MPO is required whenever the existing MPO proposes to make a substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general-purpose local government served by the MPO, and the State; or a

[46] That section requires that if a revenue-producing project is on the State Highway System, any remaining toll revenue after discharge of indebtedness related to such project must be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.
[47] An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.
[48] 23 C.F.R. 450.301(h) (2012).

substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under MPO bylaws.[49]

Current law does not authorize more than 19 members on an MPO in cases when the MPO is re-designated as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs within a single urbanized area, even if the membership is already at 19 members.

Economic Development Transportation Projects

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations. One such incentive exists in what is commonly referred to as the Road Fund, which is funded by a transfer from the STTF and used to assist local government in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year. The Legislature in 2012 repealed s. 288.063, F.S., in which the Road Fund was statutorily placed, and created s. 339.2821, F.S. The revisions did not change the purpose of the Road Fund but simply moved oversight of the fund from DEO to FDOT.[50]

FDOT, in consultation with DEO, is authorized under the new section to make and approve expenditures and contract with the appropriate government body for the direct costs of transportation projects. Enterprise Florida, Inc., is not currently included as a consultant. Section 339.2821, F.S., also contains requirements for inclusion in a contract between FDOT and a governmental body that include requiring that the governmental body provide FDOT with specified quarterly reports, that FDOT transfer of funds to the governmental body will occur not more than quarterly, that the governmental body expend funds received in a timely manner, and that FDOT may not transfer funds unless construction has begun on the facility of a business on whose behalf the award was made.

State-Funded Infrastructure Bank/Spaceports

Section 339.55, F.S., creates the state-funded infrastructure bank (SIB), which provides loans to government units and private entities to help fund transportation projects. The loans are repaid from revenues generated by the project, such as a toll road or other pledged resources. The repayments are then re-loaned to fund new transportation projects. The section authorizes the SIB to lend capital costs or provide credit enhancements for a transportation facility project on the SHS or for a project which provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals. Loans from the SIB may bear interest at or below market interest rates, as determined by FDOT. Repayment of any SIB loan must begin no later than 5 years after the project has been complete or, in the case of a highway project, the facility has opened to traffic, whichever is later, and must be repaid in 30 years. Unlike projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation

[49] 23 C.F.R. 450.301(k) (2012).
[50] Budget Committee Final Analysis of SB 1998:
http://www.flsenate.gov/Session/Bill/2012/1998/Analyses/M6TO2qtoNCs60=PL=Y=PL=DT9BT2bnWNo=%7C11/Public/Bills/1900-1999/1998/Analysis/s1998z2.TEDAS.PDF.

terminals, projects that provide intermodal connectivity with spaceports are not currently included as projects eligible for SIB loans.

Intercity Bus Service/Funding Eligibility

The Federal Transit Administration's Intercity Bus Program (49 U.S.C. 5311(f)), is administered by FDOT. Its purpose is to support and maintain intercity bus services, in order to preserve service through rural areas of the state. FDOT provides matching funds as required by s. 339.135(4), F.S. Florida's statutory definition of "intercity bus service" is more restrictive than the federal definition, which limits the number of companies competing for funding.

Section 341.031(11), F.S., defines "intercity bus service" as regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains schedule information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Greyhound Bus Lines is currently the only private, for-profit company operating intercity bus services in Florida that meets the statutory definition to receive federal and state intercity bus program funding, as it is the only company in Florida that maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Intermodal Development Program

Section 341.053, F.S., was originally enacted in 1990 to create the Intermodal Development Program administered by FDOT to provide for major capital investments in fixed-guideway transportation systems, access to seaports, airports and other transportation terminals, and to assist in the development of dedicated bus lanes. The Legislature in 1999 added direction to FDOT to develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state.

Section 341.053(6), F.S., currently authorizes FDOT to fund projects including major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports, airports, and other transportation terminals; construction of intermodal or multimodal terminals; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods. Spaceport projects are not currently included.

Rail Corridors/Ancillary Development

FDOT is responsible for developing and implementing a statewide rail program. As part of that program, FDOT is authorized to acquire, operate, and manage rail corridors to provide new rail service. "Ancillary development" is defined in s. 341.301(1), F.S., to include any lessee or licensee of FDOT, including other governmental entities, vendors, retailers, restaurateurs, or

contract service providers, within an FDOT-owned rail corridor, except for providers of commuter rail service, intercity rail passenger service, or freight rail service; and includes air and subsurface rights, services that provide a local area network for devices for transmitting data over wireless networks, and advertising. The term "rail corridor" in s. 341.301(8), F.S., is specifically defined to include ancillary development within an FDOT-owned rail corridor. Further, FDOT is authorized in s. 341.302(17)(b), to purchase specified liability insurance which includes coverage for ancillary development. While ancillary development within an FDOT-owned rail corridor is implied, current language does not clearly and expressly authorize FDOT to engage in ancillary development. In contrast, FDOT is explicitly authorized to undertake similar development activities in an FDOT-owned high speed rail corridor under s. 341.836, F.S.

Toll Facilities Revolving Trust Fund/Obsolete References

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.[51] That section created the Toll Facilities Revolving Trust Fund, which was a loan program created to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike Enterprise. However, two references to the now repealed trust fund remain in statute.

Currently Established Toll Authorities

Aside from FDOT and Florida's Turnpike Enterprise, a number of authorities exist in Florida that operate toll facilities and collect and reinvest toll revenues.[52]

Miami-Dade Expressway Authority
The Miami-Dade Expressway Authority (MDX) governing body consists of 13 voting members. The Miami-Dade County Commission appoints seven members, the Governor appoints five members, and the FDOT district six secretary is the *ex-officio* member of the Board. Except for the secretary, all members must be residents of Miami-Dade County and each serves a four-year term and may be reappointed.[53]

MDX currently oversees, operates and maintains five tolled expressways constituting approximately 34 centerline-miles and 220 lane-miles of roadway in Miami-Dade County: Dolphin Expressway (SR 836); Airport Expressway (SR 112); Don Shula Expressway (SR 874); Gratigny Parkway (SR 924) and Snapper Creek Expressway (SR 878). MDX reported toll and fee revenue of $121.9 million (net of $2.8 million of allowance) in Fiscal Year (FY) 2011 based on 220 million transactions.[54] The FTC report indicates that approximately $45.5 million in outstanding debt ($6 million in loans from the now-repealed Toll Facilities Revolving Trust Fund and $39.5 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.[55]

Orlando-Orange County Expressway Authority

[51] Ch. 2012-128, L.O.F.
[52] The MBBA is also included among these authorities.
[53] s. 348.0003, F.S.
[54] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 22.
[55] Id.

The Orlando-Orange County Expressway Authority (OOCEA) governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four-year terms and may be reappointed. The Orange County mayor and FDOT's district five secretary are the two ex-officio members of the Board.[56]

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County: 22 miles of the Spessard L. Holland East-West Expressway (SR 408), 23 miles of the Martin Andersen Beachline Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414). OOCEA reported toll revenue of $260 million in FY 2011 based on 296 million transactions.[57] The FTC report indicates that approximately $270 million in outstanding debt ($221 million in advances for O&M expenses, $14 million in advances for completion of the East-West Expressway, and $34.8 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.[58]

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway and, pursuant to direction in SB 1998 (2012), OOCEA will repay FDOT for costs of operation and maintenance of the OOCEA system; FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates as specified; and ownership of the system remains with the OOCEA.

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT district three secretary is an ex-officio member of the Board. Except for the secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.[59]

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.[60] Florida's Turnpike Enterprise provides toll operations for the SRBBA, and FDOT's district three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and O&M expenses, the costs of O&M are recorded as debt owed to FDOT. The FTC report indicates that the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund, and the balance of these liabilities on June 30, 2011, was $24.7 million.[61]

Tampa-Hillsborough County Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA) governing body consists of seven members, four of which are appointed by the Governor and serve four-year terms. The

[56] s. 348.753, F.S.
[57] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 38.
[58] Id. at 39.
[59] Section 348.967, F.S.
[60] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, pp. 57-58.
[61] Id.

City of Tampa mayor, a member of the Board of County Commissioners selected by the board, and FDOT's district seven secretary are *ex-officio* members.[62]

THEA owns the four-lane Selmon Expressway, which is a 15-mile limited access toll road crossing the City of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The FTC report indicates that beginning in Fiscal Year 2001, THEA has reimbursed FDOT for annual O&M expenses pursuant to the adopted budget and that only renewal and replacement costs continue to be added to long-term debt. As of June 30, 2011, THEA owes FDOT approximately $200.7 million for O&M, renewal and replacement expense advances, and other FDOT loans.[63]

Northwest Florida Transportation Corridor Authority
The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. NFTCA is also authorized to issue bonds.[64] Eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties, are appointed by the Governor to serve four-year terms on the governing body. FDOT's district three secretary serves an as *ex-officio*, non-voting member.[65]

The NFTCA is not currently operating any facility. The FTC report indicates:

> As part of the Master Plan update, NFTCA's general consultant (HDR) is conducting a business case analysis to help the Authority in selecting and planning transportation projects by assessing their respective economic benefits, developing an investment plan and proposing viable funding strategies. The business case analysis includes an extensive public outreach program involving regional planning councils in the eight-county geographic area covered by NFTCA and a series of workshops involving other key stakeholders in the region.[66]

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, and regional transportation planning.[67]

Osceola County Expressway Authority
Created in 2010, the Osceola County Expressway Authority (OCX) governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.[68]

[62] Section 348.52, F.S.
[63] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 73.
[64] Section 343.82, F.S.
[65] Section 343.81, F.S.
[66] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 160.
[67] Id.
[68] Section 348.9952, F.S.

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The FTC report indicates efforts in 2011 to finalize an agreement for $2.5 million in grant funding from FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.[69]

Tampa Bay Area Regional Transportation Authority

The Tampa Bay Area Regional Transportation Authority (TBARTA) is an agency of the state whose purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the seven-county Tampa Bay region.[70] TBARTA's governing body consists of 16 members: one elected official appointed by the respective County Commissions from Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee and Sarasota counties; one member appointed by the West Central Florida Metropolitan Planning Organization Chairs Coordinating Committee who must be a chair of one of the six Metropolitan Planning Organizations in the region; two members who are the mayor or the mayor's designee of the largest municipality within the area served by the Pinellas Suncoast Transit Authority and the Hillsborough Area Transit Authority; one member who is the mayor or the mayor's designee of the largest municipality within Manatee or Sarasota County, providing that the membership rotates every two years; four members who are business representatives appointed by the Governor, each of whom must resided in one of the seven counties of TBARTA; and one non-voting member who is the secretary of one of the FDOT districts within the seven-county area appointed by the FDOT secretary.[71]

TBARTA is not currently operating any facility. The FTC report indicates that "TBARTA is beginning to prioritize projects, develop financial strategies for implementation, coordinate the advancement of more detailed planning and environmental analysis for the prioritized projects, and continue public engagement and education efforts." The FTC report lists nine current TBARTA projects (evaluations and studies) funded by FDOT.[72] TBARTA also operates TBARTA Commuter Services, which is a free, online ride-matching program enabling commuters to connect with each other to share rides and is engaging in additional activities, such as identifying opportunities for collaboration and consolidation with other entities in the region, strengthening existing partnerships and examining the potential for new ones, identify short-term solutions to traffic congestion, and continuing to look for process improvements and potential cost savings.[73]

TBARTA and FDOT entered into an agreement under which, in 2009, FDOT advanced $500,000 from a $2 million appropriation to pay initial administrative expenses, and the 2009 and 2010 Legislature appropriated unspent funds from the $2 million to TBARTA. The

[69] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.
[70] Section 343.922, F.S.
[71] Section 343.92, F.S.
[72] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 177.
[73] Id. at 179.

Legislature in 2011 did not appropriate unspent funds to TBARTA and repealed TBARTA's authority to enter into lease-purchase agreements with FDOT.[74]

III. Effect of Proposed Changes:

Section 1: Amends s. 20.23, F.S., to require the FTC to monitor the efficiency, productivity, and management of regional tollway authorities created under a new ch. 345, F.S., and to repeal the Florida Statewide Passenger Rail Commission. Overlapping oversight of publicly-funded passenger rail systems is eliminated and remains solely with the FTC.

Section 2: Amends s. 110.205(2)(j) and (m), F.S., to change the title of FDOT's State Public Transportation and Modal Administrator to State Freight and Logistics Administrator.

Section 3: Creates s. 163.3176, F.S., to set forth Legislative findings regarding residential development of land adjacent to the rights-of-way of limited-access facilities; requires local governments to ensure that noise compatible land-use planning is employed in their jurisdictions in the development of land for residential use adjacent to right-of-way acquired for a limited-access facility, including incorporation of federal and state noise mitigation standards and guidelines in all local government land development regulations; and requires local governments to ensure that residential development proposed adjacent to a limited-access facility be planned and constructed in conformance with all such standards, guidelines, and regulations.
Local governments are required to:

- determine if existing land development regulations comply with federal and state noise mitigation standards and guidelines;
- ensure incorporation of compliant regulations in all local government comprehensive plans, amendments of adopted comprehensive plans, zoning plans, subdivision plat approvals, development permits, and building permits;
- consult with FDOT and DEO, as needed;
- adopt compliant regulations land development regulations as soon as practical but no later than July 1, 2014, if local government regulations do not comply; and,
- contribute 50 percent of FDOT's cost of providing the required noise mitigation if a local government fails to comply with this section and, as a result, FDOT is required to construct a noise wall or other noise mitigation in connection with a road improvement project.

Section 4: Amends s. 206.86, F.S., to remove the definitions of "alternative fuel" and "natural gasoline." Definitions are being provided in a new part V of ch. 206, F.S.

Section 5: Amends s. 206.87(1)(a), F.S., to remove the exception from the 4-cents-per-net-gallon excise tax for alternative fuels subject to the fee imposed by s. 206.877, F.S. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

Section 6: Repeals s. 206.877, F.S., relating to payment of annual decal fees in lieu of the tax imposed by s. 206.87, F.S., for motor vehicles fueled by liquefied petroleum gas or compressed natural gas. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

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[74] SB 2152 (2011).

Section 7: Repeals s. 206.89, F.S., relating to retailer of alternative fuel licenses, applications for such licenses, DOR issuance, and monthly reports and payment of tax on all fuel purchases. The provisions of s. 206.89, F.S., are being moved to a new part V of ch. 206, F.S.

Section 8: Amends s. 206.91(1), to remove from required monthly reports to DOR information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of alternative fuel; and to make editorial changes. These reporting requirements are being moved to a new part V of ch. 206, F.S., to be applicable for natural gas fuel.

Section 9: Amends s. 206.9825(1), F.S., deleting the 1996 date certain, to provide that any air carrier that offers transcontinental jet service and has, *within the preceding five-year period* from January 1 of the year the exemption is being applied for, increased its Florida workforce by more than 1,000 percent and by 250 or more full-time employee positions as provided in reports required to be filed pursuant to s. 443.163, F.S.,[75] may purchase aviation fuel exempt from the 6.9 cents per gallon tax from terminal suppliers and wholesalers, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.

The bill:
- requires an air carrier to submit a specified written request to DOR to qualify for the exemption;
- provides that the exemption expires on December 31 of the year in which it was granted;
- disallows the exemption for any period prior to the effective date of the air carrier exemption letter issued by DOR;
- requires air carriers to submit a specified written request to DOR to renew the exemption;
- authorizes terminal suppliers and wholesalers to receive a credit or apply for a refund as specified;
- provides that if, during the one-year period the exemption is in place, the air carrier fails to maintain the required increase in its Florida workforce, the exemption will not apply during the period in which the air carrier was no longer qualified; and,
- authorizes DOR to adopt rules.

These revisions may facilitate stability in aviation fuel tax collections, refunds, and revenues by providing an air carrier exemption process on the front end and changing the qualifying status of any refund from an increase in workforce when compared to January 1, 1996, to an increase in workforce when compared to the five years prior to the period that the refund is being applied for. Qualifying air carriers may choose to seek the exemption upon becoming eligible, so that the tax is not collected from the carrier at the time of purchase, thereby reducing the need for refunds to wholesalers and terminal suppliers and facilitating improved revenue predictability. Providing a one-year period in which to apply for a refund eliminates applications for refunds for multiple years, thereby reducing the potential for refunds that exceed revenues. Air carriers may be rewarded for increasing their workforces within the reasonable past, rather than 17 years ago.

[75] Section 443.163, requires Employers Quarterly Reports from any employer who employed 10 or more employees in any quarter during the preceding state fiscal year, reflecting reporting and remitting of contributions and reimbursements for unemployment compensation purposes.

Section 10: Requests the Division of Law Revision and Information to create part V of ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled "NATURAL GAS FUEL."

Section 11: Creates s. 206.9951, F.S., entitled "Definitions," to define terms as follows:

- "Motor fuel equivalent gallon" means the volume of natural gas fuel it takes to equal the energy content of one gallon of fuel.
- "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. The term includes without limitation all forms of fuel commonly or commercially know or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. (This definition is all but identical to the definition of "alternative fuel" being deleted from s. 206.86, F.S.)
- "Natural gas fuel retailer" means any person who sells natural gas fuel to be placed into the fuel supply system of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance.
- "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel. (This definition is identical to the definition of "natural gasoline" being deleted from s. 206.86, F.S.)
- "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency, or a political subdivision of the state.

Section 12: Creates s. 206.9952, F.S., entitled "Application for license as a natural gas fuel retailer," to provide that it is unlawful for any person to engage in business as a natural gas fuel retailer within this state unless he or she is the holder of a valid license issued by DOR to engage in such business; to exempt from licensure a person who has facilities for placing natural gas fuel into the supply system of an internal combustion engine fueled by individual portable containers of 10 gallons or less, provided that the fuel is only used for exempt purposes; to require any person acting as a natural gas retailer without holding a valid natural gas fuel retailer license to pay a $200 penalty for each month of operation without a license; to require, effective January 1, 2019, any person acting as a natural gas fuel retailer without holding a valid natural gas fuel retailer license to pay a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period; to require a person to file an application and a bond with DOR on a form prescribed by DOR and to prohibit DOR from issuing a license unless the application is accompanied by a bond; to authorize DOR, if evidence warrants, to refuse to issue a license when a natural gas fuel retailer license application is filed by a person whose previous license was canceled for cause or when DOR believes that such application was not filed in good faith or is filed by another person as a subterfuge for the actual person in interest whose previous license has been canceled; to provide that a natural gas fuel retailer license issued by DOR remains in effect so long as the natural gas fuel retailer is in compliance with this part; to prohibit assigning a license and provide that the license is valid only for the natural gas fuel retailer in whose name the license is issued; to require the license be displayed conspicuously in the principal place of business for which the license was issued; to require each person who operates as a natural gas fuel retailer, except a state or federal agency or a political subdivision licensed under this chapter, to report monthly to DOR and pay a tax on all natural gas fuel purchases beginning January 1, 2019; to require a $5 license fee for the license application; to require annual renewal

of each license by submitting a reapplication and the $5 license fee to DOR; and to require payment of the license fee to DOR for deposit into the General Revenue Fund. These revisions primarily lift the provisions of s. 206.89, F.S., which are being repealed, and place them in the new part V of ch. 206, F.S.

Section 13: Creates s. 206.9955, entitled "Levy of natural gas fuel tax," to establish the motor fuel equivalent gallon for a compressed natural gas gallon (5.66 pounds, or per each 126.67 cubic feet), for a liquefied natural gas gallon (6.22 pounds), and for a liquefied petroleum gas gallon (1.35 gallons); to impose an excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel; to impose an additional 1 cent tax , designated as the "ninth-cent fuel tax;" to impose an additional 6 cents tax, designated as the "local option fuel tax;" to impose an additional tax designated as the "State Comprehensive Enhanced Transportation System Tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, by adjusting the initially established rate of 6.9 cents per gallon by the Consumer Price Index; to impose an additional tax for the privilege of selling natural gas fuel, designated as the "fuel sales tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, calculated by adjusting the initially established tax rate of 12.9 cents per gallon by the Consumer Price Index and authorizing DOR to adopt rules and publish forms to administer the fuel sales tax; and to impose the 4 cents excise tax and additional taxes on natural gas fuel when it is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance, and to impose liability for payment of the identified taxes on the person selling the fuel to the end user, where the fuel is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance. These taxes replace the annual decal fees in current s. 206.877, F.S., but are not effective until January 1, 2019. Natural gas fuel will be taxed in the same fashion as diesel fuel beginning January 1, 2019, except that natural gas fuel remains subject to the sales tax under ch. 212, F.S.

Section 14: Creates s. 206.996, entitled "Monthly reports by natural gas fuel retailers; deductions," to require each natural gas fuel retailer, beginning with February 2019 and each month thereafter, and for the purpose of determining the amount of taxes imposed by s. 206.9955, F.S., to file monthly electronic reports with DOR showing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month, no later than the 20th day of each month; to provide that if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, a return must be accepted if it is electronically filed on the next succeeding business day; to require the reports to include, or be verified by, a written declaration stating that such report is made under penalties of perjury; to require the natural gas fuel retailer to deduct from the amount of taxes shown by the report to be payable an amount equivalent to .67 percent of the taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e) [the 4 cents excise tax and the fuel sales tax] to compensate the retailer for services rendered and expenses incurred in complying with part V; to prohibit the deduction unless the natural gas fuel retailer has allowed 50 percent of the allowance provided to a purchaser that has a valid wholesaler or terminal supplier license; to prohibit the deduction unless payment of applicable taxes is made on or before the 20th day of the month; to prohibit any construction that would authorize a deduction from the constitutional gas tax or the fuel sales tax; to require each natural gas fuel retailer to pay DOR the full amount of natural gas fuel taxes for the preceding month, less the amount allowed the retailer for services and expenses, upon the

electronic filing of the monthly report; to provide that DOR may authorize a quarterly return and payment of taxes when the taxes remitted by the retailer for the preceding quarter did not exceed $100 and may authorize a semiannual return and payment when the taxes remitted for the preceding 6 months did not exceed $200; to authorize an additional retailer deduction of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and (c) [the ninth-cent fuel tax and the local option fuel tax] on account of services and expenses incurred in complying with part V; and to prohibit the deduction unless payment of the tax is made on or before the 20th day of the month. These requirements are virtually identical to those currently contained in s. 206.91, F.S., from which reference to alternative fuel is removed.

Section 15: Creates s. 206.9965, F.S., effective January 1, 2019, to authorize the purchase of tax-exempt natural gas fuel from natural gas fuel retailers when the fuel is used or purchased for:

- Exclusive use by the United States or its departments or agencies, defined to mean the consumption by the United States or its departments or agencies of the natural gas fuel in a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance;
- Use for an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance for agricultural purposes as defined in s. 206.41(c), F.S. [agricultural, aquacultural, commercial fishing, or commercial aviation purposes];
- Uses as provided in s. 206.874(3), F.S. [dyed diesel fuel];
- Use by vehicles operated by state and local government agencies;
- Individual use resulting from residential refueling devices located at a person's primary residence; and
- Purchases of natural gas fuel between licensed natural gas fuel retailers. A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer is authorized to take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26, F.S., ["Repayment of funds paid into the State Treasury through error"]. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller must retain a copy of the purchaser's natural gas fuel retailer license.

Section 16: Transfers and renumbers current s. 206.879, F.S., as s. 206.997, F.S.; revises and updates provisions governing distribution of state alternative fuel fee proceeds (does not change the distribution shares currently in place for the State Alternative Fuel User Fee Clearing Trust Fund but delays further distributions until the distribution for calendar year 2019); and repeals the provisions requiring revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., into the Local Alternative Fuel User Fee Clearing Trust Fund, to be returned monthly to the appropriate county after deducting the required service charge.

Section 17: Terminates the Local Alternative Fuel User Fee Clearing Trust Fund within DOR; directs DOR to pay any outstanding debts or obligations of the terminated fund as soon as practicable; and directs the Chief Financial Officer to close out and remove the terminated fund from various state accounting systems.

Section 18: Creates s. 206.998, F.S., entitled "Applicability of specified sections of parts I and II" of ch. 206, F.S., provides that the specified sections are applicable to the natural gas fuel tax; and provides that the specified statutes do not apply in the event of conflict with the new part V of ch. 206, F.S.

Section 19: Amends s. 212.055(2)(d), F.S., relating to the local government infrastructure surtax, to include “installation of systems for natural gas fuel as defined in s. 206.9951” in the definition of “energy efficiency improvement” and makes a grammatical change. This allows counties to use surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems.

Section 20: Amends s. 212.08(4), F.S., to exempt from ch. 212, F.S., sales tax natural gas fuel as defined in s. 206.9951(2), F.S., when placed into the fuel supply system of a motor vehicle.

Section 21: Repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, thereby removing a direct conflict with federal law and with subsequently passed state provisions that require issuance of a special use permit under such conditions.

Section 22: Amends s. 316.545(3)(c), F.S., to increase from 400 to 500 pounds the authorized maximum gross vehicle weight to compensate for the additional weight of auxiliary power units (or idle-reduction technology) installed on commercial motor vehicles, as authorized by recent federal law. If a person violates the overloading provisions of ch. 316, F.S., any penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 pounds, whichever is less.

Section 23: Amends s. 331.360, F.S., relating to the development and improvement of aerospace transportation facilities, to:

- require Space Florida to develop a spaceport system plan, rather than a master plan, as master plans are facility specific and not statewide in nature;
- require Space Florida to submit the system plan to MPOs and to FDOT;
- authorize FDOT to include those portions of the system plan relevant to FDOT’s mission within FDOT’s five-year work program of qualifying projects (rather than aerospace discretionary capacity improvement projects);
- require the system plan to identify appropriate funding levels for each project and eliminate requiring the plan to include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF;
- remove FDOT’s authorization to participate in the capital cost of eligible spaceport discretionary capacity improvement projects subject to the availability of appropriated funds; and,
- remove the requirement that FDOT’s legislative budget request be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.

Eligible projects are no longer limited to aerospace discretionary capacity improvement projects. Space Florida is required to identify appropriate funding levels for each project in the system plan but is no longer required to include in the plan recommendations on appropriate sources of revenue to contribute to the STTF.

In addition, beginning in FY 2013-2014, the changes authorize (but do not require) FDOT to make available from the STTF a minimum of $15 million annually from funds dedicated to

public transportation projects to fund space transportation projects and require Space Florida to provide project specific information to FDOT in order to demonstrate that the project includes transportation and aerospace benefits, including without limitation project description, characteristics, and scope; project funding sources and costs; project financing considerations with emphasis on federal, local, and private participation; financial feasibility and risk analysis, including efforts to protect the state's investment and ensure project goals are realized; and demonstration that the project will encourage, enhance, or create economic benefits. These revisions authorize FDOT to fund up to 50 percent of eligible project costs.

FDOT is authorized to fund up to 100 percent of eligible project costs if the project:

- provides important access and on-spaceport capacity improvements;
- provides capital improvements to strategically position the state to maximize opportunities in the aerospace industry or foster growth and development of a sustainable and world-leading aerospace industry in Florida;
- meets state goals of an integrated intermodal transportation system; and,
- demonstrates the feasibility and availability of matching funds through federal, local, or private partners.

To the extent that FDOT annually makes available the minimum $15 million, FDOT will be authorized to select for funding at up to 50 percent of eligible costs projects with demonstrated transportation and aerospace benefits based on the project specific information and will be authorized to select for funding at up to 100 percent of eligible costs projects that meet the specified criteria.

Section 24: Creates s. 332.007(11), F.S., to authorize FDOT to fund, at up to 100 percent of the project's cost, strategic airport investment projects that:

- provide important access and on-airport capacity improvements;
- provide capital improvements to strategically position the state to maximize opportunities in international trade, logistics, and the aviation industry;
- achieve state goals of an integrated intermodal transportation system; and,
- demonstrate the feasibility and availability of matching funds through federal, local, or private partners.

Presumably, this new language captures for possible full funding potential development projects not currently captured under FDOT's authority in s. 332.007(6)(d), F.S., to fund up to 100 percent of the cost of an eligible development project that is statewide in scope or that involves more than one county where no other governmental entity or appropriate jurisdiction exists, and also allows FDOT to fund up to 100 percent of discretionary capacity improvement projects that meet the specified criteria.

Section 25: Amends s. 334.044(16), F.S., effective July 1, 2013, to prohibit FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity; to provide that specified lease-purchase agreements are not invalidated; and to specify that FDOT's authority under s. 334.30, F.S., is not limited. These provisions have

no effect on the existing lease-purchase agreements but prohibit any new agreements beginning July 1, 2013.

Section 26: Amends s. 337.11(13), F.S., to require each road or bridge construction contract or maintenance contract let by FDOT to require all motor vehicles operated by the contractor in this state to be registered in compliance with ch. 320, F.S., thereby eliminating the requirement of proof to FDOT in the form a notarized affidavit from the contractor.

Section 27: Amends s. 337.14(1), F.S., to clarify that:

- any person desiring to bid for the performance of any construction contract *with a proposed budget estimate* in excess of $250,000 must first be certified as qualified;
- FDOT's rules are to address qualification of persons to bid on construction contracts *with a proposed budget estimate* in excess of $250,000; and,
- a person seeking qualification to bid on construction contracts *with proposed budget estimates* in excess of $250,000 is required to furnish specified information on the application for qualification.

As no change in current practice results, the revisions simply provide internal statute consistency and consistency between statute and rule, thereby avoiding any potential confusion.

Section 28: Amends s. 337.168(2), F.S., to clarify an existing public records exemption by providing that a document that reveals the identity of a person who has requested or obtained from FDOT, a bid package, plan, or specifications pertaining to any project to be let by FDOT *before* the two working days before the deadline for obtaining such materials remains a public record. Presumably, a list of potential bidders who requested or obtained bid packages from FDOT for a given project before the two-day period of exemption begins will remain posted on FDOT's website.

Section 29: Amends s. 337.251(2), F.S., relating to the lease of property for joint public-private development, to:

- require that if FDOT receives a proposal for a lease (rather than to negotiate a lease) of particular property FDOT desires to consider, it shall publish the currently required newspaper notice stating that FDOT will accept for 120 (rather than 60) days other proposals for lease of the particular property;
- direct FDOT to establish by rule an application fee for the submission of proposals under s. 337.251, F.S., sufficient to pay the anticipated costs of evaluating the proposals;
- authorize FDOT to engage the services of private consultants to assist in the evaluations; and,
- require FDOT, before approval of any proposal, to determine that the proposed lease is in the public's best interest, would not require state funds to be used, and would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

These revisions bring the process under s. 337.251, F.S., closer to that under s. 334.30, F.S., with the primary difference being that FDOT is not required, as is the case under s. 334.30, F.S., to provide an independent analysis that demonstrates the cost-effectiveness and overall public benefit of the proposed lease.

Section 30: Amends s. 3347.408(1), F.S., providing that a person who installs a transit shelter or a bus bench in the right-of-way limits of any road on the SHS is responsible for ensuring that the bench or transit shelter complies with applicable laws and rules, including the Americans with Disabilities Act, or shall remove the bench or shelter. The bill also:

- authorizes a bench or shelter owner to remove the bench or shelter, or bring the bench or shelter into compliance, if FDOT determines that an installation within the right-of-way is noncompliant;
- authorizes FDOT to remove a bench or shelter and assess the cost of the removal against the bench or shelter owner;
- requires each owner of a bench or shelter installed within the right-of-way of any road on the SHS to provide FDOT with a written inventory of the location of each bench or shelter no later than December 31, 2013;
- effective July 1, 2013, requires each owner installing a bench or shelter on the SHS to identify in writing the location of the installation before installing the bench or shelter;
- authorizes FDOT, effective January 1, 2014, to remove any unidentified bench or transit shelter on the SHS and to assess the cost of removal against the bench or shelter owner; and
- requires a city or county, effective July 1, 2013, that authorizes installation of a bench or shelter on the SHS to require any person authorized, in addition to holding FDOT harmless from any liability, to maintain $1 million in liability insurance, with an additional $4 million in supplemental liability insurance, specifically including coverage for any alleged violation of applicable law, with FDOT as an additional named insured.

These provisions do not apply to transit shelters installed by public transit providers at designated stops on official transit routes.

Section 31: Amends s. 338.161(5), F.S., to replace the potentially ambiguous language regarding agreements for use of FDOT toll collection systems that passed in HB 599 and SB 1998 during the 2012 Legislative Session, thereby avoiding any confusion that might result from ambiguous language or from statutory construction rules.

Section 32: Amends s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by FDOT.

Section 33: Amends s. 338.26(3) and (4), F.S., relating to the Alligator Alley toll road, to:

- authorize use of excess toll revenues from Alligator Alley, after specified payments, to design and construct, rather than develop and operate, a fire station at mile marker 63 on Alligator Alley;

- authorize use of the fire station by Collier County or other appropriate local governmental entity;
- authorize transfer, after specified payments, of any such excess revenues to SFWMD in accordance with the June 30, 1997, memorandum of understanding between SFWMD and FDOT; and,
- remove SFWMD authorization to issue bonds or notes secured by a pledge of the transfers from the Alligator Alley toll revenues as security for such bonds or notes.

These revisions remove the obligations of Alligator Alley toll revenues to operate the fire station at mile marker 63 and the transfer of annual excess revenue to SFWMD beyond that which is agreed upon in memorandum of understanding, and repeals SFWMD's authority to issue bonds or notes and pledge the revenues from the transfers.

Section 34: Amends s. 339.175, F.S., relating to MPOs, to:

- revise provisions relating to designation of MPOs to conform to changed federal terminology;
- provide that the voting membership of an MPO re-designated after the bill's effective date as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOS within a single urbanized area may consist of no more than 25 members;
- encourage inclusion of new urbanized areas within existing MPOs or consolidation of existing MPOs in areas already having 19 members and to provide local flexibility to identify appropriate representation; e.g., transit providers or airport authorities.
- provide, in metropolitan areas in which authorities or other agencies have been or may be created by law to perform transportation functions and are performing those functions that are not under the jurisdiction of a general-purpose local government represented on the MPO, those entities may (rather than shall) be provided voting member on the MPO, thereby allowing local decisions as to appropriate representation; and,
- relocate and revise existing language to eliminate redundancy and provide clarity.

Section 35: Amends s. 339.2821, F.S., to include Enterprise Florida, Inc., as an FDOT consultant in making and approving economic development transportation project contracts; to remove the requirement that *quarterly* progress reports be provided to FDOT; to remove the prohibition against more than quarterly transfers and the direction to expend funds received from FDOT in a timely manner; to provide that if construction of the transportation project does not begin within four years after the date of the initial grant award, the grant award is terminated; and to expand the types of authorized projects beyond those meeting the definition of a transportation facility.

Section 36: Amends s. 339.55, F.S., to include projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank, as are projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals.

Section 37: Amends s. 341.031(11), F.S., expanding eligibility for intercity bus companies to compete for federal and state program funding by removing from the definition of "intercity bus

service" the requirement that the carrier maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Section 38: Amends s. 341.053, F.S., expanding the types of projects and activities eligible for funding under the Intermodal Development Program, by:

- adding to the types of projects included in the program access to spaceports and planning or funding construction of airport, spaceport, seaport, transit and rail projects that facilitate the intermodal or multimodal movement of people and goods;
- deleting language requiring development of a proposed intermodal development plan and provide a link to current policy documents by requiring the program to be used for projects that support statewide goals as outlined in the Florida Transportation Plan, the Freight Mobility and Trade Plan, or the appropriate FDOT modal plan;
- removing a cap on receipt of funds; and,
- including in the list of projects eligible for funding planning studies; major capital investments in freight facilities and systems that provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between spaceports and intermodal logistics centers; and construction of intermodal or multimodal terminals, including projects on airports, spaceports, intermodal logistics centers or seaports which assist in the movement or transfer of people or goods.

Section 39: Amends s. 341.302(17), F.S., to expressly authorize FDOT to undertake any ancillary development FDOT determines to be appropriate as a source of revenue for the establishment, construction, operation, or maintenance of any rail corridor owned by the State and to require such developments to be consistent, to the extent feasible, with applicable local government comprehensive plans and local land development regulations and otherwise be incompliance with ss. 341.302-341.303, F.S.

Section 40: Amends s. 343.82(3)(d), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 41: Amends s. 343.922(4), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 42: Creates chapter 345, F.S., to authorize the formation of regional tollway authorities, consisting of sections 345.0001 – 345.0017, F.S., to:

- authorize a county, or two or more contiguous counties, after approval of the Legislature, to form a regional toll way authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state to be governed in accordance with ch. 345, F.S.;
- prohibit creation of an authority without the approval of the Legislature and the county commission of each county that will part of the authority;
- prohibit creation of an authority to serve a particular area if a regional toll way authority has been created and is operating within all or a portion of the same area served pursuant to an

act of the Legislature; and provide that each authority shall be the only authority created and operating pursuant to ch. 345 within the area served by the authority;

- provide for the composition and appointment of an authority governing board, as well as the terms of office, vacancies, member reimbursement for per diem and other expenses, and quorum requirements, etc.;
- direct an authority created and established, or governed, by the act to plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority; prohibit an authority from exercising such powers with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity; and provide that an authority inherits and assumes all rights, assets, appropriations, privileges, and obligations of an existing authority if an authority acquires, purchases, or inherits an existing authority;
- provide for the powers and duties of an authority, including without limitation the power to fix, alter, charge, establish and collect rates, fees, rental, and other charges for use of an authority system, which power may be assigned or delegated to FDOT, and to borrow money and issue bonds or other forms of indebtedness to finance an authority system and to secure payment of the bonds by a pledge of its revenues;
- require a resolution authorizing bond issuance and pledging revenues to require periodic system revenue deposits into appropriate accounts sufficient to cover operations and maintenance of the system and to reimburse FDOT for any unreimbursed costs of O&M from prior fiscal years before revenues of the system are deposited; and prohibit the use or pledge of state funds to pay the principal or interest of any authority bonds and require all bonds to contain a statement as to the prohibition;
- require FDOT to furnish an FDOT employee to act as the executive director of an authority upon the request of an authority;
- provide for the rights and remedies of bondholders in addition to those granted by a resolution or indenture providing for the issuance of bonds, etc;
- provide for the appointment of a trustee and for the powers and duties of the trustee; and provide for appointment of a receiver and for the powers and duties of the receiver;
- provide that FDOT is the agent of each authority for the purpose of performing all phases of a project, including without limitation, constructing improvements and extensions to the system; require provision to FDOT of complete copies of specified documents; require the Division of Bond Finance (DBF) and the authority to request that FDOT perform the construction work, including the planning, surveying, design, and actual construction of the completion, extensions, and improvements to the system; require DBF and the authority, after bond issuance to finance construction, to transfer to the credit of an FDOT account in the State Treasury the necessary funds for construction; direct FDOT to proceed with construction; and alternatively authorize an authority, with FDOT’s consent and approval, to appoint a local agency certified by FDOT to administer federal aid projects as the authority’s agency for the purpose of performing each phase of a project;
- provide that FDOT is the agent of each authority for the purpose of operating and maintaining the system; direct FDOT to operate and maintain the system; require the costs incurred by FDOT for O&M be reimbursed from system revenues; provide that appointment of FDOT as agent for each authority does not create an independent obligation of FDOT to operate and maintain a system; provide that each authority remains obligated as principal to

operate and maintain its system; and provide that an authority's bondholders do not have an independent right to compel FDOT to operate or maintain the authority's system;
- authorize FDOT, at the request of an authority, to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of an authority project or system, subject to appropriation by the Legislature; authorize FDOT to use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct specified feasibility studies; authorize FDOT to require money contributed by FDOT to be repaid from tolls of the project on which the money was spent, other revenue of the authority, or other sources of funds; and require that FDOT receive from an authority a specified share of the authority's net revenues, as defined;
- authorize an authority to acquire specified private or public property and property rights by gift, devise, purchase, condemnation by eminent domain proceedings, or transfer from another political subdivision of the state; and provide for liability related to preexisting soil or groundwater contamination;
- provide exemption from certain taxation for an authority; and,
- create as agencies of the state, with the purposes and powers identified in the new act for the area served by an authority, the Northwest Florida Regional Tollway Authority serving Escambia and Santa Rosa counties; the Okaloosa-Bay Regional Tollway Authority (OBRTA) serving Okaloosa, Walton, and Bay counties; and the Suncoast Regional Tollway Authority serving Citrus, Levy, Marion, and Alachua counties.

Section 43: Transfers to the OBRTA the governance and control of the MBBA, including the assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the MBBA, including the bridge system operated by the authority; and:

- provides that all powers of the MBBA shall succeed to the OBRTA and operations and maintenance of the bridge system shall be under the control of the OBRTA; provides that revenues collected on the bridge system may be considered OBRTA revenues, and the Mid-Bay Bridge system may be considered part of the OBRTA system, if bonds of the bridge authority are not outstanding; provides that the OBRTA assumes all liability for bonds of the MBBA as specified; and provides that the OBRTA may review other contracts, financial obligations, and contractual obligations and liabilities of the MBBA and may assume legal liability for the obligations that are determined necessary for the continued operation of the bridge system;
- provides that the transfer is subject to the terms and covenants provided for the protection of the holders of the MBBA bonds in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds; provides that FDOT shall operate and maintain the bridge system and any other facilities of the MBBA in accordance with the bond resolutions and lease-purchase agreement, after the transfer and until the bonds of the MBBA are fully defeased or paid in full; and directs FDOT, as the agent of the OBRTA, to collect toll revenues and apply them to the payment of debt service as provided in the bond resolution securing the bonds;
- requires that the OBRTA expressly assume all obligations relating to the bonds to ensure that the transfer will have no adverse impact on the security for the MBBA bonds; provides that the transfer does not make the obligation to pay the principal and interest on the bonds a general liability of the OBRTA or pledge the OBRTA system revenues to payment of the

MBBA bonds; provides that revenues that are generated by the bridge system and other facilities of the MBBA and that were pledged by the MBBA to the payment of the bonds remain subject to the pledge for the benefit of the bondholders; and provides that the transfer does not modify or eliminate any prior FDOT obligation to pay certain costs of the bridge system from sources other than revenues of the bridge system; and,

- with regard to the MBBA's current long-term debt of $9.5 million due to FDOT as of June 30, 2012, provides, to the extent permitted by the bond resolutions and lease-purchase agreement, that the OBRTA shall make payment annually to the STTF, for the purpose of repaying the MBBA's long-term debt due to FDOT, from any bridge system revenues obtained under this section which remain after the payment of the costs of operations, maintenance, renewal, and replacement of the bridge system, the payment of current debt service, and other payments required in relation to the bonds; directs the OBRTA to make the annual payments, not to exceed $1 million per year, to the STTF until all remaining MBBA long-term debt due to FDOT has been repaid; and requires that any remaining toll revenue from MBBA facilities collected by the OBRTA after meeting the specified requirements be used for the construction, maintenance, or improvement of any toll facility of the OBRTA within the county or counties in which the revenue was collected.

Section 44: Provides that the bill takes effect upon becoming law, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has analyzed the fiscal impact of the natural gas provisions of this bill. See Private and Government Sector Impact sections.

B. Private Sector Impact:

Section 3: Developers constructing residential units abutting a limited-access facility may incur unquantifiable expenses if local government regulations require the developers to implement noise compatible development strategies or noise abatement measures to

minimize noise impacts on residential dwellings, which costs may result in higher prices to home purchasers.

Sections 4 – 8 and 10 – 20: Purchasers of natural gas fuel may experience increased savings. Conversion of vehicle fleets from traditional fuels to natural gas fuel, as well as an increase in natural gas refueling infrastructure, may be facilitated.

Section 9: Some air carriers that currently qualify for a refund of the aviation tax may no longer qualify, and some carriers that do not currently qualify may become eligible.

Section 22: The increased allowable weight of APUs decreases the potential fine for a commercial motor vehicle overweight violation by no more than $7.50.

Section 25: Motor fuel tax funds paid by citizens and businesses in a particular locality may be at less risk of diversion to a different area of the state in a manner contrary to the statutory allocation for those funds if the funds were expended by FDOT through its normal work program process, rather than through a lease-purchase agreement.

Section 29: Those wishing to submit proposals for lease of FDOT property that FDOT wishes to consider will be subject to an application fee sufficient to pay the anticipated cost of evaluating the proposal, to be established by FDOT rule. Opportunities for private consultant contracts with FDOT are authorized.

Section 30: Private owners of bus benches or transit shelters installed in the right-of-way of the SHS will incur indeterminate expenses related to:

- preparation and ongoing maintenance of the required written inventory;
- removal of, or bringing into compliance with applicable laws, installations within the right-of-way of the SHS,
- the purchase of the required insurance;
- potential litigation expenses; and
- should FDOT choose to remove a noncompliant bench or shelter and assess the costs against the bench or shelter owner, the cost of removal.

Section 37: Revision of the definition of "intercity bus service" allows companies other than Greyhound Bus Lines to compete for federal and state program funds.

C. Government Sector Impact:

Section 1: The FTC will experience a negative impact from expenses associated with monitoring the regional tollway authorities, which expenses are expected to be absorbed within existing resources. However, the FTC notes that, depending on the number of authorities eventually established, additional FTE(s) may be needed to effectively conduct its responsibility. Potentially duplicative administrative expenses associated with the overlapping responsibility of the FTC and the FSPRC are eliminated.

Section 3: Local governments will experience a negative impact from unknown expenses associated with review of their existing regulations, any needed consultation with DEO

and FDOT, and with adopting the required regulations if none are in place. FDOT and DEO will likewise incur unknown expenses associated with any consultation. If a local government fails to adopt the required regulations, the local government will be required to contribute 50 percent of FDOT's costs to provide required noise mitigation. The state may experience a positive impact from unquantifiable savings in future highway improvement projects where noise mitigation was considered and adequately provided for in the planning and construction of residential developments abutting limited access.

Sections 4 – 8 and 10 – 20: With respect to the natural gas provisions, on March 8, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund and a ($0.3) million impact to state trust funds. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be $0.1 million to the General Revenue Fund and ($0.1) million state trust funds. The Revenue Estimating Conference also estimated that in FY 2013-14, there will be no impact to local government and slightly negative impacts in the subsequent four years of ($0.1) million annually. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be $0.4 million to local government.

Section 9: The fiscal impact of the revisions to the aviation fuel tax is indeterminate, but the revisions may provide greater predictability and certainty with regard to aviation fuel tax revenues and may result in additional transportation projects. The need to periodically revise the existing static date in statute is eliminated by the proposed rolling five-year period during which to measure job creation.

Section 21: Removing the obsolete language regarding wrecker permits will avoid any negative impact to the state from a potential federal funds penalty for failure to comply with federal commercial motor vehicle requirements, as giving effect to the obsolete provisions would render the state noncompliant with federal law.

Section 22: The increased allowable weight of APUs decreases a potential fine by no more than $7.50.

Section 23: Space Florida will experience a negative impact from unknown expenses to develop the required spaceport system plan. Spaceport project eligibility is expanded and spaceport funding is increased. Whether these revisions will have any impact on other program funding is unclear.

Section 24: Certain airport projects may become eligible for FDOT to fund up to 100 percent of project costs, possibly resulting in earlier delivery of projects. Whether this revision will have any impact on airport projects that are eligible for funding at only 50 percent is unclear.

<u>Section 25</u>: Prohibiting FDOT from entering new lease-purchase agreements may help to ensure that new transportation systems developed by the toll authorities are capable of being self-sustaining, as opposed to relying on a long-term commitment of STTF funds to pay a toll authority's O&M costs. A positive fiscal impact to the state is expected.

<u>Section 29:</u> FDOT's costs associated with evaluating lease proposals pursuant to s. 337.251, F.S., would presumably be covered by the application fee FDOT is required to establish by rule, particularly if the fee includes the cost of private consultants FDOT is authorized to engage to assist in its evaluations.

<u>Section 30</u>: The revisions to the bus bench and shelter provisions shift potential liability from the cities and counties to the private owners of the benches and shelters.

<u>Section 33</u>: The obligations of Alligator Alley toll revenues to operate a local fire station and of FDOT to transfer excess Alley revenues to the Everglades Restoration Fund beyond that which is agreed to in the Memorandum of Understanding between FDOT and SFWMD, are removed. A positive fiscal impact to the state is expected.

<u>Section 36</u>: Whether including projects that provide intermodal connectivity with spaceports as eligible for State-funded Infrastructure Bank loans will have an impact on such loans for projects that provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals is unclear.

<u>Section 38</u>: Whether adding projects that provide access to spaceports will have an impact on projects that provide access to seaports, airports, and other transportation terminals is unclear. Similarly, whether the authorization to plan or fund construction of airport, spaceport, seaport, intermodal logistics centers, transit, and rail projects will have an impact on other program funding is unclear.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 20, 2013:
The committee adopted four amendments at its meeting and incorporated them, along with seven traveling amendments, into a committee substitute. The committee substitute:

- removes reference to the Mid-Bay Bridge Authority and inserts a reference to the new ch. 345, F.S., in s. 20.23, F.S. The bill also transfers the Mid-Bay Bridge Authority to

the Okaloosa-Bay Regional Tollway Authority, which is governed by the provisions of the new ch. 345, F.S. The reference to the new ch. 345, F.S., subjects the Okaloosa-Bay Regional Tollway Authority, and any other regional tollway authority created in the bill or subsequently created under provisions in the new ch. 345, F.S., to oversight and monitoring by the Florida Transportation Commission, as are various other expressway, road and bridge, and regional transportation authorities. The amendment also strikes a phrase referencing subsection (3), which subsection establishes the Florida Statewide Passenger Rail Commission, as the bill also repeals the Florida Statewide Passenger Rail Commission;

- provides that the $15 million minimum annual funding authorized to be made available from the State Transportation Trust Fund for space transportation projects shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3), F.S.;
- removes from the bill provisions for the "Spaceport Investment Program," which required allocation of $5 million annually, for up to 30 years, for the purpose of funding any spaceport project identified in FDOT's Adopted Work Program; and authorized the revenues to be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or other forms of indebtedness issued by Space Florida, or used to purchase credit support to permit such borrowings;
- removes from the bill authorization for installation of parking meters or other time-limit devices within the right-of-way limits of a state road if permitted by FDOT; removes direction requiring each county and municipality to promptly remit to FDOT 50 percent of the revenue generated from the fees collected by a parking meter or other time-limit device installed or already existing within the right-of-way limits of a state road under FDOT's jurisdiction; and removes the requirements that funds received by FDOT to be deposited into the STTF and used in accordance with s. 339.08, F.S.
- adds to the bill the provisions of CS/SB 579, establishing a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminating the current decal program for vehicles powered by alternative fuels, and repealing the Local Alternative Fuel User Fee Clearing Trust Fund;
- adds to the bill the revised bus bench and bus shelter language shifting liability from the cities and counties to the private owner installers of bus benches and bus shelters within the right-of-way of the SHS; and
- makes technical changes.

B. Amendments:

None.