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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL:	CS/SB 1132
INTRODUCER:	Community Affairs Committee and Senator Brandes
SUBJECT:	Department of Transportation
DATE:	March 26, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/7 amendments**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.	Carey	Martin	ATD	**Pre-meeting**
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.

The bill contains numerous issues that will impact state revenues, most of which have an indeterminate fiscal impact. The proposed natural gas fuel tax structure in conjunction with the repeal of the fuel decal fees is estimated to have a positive fiscal impact; likewise, a positive fiscal impact is estimated on the proposed revisions to the aviation fuel tax exemption. These are discussed in detail in Section V.

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 the 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 the FDOT to fund up to 100 percent of the cost of strategic airport investment projects under specified conditions.
- Prohibits the 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 that the FDOT must follow relating to proposals to enter into a lease of the 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 which pledge excess toll revenues.
- 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 the FDOT for consideration of expenditures associated with and contracts for economic development transportation projects and revises the requirements for those project contracts between the 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 the FDOT to undertake ancillary development within the 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.
- 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 for tourists and residents between northern and southern Okaloosa and Walton Counties.[2]

The 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, the FDOT will own the bridge. As of June 30, 2012, the MBBA's long-term debt obligation to the 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] Florida law reflects no state entity charged with monitoring the

[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.

efficiency, productivity, and management of the MBBA, unlike other regional transportation, expressway and bridge authorities.

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 system improvements 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:

> Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, F.S.,[4] including any authority formed using the provisions of part I of ch. 348, F.S., and any authority formed under ch. 343, F.S., 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 (FSPRC)

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,

[4] Chapter 343, F.S., 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, F.S., 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, F.S., 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.

any authority created under chapters 343, 349, or 163, F.S., 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

Recognizing the significant role played by freight mobility as an economic driver for the state, the FDOT recently created an Office of Freight, Logistics, and Passenger Operations, and the 2012 Legislature directed the 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, the FDOT requested approval from the Department of Management Services (DMS) to change the title of an existing Senior Management Service class position, from State Public Transportation and Modal Administrator, to State Freight and Logistics Administrator.[8] The DMS approved the requested change on September 2, 2011.

Noise Abatement/Highway Projects

Section 335.17, F.S., requires the 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. The 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, the 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. The average cost for one mile of noise barrier is $2.53 million for one side of the road, or $5.07 million for both sides (based on a 16' high barrier at $30 per square foot). The 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. The FDOT asserts, however, that the information historically has not been used by local governments in the development of land use plans.

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

Going forward, the 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. This additional supply translates into a significant reduction in fuel costs and increased potential for recognized environmental benefits for both the private and public sector.

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 a gallon of gasoline in the Lower Atlantic states was $3.66, $3.96 for a gallon of diesel, and $2.07 for a gasoline gallon equivalent of compressed natural gas (CNG). Natural gas, in this case, CNG[9], is clearly cheaper per gallon than diesel or gasoline. The savings in fuel costs are, of course, offset to a degree by the additional 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 additional cost is substantially more rapid than for standard passenger vehicles. In a study prepared for the Florida Natural Gas Vehicle Coalition (FNGVC),[10] the additional 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.[11] 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.[12]

In contrast, the additional cost of a truck powered by CNG over a diesel-powered truck is $76,100.[13] 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,[14] long before the expected useful life of a fleet truck expires. Further, reduced engine wear and extended service intervals also reduce maintenance costs for CNG-powered vehicles.[15] Thus, so long as the cost of natural gas remains low, as is expected,

[9] 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.
[10] Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012.
[11] Id. at 17-18.
[12] Id.
[13] Id.
[14] Id.
[15] See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.

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.[16]

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

- Natural gas vehicles can save a company 30 to 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.[17]

The FNGVC study recommends 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.

[16] Naturalgas.org website: http://www.naturalgas.org/environment/naturalgas.asp. Retrieved February 15, 2013.
[17] FNGVC website: http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf. Retrieved February 15, 2013.

State Gasoline, Diesel, and Alternative Fuel Taxes

Motor Fuel

Section 206.41(1), F.S., provides for the following taxes on motor fuel:[18]

- An excise or license tax of 2 cents per net gallon of motor fuel,[19] designated as the "constitutional fuel tax."
- An additional 1 cent per net gallon, designated as the "county fuel tax."
- An additional 1 cent per net gallon, designated as the "municipal fuel tax."
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the "ninth-cent fuel tax."
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the "local option fuel tax."
- An additional tax per net gallon of motor fuel is imposed by each county, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (f) of the subsection.
- An additional tax per net gallon is imposed "on the privilege of selling motor fuel", designated as the "fuel sales tax," at a rate determined as specified in paragraph (g) of the subsection.

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.[20]

Diesel Fuel

Section 206.87(1), F.S., provides for the following taxes on diesel fuel:

- An excise tax of 4 cents per net gallon of diesel fuel.[21]
- An additional 1 cent per net gallon is imposed by each county, designated as the "ninth-cent fuel tax."
- An additional 6 cents per net gallon is imposed by each county, designated as the "local option fuel tax."
- An additional tax per net gallon is imposed by each county, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (d) of the subsection.
- An additional tax per net gallon "on the privilege of selling diesel fuel," designated as the "fuel sales tax," at a rate determined as specified in paragraph (e) of the subsection.

[18] S. 206.01(9), F.S., defines "motor 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."
[19] 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."
[20] 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.
[21] 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.

The SCETS Tax rate on diesel fuel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.[22]

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.

Alternative Fuel

Section 206.86(4), F.S., 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 all forms of liquefied petroleum gas (*i.e.*, natural gas, butane gas, propane gas) or compressed natural gas. Section 206.86(5), F.S., 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 diesel fuel taxes imposed by s.206.87(1)(a)-(d), an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph. In addition, the sale of alternative fuel is subject to sales tax imposed under ch. 212, F.S.[23]

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% 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, F.S., including a state agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

[22] 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.
[23] Fla. Admin. Code R. 12A-1.059.

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. 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 s. 16, Art. IX of the State Constitution of 1885, as amended (for county road debt).
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities.
- 25 percent of the remainder to the counties for specified public transportation purposes, distributed in accordance with s. 206.60(1), F.S.

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.

Local Government Infrastructure Surtax

Section 212.055(2)(a)1., F.S., provides that the Local Government Infrastructure Surtax may be levied at the rate of 0.5 or 1 percent pursuant to an ordinance enacted by a majority vote of the members of the county's governing body and approved by voters in a countywide referendum. If the proposal to levy the surtax is approved by a majority of the electors, the levy shall take effect. The levy may only be extended by voter approval in a countywide referendum. All counties are eligible to levy this surtax.

Pursuant to s. 212.055(2)(d), F.S., school districts, counties, and municipalities may expend the proceeds of the Local Government Infrastructure Surtax and any accrued interest for the following purposes:

- To finance, plan, and construct infrastructure;
- To acquire land for public recreation, conservation, or protection of natural resources;
- To provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or
- To finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.

For purposes of the Local Government Infrastructure Surtax, s. 212.055(2)(d)2.,F.S., defines "energy efficiency improvement" as any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to:

- Air sealing;
- Installation of insulation;

- Installation of energy-efficient heating, cooling, or ventilation systems;
- Installation of solar panels;
- Building modification to increase the use of daylight or shade;
- Replacement of windows;
- Installation of energy controls or energy recovery systems;
- Installation of electric vehicle charging equipment; and
- Installation of efficient lighting equipment.

A local government choosing to expend funds under this provision is required to enact or amend its ordinance pursuant to s. 125.66, F.S., and have the ordinance approved by referendum in a subsequent election.

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 has actually reduced its workforce since that time 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, the 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.

The 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 the FDOT to issue such overweight permits.[24]

[24] 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.

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 been enforced since that time.

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")[25] on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created by the 2010 Legislature to provide for a 400-pound 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

The FDOT and Space Florida are currently authorized to enter into a joint participation agreement to effectuate the provisions of ch. 331, F.S., and the FDOT is authorized to allocate funds for such purposes in its five-year work program. The 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 the FDOT. The FDOT may include the plan within the FDOT's five-year work program of qualifying aerospace discretionary capacity improvement projects and 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. The FDOT's annual LBR must be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.[26]

[25] 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).

[26] "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.

The FDOT Adopted Work Program included $16 million for spaceport projects in both Fiscal Year 2011-2012 and Fiscal Year 2012-2013. The FDOT Final Tentative Work Program for Fiscal Years 2014-2018 includes $20 million for Space Florida transportation projects in each of the five years.[27]

State Aviation Program

Section 332.007, F.S., requires the 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,[28] unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. The 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 airport and aviation discretionary capacity improvement projects,[29] again at percentage rates that vary. The FDOT notes that the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that the FDOT does not have a similar investment initiative or authority for the Aviation Program.

Toll Authorities/Lease-Purchase Agreements

In addition to the FDOT, various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of the 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 the 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 the FDOT, and a bridge authority established by special act of the Legislature is similarly authorized. The FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

The FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows the 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. The FDOT pays such costs using funds from the STTF.

In a typical lease-purchase agreement between the FDOT and a toll authority, the FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or the 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 the FDOT would retain all revenues collected, as well as the O&M responsibility.

[27] FDOT email, February 7, 2013, on file in the Senate Transportation Committee.
[28] 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…."
[29] Defined in s. 332.004(5), F.S., as "…capacity improvements … which enhance intercontinental capacity at [specified] airports…."

As required by existing agreements, the FDOT paid $9.2 million in the O&M expenses in FY 2011-2012 and an additional $32.8 million in the 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 the FDOT. When the O&M and the 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 the 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 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 the FDOT to contain a provision requiring the contractor to provide proof to the 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. The 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), F.S., 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. The FDOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.[30] The list is removed from the website two working days prior to the deadline for obtaining bid packages, plans, or specifications.

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 the 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 the FDOT to request proposals for the lease of the FDOT property for joint public-private development or commercial development. The FDOT may also receive and consider unsolicited proposals for such uses. If the FDOT receives an unsolicited proposal to negotiate a lease, the 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. The 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 the 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 the FDOT by the lessee in lieu of direct revenue to the FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, the FDOT must determine that the property subject to the lease has a permanent transportation use related to the 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 the FDOT to lease certain toll facilities through public-private partnerships and also authorizes the FDOT to receive unsolicited proposals. That section directs the FDOT to establish by rule an application fee

[30] 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."

sufficient to pay the costs of evaluating a proposal. The 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, the 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 the 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 the FDOT upon completion or termination of the agreement.[31] In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, the FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

If the FDOT receives an unsolicited proposal for a lease through a public-private partnership, the 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 the FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The 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. The 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 the 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 must remove the bench or transit shelter. The 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 the FDOT in a notarized signed statement that this requirement has been met.

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

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, after receiving notice from the FDOT 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, remove or relocate the installation, at no cost to the FDOT, within 60 days after receipt of the notice.

Toll Collection/Interoperable Facilities

During the 2012 Legislative Session, the Legislature passed both HB 599 and SB 1998, and both contained language relating to the FDOT authority to enter into agreements with public or private transportation facility owners (whose systems become interoperable with the FDOT's systems) for the use of the 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 the 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 the 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.[32] 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,[33] *may* be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

The FDOT advises that operation of the fire station is expected to begin in FY 2013-2014; and the FDOT finance plan, based on projections provided to the FDOT, contains the following funding for operation of the fire station:[34]

[32] See s. 338.165(10), F.S.

[33] The FDOT indicates that the fire station is currently under construction, and construction is funded by the FDOT. The 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.

[34] The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2018-19
$1,200,000	$1,242,000	$1,285,470	$1,330,461	$1,377,028

With respect to transfers to the SFWMD, the FDOT and the SFWMD entered into a memorandum of understanding on June 30, 1997,[35] under which the FDOT agreed to a schedule of payments to the SFWMD totaling $63,589,000. The FDOT expects to be able to meet its obligations under the current payment schedule by Fiscal Year 2016 as follows:[36]

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
$4,400,000	$5,000,000	$8,000,000	$7,064,000

The agreement further provides that prior to its expiration, the FDOT and the 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.,[37] 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[38] or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for a 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

[35] On file in the Senate Transportation Committee.
[36] The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.
[37] 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.
[38] An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.

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.[39] 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 substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under the MPO bylaws.[40]

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 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 the DEO to the FDOT.[41]

The FDOT, in consultation with the 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. Current law specifies that as part of the contractual agreement between the FDOT and a governmental body, that the FDOT may only transfer funds on a quarterly basis, the governmental body must expend funds received in a timely manner, and the FDOT may only transfer funds after 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

[39] 23 C.F.R. 450.301(h) (2012).
[40] 23 C.F.R. 450.301(k) (2012).
[41] 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.

repayments are then re-loaned to fund new transportation projects. A SIB loan may 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 the 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.

Intercity Bus Service/Funding Eligibility

The Federal Transit Administration's Intercity Bus Program (49 U.S.C. 5311(f)), is administered by the FDOT. Its purpose is to support and maintain intercity bus services, in order to preserve service through rural areas of the state. The 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 the 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 the 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 the 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.

Rail Corridors/Ancillary Development

The FDOT is responsible for developing and implementing a statewide rail program. As part of that program, the 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 the 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, the 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, the 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.[42] 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. Two references to the now repealed trust fund remain in statute.

Currently Established Toll Authorities

Aside from the FDOT and Florida's Turnpike Enterprise, a number of authorities exist in Florida that operate toll facilities and collect and reinvest toll revenues.[43]

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.[44]

The 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);

[42] Ch. 2012-128, L.O.F.
[43] The MBBA is also included among these authorities.
[44] s. 348.0003, F.S.

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.[45] 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.[46]

Orlando-Orange County Expressway Authority

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 the FDOT's district five secretary are the two ex-officio members of the Board.[47]

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.[48] 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.[49]

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), the OOCEA will repay the FDOT for costs of operation and maintenance of the OOCEA system; the 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.[50]

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

[45] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 22.
[46] Id.
[47] s. 348.753, F.S.
[48] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 38.
[49] Id. at 39.
[50] Section 348.967, F.S.

Navarre) in southwest Santa Rosa County.[51] Florida's Turnpike Enterprise provides toll operations for the SRBBA, and the 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 the 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.[52]

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 City of Tampa mayor, a member of the Board of County Commissioners selected by the board, and the FDOT's district seven secretary are *ex-officio* members.[53]

The 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, the THEA has reimbursed the 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, the THEA owes the FDOT approximately $200.7 million for the O&M, renewal and replacement expense advances, and other FDOT loans.[54]

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. The NFTCA is also authorized to issue bonds.[55] 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. The FDOT's district three secretary serves an as *ex-officio*, non-voting member.[56]

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

[51] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, pp. 57-58.
[52] Id.
[53] Section 348.52, F.S.
[54] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 73.
[55] Section 343.82, F.S.
[56] Section 343.81, F.S.

geographic area covered by the NFTCA and a series of workshops involving other key stakeholders in the region.[57]

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, and regional transportation planning.[58]

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. The FDOT's district five secretary serves as an *ex-officio*, non-voting member.[59]

The 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 the FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. The 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.[60]

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.[61] The 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 reside in one of the seven counties of the 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.[62]

[57] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 160.
[58] Id.
[59] Section 348.9952, F.S.
[60] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.
[61] Section 343.922, F.S.
[62] Section 343.92, F.S.

The 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 the FDOT.[63] The TBARTA also operates the 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.[64]

The TBARTA and the FDOT entered into an agreement under which, in 2009, the FDOT advanced $500,000 from a $2 million appropriation to pay initial administrative expenses, and the 2009, 2010 and 2011 Legislatures re-appropriated unspent funds from the $2 million to the TBARTA; however, the 2011 appropriation was vetoed by the Governor.

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), F.S., to change the title of the FDOT's State Public Transportation and Modal Administrator to State Freight and Logistics Administrator.

Section 3 creates s. 163.3176, F.S., which 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.

Local governments are required to determine if existing land development regulations comply with federal and state noise mitigation standards and guidelines, to incorporate compliant regulations in all local government comprehensive plans, amendments of adopted comprehensive plans, zoning plans, subdivision plat approvals, development permits, and building permits as soon as practical, but no later than July 1, 2014. If a local government fails to comply with this section and, as a result, the FDOT is required to construct a noise wall or other noise mitigation in connection with a road improvement project, the local government must share equally with the FDOT the costs of construction of a noise barrier wall.

Section 4 amends s. 206.86, F.S., to remove the definitions of "alternative fuel" and "natural gasoline."

[63] FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 177.
[64] Id. at 179.

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 decal fee imposed by s. 206.877, 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 alternative fuels.

Section 7 repeals s. 206.89, F.S., to remove from the required monthly reports to DOR information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of alternative fuel; and to make technical changes.

Section 8 amends s. 206.91(1), to remove from the required monthly reports to DOR information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of alternative fuel; and to make technical changes.

Section 9 amends s. 206.9825(1), F.S., to remove the 1996 date certain, and 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.,[65] 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.

Section 10 creates 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., to provide the following definitions:

- "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 all forms of fuel commonly or commercially known 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 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.)

[65] 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.

- "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., requiring any person selling natural gas fuel at retail in Florida to obtain a natural gas fuel retailer license from the Department of Revenue (DOR). Until December 31, 2018, any person who acts as a natural gas retailer and does not hold a valid license must pay a penalty of $200 for each month of operation without a license. Beginning January 1, 2019, a penalty of 25 percent of the tax assessed on total purchases is imposed on any person who acts as a natural gas fuel retailer and does not have a valid license. In order to apply for a license from DOR, the applicant must file an application and a bond with the department and pay an annual license fee of $5 for deposit into the General Revenue Fund. The section also requires natural gas fuel retailers to submit a monthly report to DOR and pay a tax on all natural gas fuel purchases beginning January 1, 2019.

Section 13 creates s. 206.9955, F.S., to provide the motor fuel equivalent gallon for compressed natural gas, liquefied natural gas and liquefied petroleum. The section also provides for the following taxes on natural gas fuel, effective January 1, 2019:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the "ninth-cent fuel tax."
- An additional tax of 6 cents on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax."
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the "State Comprehensive Enhanced Transportation System," at a rate determined pursuant to paragraph (d) of the subsection.
- An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel "for the privilege of selling natural gas fuel," designated as the "fuel sales tax," at a rate determined as specified in paragraph (e) of the section.

Section 14 creates s. 206.996, F.S., to require each natural gas fuel retailer to file monthly reports with DOR, beginning February 2019, showing information on inventory, purchases, nontaxable disposals and taxable sales of natural gas fuels. The natural gas retailer is allowed to deduct 0.67 percent of the amount of the excise and fuel sales taxes owed, in addition to 1.1 percent of the "ninth-cent fuel" taxes owed to "compensate it for services rendered and expenses incurred in complying with the requirements."

Section 15 creates s. 206.9965, F.S., to provide exemptions from the tax on natural gas fuel when used or purchased for the following:

- Exclusive use of natural gas fuel by the United States or its departments or agencies 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(4)(c), F.S. [66]

[66] "Agricultural purposes" include agricultural, aquacultural, commercial fishing, or commercial aviation purposes.

- Uses as provided in s. 206.874(3), F.S. [dyed diesel fuel uses].
- Use by vehicles operated by state and local government agencies.
- Individual use resulting from residential refueling devices located at a person's primary residence.
- Purchases of natural gas fuel between licensed natural gas fuel retailers.

Section 16 renumbers s. 206.879, F.S., as s. 206.997, F.S., and provides that, beginning with the calendar year 2019 and thereafter, revenues from the natural gas fuel tax be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:

- One-half of the proceeds shall be transferred to the State Transportation Trust Fund.
- 50% of the remainder shall be transferred to the State Board of Administration for distribution in accordance with s. 16, Art. IX of the State Constitution of 1885, as amended (for county road debt).
- 25% of the remainder shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
- 25% of the remainder shall be distributed to the counties for specified public transportation purposes, in accordance with s. 206.60(1), F.S.

Section 17 repeals the Local Alternative Fuel User Fee Clearing Trust Fund within DOR.

Section 18 creates s. 206.998, F.S., to provide that the specified sections are applicable to the natural gas fuel tax unless the provisions conflicts with the new part.

Section 19 amends s. 212.055(2)(d), F.S., to add "installation of systems for natural gas fuel as defined in s. 206.9951" to the definition of "energy efficiency improvement". This allows counties to use local government infrastructure surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems if a local government ordinance authorizing such use is approved by referendum.

Section 20 amends s. 212.08(4), F.S., to exempt natural gas fuel used as the fuel supply system of a motor vehicle from the taxes imposed by this section.

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.

Section 22 amends s. 316.545(3)(c), F.S., to increase from 400 to 550 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.

Section 23 amends s. 331.360, F.S., to require Space Florida to develop a spaceport system plan which contains recommendations for projects that meet current and future commercial, national and state space transportation requirements; and to submit the plan to the FDOT which may include portions of the system plan in the department's 5 year work program.

Beginning in Fiscal Year 2013-2014, the FDOT is authorized to make available from the STTF a minimum of $15 million annually from funds dedicated to public transportation projects[67] to fund space transportation projects. Project specific criteria must be provided by Space Florida to demonstrate that the project includes transportation and aerospace benefits. The FDOT may fund up to 50 percent of eligible project costs.

FDOT is authorized to fund up to 100 percent of eligible costs if the project provides important access and on-spaceport capacity improvements, capital improvements which will position the state to maximize opportunities of a sustainable and world-leading aerospace industry, meets state goals of an integrated intermodal transportation system, and demonstrates the feasibility of available matching funds.

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 which provide important access and on-airport capacity improvements, capital improvements which will position the state to maximize opportunities in international trade, logistics, and the aviation industry, meet state goals of an integrated intermodal transportation system, and demonstrate the feasibility of available matching funds.

Section 25 amends s. 334.044(16), F.S., to prohibit FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2013. These provisions have no effect on the existing lease-purchase agreements.

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., 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 prior to bidding in accordance with Rule Chapter 14-22, F.A.C. No change in current practice results, the revisions simply provide internal statute consistency and consistency between statute and rule.

Section 28 amends s. 337.168(2), F.S., to clarify an existing public records exemption by which 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 remains a public record until two days prior to the deadline for obtaining the materials.

Section 29 amends s. 337.251(2), F.S., to require a newspaper publication of 120 days for lease proposals, when the FDOT wishes to consider an unsolicited proposal for a lease of particular property. The FDOT is authorized to establish by rule an application fee for the submission of proposals, sufficient to pay the anticipated costs of evaluating the proposals. Further, the FDOT

[67] Section 206.46(3), F.S.

is required, prior to approval of any proposal, to determine that the proposed lease is in the public's best interest and meets specified criteria.

Section 30 amends s. 3347.408(1), F.S., to provide the installation of a bench or transit shelter on state right-of-way be in compliance with all applicable laws and rules including, without limitation, the Americans with Disabilities Act. The owner of a bench or transit shelter which is determined by FDOT to be noncompliant must either remove the bench or bring the bench or transit shelter into compliance with all applicable laws and rules within 60 days after receiving notice by the department. If the bench or transit shelter is not removed, the FDOT may remove it and assess the cost of removal against the owner.

The owner of a bench or transit shelter installed on state right-of-way is required to provide the FDOT with a written inventory of each location and, beginning July l, 2013, to identify in writing the location of each bench or transit shelter prior to installation. Any unidentified bench or transit shelter may be removed by the FDOT, effective January 1, 2014, and the cost of removal assessed against the owner.

This section requires any qualified provider, or person under contract to install a bench or transit shelter within state right-of-way by a municipality or county, to maintain $1 million in liability insurance, with an additional $4 million in supplemental liability insurance to specifically including coverage for any alleged violation of applicable law, with the FDOT as an additional named insured. This provision does 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 the 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 the 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 the FDOT.

Section 33 amends s. 338.26(3) and (4), F.S., to remove the obligations of Alligator Alley excess toll revenues to operate and maintain the fire station at mile marker 63, and limits the transfer of annual excess revenue to SFWMD to that which is agreed upon in the June 30, 1997 memorandum of understanding. The SFWMD's authority to issue bonds or notes which pledge the excess toll revenues from the transfer is eliminated.

Section 34 amends s. 339.175, F.S., to revise provisions relating to designation of MPOs to conform to changed federal terminology, and to provide that the voting membership of an MPO 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, may consist of no more than 25 members.

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. Provides authority for the FDOT to terminate a grant award if construction of the transportation project does not begin within four years after the date of the initial grant award; and expands the type of authorized transportation facility projects to include spaceports.

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.

Section 37 amends s. 341.031(11), F.S., to expand eligibility for intercity bus companies to compete for federal and state program funding by removing from the definition of "intercity bus service" the requirements that the carrier maintain 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., to expand the Intermodal Development Program to include access to spaceports, and to further define the activities of the program to include planning and funding the construction of airport, spaceport, seaport, transit and rail projects that facilitate the intermodal or multimodal movement of people and goods.

Projects included in the Intermodal Development Program must support statewide goals as specified in the Florida Transportation Plan, the Strategic Intermodal System Plan, the Freight Mobility and Trade Plan, or other appropriate department modal plan. Eligible projects are expanded to include: 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 it determines to be appropriate as a source of revenue for the establishment, construction, operation, or maintenance of any rail corridor owned by the State. The ancillary development must, to the extent feasible, be consistent with applicable local government comprehensive plans and local land development regulations and otherwise be in compliance with ss. 341.302-341.303, F.S.

Sections 40 and **41** amend ss. 343.82(3)(d), and 343.922(4), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 42 creates ch. 345, F.S., to authorize the formation of regional tollway authorities, consisting of sections 345.0001 – 345.0017, F.S., and creates as agencies of the state, the following authorities:

- Northwest Florida Regional Tollway Authority serving Escambia and Santa Rosa counties;
- Okaloosa-Bay Regional Tollway Authority (OBRTA) serving Okaloosa, Walton, and Bay counties; and

- Suncoast Regional Tollway Authority serving Citrus, Levy, Marion, and Alachua counties.

This section authorizes a county, or two or more contiguous counties to form a regional tollway authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state, if approved by the Legislature and the county commission of each county that will be part of the authority, and specifies that there be only one authority created and operating within the area served by the authority. Other provisions include:

- The governance and powers and duties of the authority;
- The authority to issue bonds and provide for the rights and remedies of bondholders;
- Names FDOT as the agent of each authority for the purpose of performing all phases of a project, including constructing improvements and extensions to the system; and for the purpose of operating and maintaining the system;
- The reimbursement to FDOT for cost incurred for operating and maintaining the system be reimbursed from system revenues by the authority; and
- The exemption from certain taxation for an authority.

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.

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:

This bill repeals the alternative fuel decal fees on January 1, 2014 and imposes a natural gas fuel tax starting January 1, 2019.

On March 8, 2013, the Revenue Estimating Conference estimated that there will be an insignificant negative impact on the General Revenue Fund, a ($0.3) million impact in

Fiscal Year 2013-2014 and a ($0.7) million impact in Fiscal Year 2014-2015 to state trust funds, and a negative insignificant impact to local governments. However, in Fiscal Year 2018-2019 net revenue impacts will be positive as the new fuel tax system created by this bill takes effect generating $1.5 million in additional revenues to state trust funds. Consequently, the recurring revenue impacts will be $0.1 million to the General Revenue Fund, ($0.1) million to state trust funds, and $0.4 million to local governments.

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

The bill revises the existing aviation fuel tax exemption for air carriers offering transcontinental jet service. 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.

On March 29, 2013, the Revenue Estimating Conference estimated that there will be recurring positive impact in Fiscal Year 2013-14 of $1.6 million to the General Revenue Fund, and $18.0 million to state trust funds.

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 state right-of-way will incur indeterminate expenses related to the preparation and ongoing maintenance of the required written inventory, the removal of installations not in compliance with applicable laws or the costs associated to bring the installations into compliance, insurance costs, potential litigation expense, and the costs assessed by FDOT for the removal of noncompliant installations.

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 incur additional expenditures associated with monitoring the regional tollway authorities. These 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.

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

This bill repeals the alternative fuel decal fees on January 1, 2014 and imposes a natural gas fuel tax starting January 1, 2019.

On March 8, 2013, the Revenue Estimating Conference estimated that there will be an insignificant negative impact on the General Revenue Fund, a ($0.3) million impact in Fiscal Year 2013-2014 and a ($0.7) million impact in Fiscal Year 2014-2015 to state trust funds, and a negative insignificant impact to local governments. However, in Fiscal Year 2018-2019 net revenue impacts will be positive as the new fuel tax system created by this bill takes effect generating $1.5 million in additional revenues to state trust funds. Consequently, the recurring revenue impacts will be $0.1 million to the General Revenue Fund, ($0.1) million to state trust funds, and $0.4 million to local governments.

Section 9

The bill revises the existing aviation fuel tax exemption for air carriers offering transcontinental jet service.

On March 29, 2013, the Revenue Estimating Conference estimated that there will be recurring positive impact in Fiscal Year 2013-14 of $1.6 million to the General Revenue Fund, and $18.0 million to state trust funds.

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 29

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

Section 30

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.

Section 33

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

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 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 the 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 the FDOT;

removes direction requiring each county and municipality to promptly remit to the 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 the FDOT's jurisdiction; and removes the requirements that funds received by the 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.
- Makes technical changes.

B. Amendments:

None.