The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 696
INTRODUCER:	Transportation Committee
SUBJECT:	Department of Transportation
DATE:	February 6, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 696 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT). The bill:

- Authorizes the FDOT to fund up to 100 percent of strategic airport investment projects under specified conditions;
- Revises various provisions relating to mitigation for environmental impacts of transportation projects;
- Prohibits the FDOT from entering into any lease-purchase agreements with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements;
- Revises provisions relating to the uses of tolls collected on Alligator Alley to include the operation of a fire station and revises provisions relating to the transfer of excess toll revenues used in Everglades restoration;
- Revises provisions relating to FDOT purchases of plant materials for roadside landscaping to allow compliance with federal law;
- Allows a federally-approved higher weight to be used in calculating whether a vehicle equipped with idle-reduction technology is overweight;
- Revises provisions relating to water management district public information systems to address federal law issues;
- Makes technical changes; and
- Repeals obsolete statutory provisions.

The fiscal impact of the bill is indeterminate. A net positive revenue impact to the State Transportation Trust Fund is expected.

II. Present Situation:

The present situation is discussed below in Effect of Proposed Changes in this bill analysis.

III. Effect of Proposed Changes:

Wrecker Permits/Disabled Vehicles

Current Situation

Section 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 enacted during the 1997 session to comply with federal requirements and avoid a potential federal funds penalty. During the same session, s. 316.550(5), F.S., was enacted to authorize the Florida Department of Transportation (FDOT) to issue such overweight permits.[1] However, s. 316.530(3), F.S., (originally enacted as s. 316.205(3), F.S., 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. The provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have been enforced since s 1997 since these revisions were enacted more recently.

Effect of Proposed Changes

Section 1 repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles without a special use permit when the combination of wrecker and towed vehicle are over the legal weight.

Commercial Motor Vehicles/Auxiliary Power Units

Current Situation

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 idle reduction technology ("auxiliary power units" or "APUs")[2] on heavy-duty vehicles. Section 316.545(3)(c), F.S., was enacted by the 2010 Legislature to provide for a 400-pound reduction in the gross weight of commercial motor vehicles equipped with idle 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.

[1] 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.

[2] 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).

Effect of Proposed Changes

Section 2 amends s. 316.545(3)(c), F.S., to increase from 400 to 550 pounds the authorized weight to be used in calculating a fine for an overweight vehicle equipped with fully functional APUs, as authorized by federal law, reducing a potential fine by $7.50.

Strategic Airport Investment

Current Situation

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. A "Development project" is defined as "…any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof…"[3] "Discretionary capacity improvement projects" are defined as "capacity improvements … which enhance intercontinental capacity at [specified] airports…"[4]

Subject to the availability of appropriated funds, the FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects, unless otherwise directed, 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, 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.

Effect of Proposed Changes

Section 3 creates s. 332.007(10), F.S., to authorize the FDOT to fund 100 percent of the project cost of strategic airport investment projects if the project:

- Provides important access and on-airport capacity improvements;
- Provides capital improvements that strategically position the state to maximize opportunities in international trade, logistics, and the aviation industry;
- Achieves state goals of an integrated intermodal transportation system; and
- Demonstrates the feasibility of available matching funds.

[3] Section 332.004(4), F.S.
[4] Section 332.004(5), F.S.

Lease-purchase Agreements

Current Situation

Expressway and bridge authorities created under ch. 348, F.S., in addition to the FDOT, currently operate toll facilities and collect and reinvest toll revenues. Various sections of ch. 348, F.S., authorize certain authorities to enter into lease-purchase agreements with the FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities created under ch. 343, F.S., and a bridge authority established by a special act, are authorized to enter into lease-purchase agreements with the FDOT. 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 State Highway System (SHS) or that is demonstrated to relieve traffic congestion on the SHS. The FDOT pays such costs using funds from the State Transportation Trust Fund (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. At the end of the lease-purchase agreement, ownership of the facility is transferred to the State and the FDOT retains all revenues collected from the project, as well as the O&M responsibility.

The FDOT paid $8.5 million of O&M expenses under existing lease-purchase agreements in Fiscal Year 2012-2013 and an additional $38.4 million for R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. Such payments accrue to an authority's long-term debt to the FDOT. When the O&M and the R&R expenses are not reimbursed by a toll authority on a current basis, *e.g.*, monthly or annually, the amounts paid from the STTF are added to the authority's long-term debt due to the FDOT. As of June 30, 2013, the total amount owed to FDOT by various toll authorities for such expenses totaled $451.8 million.[5]

Plant Purchases for Roadside Landscaping

The FDOT is responsible for enhancing environmental benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.[6] The FDOT is required to purchase all plant materials from Florida commercial nursery stock on a uniform, competitive basis. This requirement conflicts with federal requirements that specify a state transportation department cannot require the use of materials produced in-state or restrict the use of materials produced out-of-state.[7] Failure to comply with federal requirements for purchases of

[5] The FDOT email, October 22, 2013, on file in the Senate Transportation Committee.
[6] *See* s. 334.044(26), F.S.
[7] *See* 23 C.F.R. s. 635.409.

plant material for roadside landscaping may subject the FDOT to a significant federal funds penalty, generally 10 percent loss of annual federal highway funds.[8]

Effect of Proposed Changes

Section 4 amends s. 334.044(16), F.S., to prohibit the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2014. Lease-purchase agreements existing as of July 1, 2013, will remain in effect. The bill will not limit FDOT's authority to enter into agreements with private entities to build, operate, own and finance a transportation facility under s. 334.30, F.S.

This section also amends s. 334.044(26), F.S., to authorize the FDOT to purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation. This revision will ensure compliance with federal regulation, avoiding a potential penalty which may result in a 10 percent loss of federal highway funds.

Toll Collection/Interoperable Facilities

Current Situation

During the 2012 Legislative Session, the Legislature enacted both HB 599 and SB 1998; both contained language authorizing the FDOT to enter into agreements with owners of public or private transportation facilities to allow the use of the FDOT's electronic toll collection and video billing systems to collect and enforce tolls and other charges related to the use of those facilities. However, the provisions of HB 599 and SB 1998 are not identical and portions are ambiguous. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Effect of Proposed Changes

Section 5 amends s. 338.161(5), F.S., to clarify the potentially ambiguous language regarding agreements for use of the FDOT toll collection systems that were enacted in HB 599 and SB 1998 during the 2012 Legislative Session.

Alligator Alley

Current Situation

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, *may* be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

[8] *See* 23 U.S.C. s. 131(b).

The FDOT advises, based on Collier County projections, that operation of the fire station is expected to begin in County Fiscal Year 2014-2015 (October 1, 2014 through September 30, 2015).[9] The FDOT finance plan for the Alligator Alley supports the funding levels requested by Collier County, but the funding is not currently in the Fiscal Year 2013-14 Adopted Work Program[10]. The FDOT and the Collier County are still renegotiating the agreement. The funding levels requested by the county for operation of the fire station are: [11]

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
$1,724,760	$1,447,500	$1,447,500	$1,447,500	$1,447,500

The FDOT and the SFWMD entered into a memorandum of agreement on June 30, 1997,[12] regarding the transfer of excess toll revenues to the SFWMD for use in Everglades restoration. The agreement provides the transfer to be made annually and limits the transfer amount to the annual Legislative appropriation. The agreement also provides that the total transfers made by the FDOT not exceed $63,589,000Based on projected toll revenues for Alligator Alley, the FDOT expects to meet its obligations, reaching the cumulative total in Fiscal Year 2015- 2016.

The Memorandum of Agreement 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.,[13] and the continuing costs of the Everglades restoration projects.

Effect of Proposed Changes

Section 6 amends s. 338.26, F.S., is amended to remove the obligation of Alligator Alley excess toll revenues to indefinitely operate and maintain the fire station at mile marker 63 and to authorize use of such revenues to reimburse a county or another local governmental entity for the direct actual costs of operating the fire station by interlocal agreement ending on June 30, 2017.

This section also limits the transfer of annual excess Alligator Alley toll revenues to the SFWMD to the amount agreed upon in the June 30, 1997, memorandum of agreement; and removes the SFWMD's authority to issue bonds or notes that pledge the excess toll revenues received pursuant to the agreement.

[9] 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.
[10] Work Program Amendment W0063 submitted to the Governor's Office of Policy and Budget on February 13, 2014, adds $1,724,760 to the Fiscal Year 2013-2014 Adopted Work Program. The amendment is on 14 day consultation (ending February 28, 2014) pursuant to s. 339,135, F.S.
[11] The FDOT email, February 13, 2014, on file in the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development.
[12] On file in the Senate Transportation Committee.
[13] Section 338.165(2), F.S., 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.

Toll Facilities Revolving Trust Fund

Current Situation

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.[14] That section created the Toll Facilities Revolving Trust Fund, 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.

Effect of Proposed Changes

Sections 7 and 8 amend ss. 343.82(3)(d) and 343.922(4), F.S., to remove references to the previously repealed Toll Facilities Revolving Trust Fund.

Environmental Mitigation for Transportation Projects

Current Situation

Under s. 373.4137, F.S., the FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to the water management districts (WMDs) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the Department of Environmental Protection (DEP). The FDOT, a participating transportation authority, or a WMD may exclude a specific project from the mitigation plan.

In 2012, HB 599 modified s. 373.413, F.S., to reflect that adverse impacts may be offset by the use of mitigation banks or the payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory that is created by the FDOT and reflects habitats that would be adversely impacted by transportation projects listed in the next three years of the FDOT's tentative work program. The FDOT provides funding in its work program to the DEP or the WMDs for its mitigation requirements. To fund the programs, the statute directs the FDOT and the authorities to pay $75,000 per impacted acre, adjusted by a calculation using the Consumer Product Index (CPI).[15]

Under s. 373.4137, F.S., mitigation plans developed by the WMDs must consider water resource needs and focus on activities in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. The WMDs must also consider the purchase of credits from public and private mitigation banks if the purchase provides equal benefit to water resources and is the most cost effective option. Before transportation projects are added to the WMDs mitigation plans, the FDOT must consider if using mitigation bank credits will be more cost-effective and efficient. The WMD mitigation plans are updated annually to reflect the most recent FDOT work program and transportation

[14] Ch. 2012-128, L.O.F.
[15] *See* s. 373.4137, F.S.

authority project list and may be amended throughout the year. The mitigation plans are submitted to the governing board of the WMD or its designee for approval, and to the DEP for final approval.[16]

The FDOT and the participating expressway authorities are required to transfer funds each year to pay for mitigation of the projected impact acreage resulting from projects identified in the inventory. The projected impact acreage and costs are reconciled quarterly with the actual impact acreage, and the costs and balances are adjusted.[17]

Effect of Proposed Changes

Section 9 amends s. 373.4137, F.S., to provide that mitigation options which satisfy state and federal requirements be carried out in a manner that promotes efficiency, timely project delivery, and cost-effectiveness. Environmental impact inventories for transportation projects proposed by the FDOT or a transportation authority must include:

- An environmental impact inventory of habitat impacts and the anticipated mitigation needed, and may include the anticipated amount of mitigation needed for future projects; and
- The anticipated mitigation needed based on the Uniform Mitigation Assessment Method (UMAM) adopted in Chapter 62-345, Florida Administrative Code, and must identify the proposed mitigation option.

The FDOT is required to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account specified factors, including but not limited to the ability to satisfy state and federal requirements, maintenance, and liability.

The FDOT is authorized to implement the mitigation option identified in the environmental impact inventory by:

- Purchasing credits for current and future use directly from a mitigation bank;
- Purchasing mitigation services through the WMDs or the DEP;
- Conducting its own mitigation; or
- Using other mitigation options that meet state and federal requirements.

Funding for the identified mitigation option in the inventory must be included in the FDOT's work program under s. 339.135, F.S. The amount programmed each year must correspond to an estimated cost of $150,000 per mitigation credit, multiplied by the projected number of credits identified in the inventory. The estimated cost per credit will be adjusted every two years by the FDOT based on the average cost per UMAM credit.

For mitigation implemented by the WMDs or the DEP, the amount paid each year, by FDOT or a transportation authority, must be based on mitigation services provided by the WMD or the DEP pursuant to an approved WMD mitigation plan. The WMDs or the DEP may request payment no sooner than 30 days before the date the funds are needed.

[16] *Id*.
[17] *Id*.

Each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The programming of funds must be adjusted to reflect the mitigation as permitted.

The FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements if the WMD:

- Excludes a project from an approved WMD mitigation plan;
- Cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or if
- The proposed mitigation does not meet state and federal requirements.

The WMD or the DEP, as appropriate, has continuing responsibility for the mitigation project upon final payment for mitigation as permitted, and the FDOT's or the participating transportation authority's obligation is satisfied.

Each WMD or the DEP is required to invoice the FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory, beginning with the March 2015 WMD plans. If the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD must exclude that purchase from the mitigation plan and the FDOT must purchase the bank credits.

For mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or the DEP is required to invoice FDOT at $75,000 per acre multiplied by the projected acres of impact. The cost per acre must be adjusted by a calculation using the CPI.

The WMD must maintain records of the costs incurred including:

- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

For purposes of preparing and implementing the mitigation plans to be adopted by the WMDs on or before March 1, 2014, the funds identified in the FDOT's work program or participating transportation authorities' escrow accounts are required to correspond to $75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If moneys paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to the FDOT or the participating transportation authority. This provision expires June 30, 2015.

Each WMD is required annually by March 1 to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation. The WMD plan must:

- Identify the site where the WMD will mitigate;
- Identify the scope of the mitigation activities at each mitigation site;
- Identify the functional gain at each mitigation site as determined using the UMAM;
- Describe how the mitigation offsets the impacts of each transportation project as permitted; and
- Provide a schedule for the mitigation services.

The WMD must maintain records of costs incurred and payments received and refund to the FDOT or the participating transportation authority moneys that exceed the amount spent by the WMD to implement the mitigation.

The mitigation plan must be submitted to the WMD's governing board for review and approval. The WMD must provide a copy of the draft mitigation plan to the DEP and any person requesting a copy at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP.

The existing requirement that the mitigation plan must include an explanation of why a mitigation bank was or was not chosen as a mitigation option for each transportation project with a funding request for the next fiscal year is removed.

The FDOT or a participating authority is prohibited from excluding a transportation project from the mitigation plan if mitigation is scheduled for implementation by the WMD in the current fiscal year, unless:

- The transportation project is removed from the FDOT's work program or a transportation authority's funding plan;
- The mitigation cannot be timely permitted to offset the impacts of an FDOT project identified in the inventory; or
- The proposed mitigation does not meet state and federal requirements.

If a project is removed from the work program or the mitigation plan, costs incurred by the WMD prior to removal are eligible for reimbursement by the FDOT or the participating authority.

The FDOT is required to exclude a project from the mitigation plan when the FDOT's finds that using mitigation credits promotes efficiency, timeliness in project delivery, cost effectiveness, and transfer of liability for success and long-term maintenance.

The WMDs are required to comply with specified federal permitting requirements in developing and implementing the mitigation plan. The WMDs must provide notice and coordinate with the FDOT, or the participating transportation authority, when federal permitting requirements require deviation from the approved mitigation plan. The FDOT must consider mitigation banks

and other available mitigation options before amending the mitigation plan to include new projects.

Control of Outdoor Advertising/WMD Public Information Systems

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-aid Primary, Interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.[18]

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[19] incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements when they are within a "controlled area": *i.e.*, within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations and the 1972 agreement. Compliance with the provisions of ch. 479, F.S., ensures that the state remains in effective control of outdoor advertising as required by the HBA.

The federal-state agreement and s. 479.07, F.S., with limited exception, prohibit a person from erecting, operating, using, or maintaining any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system[20] without first obtaining a permit for the sign and paying an annual fee. Certain signs, commonly referred to as "on-premise" signs, are expressly exempted by s. 479.16, F.S., from the requirement to obtain a permit, if the signs comply with the provisions of s. 479.11(4)-(8), F.S. However, that section expressly specifies that the following types of messages shall not be considered information regarding government services, activities, events, or entertainment:

- Messages which specifically reference any commercial enterprise;

[18] 23 U.S.C. § 131(b)
[19] Copy on file in the Senate Transportation Committee.
[20] Also includes the national highway system pursuant to 23 U.S.C. 131(t) and s. 479.01(9), F.S.

- Messages which reference a commercial sponsor of any event;
- Personal messages; and,
- Political campaign messages.

SB 1986 (2012 Regular Session) created s. 373.618, F.S., authorizing public information systems to be located on property owned by the WMDs when certain terms and conditions are met. The system must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. The law expressly prohibits use of the WMD funds to pay the cost to acquire, develop, construct, operate, or manage a public information system and requires that any necessary funds for a public information system be paid for and collected from private sponsors who may display commercial messages.

To the extent that any WMD public information system is not located within a "controlled area," the provisions of s. 373.618, F.S., have no effect on the requirements of ch. 479, F.S. However, to the extent that any public information system is located within a "controlled area" and contains commercial messages or corporate sponsorship, that system violates both the federal-state agreement and provisions of ch. 479, F.S., which potentially subjects the FDOT to an annual loss of 10 percent of federal highway funding as a result of loss of control of outdoor advertising.

Effect of Proposed Changes

Section 10 amends s. 373.618, F.S., to require local government review and approval of WMD public information systems and to remove the current exemption to the provisions of ch. 479, F.S., This will avoid a potential penalty which may result in a 10 percent loss of federal highway funds.

The bill takes effect July 1, 2014.

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:

None.

B. Private Sector Impact:

Section 2. The increased allowable weight of auxiliary power units (APUs) will decrease the potential fine for a commercial motor vehicle overweight violations by $7.50.

Section 4. 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 the Florida Department of Transportation (FDOT) through its normal work program process, rather than through a lease-purchase agreement.

Section 9. Private mitigation banks may experience increased participation associated with mitigation of transportation project environmental impacts.

C. Government Sector Impact:

Section 2. The increased allowable weight of APUs will decrease the potential fine for a commercial motor vehicle overweight violations by $7.50. Overweight penalty fine revenues are deposited in the State Transportation Trust Fund (STTF). The maximum potential revenue loss based on number of violations in Fiscal Year 2012-2013 is $195,000 and will likely be less because all commercial motor vehicles are not equipped with APUs.

Section 4. The potential federal penalty (loss of 10 percent of federal highway funds) associated with the violation of the federal prohibition on in-state preferences for purchases of plant materials is eliminated.

Section 6. The obligations of Alligator Alley toll revenues to operate indefinitely a local fire station, and of the FDOT to transfer excess Alligator Alley toll revenues to the Everglades Restoration Fund beyond that which is agreed to in the Memorandum of Understanding between the FDOT and the South Florida Water Management District (SFWMD), are removed. A positive fiscal impact to the STTF is expected.

Section 9. The FDOT expects a positive fiscal impact because:

- Mitigation will be based upon actual environmental impacts, rather than impact acres;
- Mitigation implemented by the water management districts (WMDs) will be based upon actual cost, rather than a CPI-adjusted cost; and
- Mitigation bank purchases will be conducted through the competitive bid process.

The costs to mitigate for the environmental impacts of transportation projects are included in the FDOT work program budget submitted annually to the Legislature for approval.

Section 10. The potential federal penalty (loss of 10 percent of federal highway funds) associated with loss of control of outdoor advertising related to WMD public information systems within "controlled areas" in violation of federal laws is eliminated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.545, 332.007, 334.044, 338.161, 338.26, 343.82, 343.922, 373.4137, and 373.618.

This bill repeals section 316.530(3) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.