HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	HB 7175	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Economic Affairs Committee and Goodson	118 **Y's**	0 **N's**
COMPANION BILLS:	CS/SB 696, CS/CS/HB 1161, SB 642, CS/CS/SB 1048, SB 1152, includes parts of CS/HB 345, CS/CS/CS/SB 218	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

HB 7175 passed the House on April 24, 2014, and subsequently passed the Senate on May 2, 2014. The bill is a comprehensive bill related to the Department of Transportation (DOT). Major provisions of the bill include:

- Repealing the Florida Transportation Corporation Act and related auditing authority.
- Repealing the Florida Statewide Passenger Rail Commission.
- Repealing an obsolete statutory provision regarding permits for wreckers towing disabled vehicles.
- Increasing the authorized maximum gross vehicle weight of auxiliary power units (APUs) from 400 to 550 pounds to compensate for the additional weight of APUs installed on commercial motor vehicles.
- Creating a Strategic Airport Investment Initiative within DOT.
- Prohibiting DOT from entering into any new lease purchase agreements with expressway authorities, regional transportation authorities, or any other entity.
- Revising the requirement to purchase plant materials from Florida nurseries for federally funded projects.
- Modifing the terms and conditions under which DOT may sell or lease properties acquired for rights-of-way.
- Authorizing DOT concession agreements for commercial sponsorship displays on multi-use trails.
- Removing a contractor vehicle affidavit requirement, and revising the limitation on contractors and affiliates providing testing, construction, engineering, and inspection services.
- Clarifing when a document revealing the identity of an entity that receives a bid package is a public record.
- Revising provisions regarding the disposal of surplus DOT property.
- Clarifiing DOT's authority and responsibilities when DOT receives an unsolicited lease proposal.
- Revising provisions relating to the uses of tolls collected on Alligator Alley for operation of a fire station.
- Allowing DOT to factor future revenues from leases from wireless communications facilities.
- Revising provisions regarding Metropolitan Planning Organizations.
- Revising provisions regarding economic development transportation projects.
- Revising provisions regarding environmental mitigation for transportation projects.
- Revising provisions regarding water management district public information systems.
- Revising provisions related to outdoor advertising.
- Requiring the Florida Transportation Commission (FTC) to study the issue of parking meters on state roads.

The bill has an indeterminate fiscal impact on both state and local government revenues and expenditures. Additionally, the bill contains provisions which put the state in alignment with federal law to avoid the potential loss of federal funds.

The bill was approved by the Governor on June 20, 2014, ch. 2014-223, L.O.F., and will become effective on July 1, 2014, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill is a comprehensive bill related to the Department of Transportation (DOT). For ease of understanding, this analysis is arranged by topic.

Florida Transportation Corporation Act (Sections 1 and 19)

Current Situation

Sections 339.401 through 339.421, F.S., create the Florida Transportation Corporation Act. The Act was created in 1988 to allow certain corporations authorized by the DOT to secure and obtain rights-of-way for transportation systems and to assist in the planning and design of such systems.[1] According to legislative findings, the following factors contributed to the creation of the Act:

- New transportation facilities and systems were needed to combat present and future traffic congestion.
- Because state funds were limited, the design of these facilities and systems required new and alternative means.
- Authorizing nonprofit corporations to act on behalf of DOT was essential to the continued economic growth of the state.[2]

The Act contains various statutory provisions related to the formation, operation, and dissolution of these corporations. According to DOT, this act has never been used.

Proposed Changes

The bill repeals the Florida Transportation Corporation Act in ss. 339.401 through 339.421, F.S. The bill also repeals s. 11.45(3)(m), F.S., authorizing the Auditor General to audit these corporations.

Florida Transportation Commission (Section 2)

Current Situation

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 to:

> Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, F.S.,[3] 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.[4]

There is no state entity currently charged with monitoring the Mid-Bay Bridge Authority, which was created by special law.[5]

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[1] S. 3, ch. 88-271, L.O.F.

[2] S. 339.403, F.S.

[3] 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.

[4] S. 20.23(2)(b)8., F.S.

[5] Ch. 2000-411, L.O.F.

Proposed Changes
The bill amends s. 20.23(2)(b)8., F.S., giving the FTC oversight authority over the Mid-Bay Bridge Authority.

Florida Statewide Passenger Rail Commission (Section 2)

Current Situation
In 2009, the 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.[6] The Legislature created the Florida Rail Enterprise,[7] modeled after the Florida Turnpike Enterprise, to coordinate the development and operation of passenger rail services statewide. The Legislature also established the Florida Statewide Passenger Rail Commission (FSPRC)[8] to monitor, advise, and review publicly-funded passenger rail systems.

Specifically, and similar to the duties of the FTC, the Legislature charged the FSPRC with the function of:

> Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under 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.[9]

With the exception of the second phase of the SunRail commuter rail project, no additional publicly-funded statewide passenger rail service is planned. [10] In addition, the FTC provides most of the same roles as the FSPRC for all areas of transportation in the state.

DOT provides administrative support and service to the FSPRC. The commission last met in July 2012. Six of the nine seats on the FSPRC are currently vacant, with three seats expiring in August 2014.[11]

Proposed Changes
The bill repeals s. 20.23(3), F.S., eliminating the Florida Statewide Passenger Rail Commission.

Wreckers (Section 3)

Current Situation
Section 316.515(8), F.S., allows wreckers to tow disabled vehicles where 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 in 1997 after agreement with the wrecker industry that in exchange

[6] Ch. 2009-271, L.O.F.
[7] The Florida Rail Enterprise is created in ss. 341.8201 through 341.842, F.S.
[8] The Florida Statewide Passenger Rail Commission is created in s. 20.23(3), F.S.
[9] S. 20.23(3)(b)1., F.S.
[10] The first phase (31 miles) of the SunRail project, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando – has been constructed, and service began on May 1, 2014.
[11] October 8, 2013 and February 24, 2014, e-mails from DOT to House Transportation & Highway Safety Subcommittee Staff. Copies on file with subcommittee staff.

for the ability to tow disabled vehicles to a location of their choice (instead of the closest repair facility), overweight permits would be obtained. Also in 1997, s. 316.550(4), F.S., authorized DOT to issue such overweight permits.

However, s. 316.530(3), F.S.,[12] allowing wreckers to tow disabled vehicles where 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 316.550(4), F.S., have since been enforced, as they relate to wreckers towing vehicles and the penalties to be assessed for violations.

With respect to federal law, DOT has been advised by the Federal Highway Administration (FHWA) as follows:

> "The Federal law and regulations; 23 USC 127(a) and 23 CFR 658.17 establish the maximum weight limits authorized for vehicles operating on the Interstate System. These include 20,000 pounds for a single axle, 34,000 pounds on a tandem axle, and a maximum gross weight of up to 80,000 pounds determined by the application of a bridge formula. In general, States are authorized to permit on the Interstates nondivisible loads and vehicles exceeding the Federal maximum weight limit **upon the issuance of special permits in accordance with State law** (*emphasis added***)**. Federal regulations at 23 CFR 658.5 define the term "nondivisible load or vehicle" and authorize the States to treat emergency response vehicles as nondivisible. As a result, the States are authorized to issue special permits to wreckers and tow trucks that are responding to actual road emergencies, authorizing these vehicles to operate in excess of the maximum weight limits only when responding to such emergencies."

Proposed Changes

The bill repeals obsolete s. 316.530(3), F.S., allowing wreckers to tow disabled vehicles where the combination of wrecker and towed vehicle are over the legal weight limit, thereby eliminating the direct conflict in state law.

CMV/Auxiliary Power Units (Section 4)

Current Situation

Section 756 of the Energy Policy Act of 2005, "Idle Reduction and Energy Conservation Deployment Program," amended Title 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")[13] on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created in 2010[14] 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 Title 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight from APUs.

Proposed Changes

[12] This provision was originally passed as s. 306.205(3), F.S., in 1976.
[13] An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during rest periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants ,as well as noise).
[14] Ch. 2010-255, L.O.F.

The bill amends s. 316.545(3), F.S., increasing the maximum weight limit for APUs from 400 to 550 pounds to conform to federal law. The bill also makes grammatical and editorial changes to this section.

Strategic Airport Investment Initiative (Section 5)

Current Situation
Section 332.007, F.S., requires DOT 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, DOT is authorized to participate in the capital costs of eligible public airport and aviation development projects,[15] unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. DOT 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 discretionary capacity improvement projects,[16] again at percentage rates that vary.

DOT notes that, in 2012, the Legislature created a strategic investment initiative program within DOT's seaport program[17] and that DOT does not have a similar investment initiative or authority for its aviation program.

Proposed Changes
The bill creates s. 332.007(10), F.S., authorizing DOT to fund strategic airport investment projects at up to 100 percent of the project's cost if:

- Important access and on-airport capacity improvements are provided.
- Capital improvements that strategically position the state to maximize opportunities in international trade logistics, and the aviation industry are provided.
- Goals of an integrated intermodal transportation system for the state are achieved.
- Feasibility and availability of matching funds through federal, local, or private partners are demonstrated.

Lease Purchase Agreements (Section 6)

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

DOT is authorized to enter into these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows DOT to lend or pay a portion of 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 SHS. DOT pays such costs using the State Transportation Trust Fund (STTF).

[15] In short, defined in 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…."
[16] Defined in s. 332.004(5), F.S., as "…capacity improvements … which enhance intercontinental capacity at [specified] airports…."
[17] Ch. 2012-174, L.O.F.

In a typical lease-purchase agreement between DOT and a toll authority, DOT, 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 DOT would retain all revenues collected, as well as O&M responsibility.

As required by existing agreements, DOT paid $3.9 million in O&M expenses in FY 2012-2013 and an additional $38.4 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 DOT. When the O&M and R&R expenses are not reimbursed by the toll authority on a current basis, the STTF monetary advances are added to the authority's long-term debt due to DOT. As of June 30, 2013, debt owed to DOT from various toll authorities for expenses paid totaled approximately $451.8 million.

Proposed Changes
The bill amends s. 334.044(16), F.S., providing that notwithstanding any other provision of law to the contrary, DOT may not enter into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity. This does not invalidate any lease-purchase agreement authorized under ch. 348, F.S.,[18] and ch. 2000-411, L.O.F.,[19] and existing as of July 1, 2013, and does not limit DOT's authority under the public private partnership statute.[20]

Landscaping (Section 6)

Current Situation
DOT is responsible for enhancing environment benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.[21] DOT is required to purchase all plant materials from Florida commercial nursery stock on a uniform competitive basis. This provision 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.[22] Failure to comply with federal requirements for purchases of plant material for roadside landscaping may subject the DOT to a significant federal funds penalty, generally 10 percent of annual highway constructions funds,[23] which equates to approximately $160 million.

Proposed Changes
The bill amends s. 334.044(26), F.S., requiring DOT 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. The bill also makes editorial changes to this subsection.

Access to State Parks (Section 7)

Current Situation
Section 335.06, F.S. requires DOT to maintain roads that provide access to state parks if the roads are part of the SHS. If the access road is part of the county road or city street system, the appropriate local government is required to maintain the road.

Proposed Changes
The bill amends s. 335.06, F.S. authorizing DOT to improve and maintain roads that are part of the county road system or city street system if they provide access to a state park. If DOT does not maintain the road, the appropriate county or municipality shall maintain the road.

[18] Chapter 348, F.S., creates various expressway and bridge authorities.
[19] Chapter 2000-411, L.O.F., creates the Mid-Bay Bridge Authority.
[20] S. 334.30, F.S.
[21] S. 334.044(26), F.S.
[22] 23 C.F.R. s. 635.409.
[23] 23 U.S.C. s. 131(b).

State Trails (Section 8)

Current Situation
State Transportation Trust Fund (STTF) revenues are derived from state fuel taxes, motor vehicle fees, toll road receipts, and federal grants. The use of moneys in the STTF is limited to those uses set forth in s. 339.08, F.S., and unless otherwise specifically authorized, these funds cannot be allocated for projects off the state system. State funds available for projects such as recreational or multiuse trails are limited to DOT district dedicated revenues from the proceeds of the State Comprehensive Enhanced Transportation System (SCETS) Tax.

Section 335.065(3), F.S., provides that DOT, in cooperation with DEP, shall establish a statewide integrated system of bicycle and pedestrian ways in such a manner as to take full advantage of any such ways maintained by a governmental entity. For purposes of s. 335.065, F.S. bicycle facilities may be established as part of or separate from the actual roadway and may utilize existing road right-of-way or other rights-of-way easements for public use.

Proposed Changes
The bill amends s. 335.065(3), F.S., providing that DOT may enter into a concession agreement with a not-for-profit entity or private sector business or entity for commercial sponsorship displays on multi-use trails and related facilities. The bill also provides for concession agreement revenues to be used for the maintenance of multi-use trails and related facilities. The commercial sponsorship displays are subject to the Highway Beautification Act of 1965 and all applicable federal laws and agreements[24].

Contractor Vehicle Registration (Section 9)

Current Situation
Section 337.11(13), F.S., requires each road or bridge construction or maintenance contract let by DOT to contain a provision requiring the contractor to provide proof to DOT, 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.[25]

Proposed Changes
The bill amends s. 337.11(13), F.S., requiring each road or bridge construction contract or maintenance contract let by DOT to require all motor vehicles operated by the contractor in this state to be registered in compliance with ch. 320, F.S, thereby eliminating the requirement of proof to DOT in the form a notarized affidavit from the contractor.

Application for Qualification (Section 10)

Current Situation
Section 337.14(7), F.S., prohibits a contractor[26] or its affiliate[27] qualified with DOT from qualifying under s. 287.055, F.S.,[28] or s. 337.105, F.S.,[29] to provide testing services, construction, engineering, and inspection services to DOT. This limitation does not apply to any design build prequalification.[30]

[24] 23 U.S.C. 131
[25] Chapter 320, F.S., relates to motor vehicle licenses.
[26] Section 337.165(1)(d), F.S., defines "contractor" as "any person who bids or applies to bid on work let by the department or any counterpart agency of any other state or of the Federal Government or who provides professional services to the department or other such agency. The term "contractor" includes the officers, directors, executives, shareholders active in management, employees, and agents of the contractor."
[27] Section 337.165(1)(a), F.S., defines "affiliate" as "a predecessor or successor of a contractor under the same, or substantially the same, control or a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term "affiliate" includes the officers, directors, executives, shareholders active in management, employees, and agents of the affiliate. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one business entity is an affiliate of another."

Proposed Changes
The bill amends s. 337.14(7), F.S., providing that the limitation on contractors also does not apply when DOT otherwise determines by written order entered at least 30 days before advertisement that the limitation is not in the best interests of the public with respect to a particular contract for testing services, or for construction, engineering and inspection services. However, this may not be construed to authorize a contractor to provide testing services, or to provide construction, engineering and inspection services, to DOT in connection with a construction contract under which the contractor is performing any work.

Identification of Potential Bidders (Section 11)

Current Situation
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 two working days prior to the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. DOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.[31] Accordingly, DOT takes the lists down two working days prior to the deadline for obtaining bid packages, plans, or specifications. However, the lists include the identity of persons who requested or obtained bid packages, plans, or specifications before the two-day period of exemption begins.

Proposed Changes
The bill amends s. 337.168(2), F.S., clarifying an existing public records exemption by providing that a document that reveals the identity of a person who has requested or obtained from DOT, a bid package, plan, or specifications pertaining to any project to be let by DOT before the two working days before the deadline for obtaining such materials remains a public record.

Surplus Property (Section 12)

Current Situation
Section 337.25, F.S., authorizes DOT to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a DOT designated rail or transportation corridor. DOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.

DOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item, and the serial number assigned to each. DOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility.[32] If the property is not located within a transportation corridor or is not needed for a

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[28] Section 287.055, F.S., relates to the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.
[29] Section 337.105, F.S., relates to the qualifications of professional consultants and other providers of contractual services.
[30] Design-build prequalification is pursuant to s. 337.11(7), F.S.
[31] http://www.dot.state.fl.us/cc-admin/Letting_Project_Info.shtm: 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." (Last visited March 12, 2013).
[32] Section 334.03(30), F.S., defines "transportation facility" as "any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property

transportation facility, DOT is authorized to dispose of the property. According to the DOT, approximately 75 percent of its currently-owned surplus parcels are valued at under $50,000.[33]

Sale of Property
DOT is authorized to sell any land, building, or other real or personal property it acquired if DOT determines the property is not needed for a transportation facility. DOT is required to first offer the property ("first right of refusal") to the local government in whose jurisdiction the property is located, with the following exceptions:

- DOT may negotiate the sale of property at no less than fair market value as determined by an independent appraisal, to the owner holding title to abutting property, if in DOT's discretion public sale would be inequitable.
- DOT may sell property acquired for use as a borrow pit, at no less than fair market value, to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.
- DOT may convey to a county without consideration any property acquired by a county or by DOT using constitutional gas tax funds for a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system if the property is no longer used or needed by DOT; and the county may sell the property on receipt of competitive bids.
- A governmental entity may authorize re-conveyance to the original donor of property donated to the state for transportation purposes if the facility has not been constructed for at least five years, no plans have been prepared for construction of the facility, and the property is not located within a transportation corridor.
- DOT may negotiate the sale of property as replacement housing if the property was originally acquired for persons displaced by transportation projects and if the state receives no less than its investment in such properties or fair market value, whichever is lower. This benefit extends only to persons actually displaced by a project, and dispositions to any other person must be for fair market value.

Once DOT determines the property is not needed for a transportation facility and has extended and received rejection of required first rights of refusal, DOT is also authorized to:

- Negotiate the sale of property if its value is $10,000 or less as determined by DOT estimate.
- Sell the property to the highest bidder through "due advertisement" of receipt of sealed competitive bids or by public auction if its value exceeds $10,000 as determined by the DOT estimate.
- Determine the fair market value of property through appraisal conducted by an DOT appraiser, if the DOT begins the process for disposing of property on its own initiative, either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction.
- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose.
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the DOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the DOT to significant liability risks.

Lease of Property
DOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:

- DOT may negotiate a lease at the prevailing market value with the owner from whom the property was acquired, with the holders of leasehold estates existing at the time of DOT's

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rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.

[33] March 4, 2014, e-mail from the Department of Transportation. On file with the Transportation & Highway Safety Subcommittee.

acquisition, or, if public bidding would be inequitable, with the owner of privately owned abutting property, after reasonable notice to all other abutting property owners.
- All other leases must be by competitive bid, and limited to five years; however DOT may renegotiate a lease for an additional five year term without rebidding.
- Each lease must require that any improvements made to the property during the lease term be removed at the lessee's expense.
- Property that is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity may be leased at no cost to a governmental entity or school board.
- DOT may enter into a long-term lease agreement without compensation with certain public ports for rail corridors used in the operation of a short-line railroad to the port.

The appraisals currently required under ss. 337.25(4)(c) and (d), F.S., must be prepared in accordance with DOT guidelines and rules by an independent appraiser certified by DOT. When "due advertisement" is required, an advertisement in a newspaper of general circulation in the area of the improvements of not less than 14 calendar days prior to the date of the receipt of bids or the date on which a public auction is to be held satisfies the requirement.

Proposed Changes

The bill amends s. 337.25, F.S., revising the terms and conditions under which DOT may sell or lease properties acquired for transportation rights-of-way and authorizing DOT to contract for auction services used in the conveyance of real or personal property or leasehold interest[34] and authorizing such contracts to allow the contractor to retain a portion of the proceeds as compensation.

DOT is authorized to "convey" rather than "sell" land, buildings, or other real or personal property after determining the property isn't needed for a transportation facility and to dispose of property through negotiations, sealed competitive bids, auctions, or any other means deemed to be in DOT's best interest. Due advertisement is required for property valued at more than $10,000, and no property may be sold at less than fair market value except as specified. DOT is authorized, rather than required, to afford the right of first refusal to a political subdivision, or local government in which the parcel is located, except in conveyances when:
- The property has been donated to the state for transportation purposes and a facility has not been constructed for at least five years;
- The property was originally required for replacement housing for persons displaced by transportation projects; or
- It has been determined by DOT that a sale of the property to anyone other than the abutting land owner would be inequitable.

DOT is prohibited from conveying a leasehold interest at a price less than DOT's current estimate of value and specifies that a lease may be created through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the best interest by DOT. A lease shall not be for a period of more than five years; however, DOT may extend the lease for an additional five years without rebidding.

DOT's estimate of value must be prepared in accordance with DOT procedures, guidelines, and rules of valuation of real property. If the value of the property exceeds $50,000; the sale will be negotiated at a price not less than fair market value as determined by an independent appraisal. If the estimate of value is $50,000 or less, DOT may use a staff appraiser or obtain an independent appraisal.

The bill specifies that s. 337.25, F.S., does not modify the requirements of s. 73.013, F.S.

Unsolicited Lease Proposals (Section 13)

[34] This is pursuant to s. 287.055, F.S.

Current Situation

Section 337.251, F.S., authorizes DOT to request proposals for the lease of DOT property for joint public-private development or commercial development. DOT may also receive and consider unsolicited proposals for such uses. If DOT receives an unsolicited proposal to negotiate a lease, DOT 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. DOT 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 DOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of DOT by the lessee in lieu of direct revenue to DOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, DOT must determine that the property subject to the lease is not available for sale as surplus property because the property has a permanent transportation use related to DOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses.

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

Before approving a toll facility lease proposal, DOT 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 State Highway System; 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 DOT; would have adequate safeguards in place to ensure that DOT 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 DOT upon completion or termination of the agreement.[35] In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, DOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

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

Proposed Changes

The bill amends s. 337.251(2), F.S., providing statutory guidance regarding unsolicited lease proposals. It changes the time period in which DOT will accept other proposals for the lease of a particular property from 60 days to 120 days. It requires DOT to establish an application fee for the submission of proposals by rule. The fee must be limited to the amount needed to pay for the anticipated costs of evaluating the proposals. DOT may engage the services of private consultants to assist in the evaluation. Before approval, DOT must determine that the proposed lease:

- Is in the public's best interest.
- Would not require state funds to be used.
- Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

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

Toll Interoperability (Section 14)

Current Situation
HB 599[36] and SB 1998[37] both passed in 2012 and both contained language relating to DOT's authority to enter into agreements with public or private transportation facility owners (whose systems become interoperable with DOT's systems) for the use of DOT systems to collect and enforce tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner's facility. However, the bills were not identical. Language contained in the last passed bill, HB 599, is potentially ambiguous as to whether DOT would be collecting tolls, fares, and fees on behalf of the facility owner or whether the facility owner would be collecting them on behalf of DOT, leading to more than one possible interpretation.

Proposed Changes
The bill amends s. 338.161(5), F.S., clarifying that DOT may collect and enforce tolls, fares, administrative fees, and other applicable charges due in connection with use of the public or private transportation facility.

Alligator Alley (Section 15)

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.

DOT 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).[38] DOT's finance plan for the Alligator Alley supports the funding levels requested by Collier County, but the funding is not currently in DOT's Fiscal Year 2013-2014 Adopted Work Program[39]. DOT and Collier County are still renegotiating the agreement.

Proposed Changes
The bill amends s 338.26(3), F.S., removing the obligation of Alligator Alley excess toll revenues to indefinitely be used to operate and maintain the fire station at mile marker 63 and authorizing the use of such revenues to reimburse a county or another local governmental entity for the direct actual cost of operating the fire station by interlocal agreement ending on June 30, 2018.

Leases for Wireless Communications Facilities (Section 16)

Current Situation
Section 365.172(12)(f), F.S., authorizes the leasing of state property for wireless communication facilities. Throughout the state, many wireless communications facilities are located on DOT right-of-way. DOT currently does not have statutory authority to allow for the factoring of revenues from leases for wireless communications facilities.

Proposed Changes

[36] Ch. 2012-174, L.O.F.
[37] Ch. 2012-128, L.O.F.
[38] DOT 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.
[39] Work Program Amendment 2014 01 005 submitted to the Governor's Office of Policy and Budget on February 13, 2014, added $1,724,760 for the fire station to the Fiscal Year 2013-2014 Adopted Work Program. The amendment added this funding pursuant to s. 339,135, F.S., and indicates that total funding for the fire station will be $7,514,760 through fiscal year 2017-2018.

The bill creates ss. 339.041, F.S., relating to the factoring of revenues from leases for wireless communications facilities.

The bill provides Legislative findings that efforts to increase funding for capital expenditures for the transportation system are necessary for the protection of the public safety and general welfare for the preservation of transportation facilities. It is the intent of the Legislature to:

- Create a mechanism for factoring future revenues received by DOT from leases for wireless communication facilities on DOT property on a nonrecourse basis.
- Fund fixed capital expenditures for the statewide transportation system from proceeds generated through this mechanism.
- Maximize revenues from factoring by ensuring that such revenues are exempt from income taxation under federal law in order to increase funds available for capital expenditure.

For purposes of factoring revenues, DOT property includes:

- Real property located within DOT's limited access rights-of-way.
- Property located outside the current operating right-of-way limits which is not needed to support current transportation facilities.
- Other property owned by the Board of Trustees of the Internal Improvement Trust Fund and leased by DOT.
- Space on DOT telecommunications facilities.
- Space on DOT structures.

The bill authorizes DOT to solicit investors willing to enter into agreements to purchase the revenue stream from one or more existing DOT leases for wireless communication facilities on property owned or controlled by DOT through the issuance of an invitation to negotiate. These agreements are to be structured as tax-exempt financings for federal tax purposes in order to result in the largest possible payout.

DOT may not pledge the credit, the general revenues, or the taxing power of the state or of any political subdivision of the state. DOT and investor obligations under the agreement do not constitute a general obligation of the state or a pledge of the full faith and credit or taxing power of the state. The agreement is payable from and secured solely by payments received from DOT leases for wireless communication facilities on property owned or controlled by DOT, and neither the state nor any of its agencies has any liability beyond such payment.

DOT may make any covenant or representation necessary or desirable in connection with the agreement, including a commitment by DOT to take whatever actions are necessary on behalf of investors to enforce DOT's rights to payments on property leased for wireless communication facilities. However, DOT may not guarantee that revenues actually received in a future year will be those anticipated in its leases for wireless communication facilities. DOT may agree to use its best efforts to ensure that anticipated future-year revenues are protected. Any risk that actual revenues received from DOT leases for wireless communications facilities will be lower than anticipated shall be borne exclusively by investors.

Subject to annual appropriation, the investors shall collect the lease payments on a schedule and in a manner established in the agreements entered into between DOT and the investors. The agreements may provide for lease payments to be made directly to investors by lessees if the lease agreements entered into by DOT and lessees pursuant to s. 365.172(12)(f), F.S., allow direct payment.

Proceeds received by DOT from leases for wireless communications facilities shall be deposited into the State Transportation Trust Fund[40] and used for fixed capital expenditures for the statewide transportation system.

Metropolitan Planning Organizations (Section 17)

Current Situation

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule[41] require a metropolitan planning organization (MPO) to be designated for each urbanized area[42] 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 federal law,[43] which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.[44] 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.[45]

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, even if the membership is already at 19 members.

For both multicounty and single-county MPOs, current law requires that county commission members compose not less than one-third of the MPO governing board membership. All voting members must be elected officials of general-purpose local government.

MPOs are currently required to establish bylaws and adopt rules pursuant to the Administrative Procedures Act.

[40] The State Transportation Trust Fund is created under s. 206.46, F.S.
[41] 23 U.S.C. 134 and 23 C.F.R 450 Part C
[42] An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.
[43] 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b)
[44] 23 C.F.R. 450.310(h) (2012).
[45] 23 C.F.R. 450.310(k) (2012).

Proposed Changes
The bill amends s. 339.175, F.S., to:

- Revise state law superseded by federal law and rule by requiring that MPO designation occur by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population, including the largest incorporated city, based on population, as named by the Bureau of the Census.
- Increase the maximum voting membership from 19 to 25 members, which may provide more flexibility when membership apportionment plans are revised based on updated census data and new or expanded urbanized area boundaries, and could potentially benefit MPO consolidation.
- Provide that, with the exception of instances in which all of the county commissioners in a single-county MPO are members of the MPO governing board, county commissioners must compose at least one-third of the MPO governing board membership.
- Provide that a multicounty MPO may satisfy the one-third requirement by any combination of county commissioners from each of the counties constituting the MPO.
- Authorize general purpose local governments serving on an MPO to include one member who represents a group of general purpose local governments through an entity created by an MPO for that purpose. This would allow an entity created by an MPO that is composed of local government officials, such as an MPO-created committee consisting of local governments not on the MPO, to serve on an MPO.
- Authorize, rather than requires, provision of governing board voting membership to authorities or other agencies that perform transportation functions but which are not under the jurisdiction of a general purpose local government. This provides MPO discretion to determine which authorities or other agencies should serve on an MPO governing board.
- Provide that each MPO is to review the composition of its membership after each decennial census and, as necessary, reapportion its membership with the Governor, to clarify that the MPO initiates the review and reapportionment of its governing board membership.
- Authorize MPOs to establish bylaws by action of its governing board providing procedural rules to guide its proceedings and consideration of matters before the council or, alternatively, adopt rules pursuant to the Administrative Procedures Act.

Economic Development Transportation Projects (Section 18)

Current Situation
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 is for economic development transportation projects (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. In 2012, the Legislature repealed s. 288.063, F.S., where the Road Fund was statutorily placed, and created s. 339.2821, F.S.[46] The revisions did not change the purpose of the Road Fund, but moved oversight of the fund from the Department of Economic Opportunity (DEO) to DOT.[47]

DOT, in consultation with DEO, is authorized under s. 339.2821, F.S., 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 DOT and a governmental body, DOT may only transfer funds on a quarterly basis, the governmental body must

[46] Ch. 2012-128, L.O.F.
[47] 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.

expend funds received in a timely manner, and DOT may only transfer funds after construction has begun on the facility of a business on whose behalf the award was made.

Proposed Changes
The bill amends s. 339.2821, F.S., including Enterprise Florida, Inc., as an entity DOT will consult with in making and approving economic development transportation project contracts. The bill removes the requirement for the governmental body to provide quarterly reports, and leaves it with just reports to allow for flexibility in the reporting requirement. The bill also provides authority for DOT 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 eligible for the program to include spaceports.

Toll Facilities Revolving Trust Fund (Sections 20 and 21)

Current Situation
The Toll Facilities Revolving Trust Fund was repealed in 2012.[48] However, references to the trust fund remain in statute.

Proposed Changes
The bill amends ss. 343.82(3)(d) and 343.922(4), F.S., deleting references to the repealed Toll Facilities Revolving Trust Fund.

Environmental Mitigation (Section 22)

Current Situation
Under existing law, DOT 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 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 ability to exclude a project from the mitigation plan is provided to DOT, a participating transportation authority, or a WMD.

More specifically s. 373.4137, F.S., enacted in 1996,[49] created mitigation requirements for specified transportation projects. Historically, the statute directed DOT and transportation authorities[50] to fund, and the WMD to develop and implement, mitigation plans to mitigate these impacts. In 2012, HB 599[51] modified the statute to reflect that adverse impacts be offset by the use of mitigation banks and any other option that satisfies state and federal requirements. "Other" mitigation options include DOT's payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory created by DOT reflecting habitats that would be adversely impacted by transportation projects listed in the next three years of DOT's tentative work program. DOT provides funding in its work program to DEP or WMDs for its mitigation requirements. To fund the programs, the statute directs DOT and the authorities to pay $75,000, as adjusted by a calculation using the Consumer Price Index (CPI), per impacted acre.[52]

The statute provides that WMD developed mitigation plans should use sound ecosystem management to address significant water resource needs and focus on activities of DEP and WMDs in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. WMDs must also consider the purchase of credits from public and private mitigation banks when such purchase provides equal benefit to water resources and is the most cost effective

[48] Ch. 2012-128, L.O.F.
[49] Ch. 96-238, L.O.F.
[50] The statute applies to transportation authorities created in ch. 348 or 349, F.S.
[51] Ch. 2012-174, L.O.F.
[52] The fiscal year 2014-2015 cost per acre is $111,426.

option. Before each transportation project is added to the WMD mitigation plan, DOT must investigate the use of mitigation bank credits considering cost-effectiveness, time saved, transfer of liability and long-term maintenance. Final approval of the mitigation plan rests with DEP.

DOT and participating expressway authorities are required to transfer funds to pay for mitigation of that year's projected impact acreage resulting from projects identified in the inventory. Quarterly, the projected impact acreage and costs are reconciled with the actual impact acreage, and costs and the balances are adjusted.

Under existing law, the statute provides for exclusion of specific transportation projects from the mitigation plan at the discretion of DOT, participating transportation authorities and the WMDs.

Proposed Changes

The bill amends s. 373.4137, F.S., providing that mitigation take place in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness. The bill requires the following for the development of environmental impact inventories for transportation projects proposed by DOT or a transportation authority:[53]

- DOT must submit an environmental impact inventory of habitat impacts[54] and the anticipated amount of mitigation needed to offset the impacts to the WMDs by July 1, and may include in the inventory the habitat impacts and the anticipated amount of mitigation needed for future projects.
- The environmental impact inventory must include the proposed amount of mitigation needed based on the Uniform Mitigation Assessment Method (UMAM)[55, 56] and identification of the proposed mitigation option.

The bill requires DOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account state and federal requirements, maintenance, and liability.

The bill allows DOT 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 DEP.
- Conducting its own mitigation.
- Using other mitigation options that meet state and federal requirements.

The bill requires funding for the identified mitigation option in the inventory to be included in DOT's work program,[57] and requires the amount programmed each year to correspond to an estimated cost to mitigate for the functional loss identified in the environmental impact inventory.

The bill specifies that for mitigation implemented by the WMDs or DEP, the amount paid each year must be based on mitigation services provided by the WMD or DEP pursuant to an approved WMD

[53] The statute applies to transportation authorities established pursuant to ch. 348 or ch. 349, F.S.
[54] The environmental impact inventory is based on the rules adopted pursuant to part IV of ch. 373, F.S., relating to the management of storage and surface waters and s. 404 of the Clean Water Act (33 U.S.C. s. 1344).
[55] UMAM is adopted in ch. 62-345, F.A.C. Information on UMAM is available at: http://www.dep.state.fl.us/water/wetlands/mitigation/umam/index.htm (Last visited November 7, 2013).
[56] Rule 62-345.100(1), F.A.C., implements s. 373.414(18), F.S. requiring "the establishment of an uniform mitigation assessment method to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits." Rule 62-345.100(2), F.A.C., recites that the assessment method is "a standardized procedure for assessing the functions provided by wetlands and other surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss."
[57] DOT's work program is developed pursuant to s. 339.135, F.S.

mitigation plan. The WMDs or DEP may request payment no sooner than 30 days before the date the funds are needed.

The bill requires that 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.

DOT 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.
- WMD cannot timely permit a mitigation site to offset the impacts of a DOT project identified in the inventory.
- Proposed mitigation does not meet state and federal requirements.

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

The bill requires each WMD or DEP to invoice DOT for mitigation services to offset only the impacts of a DOT project identified in the inventory, beginning with the March 2015 WMD plans. If the WMD identifies the use of mitigation bank credits to offset a DOT impact, the WMD must exclude that purchase from the mitigation plan and DOT must purchase the bank credits.

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

The WMD must maintain records of the costs incurred including:

- Planning.
- Land acquisition.
- Design and construction.
- Staff support, long-term maintenance and monitoring of the mitigation site.
- Other costs necessary to meet federal requirements.[58]

The bill requires the funds identified in DOT's work program or participating transportation authorities' escrow accounts, for preparing and implementing the mitigation plans, adopted by the WMDs on or before March 1, 2014, 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 monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to DOT or the participating transportation authority. This provision expires June 30, 2015.

The bill requires each WMD 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, the scope of the mitigation activities at each mitigation site, and the functional gain at each mitigation site as determined using UMAM. The mitigation plan must be submitted to the WMD's governing board for review and approval. The bill requires that the WMD provide a copy of the draft mitigation plan to the DEP at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP. The bill also requires the plan to describe

[58] The federal requirements are pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332

how the mitigation offsets the impacts of each transportation project and provide a schedule for the mitigation services.

Public Service Warning Signs (Section 23)

Current Situation

SB 1986,[59] passed in 2012, authorizes public information systems located on property owned by WMDs, upon terms and conditions approved by the WMD, which 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 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 by, and collected from, private sponsors who may display commercial messages.[60]

Section 479.02, F.S., charges DOT with the duty to "administer and enforce provisions of this chapter and the agreement between the state and the United States Department of Transportation relating to the size, lighting, and spacing of signs in accordance with Title 1 of the Highway Beautification Act of 1965 and Title 23 United States Code, and federal regulations in effect as of the effective date of this act." The federal-state agreement and s. 479.07, 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*[61] without first obtaining a permit for the sign and paying an annual fee.

The italicized phrase above is further defined in that section to mean "a sign located within the **controlled area**[62] which is visible from any portion of the main-traveled way[63] of such system."

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 ss. 479.11(4)-(8), F.S. Signs owned by a municipality or a county located on the premises of the municipality or county which display information regarding government services, activities, events, or entertainment are also exempt from permit requirements. 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.
- Messages which reference a commercial sponsor of any event.
- Personal messages.
- Political campaign messages.

DOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a "controlled area."

Proposed Changes

[59] Ch. 2012-126, L.O.F.
[60] S. 373.618, F.S.
[61] Also includes the national highway system pursuant to 23 U.S.C. 131(t) and s. 479.01(9), F.S.
[62] Section 479.01(6), F.S., defines "controlled area" as "660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary highway system outside of an urban area."
[63] Section 479.01(13), F.S., defines "main traveled way" as "the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways which specifically include on-ramps or off-ramps to the interstate highway system, or parking area."

The bill amends s. 373.618, F.S., providing that public service warning signs on water management district property are subject to the Highway Beautification Act of 1965 and all applicable federal laws and agreements.

Outdoor Advertising (Sections 24 through 44)

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965,[64] the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and 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 primary features of the HBA include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs[65] along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate, and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

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.[66]

Under the provisions of a 1972 agreement[67] between the State of Florida and USDOT incorporating the HBA's required controls, DOT requires commercial signs to meet certain requirements when they are 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."

DOT reviewed ch. 479, F.S., the primary statute for the Outdoor Advertising Regulatory Program, and has proposed comprehensive revisions to the chapter. This chapter has undergone a number of "minor fixes" over the years. This rewrite allows for better continuity and clearer understanding of the provisions of law, which is critical to DOT because the 1972 Agreement provides that failure by the State to maintain control shall result in reduced amounts equal to 10 percent of federal funds apportioned to the State until the State provides for effective control. The 10 percent correlates today to approximately $160 million annually.

Commercial and Industrial Areas

[64] 23 U.S.C. 131

[65] A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

[66] 23 U.S.C. 131(b)

[67] A copy of the 1972 agreement is available at http://www.dot.state.fl.us/rightofway/Documents.shtm (Last visited September 26, 2013).

Outdoor advertising signs may legally be located in commercial or industrial areas. In conformance with the 1972 agreement, s. 479.01(4), F.S., currently defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to ch. 163, F.S.[68] This allows DOT to consider both land development regulations and future land use maps in determining commercial and industrial land use areas and issuing permits for sign locations in such areas.

Unzoned Commercial and Industrial Areas

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an unzoned commercial or industrial area and outdoor advertising signs may be permitted there provided three or more separate commercial or industrial activities take place.[69] However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway.
- The commercial or industrial activity must be within 660 feet of the right-of-way.
- The commercial or industrial activities must be within 1,600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered when determining whether a parcel is an unzoned commercial or industrial area:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities.
- Transient or temporary activities.
- Activities not visible from the main-traveled way.
- Activities conducted more than 660 feet from the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor siding.
- Communications towers.[70]

With the exception of communication towers, the exclusion of these activities is specifically required by the 1972 agreement between the state and USDOT.

Entry Upon Privately Owned Lands

For the purposes of ch. 479, F.S., all of the state is deemed as territory under DOT's jurisdiction.[71] DOT's employees, agents, or independent contractors may enter upon any land upon which a sign is displayed, is proposed to be erected, or is being erected to make sign inspections, surveys, and removals. After receiving consent by the landowner, operator, or person in charge, or appropriate inspection warrant issued by a judge that the removal of an illegal outdoor advertising sign is necessary, DOT may enter upon any intervening privately-owned lands in order to remove illegal signs, provided that DOT has determined that no other legal or economically feasible means of entering the sign site are reasonably available. DOT must repair or replace in like manner any physical damage or destruction of the private property.

License to Engage in the Business of Outdoor Advertising

[68] Chapter 163, F.S., related to intergovernmental programs.
[69] S. 479.01(26), F.S.
[70] S. 479.01(26), F.S.
[71] S. 479.03, F.S.

A person is prohibited from engaging in the business of outdoor advertising without first obtaining a license from DOT. A person is not required to obtain the license to erect outdoor advertising signs or structures as an incidental part of a building construction contract.[72]

Denial or Revocation of License

DOT may deny or revoke any outdoor advertising license requested or granted when DOT determines that the license application contains knowingly false or misleading information, or that the licensee has violated any of the provisions of ch. 479, F.S., unless such licensee corrects such false or misleading information or complies with the provisions of ch. 479, F.S., within 30 days after receiving notice from DOT. Any person aggrieved by any DOT action in denying or revoking a license may apply to DOT for an administrative hearing within 30 days from receipt of the notice.[73]

Section 479.07(1), F.S., except as otherwise specified, provides that a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System (SHS) outside an urban area,[74] or on any portion on the interstate or federal-aid primary highway system without first obtaining a permit for the sign from DOT any paying the required annual fee. Section 479.07(2), F.S., prohibits a person from applying for a permit unless a person has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit. As part of the application, the applicant or authorized representative must certify in a notarized statement that he or she has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application.

Outdoor Advertising Annual Permit Fee/Multiple Transfer Fee/Permit Reinstatement Fee

DOT must establish by rule an annual permit fee for each sign facing[75] in an amount sufficient to offset DOT's total program costs, but shall not exceed $100.[76] The current fee is $71 for each sign facing of more than 200 square feet, and $51 for sign facings of 200 square feet or less.[77]

The transfer of valid permits from one sign owner to another is currently authorized upon written acknowledgement from the current permittee and submittal of a transfer fee of $5 for each permit to be transferred. The maximum transfer fee for any multiple transfers between two outdoor advertisers in a single transaction is $100.[78]

Current law provides a process for sign removal if a permittee has not submitted all license and permit renewal fees by the expiration date of the license or permit.[79] With respect to sign permits, if at any time before removal of the sign, the permittee demonstrates that a good faith error on the part of the permittee resulted in the cancellation or nonrenewal of the permit, DOT may reinstate the permit if the permit reinstatement fee of up to $300 based on the size of the sign is paid;[80] all other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and the permittee reimburses DOT for all actual costs resulting from the permit cancellation or nonrenewal.

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[72] S. 479.04, F.S.
[73] S. 479.05, F.S.
[74] Section 334.03(31), F.S., defines "urban area" as "a geographic region comprising as a minimum the area inside the United States Bureau of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations."
[75] A "sign facing" includes all sign faces and automatic changeable faces displayed in the same location or facing the same direction. A "sign face" means the part of the sign, including trim and background, which contains the message or informative contents. (s. 479.01(22) and (23), F.S.).
[76] S. 479.07(3)(c), F.S.
[77] Rule 14-10.0043(2), F.A.C.
[78] S. 479.07(6), F.S.
[79] S. 479.07(8), F.S.
[80] The actual fee is $200 for a sign facing of 200 square feet or less and $300 for a sign facing of greater than 200 square feet. (Rule 14-10.004(9)(d), F.A.C.).

Permit Tags/Replacement Tags
DOT must furnish a permittee a serially numbered permanent metal permit tag, which the permittee is required to securely attach to the sign facing or, if there is no facing, on the pole nearest the highway. Further, effective, July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main traveled way. In addition, the permit becomes void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance.[81]

Current law provides for DOT to issue a replacement tag in the event of a permit tag is lost, stolen, or destroyed and, alternatively, authorizes a permittee to provide its own replacement tag pursuant to DOT specifications that DOT shall adopt by rule at the time it establishes the service fees for replacement tags.[82]

Signs Visible from More than One Highway
If a sign is visible from the controlled area of more than one highway subject to DOT jurisdiction, the sign must meet the permitting requirements of, and be permitted to, the highway having the more stringent requirements.[83]

Pilot Program/Reduction of Distance Between Permitted Signs
Current law establishes a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet under the specified conditions and directs DOT to maintain statistics tracking the use of the provisions of the pilot program based on notifications received by DOT from local governments.[84]

Sign Removal Following Permit Revocation
A sign permittee is currently required to remove a sign within 30 days after the date of revocation of the permit for the sign and, if the permittee fails to do so, DOT must remove the sign without further notice and without incurring any liability.[85] Further, all costs incurred by DOT in connection with the removal of a sign located within a controlled area adjacent to the SHS, interstate highway system, or federal-aid primary highway system following the revocation of the sign permit is assessed to and collected from the permittee.[86]

Notices of Violation/Signs Erected or Maintained Without Required Permit
Any sign located adjacent to the right-of-way on any highway on the SHS outside an incorporated area or adjacent to the right-of-way on any portion of the interstate or federal-aid primary highway system without the required DOT permit must be removed. Prior to removal, DOT is required to prominently post on the sign face a notice that the sign is illegal and must be removed within 30 days after the date on which the notice was posted. If the sign bears the name of the licensee or the name and address of the non-licenses sign owner, concurrently with and in addition to posting the notice, DOT must provide a written notice to the owner stating that the sign is illegal and must be permanently removed within the 30-day period; and that the sign owner has a right to request a hearing, which request must be filed with DOT within 30 days after the date of the written notice. If after notice the sign owner does not remove the sign, DOT is required to do so.[87]

Issuance of Permits for Conforming or Nonconforming Signs
If a sign owner demonstrates to DOT that:

[81] S. 479.07(5), F.S.
[82] Rule 14-10.004(5), F.A.C. The current service fee is $12.
[83] S. 479.07(9)(a), F.S.
[84] S. 479.07(9)(c), F.S.
[85] S. 479.10, F.S.
[86] S. 479.313, F.S.
[87] SS. 479.105(1)(a) and (b), F.S.

- A given sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for seven years or more.
- The sign would have met the criteria established in ch. 479, F.S., for issuance of a permit at any time during the period in which the sign has been erected.
- DOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period.
- DOT determines that the sign is not located on state right-of-way and is not a safety hazard.

DOT may consider the sign a conforming or nonconforming sign and may issue a permit for the sign upon application any payment of a penalty fee of $300 and all pertinent fees required by ch. 479, F.S., including annual permit renewal fees payable since the date of the erection of the sign.[88]

Vegetation Management and View Zones for Outdoor Advertising
Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. This section's intent is to create partnering relationships, which will improve the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.[89]

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility of a sign or future sign to obtain written permission from DOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-10.057, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants.
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed.
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or removed.
- Trees or shrubs that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed.
- Herbaceous plants are permanently damaged.

When installing a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, DOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits for cancellation. For signs originally permitted after July 1, 1996,[90] DOT may not grant any permit where such trees or vegetation are part of a beautification project implemented before the date of the original sign permit application, as specified.

Vegetation Management Application Fee/Multiple Site Fee/Administrative Penalty
DOT may establish an application fee for vegetation management not to exceed $25 for each individual application to defer the costs of processing such application, and a fee not to exceed $200 to defer the costs of processing an application for multiple sites.[91] Further, any person who violates or benefits from a violation of ch. 479, F.S., is subject to an administrative penalty of up to $1,000 and is required to mitigate for the unauthorized removal, cutting, or trimming of trees or vegetation.[92]

[88] S. 479.105(1)(e), F.S.
[89] S. 479.106(8), F.S.
[90] The date of enactment of s. 479.106, F.S.
[91] S. 479.106(4), F.S.
[92] S. 479.106(7), F.S.

Cost of Sign Removal/Additional Fine for Violations
Section 479.107(5), F.S., requires that the cost of removing a specified sign, whether by DOT or an independent contractor, shall be assessed against the sign's owner. In addition, DOT is directed to assess a fine of $75 against the sign owner for any sign which violates the requirements of that section.

Relocation or Reconstruction of a Publicly Acquired Sign
When DOT acquires land with a lawful nonconforming sign, the sign may, at the election of its owners and DOT and subject to FHWA approval, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated on a parcel zoned residential, and provided further that such relocation is subject to applicable setback requirements.[93] The relocation must be adjacent to the current site, and the sign's face may not increase in size or height or be structurally modified at the point of relocation in conflict with the building codes of the jurisdiction in which the sign is located.[94]

Permits Not Required for Certain Signs
Section 479.16, F.S., currently identifies a number of signs for which permits are not required, including without limitation:

- On-premise signs (signs on property stating only the name of the owner, lessee, or occupant of the premises) not exceeding 8 square feet in area.
- Signs that are not in excess of 8 square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government.
- Signs place on benches, transit shelters, and waste receptacles.
- Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction, one sign not in excess of 16 square feet, denoting only the name of, and the distance and direction to, the business. This provision does not apply to charter counties and may not be implemented if the federal government notifies DOT that implementation will adversely affect the allocation of federal funds to DOT.

Compensation for Removal of Signs
DOT must pay just compensation upon its removal of a lawful nonconforming sign along any portion of the interstate or federal-aid primary highway system.[95]

Noise-Attenuation Barriers Blocking View of Signs
The owner of a lawfully erected sign may increase the height above ground level of such sign at its permitted location if any governmental entity permits or erects a noise-attenuation barrier in such a way as to block visibility of the sign. If construction of a proposed noise-attenuation barrier will screen a lawfully permitted sign, DOT must provide notice to the local government or jurisdiction in which the sign is located before erection of the noise attenuation barrier. If it is determined that the increase in height will violate a local ordinance or land development regulation, the local government or jurisdiction must notify DOT.

When notice has been received from the local government or jurisdiction prior to erection of the noise-attenuation barrier, DOT must conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed barrier. The written survey must, in addition to stating the date, time, and location of a required public hearing, specifically advise the impacted property owners that:

[93] S. 479.15(13), F.S.
[94] S. 479.15(4), F.S.
[95] S. 479.24, F. S.

- Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;
- The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and
- If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction is required to:
    - Allow an increase in the height of the sign in violation of a local ordinance or land development regulation.
    - Allow the sign to be relocated or reconstructed at another location if the sign owner agrees.
    - Pay the fair market value of the sign and its associated interest in the real property.

DOT must hold the public hearing and receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulations, and suggest or consider alternatives or modification to the proposed barrier to alleviate or minimize the conflict with the local ordinance or regulation or minimize any costs associated with relocating, reconstructing, or paying for the affected sign. Notice of the hearing, in addition to general provisions, must specifically state the same items specified for inclusion in the written survey above.

DOT may not permit the erection of the noise-attenuation barrier to the extent that the barrier screens or blocks visibility of the sign until after the public hearing and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval. When approved, DOT must notify the local governments or local jurisdictions, and the local government or jurisdiction must, notwithstanding any conflicting ordinance or regulation:

- Issue a permit by variance or otherwise for the reconstruction of a sign;
- Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable, if the sign owner agrees to relocate the sign or construct another sign; or
- Refuse to issue the required permits for reconstruction of a sign and pay fair market value of the sign and its associated interest in the real property to the sign owner.[96]

Logo Sign Program
DOT must establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, camping, attractions, and other services, as approved by the FHWA, at interchanges through the use of business logos and may include additional interchanges under the program.[97] As indicated, the program is limited to the interstate highway system, but under the Manual on Uniform Traffic Control Devices (MUTCD),[98] the program may be extended to other limited-access facilities, thereby expanding opportunities for business participation in the program.

Tourist-Oriented Directional Sign Program
Section 479.262, F.S., establishes a tourist-oriented directional (TOD) sign program for intersections on rural and conventional state, county, or municipal roads. The program is intended to provide directions to rural tourist-oriented businesses, services, and activities in counties identified by criteria and population in s. 288.0656, F.S, when approved and permitted by county or local government entities.

Section 288.0656, F.S., defines a “rural area of critical economic concern” as a rural community, or region composed of rural communities, designated by the Governor, that has been adversely impacted by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. “Rural community” is defined to mean a

[96] S. 479.25, F.S.
[97] S. 479.261, F.S.
[98] Adopted by DOT pursuant to s. 316.0745, F.S.

county with a population of 75,000 or fewer, and a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer.

A county or local government that issues permits for a TOD sign program[99] is responsible for sign construction, maintenance, and program operation for roads on the State Highway System and may establish permit fees sufficient to offset associated costs.[100] TOD signs installed on the State Highway System must comply with the requirements of the MUTCD and rules established by DOT.

TOD signs may be installed on the SHS only after being permitted by DOT and placement of TOD signs is limited to rural conventional roads, as required by the MUTCD. TOD signs may not be placed within the right-of-way of limited access facilities; within the right-of-way of a limited access facility interchange, regardless of jurisdiction or local road classification; on conventional roads in urban areas; or at interchanges on freeways or expressways.[101]

Proposed Changes

Definitions (Section 24)
The bill amends the definition of "allowable uses" providing that it means those uses that are authorized within a zoning category as a primary use by right, without the requirement to obtain a variance or waiver. The term includes conditional uses and those allowed by special exception if such uses are a present and actual use, but does not include uses that are accessory, incidental to allowable uses, or allowed only on a temporary basis.

The bill amends the definition of "business of outdoor advertising" removing the terms constructing, erecting, and using.

The bill revises the definition of "federal-aid primary highway system" to mean the federal–aid primary highway system in existence on June 1, 1991, and any highway that was not a part of such system as of that date but that is or becomes after June 1, 1991, a part of the National Highway System but are unbuilt or unopened. This is similar to a definition for "federal-aid primary highway system" currently in s. 479.15, F.S., which is being deleted.

The bill revises the definition of "remove" to mean to disassemble all sign materials above ground level and transport them from the site.

The bill amends the definition of "sign face" to include an automatic changeable face.[102]

The bill revises the definition of 'state highway system" to provide that it has the same meaning as defined in s. 334.03, F.S.[103]

The bill deletes the definitions of "commercial or industrial zone" and "unzoned commercial or industrial area" due to the creation of s. 479.024, F.S., relating to commercial and industrial parcels.

Duties of the Department (Section 25)
The bill amends s. 479.02, F.S., clarifying DOT's duties relating to outdoor advertising are as follows:

[99] Prior to requesting a permit to install a TOD sign on the State Highway System, a local government must first have established by ordinance the criteria provided in part VI of ch. 14-51, F.A.C.
[100] S. 479.262(2), F.S.
[101] Rule 15-51.063, F.A.C. and s. 2K.01 of Chapter 2K of the MUTCD (2009).
[102] Section 479.01(2), F.S., defines "automatic changeable facing" as "a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process."
[103] Section 334.03(24), F.S., defines "state highway system" as "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated."

- In the duty to administer and enforce ch. 479 F.S., clarifies that it is a 1972 agreement between DOT and USDOT and expressly incorporates provisions of the referenced chapter, agreement, law, and regulations pertaining to the maintenance, continuance, and removal of nonconforming signs.
- In the duty to regulate size, height, lighting, and spacing of permitted signs, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial and industrial *areas.*
- Directs DOT to determine commercial and industrial parcels and unzoned commercial or industrial areas in the manner provided in the newly created s. 479.024, F.S.
- In the duty to adopt rules necessary for proper administration of ch. 479.F.S., including rules that identify activities that may not be recognized as industrial or commercial activities, revises language to distinguish between commercial and industrial *parcels* and unzoned commercial or industrial *areas* and requires the rules to provide for determination of such parcels and areas in the manner provided in the newly created s. 479.024, F.S.
- In the duty to inventory and determine the location of all signs, makes "plain language" revisions and repeals DOT's direction to adopt rules regarding what information is to be collected and preserved in the sign inventory.

Commercial and Industrial Parcels (Section 26)
The bill creates s. 479.024, F.S., relating to commercial and industrial parcels. It provides that signs shall only be permitted by DOT in commercial or industrial zones, as determined by the local government, [104] unless otherwise provided by ch. 479, F.S. Commercial and industrial zones are those areas appropriate for commerce, industry, or trade, regardless of how those areas are labeled. The term "parcel" means the property where the sign is located or is proposed to be located.

The determination as to zoning by the local government for the parcel must meet the following factors:

- The parcel is comprehensively zoned and includes commercial or industrial use as allowable uses.
- The parcel can reasonably accommodate a commercial or industrial use under the future land use map of the comprehensive plan and land use development regulations as follows:
    - Sufficient utilities are available to support commercial development. For purposes of this section "utilities" includes all privately, publically, or cooperatively owned lines, facilities, and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste and storm water not connected with highway drainage, and other similar commodities.
    - The size and configuration, and public access of the parcel is sufficient to accommodate a commercial or industrial use given requirements in the comprehensive plan and land development regulations for vehicular access, on-site circulation, building setbacks, buffering, parking, and other applicable standards, or the parcel consists of railroad tracks or minor siding abutting commercial or industrial property that meets the factors of this subsection.
    - The parcel is not being used exclusively for non-commercial or non-industrial uses.

If a local government has not designated zoning through land development regulations,[105] but has designated the parcel under the future land use map of the comprehensive plan for uses that include commercial or industrial uses, the parcel will be considered an unzoned commercial or industrial area. For a permit to be issued for a sign in an unzoned commercial or industrial area, there must be three or more distinct commercial or industrial activities within 1,600 feet of each other, with at least one of the commercial or industrial activities being located on the same side of the highway as the sign location

[104] This is in conformance with Ch. 163, F.S., relating to intergovernmental programs.
[105] These regulations must be in compliance with ch. 163, F.S.

within 800 feet of the sign location. Multiple commercial or industrial activities enclosed in one building will be considered one use when all uses only have shared building entrances.

For purposes of s. 479.024, F.S., certain uses and activities, including but not limited to the following, may not be independently recognized as commercial or industrial:

- Signs.
- Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
- Transient or temporary activities.
- Activities not visible from the main-traveled way, unless a DOT transportation facility is the only cause for the activity not being visible.
- Activities conducted more than 660 feet from the nearest edge of the right-of-way.
- Activities conducted in a building principally used as a residence.
- Railroad tracks and minor sidings, unless such use is immediately abutted by commercial or industrial property which meets the factors above.
- Communication towers.
- Public parks, public recreation services, and governmental uses and activities that take place in a structure that serves as the permanent public meeting place for local, state, or federal boards, commissions, or courts.

If the local government has indicated the proposed sign location is on a parcel that is a commercial or industrial zone, but DOT finds that it is not, DOT shall notify the sign applicant in writing.

An applicant whose application for a permit is denied may, within 30 days from the receipt of the notification of intent to deny, request an administrative hearing[106] to determine whether the parcel is located in a commercial or industrial zone. Upon receiving the request, DOT must notify the local government that the applicant has requested an administrative hearing.

If DOT determines in a final order that the parcel does not meet the permitting conditions outlined in this section and a sign exists on the parcel, the applicant is responsible for all sign removal costs and the sign must be removed from the sign location within 30 days of the final order.

If FHWA reduces funds which would be apportioned to DOT due to a local government's failure to comply with s. 479.024, F.S., DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount.

Jurisdiction of DOT; Entry upon Privately Owned Lands (Section 27)
The bill amends s. 479.03, F.S., revising DOT's authority to enter upon privately owned lands to remove a sign by striking references to receipt of consent, inserting a specified written notice requirement, and expanding those to whom written notice must be alternatively given to a person in charge of an intervening privately owned land.

Business of Outdoor Advertising; License Requirement; Renewal; Fees (Section 28)
The bill amends s. 479.04, F.S., relating to the required license to engage in the business of outdoor advertising, clarifying that a person is not required to obtain an outdoor advertising license solely to erect or construct outdoor advertising signs or structures. This conforms the statute to the revised definition of "business of outdoor advertising."

Denial, Suspension, or Revocation of License (Section 29)
The bill amends s. 479.05, F.S., clarifying disciplinary actions for delinquent accounts. The bill authorizes the suspension of any license requested or granted under ch. 479, F.S., in addition to denial or revocation, in any case when DOT determines the application contains false or misleading

[106] Administrative hearings are pursuant to ch. 120, F.S.

information of material consequence, that the licensee has failed to pay fees or costs owed to DOT for outdoor advertising purposes, or that the licensee has violated any of the provisions of ch. 479, F.S., unless such licensee, within 30 days after receipt of DOT's notice, corrects such false or misleading information, pays the outstanding amount, or complies with the provisions of ch. 479, F.S. The bill provides that suspensions of a license allows the licensee to maintain existing sign permits, but DOT may not grant a transfer of an existing permit or issue an additional permit to a licensee with a suspended license.

Sign Permits (Section 30)
The bill amends s. 479.07, F.S., clarifying existing language and clarifying permit requirements to ensure compliance with federal regulations on all highways subject to DOT jurisdiction. Specifically the bill:

- Removes the requirement for a notarized permit application, which will allow for future on-line permit processing.
- Removes a prohibition against prorating a fee for a period of less than the remainder of the permit year to accommodate short-term publicity features.
- Clarifies that DOT must act on a permit application within 30 days after receipt of the application by granting, denying, or returning the incomplete application.
- Changes the tag posting placement requirement to the upper 50 percent of the sign structure from the upper 50 percent of the pole nearest the highway to accommodate various sign structure.
- Removes the authorization for a permittee to provide its own replacement tag and related rulemaking authority regarding replacement tags. This will ensure consistency in tags.
- Clarifies that if a sign is visible to more than one highway and within the controlled area of these highways it shall meet the permitting requirements of all highways.
- Clarifies that the height restriction of a sign is based on the main-traveled way to which the sign is permitted.
- Removes the establishment of a pilot program where signs where the distance between signs in certain areas[107] may be reduced to 1,000 feet if certain requirements are met and makes it statewide.
- Removes pilot program sign placement requirements, which are redundant to the newly created s. 479.024, F.S.
- Removes requirements for maintaining pilot program statistics.
- Deletes obsolete language and makes grammatical and editorial changes.

Denial or Revocation of Permit (Section 31)
The bill amends s. 479.08, F.S., revising DOT's authority to deny or revoke any permit when it determines that the application contains false or misleading information of material consequence, eliminating that the information is knowingly false or misleading.

Sign Removal following Permit Revocation or Cancellation (Section 32)
The bill amends s. 479.10, F.S., regarding sign removal, to require a permittee to remove a sign within 30 days of the date of cancellation (in addition to revocation) of the permit for a sign and specifies removal of the sign at the permittee's expense if DOT removes the sign because of the permittee's failure to do so.

Signs Erected or Maintained Without Permit – Removal (Section 33)
The bill amends s. 479.105, F.S., regarding signs erected or maintained without a required permit, to:

- Revise provisions for placement of DOT's notice of violation on a sign.

[107] The pilot program is in Orange, Hillsborough, and Osceola Counties and within the boundaries of the City of Miami.

- Require DOT to concurrently with and in addition to posting the notice, provide a written notice to the owner of the sign, the advertiser displayed on the sign, or the owner of the property.
- Provides that a notice of violation includes notification that a sign is illegal and that it must be removed within 30 days.
- Provide that written notice state that a hearing may be requested as specified.
- Provides that if a sign is not removed within the 30 day period, DOT is required to immediately remove the sign.
- Relocate and clarify existing provisions for DOT issuance of permits for conforming and nonconforming signs erected or maintained without the required permit.

Vegetation Management (Section 34)
The bill amends s. 479.106, F.S., relating to vegetation management and sign visibility to:

- Require signs originally permitted after July 1, 1996, the first application or application for change of view zone, for the removal, cutting, or trimming of trees or vegetation must require, in addition to mitigation or contribution to a plan of mitigation , the removal of two nonconforming signs.
- Provide that the administrative penalty for engaging in removal, cutting, or trimming in violation of s.479.106, F.S. or benefitting from such action is up to $1,000 per sign facing. DOT currently assesses a fee of $1,000 per incident, per sign facing.[108]

Signs on Highway Rights-of-Way; Removal (Section 35)
The bill amends s. 479.107(5), F.S., removing the fine of $75 against a sign owner who has been assessed the cost of removal for a sign which is in violation of the law. DOT advises that it often costs more than $75 to collect the fine, if it can be collected at all. Therefore, DOT does not even pursue the fine.[109]

Specified Signs Allowed within Controlled Portions of the Interstate and Federal-Aid Primary Highway System (Section 36)
The bill amends s. 479.111(2), F.S., clarifying that this section refers to the 1972 agreement between the state and USDOT.

Harmony of Regulations (Section 37)
The bill amends s. 479.15, F.S., providing for harmony of state and local regulations, to:

- Strike the definition of "federal-aid primary highway system," which is now defined in s 479.01, F.S.
- Provide that subject to FHWA approval and whenever public acquisition of land which as a lawful permitted (rather than nonconforming) sign occurs, the sign may, at the election of its owner and DOT, be relocated or reconstructed adjacent to the new ROW and in close proximity to the current site (rather than along the roadway within 100 feet to the current location), provided that the sign is not relocated in an area inconsistent with s. 479.024, F.S., (rather than on a parcel zoned residential) and provided further that such relocation shall be subject to the requirements (rather than applicable setback requirements) in the 1972 agreement between the state and the USDOT.
- Provide that the face of a nonconforming sign may not be increased in size or height or structurally modified at the point of relocation as specified.
- Provide that a neighboring sign which is already permitted and which is within the spacing requirements of ch. 479.07(9)(a), F.S., is not cause for a sign to become nonconforming.

[108] S. 14-10.057(4), F.A.C.
[109] October 21, 2013, e-mail from DOT to staff of the Transportation & Highway Safety Subcommittee. Copy on file with subcommittee staff.

Wall Murals[110] (Section 38)
The bill amends s. 479.156, F.S., relating to wall murals, to replace references to the "Highway Beautification Act" with references to its statutory placement in federal law, 23 U.S.C. s. 131, and to correct cross-references.

Signs for Which Permits Are Not Required (Section 39)
The bill amends s. 479.16, F.S., relating to signs where permits are not required. The bill also provides that signs on modular news racks, street light poles, and public pay telephones within the right-of-way are exempt from ch. 479, F.S.

The bill clarifies an already existing exemption of signs for rural business directional signs to make the provision applicable to signs located outside an incorporated area. The bill also removes the rural business exemption exception for charter counties.

The bill provides the following new exemptions with the caveat that they may not be implemented or continued if the Federal Government notifies DOT that the implementation or continuation will adversely affect the allocation of federal funds to DOT:

- Signs placed by a local tourist oriented business located within a Rural Area of Critical Economic Concern which signs meet the following criteria:
    - Not more than eight square feet in size or more than four feet in height.
    - Located only in rural areas along non-limited access highways.
    - Located within two miles of the business location and not less than 500 feet apart.
    - Located only in two directions leading to the business.
    - Not located within the road right-of-way.

  Businesses placing such signs must be at least four miles from any other business utilizing this exemption and such business may not participate in any other DOT directional signage program.
- Signs not in excess of 32 square feet placed temporarily during harvest season of a farm operation for a period of no more than four months at a road jurisdiction with the SHS denoting only the distance or direction of the farm operation.
- Acknowledgement signs erected upon publicly funded school premises relating to a specific public school club, team or event placed no closer than 1,000 feet from another acknowledgement sign on the same side of the roadway. All sponsors on an acknowledgement sign may constitute no more than 100 square feet of the sign.[111]
- Displays erected upon a sports facility that display content directly related to the facility's activities or where a presence of the products or services offered on the property exists. Displays are to be mounted flush or flat to the surface of the sports facility and rely upon the building façade for structural support.[112]

The bill provides that if certain exemptions are not implemented or continued due to Federal Government notification that the allocation of federal funds to DOT will be adversely affected, DOT must notify the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days, DOT may remove the sign and all costs associated with sign removal are to be assessed against and collected from the sign owner.

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[110] Section 479.01(30), F.S., defines "wall mural" as "a sign that is a painting or an artistic work composed of photographs or arrangements of color that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted in vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage."

[111] The bill defines "acknowledgement sign" as signs that are intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or entity.

[112] The bill defines, "sports facility" as an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanent installed seating capacity of 15,000 or more.

Compensation for signs; Eminent Domain, Exceptions (Section 40)
The bill amends s. 479.24, F.S., requiring DOT pay just compensation for its acquisition (rather than removal) of a lawful *conforming or* nonconforming signs.

Erection of Noise-attenuation Barrier Blocking View of Sign (Section 41)
The bill amends. s. 479.25, F.S., relating to the erection of noise-attenuation barriers blocking the view of a sign, to:

- Make "plain language" and conforming changes.
- Require, upon determination that in increase in height as allowed will violate a provision contained in an ordinance or land development regulation, *prior to construction*, the local government or jurisdiction shall provide a variance or waiver to allow an increase in the height of the sign.
- Remove a DOT requirement to conduct a written survey of all property owners impacted by noise and who may benefit from the barrier.

Logo Sign Program (Section 42)
The bill amends s. 479.261, F.S., expanding the logo sign program to the entire limited-access highway system, rather than just to the interstate highway system, as is already authorized by the MUTCD, thereby increasing opportunities for business participation.

Tourist Oriented Directional Sign Program (Section 43)
The bill amends s. 479.262(1), F.S., continuing the authorization of the tourist-oriented directional sign program at intersections on rural and conventional state, county, or municipal roads; but removing the restriction for participation in the program to such roads in rural counties,[113] and to expressly state, consistent with rule 14-51.063, F.A.C., and the MUTCD, and that a tourist-oriented directional sign may not be used on roads in urban areas or at interchanges of freeways or expressways.

Permit Revocation and Cancellation; Cost of Removal (Section 44)
The bill amends s. 479.313, F.S., relating to sign removal, to include *cancellation*, along with revocation, in the direction that all costs incurred by DOT in connection with the removal of a sign be assessed and collected from the permitee.

Tourist-Oriented Commerce Sign/Permit Exemption (Section 45)

Current Situation
In an effort to increase visibility and facilitate economic development for small businesses in rural areas of critical economic concern, HB 599[114] was passed in 2012 and authorized DOT to seek approval from FHWA for a tourist-oriented commerce sign pilot program and to submit the pilot program for legislative approval in the next regular legislative session.

In continued discussions with the FHWA, DOT has been advised that approval of the pilot program is not expected. According to DOT, it was advised by FHWA to proceed by obtaining permission to replace authorization to seek pilot program approval with an exemption from permitting requirements, as well as language identical to that under current s. 479.16(15), F.S., relating to an exemption for permitting rural hardship signs, that would protect against any adverse impact upon the allocation of federal funds to DOT.

Proposed Changes
The bill repeals s. 76 of ch. 2012-174, L.O.F., which was a pilot program for tourist-oriented commerce outdoor advertising signs in rural areas of critical economic concern. The pilot program is replaced by authority to erect such signs without a permit under certain conditions.

[113] Rural counties are identified by criteria and population in s. 288.0656, F.S.
[114] s. 76, ch. 2012-174, L.O.F.

Palm Beach County Pilot Program (Section 46)

Current Situation
In Palm Beach County, each of its 30 high schools have business partnerships to promote Project Graduation and other key school events. The schools raise funds through business partnerships for these activities and display sponsorship banners around school fencing recognizing these sponsors.

Because Palm Beach County has schools in 26 municipalities, plus unincorporated portions of the county, there are widely varying municipal and local sign codes. While the Palm Beach County Commission supports the display of school sponsorship banners, it has concerns about amending its sign code for a school exception, which could leave it open for other entities to request an exception. In 2008, it was suggested by the Palm Beach County Commission and Palm Beach County School Board to create a pilot program that attempts to standardize the display and location of these school recognitions.

The current pilot program expires on June 30, 2014.

Proposed Changes
The bill establishes a pilot program for the School District of Palm Beach County to recognize its business partners by publicly displaying their names on school district property in unincorporated areas of the county. Recognitions of Project Graduations and athletic sponsorships are examples of appropriate recognitions. The school district is required to make every effort to display the names of its business partners in a manner that is consistent with the county standards for uniformity in size, color, and placement of the signs.

If the provisions of this section are inconsistent with county ordinances or regulations relating to signs in the unincorporated areas of the county or inconsistent with ch. 125, F.S., or ch. 166, F.S.,[115] the provisions of this section prevail.

If FHWA determines that DOT is not providing effective control of outdoor advertising as a result of a business partner recognition by the school district under this program, DOT shall notify the school district by certified mail of any nonconforming recognition, and the school district shall remove the recognition specified in the notice within 30 days after receiving the notification.

The pilot program expires on June 30, 2015.

Parking Meters (Section 47)

Current Situation
Fee based parking spaces and parking meters or other parking time limit devices currently exist within the right-of-way limits of state roads under DOT's jurisdiction. The fees collected from these sources currently benefit the local government and are not shared with the state. The extent of this practice is unknown.

Proposed Changes
The bill directs the Florida Transportation Commission (FTC) to conduct a study of the potential for the state to obtain revenue from any parking meters or other parking time-limit devices that regulate designated parking spaces located within or along the right-of-way limits of a state road. The FTC is allowed to retain any additional staff that may be reasonably necessary to complete the study, and DOT is directed to pay the expenses associated with those staff.

[115] Chapter 125, F.S. relates to county government, and ch. 166, F.S., relates to municipalities.

The bill provides that on or before August 31, 2014, each municipality and county that receives revenue from any parking meters or other parking time-limit devices that regulate designated parking spaces located within or along the right-of-way limits of a state road, will provide the FTC a written inventory of the location of each meter or device and the total revenue collected from those locations during the last three fiscal years. In addition to the written inventory, each municipality and county will inform the FTC of any pledge or commitment by the municipality or county of revenues to the payment of debt service on any bonds or other debt issued by the municipality or county.

The bill provides that the FTC is to develop policy recommendations regarding the manner and extent that revenues generated by regulating parking within the right-of-way limits of a state road may be allocated between the department, and municipalities and counties. The FTC is to develop specific recommendations concerning the allocation of revenues generated by meters or devices regulating such parking that were installed prior to July 1, 2014, and the allocation of revenues that may be generated by meters or devices installed thereafter.

The bill provides that the FTC is to complete the study and provide a written report of its findings and conclusions to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of each of the appropriations committees of the Legislature by October 31, 2014.

The bill provides that if by August 31, 2014, a municipality or county does not provide the information requested by the FTC, DOT may remove the parking meters or parking time-limit devices that regulate designated parking spaces locates within or along the right-of-way limits of a state road, and all costs incurred in connection with the removal will be assessed against and collected from the municipality or county.

The bill provides that from July 1, 2014, through July 1, 2015, no county or municipality will install any parking meters or other parking time-limit devices that regulate designated parking spaces located within or along the right-of-way limits of a state road. The bill does not prohibit the replacement of meters or similar devices installed before July 1, 2014, with new devices that regulate the same designated parking spaces.

This section is effective upon becoming law.

Pinellas Bayway (Section 48)

Current Situation

Opened in 1962, the Pinellas Bayway is a series of toll bridges on State Roads 682 and 679 in Pinellas County, which are owned and operated by DOT. All tolls collected on the Pinellas Bayway shall first be used for the payment of annual operating costs and second to discharge the current bond indebtedness. Thereafter, tolls collected shall be used, together with the interest earned, by DOT for the construction of Blind Pass Road, State Road 699 improvements, and for Phase II of the Pinellas Bayway improvements.[116]

Proposed Changes

The bill amends section 2 of ch. 85-364, L.O.F., as amended by ch. 95-382, L.O.F., providing that payment of maintenance costs will become an eligible use of Pinellas Bayway toll revenue before it is deposited into the toll construction account. Additionally, the bill removes references to Blind Pass Road and State Road 699 improvements which have been completed.

Conforming Changes (Section 49)

The bill amends s. 110.205(2), F.S., conforming cross-references and making other editorial changes.

[116] Ch. 95-382, L.O.F., amending section 2 of ch. 85-364, L.O.F.

Effective Date (Section 50)
Unless otherwise expressly provided, the bill has an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
The wrecker permit change keeps Florida in alignment with federal law and avoids any potential loss of federal funds.

The additional weight for auxiliary power units may have an insignificant but indeterminate negative fiscal impact to the STTF if there is a decrease in overweight fines due to the increased allowable weight.

Providing an exception related to federal law regarding using Florida nursery stock for landscaping on state roads keeps Florida in alignment with federal law and avoids any potential loss of federal funds.

Authorizing DOT to inter into concession agreements for commercial sponsorship displays on multi-use trails may provide additional revenues for the maintenance of multi-use trails and related facilities.

Unsolicited lease proposals of DOT property for joint public-private development or commercial development may bring an indeterminate amount of revenue to DOT through fees DOT would be authorized to collect to defray the cost of reviewing such proposals.

DOT may see some additional up-front revenues from agreements with investors willing to purchase the revenue stream from one or more existing DOT leases of wireless communication facilities. To the extent that such agreements are executed, there would be a reduction in future revenues to DOT from the lease payments purchased by the investors. The amount of these revenue impacts would be dependent on the terms of various agreements and cannot be determined at this time. DOT advises that it has one contract that would be eligible for consideration, and further estimates that firms would purchase the revenue stream discounted by 25 to 45 percent of the lease's net present value.

To the extent any WMD public information sign is located within a "controlled area" and contains commercial messages or corporate sponsorship, such system violates both the federal-state agreement and certain provisions of ch. 479, F.S., which potentially subjects DOT to an annual loss of 10 percent of federal highway funding as a result of loss of control of outdoor advertising. The 10 percent correlates to approximately $160 million annually. The bill prevents this penalty by providing that public service warning signs on water management district property are subject to the Highway Beautification Act of 1965 and all applicable federal laws and agreements.

Allowing logo signs on all limited access highways of the bill has the potential to increase the state's revenue from the logo sign program, but this cannot be quantified and has an indeterminate positive impact on the State Transportation Trust Fund.

2. Expenditures:
The Florida Transportation Commission may incur an indeterminate, but insignificant increase in expenses associated with its monitoring of the Mid-Bay Bridge Authority.

The changes to provisions relating to the disposal of DOT's surplus property would reduce the cost of sale and leasing; therefore, reducing state expenditures.

DOT may incur an indeterminate negative fiscal impact associated with reviewing unsolicited lease proposals for development of DOT property. However, the expenses should be offset by the fees DOT is authorized to collect.

The bill provides that DOT will enter into an interlocal agreement, ending no later than June 30, 2018, regarding DOT reimbursing the county or other local governmental entity for the direct and actual cost of operating a fire station on Alligator Alley. Once the obligation to operate the fire station is removed, there is expected to be a positive fiscal impact to the State Transportation Trust Fund.

DOT anticipates a reduction in costs associated with the change to the environmental mitigation provisions.

DOT may incur an indeterminate negative fiscal impact should the FTC retain any additional staff to complete the parking meter revenue study, for which DOT would be required to pay.

DOT may incur some costs associated with the removal of parking meters if municipalities or counties do not provide the information required for the parking meter revenue study. However, the bill requires DOT to bill the local government for removal costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   If disposal of surplus DOT property becomes more efficient, there will likely be a positive impact to local governments as more of these parcels are returned to the property tax rolls. However, due to widely varying factors that could impact the amount, it is impossible to estimate a dollar amount.

2. Expenditures:
   Although not required to by this bill, if Collier County or any other local governmental entity assumes the operating costs of the fire station on Alligator Alley, it would incur a negative fiscal impact for expenses.

   The bill may require local governments to provide a variance or waiver of local ordinances and land development regulations related to the erection of noise-attenuation barriers blocking the view of signs. The cost to the local governments to provide the variances or waivers is indeterminate, but is expected to be insignificant due to limited number of signs that would be impacted. These costs would be absorbed as part of the normal land use administrative responsibilities of a local government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
The additional weight allowed for auxiliary power units has an indeterminate but positive fiscal impact on the trucking industry due to being able to carry a slightly heavier load.

The bill expands the list of exemptions from permitting requirements for certain signs. To the extent a sign owner had been paying for permits for these signs in the past, this change will have a positive impact on the private sector. Such signs are also required to be removed at the owner's expense should DOT find the sign must be removed due to federal notification. The net effect of these provisions on a sign owner is indeterminate.

Placing logo signs on additional limited access facilities could potentially increase revenue at those establishments that advertise on the logo signs. Any possible impact to the private sector is indeterminate.

D. FISCAL COMMENTS:

In Fiscal Year 2009-2010, DOT implemented the FSPRC without any additional resources or appropriations. Eliminating the FSPRC enables these resources to be directed back to their original purpose.

DOT advised that projects to be funded as part of the strategic airport investment initiative will be included in DOT's work program budget submitted annually for Legislative approval. While this does not have the effect of an immediate fiscal impact, to the extent such strategic airport investment initiatives become projects in a tentative work program, they will impact the available resources for other projects in future years.

Authorizing DOT to maintain county and municipal roads which provide to access to state parks may have a negative fiscal impact to the State Transportation Trust Fund and a positive fiscal impact to municipalities and counties.

DOT advised environmental mitigation projects are currently included in DOT's work program budget submitted annually for legislative approval, and the additional tracking and accounting requirements will have no fiscal impact.

Failure of the state to maintain control of its outdoor advertising could result in a 10 percent reduction in federal highway funds, which correlates to approximately $160 million annually.

If FHWA reduces funds which would be apportioned to DOT due to a local government's failure to comply with land use determination requirements, DOT will reduce the state's apportioned transportation funding within the jurisdiction of the local government entity in an equivalent amount. To the extent this situation arises, there would be an impact on a local government, but such impact is indeterminate at this time.

The bill removes the existing $75 fine against a sign owner who has been assessed the cost of sign removal for a sign found in violation of the law. According to DOT, it has not been pursuing the fine since it costs more than $75 to collect.