

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1554

INTRODUCER: Senator Brandes

SUBJECT: Transportation

DATE: March 14, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Eichin	TR	Pre-meeting
2.		ATD	
3.		AP	

I. Summary:

SB 1554 reflects the Florida Department of Transportation's (FDOT) 2015 Legislative Package, as well as other transportation-related issues. More specifically, the bill:

- Increases from \$15 million to \$25 million the annual funding for the Florida Seaport Transportation and Economic Development program.
- Allows commercial motor vehicle operators to purchase temporary registration permits and provides for a reduced non-registration penalty under certain circumstances.
- Directs the Office of Economic and Demographic Research to evaluate and determine the economic benefits of the state's investment in the FDOT Work Program.
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance, and limits the location of publication of bond-validation notices to Leon County.
- Creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System.
- Substantially revises chapter 333, F.S., relating to airport zoning regulations.
- Clarifies provisions relating to pedestrians and crosswalks in an effort to improve safety.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Revises the membership of a legislatively-created independent special district regulating for-hire transportation.
- Removes obsolete language relating to the FDOT secretary's appointment of an inspector general.
- Revises provisions relating to staffing and responsibilities of the Fort Meyers Urban Office of the FDOT.
- Modernizes language relating to FDOT's provision of 511 services.
- Deletes references to toll facilities no longer owned by the FDOT and makes other technical revisions.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Florida Seaport Transportation and Economic Development Program (Sections 4 and 5)

Present Situation

Florida has 15 public seaports,¹ and Florida law reflects a number of seaport and seaport-related funding provisions. Section 311.07(2), F.S., requires a minimum of \$15 million per year from the State Transportation Trust Fund (STTF) to fund the Florida Seaport Transportation and Economic Development (FSTED) Program.² The program finances port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo and passengers in commerce and trade and support the interests, purposes, and requirements of all ports listed in s. 311.09, F.S. The annual funding level was increased from \$8 million to the current \$15 million by the 2012 Legislature, based on the FDOT's historic funding level of \$15 million annually since 2004.³

In addition, s. 320.20(3), F.S., directs \$15 million annually from motor vehicle registration fees deposited into the STTF to fund the FSTED Program as provided in chapter 311, F.S. And s. 320.20(4), F.S., directs \$10 million annually from the same fees to the STTF to fund the FSTED Program and for funding seaport intermodal access projects of statewide significance under the Intermodal Development Program.⁴ These amounts are in addition to funding provided under s. 311.07, F.S.

The 2012 Legislature also enacted:

- The Seaport Investment Program, directing \$10 million beginning in FY 2013-2014 and annually for 30 years, to fund any seaport project identified in the FDOT's Adopted Work Program;⁵
- The Strategic Port Investment Initiative, setting aside a minimum of \$35 million annually from the STTF for projects that meet the state's economic goal of becoming a hub for trade, logistics, and export-oriented activities;⁶ and

¹ Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina. Listed in s. 311.09(1), F.S.

² See also s. 311.09(9), directing the FDOT to include no less than \$15 million annually in its legislative budget request for the FSTED Program.

³ See CS/CS/CS/HB 599 and SB 1998 (2012 Reg. Session).

⁴ See s. 341.053, F.S. Eligible projects include, among others, road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports.

⁵ See SB 1998 (2012 Reg. Session).

⁶ See s. 311.10, F.S.

- The Intermodal Logistics Center Infrastructure (ILC) Support Program to set aside up to \$5 million annually to provide funds for roads, rail facilities, or other means for the convenience or shipment of goods through a seaport.⁷

In addition to the dedicated funding provided during the 2012 Session:

- Seaport and port-related projects may also be eligible for funding through the Strategic Intermodal System project prioritization process.⁸
- Projects that provide intermodal connectivity with seaports and other transportation terminals may also be eligible for State-funded Infrastructure Bank loans and credit enhancements.⁹

The FDOT advises that its Adopted Work Program since 2012 and through 2019 totals almost \$1 billion for seaport and seaport-related funding.¹⁰

Effect of Proposed Changes

Sections 4 and 5 amend s. 311.07(2) and s. 311.09(9), F.S., respectively, to increase the annual funding from the STTF from the current \$15 million to \$25 million. The FDOT is required to include no less than the \$25 million in its annual legislative budget request to fund the FSTED Program.

Commercial Motor Vehicles/Ports of Entry/Operating Credentials (Sections 6 and 8)

Present Situation

Interstate operators of commercial motor vehicles (CMVs) are required to obtain a number of credentials. Generally, for example, interstate operators of CMVs are required to obtain an International Fuel Tax Agreement (IFTA) license and decal¹¹ and, in some cases, to obtain overweight or over-dimensional permits.¹²

Some states allow the purchase of some or all necessary credentials at weigh stations located close to routes entering their borders and at other locations, and these states are known as “port of entry” or “POE” states.¹³ Because these credentials must be obtained prior to entering Florida, the state is known as a “non-POE” state.¹⁴ If a CMV enters the state without proper credentials and the operator seeks to purchase them at any weigh station, the applicable fine is assessed

⁷ See s. 311.101, F.S.

⁸ See ss. 339.61 – 339.65, F.S.

⁹ See s. 339.55, F.S.

¹⁰ See the FDOT Seaport Funding spreadsheet. On file in the Senate Transportation Committee.

¹¹ See ss. 207.004 and 316.545(4), F.S. The International Fuel Tax Agreement (IFTA) is an agreement among the states and the Canadian provinces to simplify the reporting of interstate fuel taxes. The motor carrier’s base jurisdiction issues the IFTA license and decals, allowing the carrier to file one quarterly tax return reflecting the net tax and any refund due on fuel used in all jurisdictions.

¹² See s. 316.550, F.S.

¹³ See the *Florida Port of Entry Feasibility Study*, September 2014, prepared for the FDOT, at 3.1 and 3.2. Copy on file in the Senate Transportation Committee. According to the study, 28 states are non-POE states, and 22 states and the District of Columbia consider themselves to be POE jurisdictions. Alabama is a POE state; Georgia is not. Further, the definitions of “POE” vary greatly by state.

¹⁴ *Id.* at 1.1.

depending on the type of credential at issue. Only then is the operator allowed to purchase the necessary credential.¹⁵

Another credential required before entering Florida is registration under the International Registration Plan (IRP). The IRP¹⁶ is a plan for registering vehicles that are operated in two or more IRP-member jurisdictions while displaying just one registration license plate for each vehicle.

All IRP member jurisdictions have agreed to allow one jurisdiction to collect the registration fees (apportioned fees) for each jurisdiction at one time. These fees are then distributed among the other IRP jurisdictions according to:

- Percentage of mileage traveled in each jurisdiction;
- Vehicle identification information; and
- Maximum weight.

Under the IRP, interstate truck operators are required to file an application with their base jurisdiction. The base jurisdiction, in turn, issues one registration cab card and one tag for the vehicle. In member jurisdictions, the single apportioned license plate and cab card are the only registration credentials required to operate interstate and intrastate.¹⁷

A “Full Reciprocity Plan” was instituted effective January 1, 2015, under which registrants are billed only for jurisdictions in which actual miles were accrued during the reporting period. If no miles were accrued in a given jurisdiction, registrants are billed based on the average distance of all registrants in each jurisdiction. Upon registration, the cab cards will reflect all jurisdictions.¹⁸

Section 320.0715(1), F.S., requires all apportionable vehicles¹⁹ domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. If a CMV domiciled elsewhere could be lawfully operated in this state because IRP registration had been obtained prior to entering Florida, but was not, a ten-day Florida trip permit may be obtained for \$30. The permit allows the vehicle to be operated in interstate or intrastate commerce for the ten-day period.

¹⁵ See the FDOT 2015 Legislative Proposal form, *Port-of-Entry*, on file in the Senate Transportation Committee.

¹⁶ Section 320.01(23), F.S., defines the IRP to mean “a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions.”

¹⁷ See the Florida Department of Highway Safety and Motor Vehicles *International Registration Plan Trucking Manual*, at 5. On file in the Senate Transportation Committee.

¹⁸ *Id.*

¹⁹ Section 320.01(24), F.S., defines “apportionable vehicle” to mean “any vehicle [with certain exceptions] which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds; (b) Is a power unit having three or more axles, regardless of weight; or (c) Is sued in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.”

If a CMV is being operated in Florida with an expired registration, with no registration from this or any other jurisdiction, or is not registered under the application provisions of chapter 320, F.S., the penalty is five cents per pound on the scaled weight that exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen CMV.²⁰ Operators of CMVs that fail to obtain the temporary trip permit prior to entering Florida are fined accordingly and may then purchase the temporary trip permit. All such penalties and permit fees are credited to the State Transportation Trust Fund to be used for repair and maintenance of Florida's roads and for enforcement purposes.²¹

Effect of Proposed Changes

The bill defines “port-of-entry” and reduces the existing penalty for IRP registration violations.

Section 6 creates s. 316.003(94), F.S., to define “port-of-entry” as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within Florida, and to direct the FDOT to determine the locations and the designated routes to such locations.

Section 8 amends s. 316.545(2)(b), F.S., to provide that if a CMV enters the state at a designated POE or is operating on an FDOT-designated route to a POE, and if the ten-day IRP trip permit is obtained at the POE, the penalty is limited to the difference between the CMV’s gross weight and the declared gross vehicle weight at five cents per pound.

The penalty no longer is calculated based on five cents per pound of weight in excess of 35,000 pounds or 10,000 pounds, depending on the type of truck, combination, or whether the truck is laden. Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

The FDOT advises three potential POE locations are under consideration:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.

The designated route for each location would be the portion of the interstate from the state line to the weigh station.²²

Return on Transportation Investment (Section 35)

Present Situation

Section 334.046, F.S., provides prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system. The principles are preserving

²⁰ See 316.545(2)(b), F.S.

²¹ See s. 316.545(6), F.S.

²² *Supra*, note 32.

the existing transportation infrastructure, enhancing Florida's economic competitiveness, and improving travel choices to ensure mobility.

As to economic competitiveness, the statute requires the FDOT to ensure a clear understanding of the economic consequences of transportation investments and how such investments affect the state's economic competitiveness. The FDOT is directed to develop a macroeconomic analysis of the linkages between transportation investment and economic performance and a method to quantifiably measure the economic benefits of the district-work-program investments. The FDOT must analyze the state's and districts' economic performance relative to competition, the business environment viewed from the perspective of companies evaluating the state as a place in which to do business, and the state's capacity to sustain long-term growth.²³

The FDOT in January 2015 completed its "Macroeconomic Analysis of Florida's Transportation Investments,"²⁴ estimating the economic effects of its Work Program for fiscal years 2013/2014 through 2017/2018. The analysis indicates that almost all Work Program spending was covered, including highway, rail, seaport, and transit modes. According to the analysis, "on average, every dollar invested in the Work Program will yield about \$4.40 in economic benefits for Florida from the beginning of the Work Program to FY 2043."²⁵

Effect of Proposed Changes

Section 35 directs the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits²⁶ of the state's investment in the FDOT Adopted Work Program for fiscal year 2015-2016, including the following four fiscal years. At a minimum, a separate return on investment shall be projects for roads and highways, rails, public transit, aviation, and seaports.

The analysis is limited to funding anticipated by the Adopted Work Program but may address the continuing economic impact of the transportation projects in the five years beyond the conclusion of the Adopted Work Program. The number of jobs created, the increase or decrease in personal income, and the impact on gross domestic product from the direct, indirect, and induced effects on the state's investment in each area must be evaluated.

The FDOT and each of its district offices are required to provide the EDR full access to all data necessary to complete the analysis, including any confidential data, and the EDR must provide the analysis to the Senate President and House Speaker by January 1, 2016.

²³ Section 334.046(4)(b), F.S.

²⁴ The analysis is available at: <http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtml>. Last visited March 16, 2015.

²⁵ *Id.* at 1.

²⁶ Defined per the bill in s. 288.005, F.S., meaning the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

Turnpike Revenue Bonds/Bond Validation (Sections 2 and 30)

Present Situation

Section 338.227, F.S., currently authorizes the FDOT to borrow money as provided by the State Bond Act to pay the cost of any legislatively approved turnpike projects, with the principal and interest on any bonds being payable solely from revenues pledged for their repayment. No revenues or bond proceeds from the turnpike system may be used for any project that is not part of the turnpike system.²⁷ The Legislature's annual approval of the FDOT's tentative work program containing turnpike projects constitutes approval to issue bonds as required by the State Constitution, and no more than \$10 billion of bonds may be outstanding to fund approved projects.²⁸ The Division of Bond Finance (DBF) is authorized to issue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects.²⁹ Funding of a turnpike project through bond issuance is prohibited until the FDOT has made a final determination that the project is economically feasible.^{30, 31}

Bonds issued pursuant to the State Bond Act must be validated under ch. 75, F.S., through proceedings instituted by attorneys for the DBF.³² In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County; the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*;³³ and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate Turnpike bonds, to publish a copy of the court's order requiring appearance at the hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County.*³⁴

²⁷ Section 338.227, F.S.

²⁸ See s. 338.2275(1), F.S.

²⁹ See s. 338.227(3), F.S.

³⁰ See s. 338.2275(3), F.S.

³¹ Section 338.221(8), F.S., defines "economically feasible" for a *proposed* turnpike project to mean, as determined by the FDOT, that the estimated net revenues of the project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50% of the annual debt service on the bonds by the end of the 12th year of operation and at least 100% of the debt service by the end of the 30th year. For turnpike projects financed from revenues of the turnpike system, except for feeder roads and turnpike improvements, the term is defined to mean that the project originally financed from turnpike system revenues is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

³² See s. 215.82(1), F.S.

³³ Emphasis added.

³⁴ Emphasis added.

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.³⁵ The required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

According to the DBF:

Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.³⁶

Effect of Proposed Changes

The bill in general leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 2 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., in favor of the language in newly created s. 338.227(5), F.S.

Section 30 creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to chapter 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

Shared-Use Nonmotorized Trail (SunTrail) Network (Sections 3, 27, 32, 33, and 34)

Present Situation

Trail Development

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20th Century. With the deregulation of the American railroad industry by the Staggers Rail Act of 1980³⁷, the state was presented with an immediate abundance of abandoned rail

³⁵ See s. 215.82(2), F.S.

³⁶ See copy of email from Ben Watkins, Director, Florida Division of Bond Finance, to House staff dated January 27, 2015. On file in the Senate Transportation Committee.

³⁷ Staggers Rail Act of 1980, Pub. L. 96-448, 94 Stat. 1895. Approved 1980-10-14.

corridors. With the assistance of organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the Florida Department of Environmental Protection (FDEP) coordinated to develop numerous abandoned rail corridors as shared-use “rail-trails” for nonmotorized transportation and recreation. Many of Florida’s premier nonmotorized trails, including the Pinellas Trail, Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major thrust in trail development came in 1991 when Congress shifted transportation policy. The Intermodal Surface Transportation Efficiency Act, for the first time, identified pedestrian and bicycle facilities as components of the nation’s transportation infrastructure, and created a dedicated funding source for multiuse trails and paths. With local governments serving as project sponsors,³⁸ many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

Trail Connectivity

Although locales throughout the state benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or complete a trip. Many trail trips are “out-and-back” trips in which the origin and destination are the same. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a “destination trail,” and the greater distance users will travel to use. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to a trailhead. Those traveling 50 miles or more had daily expenditures approximately twice that of users that traveled less.³⁹

Recognizing this potential, the Florida Greenways and Trails Foundation (FGTF),⁴⁰ recently announced its priority to “close the gaps” on a 275-mile corridor between the Canaveral National Seashore near Titusville and St. Petersburg.⁴¹ The “Coast-to-Coast Connector” will link communities along this destination trail, providing a year-round eco-tourism engine throughout the region. The Connector includes two of the state’s most popular trails, the Pinellas Trail and

³⁸ Resources for the Future Backgrounder “Federal Funding for Conservation and Recreation Trails” Joe Maher, February 2009 (http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf).

³⁹The Great Allegheny Passage Economic Impact Study (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 70. (<http://www.atatrail.org/docs/GAPEconomicImpactStudy200809.pdf>)

⁴⁰ The FGTF, a direct support organization, exists to support the mission and programs of the Florida Department of Environmental Protection's Office of Greenways and Trails (OGT) as it continues toward establishing a statewide system of greenways and trails for recreation, conservation and alternative transportation.

⁴¹ Florida Greenways and Trails Foundation Website: Coast-to-Coast Connector (<http://fgtf.org/coast-to-coast/>) (Last visited: 2/25/15)

the West Orange Trail, each of which have served approximately one million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter Garden. Components of the Connector will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway⁴² and the 300-mile St. Johns River-to-Sea Loop.⁴³

Trail Benefits

In addition to the intrinsic values nonmotorized travel bring to community mobility, sustainable transportation, and personal health, trails provide the framework for, and access to, conservation lands and wildlife corridors. Trails also produce numerous quantifiable economic benefits:

- *Trails increase the value of nearby properties.* Based on an analysis of comparable trails from across the country, the presence of Miami-Dade County's Ludlam Trail will increase properties values within 1/2 mile of the trail, 0.32 percent to 0.73 percent faster than other properties throughout the county. This translates into a total property value increase over a 25 year period of between \$121 million and \$282 million.⁴⁴ A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the "importance of community amenities."⁴⁵ A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for \$8,800 more than other similar homes.⁴⁶
- *Trails boost spending at local businesses.* An economic impact analysis of Orange County trails found that in 2010, average spending per trail user is \$20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals and more. The West Orange Trail supported 61 jobs, and represented an estimated economic impact of \$5 million for Downtown Winter Garden. Longer, "destination trails," increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters. A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail, were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trip averaged spending \$203 per person.⁴⁷ A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, 2/3 were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between \$100 and \$500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.⁴⁸

⁴² Florida Greenways and Trails Foundation Website: Heart of Florida Greenway (<http://fgtf.org/maps/hof/overview.pdf>) (Last visited 2/25/15)

⁴³ St. Johns River-to-Sea Loop Trail Status Update, September 2011. ETM, Inc.

http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf

⁴⁴ Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study (<http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf>)

⁴⁵ (<http://www.americantrails.org/resources/benefits/homebuyers02.html>)

⁴⁶ Lindsey et al, "Property Values, Recreation Values, and Urban Greenways," Journal of Park and Recreation Administration, V22(3) pp.69-90.

⁴⁷ *The Great Allegheny Passage Economic Impact Study* (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 91 (<http://www.atatrail.org/docs/GAPEconomicImpactStudy200809.pdf>)

⁴⁸ *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, May 2001. Raymond Busbee, Ph.D. Marshall University.

- *Trails influence business location and relocations decisions.* Companies often choose to locate in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to cater to trail visitors.⁴⁹
- *Trails revitalize depressed areas.* In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown went from a 30 percent storefront vacancy rate to a 95 percent storefront occupancy.⁵⁰
- *Trails provide sustainable tourism opportunities.* The Outer Banks of North Carolina generates \$60 million in economic activity through bicycle tourism. The one-time investment of \$6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Outer Banks shows bicycle tourists tend to be affluent (half earn more than \$100,000 a year, 87 percent earn more than \$50,000) and educated (40 percent have a masters or doctoral degree). More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-fourths said that more paths, shoulders and lanes should be built.⁵¹ A trail can be regarded as a product that is able to provide a sustainable form of tourism resting on a ‘quadruple bottom line’ of environmental, social, economic and climate responsiveness.”⁵²
- *Trail development creates more jobs than road development.* A national comparison of the number of jobs created per \$1 million spent on various types of transportation projects found that for every \$1 million spent on the development of multi-use trails, 9.57 jobs were created while road-only development yielded 7.75 jobs.⁵³

Effect of Proposed Changes

Generally, the bill creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System. The FDOT is given primary responsibility for developing and maintaining the SunTrail network, although provisions are included to allow the FDOT to outsource maintenance and to enter into trail sponsorship agreements with public and private entities. Specific provisions of the bill follow.

Section 3 amends s. 260.0144 F.S., to remove SunTrail components from existing provisions for sponsorship of state trails by not-for-profit or private sector entities. Other greenways and trails remain eligible for sponsorship under the section. Section 11 of the bill creates a new s. 339.83, F.S., to provide for sponsorship of SunTrail components.

⁴⁹ Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention. Rivers, Trails and Conservation Assistance Program, National Park Service 1995

⁵⁰ FDEP Presentation: “*The Impact of Trails on Communities*” Office of Greenways and Trails.

(<http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf>)

⁵¹ Lawrie, et al, “*Pathways to Prosperity: the economic impact of investments in bicycling facilities*,” N.C. Department of Transportation Division of Bicycle and Pedestrian Transportation, Technical Report, July 2004.

http://www.ncdot.org/transit/bicycle/safety/safety_economicimpact.html.

⁵² Reis, A.C.; Jellum, C. (2012). Rail trails development: a conceptual model for sustainable tourism. Tourism Planning and Development, 9(2): 133-148

⁵³ Pedestrian And Bicycle Infrastructure: A National Study Of Employment Impacts Heidi Garrett-Peltier Political Economy Research Institute University of Massachusetts, Amherst June 2011

Section 27 amends s. 335.065, F.S., to remove the FDOT's authority to enter contracts for commercial sponsorship of multi-use trails. This authority is provided in new section 339.83, F.S., which expands sponsorship opportunities for SunTrail components.

Section 32 creates s. 339.81, F.S., to establish the Florida SunTrail Network as a component of the Florida Greenways and Trails System established in ch. 260. SunTrail components will provide nonmotorized travel opportunities between and within communities, conservation areas, state parks, beaches and other natural and cultural attractions.

SunTrail components will not include sidewalks, nature trails, or loop trails in a single park. Bicycle lanes on roadways may not be considered components of the SunTrail network unless the lane is used to connect two or more nonmotorized trails and is no more than one-half mile long. Exceptions are provided to include some on-road components of the Florida Keys Overseas Heritage Trail within the SunTrail Network.

The FDOT will include SunTrail projects within its five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and contract with private entities to provide maintenance services on individual components of the network and may adopt rules to assist in developing and maintaining the network.

Section 33 creates s. 339.82, F.S., directing the FDOT to develop the SunTrail Network Plan in coordination with FDEP, MPOs, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
 - Are identified by the Florida Greenways and Trails Council as priority projects;
 - Connect components by closing gaps in the network; and
 - Maximize use of federal, local, and private funds;
- A map showing existing and planned facilities;
- A finance plan in five- and ten-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with Visit Florida.

Section 34 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, markings, and exhibits and provides for trail marketing materials to recognize sponsors.

Airport Zoning/Chapter 333 Re-Write (Sections 9 through 23)

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:

- Addresses permitting for structures exceeding federal obstruction standards;

- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and
- Establishes penalties and remedies for violations.

The FDOT in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports County, the real estate development community, and the FDOT participated in the working group. The FDOT advises the working group determined that chapter 333, F.S., “contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.”

As examples, the FDOT reports the need to update current definitions consistent with federal regulations, advises that zoning variances and permitting processes are mixed in the chapter, and notes that required creation of separate boards often duplicate existing local governing body structures and functions. The result is inconsistent local application of the provisions governing airspace and land use at or near airports with outcomes that may be unpredictable.⁵⁴

The FDOT advises it expects no substantive changes as a result of the bill’s proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.⁵⁵

Definitions

Present Situation

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

Effect of Proposed Changes

Section 9 amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Define terms used but undefined elsewhere in the chapter and delete terms not used elsewhere in the chapter;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and
- Otherwise provide clarity through editorial and grammatical changes.

⁵⁴ See the FDOT 2015 Agency Proposal, *Airspace and Land Use at Public Airports*. On file in the Senate Transportation Committee.

⁵⁵ Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

Permitting for Structures Exceeding Federal Obstruction Standards

Present Situation

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land. Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards, if the standards will be exceeded within a 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use.⁵⁶ A permit from the FDOT is not required if a political subdivision⁵⁷ has adopted adequate airspace protection regulations and filed them with the FDOT. The facilities at airports shown on the airport master plan, or on an airport layout plan submitted to the Federal Aviation Administration (FAA) or comparable military documents, are to be protected. Certain planned or proposed facilities are also protected.

The FDOT must issue or deny a permit within 30 days of receipt of an application for erection, alteration, or modification of any structure that would exceed the federal obstruction standards. The FDOT is required to consider a list of factors in determining whether to issue or deny a permit. As a permit condition, the FDOT is directed to require obstruction and lighting of the permitted structure. The FDOT is prohibited from approving a permit to erect a structure unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

Effect of Proposed Changes

Section 10 amends s. 333.025, F.S., to replace the term “geographic center” with “airport reference point,” which is located at the approximate geometric center of all usable runways and to update references to current federal regulations. Per the FDOT, the airport reference point is not the same as the geographic center of the airport.⁵⁸

When a political subdivision has adopted adequate airport protection zoning regulations which are on file with the FDOT *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for a structure. To evaluate the technical consistency of a permit application submitted to a local government, the bill provides a 15-day FDOT review period concurrent with the established local permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not exceeding 18 consecutive months are exempt from the FDOT review, unless the FDOT requests review.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT when granting or denying a permit is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of the permitted obstruction or vegetation to install, operate, and maintain marking and

⁵⁶ Public airports are licensed under the provisions of ch. 330, F.S.

⁵⁷ Generally, a local governmental entity. Section 333.03(9), F.S.

⁵⁸ See the FDOT document provided to staff, *Proposed Ch. 333, F.S. Amendments and Legislative Support Documentation*. On file in the Senate Transportation Committee.

lighting in conformance with FAA standards, at the owner's expense. A reference to aeronautical "evaluation" is revised to aeronautical "study" in accordance with the new definition. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

Adoption of Airport Zoning Regulations

Present Situation

Section 333.03, F.S., requires political subdivisions with an airport hazard area⁵⁹ to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or controlled by a political subdivision and has a hazard area outside of its territorial limits, the owning or controlling political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for erection, alteration, or modification of any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3);
- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same list of factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- That no variance be approved solely on the basis that a proposed structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

Interim land use compatibility zoning regulations must be adopted, unless the political subdivision has adopted land development regulations addressing the use of land consistent with this section. Interim land use compatibility zoning regulations must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements, with attendant reporting requirements and bird management considerations. If a public-use airport has conducted a specified federal noise study, residential construction and construction of certain educational facilities are prohibited within the area defined by the study to be incompatible with such construction. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones must be adopted, including uses that result in congregations of people,

⁵⁹ The bill defines "airport hazard" to mean any area of land or water upon which an airport hazard might be established. "Airport hazard area" is defined in the bill to mean any obstruction which exceeds the federal obstruction standards in the specified sections of the Code of Federal Regulations and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing; or is otherwise hazardous to such activity and for which no permit has been obtained. The bill generally defines "obstruction" to mean any object of natural growth, terrain, or permanent or temporary construction or alteration thereof, existing or proposed, that exceeds the federal obstruction standards.

emissions of light or smoke, or attract birds. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

Effect of Proposed Changes

Section 11 amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt, by either of the two authorized methods, airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace references to a “variance” with “permit.”
- Update references to the federal obstruction standards contained in the CFR;
- Replace aeronautical “evaluation” with “study” consistent with the new definition;
- Remove the FDOT’s duty to provide copies of the federal obstruction standards and issue maps and replace it with making the FDOT available to provide assistance with respect to the standards;
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques;
- Allow alternative noise studies approved by the FAA, and their application;
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones;
- Remove the limited exceptions for construction of educational facilities
- Require all updates and amendments to local airport codes to be filed with the FDOT within 30 days after adoption.
- Delete outdated language; and
- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.⁶⁰

Guidelines Regarding Land Use Near Airports

Present Situation

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

Effect of Proposed Changes

Section 15 repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT’s Airport Compatible Land Use Guidebook.⁶¹

⁶⁰ *Supra*, note 54.

⁶¹ *Supra*, note 54.

Permits, Variances, and Appeals

Present Situation

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to under certain actions necessary to conform to the regulations. If the owner does not, the required action may be accomplished by the administrative agency and the costs may be assessed against the nonconforming object or the land on which it is located. If the assessment is not paid within 90 days, a lien at the annual rate of 6 percent interest is applied.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. The FDOT has 45 days to comment or waive that right. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

Section 333.08, F.S., authorizes any person or taxpayer affected by any decision of an administrative agency in its administration of adopted airport zoning regulations or of any governing body of a political subdivision, or the Department of Transportation, or any joint airport zoning board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Effect of Proposed Changes

Section 16 amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to erect, construct, alter, increase the height of any structure, permit the growth of any vegetation, or otherwise use his or her property in violation of the adopted regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding federal obstruction standards. All variance provisions are removed in favor of the permitting

process. In addition, the provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT's 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

Section 17 repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

Section 19 repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Administration of Airport Zoning Regulations

Present Situation

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency, which may be an agency created by the regulations; or by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

Effect of Proposed Changes

Section 18 amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.⁶² Administration and enforcement is left to the affected political subdivision or its administrative agency. Also removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, including requests for exceptions to airport zoning regulations;
- Notify the FDOT of receipt of a complete permit application; and
- Enforce any permit, order, requirement, decision, or determination made by the administrative agency with respect the airport zoning regulations.

If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the permitting and appeals process. Otherwise, the political subdivision must implement the permitting and appeals process.

Any person aggrieved or taxpayer affected by any decision in the administration of adopted airport zoning regulations, or any governing body of a political subdivision or any joint airport

⁶² *Supra*, note 54.

zoning board, may use the process established for an appeal. Appeals must be taken with a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal specifying the grounds for appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that a stay would cause imminent peril to life or property. In such case, proceedings may be stayed only by an order from the political subdivision or its administrative agency following notice to the entity from which the appeal is taken and for good cause shown.

The political subdivision or its administrative agency must set a reasonable time for a hearing and provide notice to the public and the parties in interest. A party may appear in person, by agent, or by attorney. The subdivision or agency may reverse, affirm, or modify the underlying order, requirement, decision, or determination from which the appeal is taken in accordance with the provisions of chapter 333, F.S.

Judicial Review

Present Situation

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. That section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

Effect of Proposed Changes

Section 20 amends s. 333.11, F.S., to remove the FDOT from authorization to apply for judicial relief and reference to the board of adjustment, but otherwise leave the authorization to apply for judicial in place. References to the board of adjustment are replaced with "political subdivision or its administrative agency." The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review. These revisions reflect the elimination of the requirement that adopted airport zoning regulations provide for a board of adjustment, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

Transition Provisions

Section 22 of the bill:

- Provides that a provision of airport zoning regulation in effect on July 1, 2015, and in conflict with the revised chapter 333, F.S., must be amended to conform by July 1, 2016.
- Requires any political subdivision with an airport hazard area that has not adopted airport zoning regulations to do so by October 1, 2017, consistent with the chapter.
- Requires the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

Technical Revisions

The following sections of the bill primarily make grammatical and editorial revisions to existing language in chapter 333, F.S., and modify sections of the chapter for internal consistency with definitions.

Section 12 amends s. 333.04, F.S., to replace the following phrases as follows:

- “Zoning ordinance” with “plan or policy.”
- “Airport zoning regulations” with “airport *protection* zoning regulations.”
- “Trees” with “vegetation.”

Section 13 amends s. 333.05, F.S., to reference amended or deleted regulations and administering and enforcing regulations, in addition to those adopted.

Section 14 amends s. 333.06, F.S., to replace references to “runway clear zones” with “runway protection zones, and “tree” to “vegetation.”

Section 21 amends s. 333.12, F.S., to provide editorial changes; replace the term “navigation easement” with “avigation easement,”⁶³ and replace “tree” with “vegetation.”

Section 23 repeals s. 333.14, the short title citing chapter 333, F.S., as the “Airport Zoning Law of 1945.”

Section 36 reenacts s. 350.81, F.S., to incorporate the amendment to s. 333.01, F.S.

Pedestrian Safety/Crosswalks (Sections 6 and 7)

Present Situation

The FDOT advises that it conducts public opinion surveys and on-the-street observation surveys to elicit feedback relating to pedestrian safety.

Additionally, the department works directly with law enforcement through several high visibility enforcement programs and receives feedback from them on the challenges of educating and enforcing laws. It is the opinion of the department’s safety office that these results indicate that both the general population and law enforcement have a challenging time with the crosswalk definition as it is written.⁶⁴

Current law defines “crosswalk” to mean:

- That part of the roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

⁶³ The bill describes “avigation” easement as an easement conveying the airspace over another property for use by the airport.

⁶⁴ See the FDOT email to Senate and House Committee staff, February 9, 2015. On file in the Senate Transportation Committee.

- Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.⁶⁵

This definition is quite similar, but not identical, to the definition contained in the Manual on Uniform Traffic Control Devices (MUTCD), which is a national, uniform system of traffic control devices adopted by the American Association of State Highway Officials. States must adopt the 2009 National MUTCD as their legal standard for traffic control devices within two years from the effective date.⁶⁶ The FDOT has adopted the MUTCD pursuant to direction in s. 316.0745, F.S., which in part recognizes the potential need for revisions to a uniform system “to meet local and state needs.” Further, a review of the MUTCD reveals numerous references to the need to exercise engineering judgment in applying the provisions of the MUTCD, depending upon factors such as traffic volume, terrain, and posted speed limit, etc.

According to a Federal Highway Administration (FHWA) Study:

Pedestrians have a right to cross roads safely, and planners and engineers have a professional responsibility to plan, design, and install safe and convenient crossing facilities. Pedestrians should be included as design users for all streets.

Providing marked crosswalks traditionally has been one measure used in an attempt to facilitate crossings. Such crosswalks commonly are used at uncontrolled locations (i.e., sites not controlled by a traffic signal or stop sign) and sometimes at midblock locations.⁶⁷

While current Florida law, the MUTCD, and the FHWA recognize the existence of midblock crosswalks, the term, “midblock crosswalk,” is not currently defined.

The FDOT also seeks to revise the current definition of “sidewalk”; i.e., “That portion of a street between the curbline, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.”⁶⁸

Section 316.130, F.S., generally requires a pedestrian to obey the instructions of any applicable official traffic control device, including, but not limited, to signals and signage at crosswalks. That section also contains direction to drivers with respect to stopping or yielding to pedestrians at intersections having a traffic control signal in place,⁶⁹ at crosswalks where signage so indicates,⁷⁰ and at crosswalks with no traffic control signals and no signage.⁷¹

⁶⁵ See s. 316.003(6), F.S. Emphasis added.

⁶⁶ See the FHWA website: <http://mutcd.fhwa.dot.gov/index.htm>. Last visited February 18, 2015.

⁶⁷ Emphasis added. See *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations, Final Report and Recommended Guidelines*, 2005, at 1. On file in the Senate Transportation Committee.

⁶⁸ See s. 316.003(47), F.S.

⁶⁹ Section 316.130(7)(a), F.S.

⁷⁰ Section 316.130(7)(b), F.S.

⁷¹ Section 316.130(7)(c), F.S.

Generally, a driver must stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. However, pedestrians crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield to all vehicles on the roadway.⁷²

Effect of Proposed Changes

The current definitions of “crosswalk” and “sidewalk” are revised in an attempt to clarify the terms with more easily understood language. The provisions relating to stopping for pedestrians at crosswalks where signage so indicates; i.e., crosswalks with stop signs, and at crosswalks with no traffic control signals and no signage are edited and collapsed into one subsection for clarity and brevity.

Section 6 amends s. 316.003(6), F.S., by deleting the current two-part definition of “crosswalk” and replacing it as follows:

- “Unmarked crosswalk” is defined to mean an unmarked part of the roadway at an intersection used by pedestrians for crossing the roadway.
- “Marked crosswalk” is defined to mean pavement marking lines on the roadway surface, which may include contrasting pavement texture, style, or colored⁷³ portions of the roadway at an intersection used by pedestrians for crossing the roadway.
- “Midblock crosswalk” is defined to mean a location between intersections where the roadway surface is marked by pavement marking lines on the roadway surface, which may include contrasting pavement texture, style or colored portion of the roadway at a signalized or unsignalized crosswalk used for pedestrian roadway crossings and may include a pedestrian refuge island.

The bill also amends s. 316.003(47), F.S., to define “sidewalk” to mean: “That portion of a street intended for use by pedestrians, adjacent to the roadway between the curb or edge of the roadway and the property line. The current definitions of “crosswalk” and “sidewalk” are revised with “plain language.” According to the FDOT, plain language provides pedestrians with tools necessary to make safer choices, which often results in fewer crashes. In addition, law enforcement officials are assisted in enforcing compliance with relevant laws. The FDOT further advises these changes will not result in fewer crosswalks getting marked; rather, the sole purpose is to utilize plain language to assist pedestrians and law enforcement.⁷⁴

Section 7 amends s. 316.130(7)(b), F.S., to make that paragraph applicable to crosswalk locations where the approach is not controlled by a traffic signal or by, in plain language, a stop sign. A driver continues to be required to stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling and, the bill adds, when turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

⁷² *Id.*

⁷³ The current MUTCD definition of “crosswalk” also references “contrasting pavement texture, style, or color.” *Supra*, note 16. The definition is found on p. 13 of the MUTCD, available by link on the FHWA website.

⁷⁴ *Supra*, note 14.

Such locations may include midblock crosswalks. Paragraph (c) is repealed, but a pedestrian's duty to yield to all vehicles on the roadway when crossing at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided remains in place.

Turnpike Tolls/Dormant Prepaid Accounts (Section 31)

Present Situation

SunPass is the Florida Turnpike's electronic, prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.⁷⁵

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of chapter 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.⁷⁶

Effect of Proposed Changes

Section 31 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

[T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,⁷⁷ prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.

We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.⁷⁸

⁷⁵ See SunPass website, *Frequently Asked Questions*: <https://www.sunpass.com/faq>. Last visited February 11, 2015.

⁷⁶ See s. 338.231(3)(c), F.S.

⁷⁷ The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading:

<http://www.fhwa.dot.gov/map21/summaryinfo.cfm>. Last visited February 13, 2015.

⁷⁸ See the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass*. On file in the Senate Transportation Committee.

Independent Special Districts Regulating Vehicles For Hire (Section 28)

Present Situation

The Hillsborough County Public Transportation Commission (HPTC) is a legislatively-created independent special district regulating vehicles for hire. The HPTC regulates such vehicles in that county pursuant to authority granted to counties in s. 125.01(1)(n), F.S., to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county. The Commission appears to be the only independent special district with such responsibilities.⁷⁹

The HPTC currently has seven members.⁸⁰ The Board of County Commissioners appoints three members from the board, the City Council of Tampa appoints two members, and the City Commission of Plant City and the City Council of Temple Terrace appoint one member each. Each member serves a two-year term.

Effect of Proposed Changes

Section 28 creates s. 335.21, F.S., to revise the appointment of membership to the HPTC, notwithstanding any provision of local law. The Governor appoints four members, the Tampa City Council appoints one member, and the Hillsborough County Board of Commissioners appoints two members. All seven members must be Hillsborough County residents.

Inspector General Appointment (Section 1)

Present Situation

Prior to 2014, agency inspectors general were appointed by and reported to agency heads. The Legislature in 2014 revised the law with respect to agency inspector general appointment to provide, for agencies such as the FDOT under the jurisdiction of the Governor, agency inspectors general are to be appointed by and report to the Chief Inspector General.⁸¹ Section 20.23(3)(d), F.S., continues to require the FDOT Secretary to appoint an inspector general directly responsible to and serving at the pleasure of the Secretary, in direct conflict with the revisions made in 2014 to s. 20.55, F.S.

Effect of Proposed Changes

Section 1 repeals s. 20.23(3)(d), F.S., to remove the directly conflicting and obsolete direction to the FDOT Secretary regarding inspector general appointment, thereby conforming to the revisions to s. 20.55, F.S., made by the 2014 Legislature.

Fort Myers Urban Office/Staffing and Responsibilities (Section 1)

Present Situation

Current law organizes the operations of the FDOT into seven districts, each headed by a district secretary, as well as a turnpike enterprise and a rail enterprise. Section 20.23(4)(b), F.S.,

⁷⁹ The HPTC is an independent special district first created in 1983. See ch. 83-423, Laws of Florida.

⁸⁰ See ch. 2001-299, Laws of Florida.

⁸¹ See Enrolled HB 1385 (2014).

authorizes each district secretary to appoint up to three district directors. Section 20.23(4)(d), F.S., makes the district director for the Fort Myer's Urban Office of the FDOT responsible for developing the five-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties, and makes the Urban Office responsible for providing policy, direction, local government coordination, and planning for those counties. The office and the counties are contained within FDOT's District One, which currently provides policy, direction, and planning for all counties in District One, not just those specified.

The FDOT also has Urban Area offices located in Jacksonville and Orlando. The FDOT advises all urban offices are satellite offices for their main District Office, and all are under the direction of the respective District Secretary. However, only the Fort Myer's Urban Office is referenced in statute with express direction as to staffing and responsibilities.

The FDOT advises that insertion of the specific staffing and responsibility assignment was in the nature of a precursor to what might have, but did not, become an FDOT District Eight. No district director is currently physically housed in the Fort Myers Urban Office. Responsibility for providing policy, direction, and planning for the listed counties occurs at the District One level, leaving the Fort Myers Urban Office largely responsible for local government coordination in support of those activities, as well as coordination of joint participation and local funding agreements for transportation projects, in the listed counties.⁸²

Effect of Proposed Changes

Section 1 also repeals s. 20.23(4)(d), F.S., to remove the Fort Myers Urban Office District Director responsibility for developing the five-year Transportation Plan for the specified counties and remove the specified Urban Office responsibilities. The FDOT advises the existence of the Fort Myers Urban Office is in no way affected, and the office will continue to provide local government coordination in the specified counties. The FDOT advises the revisions provide flexibility to make efficient best-practices human resource decisions, while it continues to provide service in the specified counties.⁸³

511 Traveler Information Services (Sections 24, 25, and 26)

Present Situation

511 is a national abbreviated dialing code assigned by the Federal Communications Commission (FCC) to be used exclusively for access to travel information services.⁸⁴ The code enables a caller to connect to a location in a network without using a seven or ten-digit telephone number. The network is pre-programmed to translate a three-digit code into the appropriate seven or ten-digit code and route the call accordingly.⁸⁵

⁸² Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

⁸³ See the FDOT 2015 Legislative Proposal form, *Fort Myers Urban Office*. On file in the Senate Transportation Committee.

⁸⁴ See Federal Communications Commission Order No. 00-256, *Third Report and Order and Order on Reconsideration*, July 21, 2000. Copy on file in the Senate Transportation Committee.

⁸⁵ *Id.*, at 4.

All of Florida's interstates, toll roads, and other major metropolitan roadways are covered by the 511 system. Currently, in addition to provision of services via the toll-free 511 telephone system, motorists may also receive travel information by:

- Visiting FL511.com for interactive roadway maps showing traffic congestion and crashes, travel times, and traffic camera views;
- Downloading a free mobile app available on Google Play or Apple App Store; or
- Following one of the 12 statewide, regional, or roadway specific Twitter feeds (#FL511).⁸⁶

The FDOT, as the state's lead agency for implementing 511 services and the point of contact for coordinating 511 services with *telecommunications*⁸⁷ service providers, is statutorily tasked with the following duties:

- Implementation and administration of 511 services in the state;
- Coordination with other transportation authorities in the state to provide multimodal traveler information through 511 services and other means;
- Development of uniform standards and criteria for the collection and dissemination of traveler information using the 511 number or other interactive voice response systems; and
- Entrance into joint participation agreements or contracts with highway authorities and public transit districts to share the costs of implementation and administration.⁸⁸

“511” or “511 services” are currently defined as three-digit *telecommunications dialing to access interactive voice response telephone*⁸⁹ traveler information services as defined by the FCC Order No. 00-256, July 1, 2000.⁹⁰ “Interactive voice response” is defined as a software application that accepts a combination of voice *telephone* input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail, and other media.⁹¹ The FDOT’s existing rulemaking authority is similarly limited to coordination of 511 traveler information *phone* services.⁹² And the FDOT’s existing powers and duties likewise limit the FDOT’s provision of services to *interactive voice response telephone systems access*.⁹³

The referenced duties and definitions are essentially limited to *telephonic* access to traveler information and do not recognize the additional methods by which travelers may obtain the information using more recent technology, such as a web site, mobile apps, Twitter accounts, and text alerts.

⁸⁶ See 511News.com January 20, 2015, press release <http://www.511news.com/news-releases/fdots-511-on-the-lookout-to-help-birdwatchers-travel-to-space-coast/> for additional information on Florida 511 features. Last visited February 4, 2015.

⁸⁷ Emphasis added.

⁸⁸ See s. 334.60, F.S.

⁸⁹ Emphasis added.

⁹⁰ See s. 334.03(36), F.S.

⁹¹ See s. 334.03(37), F.S.

⁹² *Supra*, note 19.

⁹³ See s. 334.044(31), F.S.

Effect of Proposed Changes

The bill in general revises 511 traveler information services statutes to remove language limiting the provision of services through only telephonic access. These revisions recognize newer technologies and methods for providing traveler information.

Section 24 amends s. 334.03(36), F.S., to remove from the definition reference to *three-digit telecommunications dialing to access interactive voice response telephone* traveler information in favor of *all* traveler information services. That section also amends s. 334.03(37), F.S., to repeal the definition of “interactive voice response,” as the phrase is no longer to be used.

Section 25 amends s. 334.044(31), F.S., to revise the FDOT’s 511 oversight duty by deleting reference to *the provision of interactive voice response telephone systems* and a reference to the *511 number*, leaving the FDOT responsible for oversight via the *511 services* as assigned by the FCC.

Section 26 amends s. 334.60, F.S., striking reference to the FDOT’s coordination *with telecommunications service providers*, to allow the FDOT’s continued coordination of *all* traveler information services with providers using newer technologies and methods. A reference to the *511 number or other interactive voice response systems* is removed, in favor of *511 services*, and a reference to *phone* services is deleted.

The FDOT advises that the effectiveness of disseminating traveler information through interactive voice response is becoming less advantageous. While the FDOT may decide to discontinue providing an interactive voice response system, traveler information will be provided via the most advanced technologies, thereby ensuring distribution of information to the largest possible audience. Armed with the information, users are able to make informed travel decisions, which improves safety and mobility on Florida roadways.⁹⁴

Obsolete References/Beeline-East Expressway and Navarre Bridge (Section 29)

Present Situation

Section 338.165(4), F.S., authorizes the FDOT to request the DBF to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the FDOT’s adopted work program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.⁹⁵ The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

⁹⁴ See the FDOT 2015 Legislative Proposal form, *Modify definition/responsibilities of 511*, on file in the Senate Transportation Committee.

⁹⁵ See s. 338.165(10), F.S.

Effect of Proposed Changes

Section 29 s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Sections 3, 27, 32, 33, and 34: Significant positive economic development is expected from development of the SunTrail Network.

Section 4 and 5: Increased FSTED funding may generate a positive economic impact for the private sector.

Sections 6 and 8: The trucking industry is expected to experience a positive fiscal impact due to the decreased fines assessed for IRP violations.

C. Government Sector Impact:

Sections 3, 27, 32, 33, and 34: The bill currently provides no funding for the SunTrail Network but, if funded, significant positive economic development is expected.

Sections 4 and 5: Minimum annual funding from the STTF for the FSTED Program is increased from \$15 to \$25 million.

Sections 6 and 8: The FDOT advises it expects a negative annual fiscal impact of approximately \$1.6 million due to a decrease in the fines assessed for IRP violations.⁹⁶ A portion of the decrease, approximately \$500,000, is attributed to the revised IRP Full Reciprocity Plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 215.82, 260.0144, 311.07, 311.09, 316.003, 316.130, 316.545, 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, 334.03, 334.044, 334.60, 335.065, 338.165, 338.227, and 338.231.

This bill creates the following sections of the Florida Statutes: 333.135, 335.21, 339.81, 339.82, and 339.83.

This bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, and 333.14.

This bill reenacts section 350.81 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁹⁶ See the FDOT's response to House committee staff's *DOT Package Questions from Committee Staff*, on file in the Senate Transportation Committee.