

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	HB 7027	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Transportation & Ports Subcommittee; Rooney and others	118 Y's	0 N's
<b>COMPANION BILLS:</b>	CS/CS/SB 756; CS/CS/HB 7061; CS/CS/SB 1392	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/CS/HB 7027 passed the House on February 3, 2016. The bill was amended by the Senate on March 7, 2016, and subsequently passed the House on March 11, 2016. Part of the bill also passed the House and Senate in HB 7061 on March 11, 2016.

This is a comprehensive bill relating to the Department of Transportation (DOT). In summary the bill:

- Reallocates \$10 million within the Work Program to the Florida Seaport and Economic Development (FSTED) Program, which increases the program's annual funding minimum from \$15 to \$25 million;
- Authorizes DOT to designate certain locations and routes as ports of entry, and limits the penalty that may be assessed for specified operators which obtain temporary permits at a port of entry;
- Makes several statutory changes relating to autonomous vehicles, including their operation and regulation, technological standards, and incorporation in ongoing transportation planning;
- Defines driver-assistive truck platooning technology (DATPT), requires DOT to study the use of DATPT, and authorizes a pilot project to test vehicles equipped with such technology;
- Exempts vehicles operating in autonomous mode or with DATPT from a prohibition on certain electronic displays that are visible from the driver's seat;
- Authorizes DOT to assume specified environmental review responsibilities under the National Environmental Policy Act (NEPA) with respect to highway projects;
- Modifies the process for the development and review of public-private partnership project proposals;
- Authorizes DOT to establish a Business Development Program that would assist small businesses and increase competition in the procurement of highway project contractors;
- Removes the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway from the list of facilities whose toll revenues may be used to secure bonds;
- Authorizes the transfer of the Pinellas Bayway from DOT to the Florida Turnpike Enterprise and, in such event, also requires the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities;
- Repeals chapter law related to the Pinellas Bayway System;
- Authorizes the creation of DOT Financing Corporation to serve as a conduit issuer of debt to finance transportation projects; and
- Revises requirements for when a DOT Work Program amendment must be approved by the Legislative Budget Commission.

The bill will likely have a fiscal impact on the private and governmental sectors. See fiscal section for details.

The bill was approved by the Governor on April 4, 2016, ch. 2016-181, L.O.F., and will become effective on July 1, 2016.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

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

#### **FSTED Funding (Sections 1 and 2)**

##### Current Situation

In 1990, the Legislature created Ch. 311, F.S., authorizing the Florida Seaport and Economic Development (FSTED) Program.<sup>1</sup> This program established a collaborative relationship between DOT and the seaports and currently codifies an annual minimum of \$15 million for a seaport grant program.<sup>2</sup> FSTED funds are to be used on approved projects on a 50-50 matching basis.<sup>3</sup> Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port;
- The dredging or deepening of channels, turning basins, or harbors;
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing;
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce;
- The acquisition of land to be used for port purposes;
- The acquisition, improvement, enlargement, or extension of existing port facilities;
- Environmental protection projects: which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites; or which result from the funding of eligible projects;
- Transportation facilities which are not otherwise part of DOT's adopted Work Program.<sup>4</sup>
- Intermodal access projects;
- Construction or rehabilitation of port facilities, excluding any park or recreational facility, in ports listed in s. 311.09(1), F.S.,<sup>5</sup> with operating revenues of \$5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports; and
- Seaport master plan or strategic plan development updates, including the purchase of data to support such plans or other provisions of the Community Planning Act.<sup>6</sup>

The FSTED program is managed by the FSTED Council, which consists of the port director, or director's designee of the 15 deepwater ports, the Secretary of DOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.<sup>7</sup>

In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

##### Effect of Bill

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<sup>1</sup> Ch. 90-136, Laws Of Fla.

<sup>2</sup> ss. 311.07 and 311.09, F.S.

<sup>3</sup> s. 311.07(3)(a), F.S.

<sup>4</sup> DOT's Work Program is adopted pursuant to s. 339.135, F.S.

<sup>5</sup> The ports listed in s. 311.09(1), F.S., are the ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>6</sup> Part II of Ch. 163, F.S.

<sup>7</sup> s. 311.09(1), F.S.

The bill amends ss. 311.07(2) and 311.09(9), F.S., providing that DOT include a minimum of \$25 million per year in its annual legislative budget request for the FSTED program.

## **Port of Entry (Sections 3 and 6)**

### **Current Situation**

The Federal Motor Carrier Safety Administration and the state have enacted certain laws and regulations intended to promote the safe operation of commercial vehicles and to protect the state's roads and bridges from damage associated with overweight vehicles. DOT's Office of Maintenance's Motor Carrier Size and Weight Office as well as the Florida Highway Patrol's Commercial Vehicle Enforcement Unit enforce laws relating to commercial vehicle size, weight, and safety.<sup>8</sup>

Interstate operators of commercial motor vehicles are required to obtain a number of credentials. The basic credential requirements include a valid and current apportioned registration (International Registration Plan [IRP]),<sup>9</sup> international fuel tax agreement (IFTA) license and decals, display of a valid United States Department of Transportation number, and, in some situations, overweight/over dimensional permits.

A "port of entry" or "POE" state allows carriers to purchase all or portions of these credentials at select weigh station facilities or other locations within the state. Currently, Florida is not a port of entry state, meaning that all applicable permits and credentials must be obtained prior to entering the state.

Section 320.0715(1), F.S., requires all apportionable vehicles<sup>10</sup> domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. A commercial motor vehicle that is not registered with Florida or for Florida with any other IRP jurisdiction, or the registration is found to be expired, or the vehicle is improperly registered, Florida law requires a penalty assessment of five cents per pound for all weight over 10,000 pounds, except loaded truck tractor-semitrailer and tandem trailer combinations, which will be assessed for all weight over 35,000 pounds.

An IRP trip permit registration may be obtained for a commercial motor vehicle that was eligible for, but failed to obtain, IRP credentials prior to entering Florida.<sup>11</sup> The trip permit allows the vehicle to be operated in interstate or intrastate commerce for a ten-day period and may be obtained at a weigh station for \$30.<sup>12</sup> Under current law, a weight penalty is assessed for an improperly registered commercial motor vehicle without regard to location or whether the operator of the commercial motor vehicle obtains a temporary IRP trip permit registration.<sup>13</sup> When the registered declared gross vehicle weight of a properly credentialed commercial motor vehicle is exceeded, a penalty of five cents per pound will be assessed for all weight over the registered gross vehicle weight.<sup>14</sup>

### **Effect of Bill**

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<sup>8</sup> Florida Department of Transportation, *Florida Port of Entry Feasibility Study*, September 2014, at 27, available at [http://www.dot.state.fl.us/trafficoperations/Traf\\_Incident/Projects\\_CVO/Presentation/FL%20POE%20Technical%20Study%20Final.pdf](http://www.dot.state.fl.us/trafficoperations/Traf_Incident/Projects_CVO/Presentation/FL%20POE%20Technical%20Study%20Final.pdf) (last accessed Nov. 18, 2015).

<sup>9</sup> The IRP is a registration reciprocity agreement among states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. <http://www.irponline.org/> (Last visited February 12, 2015).

<sup>10</sup> 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."

<sup>11</sup> s. 320.0715(2)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> s. 316.545(2)(b), F.S.

<sup>14</sup> *Id.*

The bill creates s. 316.003(94), F.S., defining “port-of-entry” as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within the state. The locations and the designated routes to such locations shall be determined by DOT.

The bill amends s. 316.545(2)(b), F.S., providing that commercial motor vehicles entering the state at designated ports-of-entry, or operating on designated routes to a port of entry location, which obtain temporary registration permits associated with the IRP, shall be assessed a penalty *limited to the difference between its gross weight and the declared gross vehicle weight*<sup>15</sup> at five cents per pound. 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.

DOT 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.<sup>16</sup>

## **Autonomous Vehicles (Sections 3, 5, 7, 8, 9, 17, and 18)**

### Current Situation

Autonomous or “self-driving” vehicles are those operated “without direct driver input to control the steering, acceleration, and braking and ... designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode.”<sup>17</sup> According to the National Highway Traffic Safety Administration (NHTSA), autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.<sup>18</sup>

### **Federal Policy**

In an announcement on January 14, 2016, the U.S. Department of Transportation (USDOT) outlined the following 2016 milestones:

- NHTSA will work with industry and other stakeholders within six months of the announcement to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them;
- In the same six months, NHTSA will work with state partners, the American Association of Motor Vehicle Administrators, and other stakeholders to develop a model state policy on automated vehicles that offers a path to consistent national policy;
- Manufacturers are encouraged to submit rule interpretation requests where appropriate to help enable technology innovation;<sup>19</sup>

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<sup>15</sup> s. 322.01(13), F.S., defines “Declared weight” as the maximum loaded weight declared for purposes of registration, pursuant to chapter 320.

<sup>16</sup> Copy on file with the House Transportation & Ports Subcommittee.

<sup>17</sup> See the National Highway Traffic Safety Administration’s Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*, (May 30, 2013) available at:

<http://www.nhtsa.gov/About+NHTSA/Press+Releases/U.S.+Department+of+Transportation+Releases+Policy+on+Automated+Vehicle+Development> (last visited Jan. 25, 2016).

<sup>18</sup> See NHTSA, *Preliminary Statement of Policy Concerning Automated Vehicles*,

[http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated\\_Vehicles\\_Policy.pdf](http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated_Vehicles_Policy.pdf) (last visited Jan. 25, 2016).

<sup>19</sup> <sup>19</sup> As an example, the announcement links to a NHTSA response to a BMW request for an interpretation confirming that BMW’s remote self-parking system meets the Federal Motor Vehicle Safety Standards. The response notes that NHTSA does not provide approvals of vehicles or vehicle equipment or make determinations as to whether a product conforms to the Federal Motor Vehicle

- When interpretation authority is not sufficient, manufacturers are encouraged to submit requests for use of the agency's exemption authority to allow the deployment of fully autonomous vehicles.<sup>20</sup> Exemption authority allows NHTSA to enable the deployment of up to 2,500 vehicles for up to two years if the agency determines that an exemption would ease development of new safety features;<sup>21</sup> and
- USDOT and NHTSA will develop the new tools necessary for this new era of vehicle safety and mobility, and will consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when they are demonstrated to provide an equivalent or higher level of safety than is now available.

USDOT also announced that the President's budget proposal for fiscal year 2017 will include nearly \$4 billion to test connected vehicle systems in designated corridors throughout the county. The budget proposal will also allow funding to be used for working with industry leaders on a common multistate structure for connected and autonomous vehicles.<sup>22</sup>

## Current Florida Law

### *Definitions*

Section 316.003(90), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. That subsection also includes a definition of "autonomous technology," which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.<sup>23</sup>

### *Operation*

Operation of autonomous vehicles is authorized in s. 316.85, F.S. A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode.<sup>24</sup> When a person causes the vehicle's autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode, that person is deemed the operator of the vehicle.

### *Testing*

Testing of vehicles equipped with autonomous technology is authorized in s. 316.86, F.S. Employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, are authorized to operate such vehicles on roads in this state to test autonomous technology. A human operator must be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary,

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Safety Standards (FMVSSs) outside of an agency compliance test. Instead, federal law requires manufacturers to self-certify that a product conforms to all applicable FMVSSs in effect on the date of product manufacture. *See* NHTSA response: <http://research.nhtsa.gov/files/15-005347%20BMW%20Brake%20Transmission%20Shift%20Interlock%20v5.htm> (last visited March 16, 2016).

<sup>20</sup> *See* 49 C.F.R. § 555.

<sup>21</sup> *See* 49 C.F.R. § 555.6.

<sup>22</sup> *Supra*, note 17.

<sup>23</sup> The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

<sup>24</sup> The DHSMV will authorize a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on a Florida roadway, but only if manufacturers of the technology designate the person as a driver for testing purposes. *See* the DHSMV publication, *Excellence in Service, Education, and Enforcement*, Summer 2012, heading "2012 Legislative Update," at p. 1: <http://www.flhsmv.gov/html/CJSummer2012.pdf>. Last visited January 24, 2016.

unless the vehicle is being tested or demonstrated on a closed course.<sup>25</sup> Before testing, the entity performing the testing must submit an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of \$5 million.<sup>26</sup>

#### *Vehicle Requirements*

Section 319.145, F.S., requires an autonomous vehicle registered in this state<sup>27</sup> to meet federal standards and regulations for a motor vehicle. This section of law is expressly superseded when in conflict with NHTSA federal regulations. In addition, an autonomous vehicle must:

- Have a means to engage and disengage the autonomous technology which is easily accessible to the operator;
- Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode;
- Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle; and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

#### **Television-Type Equipment in Motor Vehicles**

Section 316.303, F.S., currently prohibit operation of a motor vehicle if it is equipped with television-type receiving equipment that is visible from the driver's seat. However, an electronic display used in conjunction with a vehicle navigation system is not prohibited.

#### **Local Regulation of Autonomous Vehicles**

Current Florida law contains no provision addressing local regulation of autonomous vehicles.

#### **Transportation Planning and Autonomous Vehicles**

Section 339.175(7), F.S., requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires DOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.<sup>28</sup>

#### Effect of the Bill

The bill amends s. 316.303, F.S., to authorize active display of moving television broadcast or pre-recorded video entertainment content visible from the driver's seat while the vehicle is in motion if the vehicle is equipped with autonomous technology and operated in autonomous mode.

The bill amends s. 316.85, F.S., to expressly authorize a person holding a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003, F.S. Operation of an autonomous vehicle on roads in this state would no longer be limited to licensed drivers designated for testing purposes.

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<sup>25</sup> The DHSMV will authorize operation of an autonomous vehicle in autonomous mode without a human physically present in the vehicle only on a closed course. See the DHSMV email to committee staff dated January 25, 2016. On file with committee staff.

<sup>26</sup> This section of the law also provides immunity from certain liability for the original manufacturer of a vehicle converted by a third party into an autonomous vehicle under specified conditions. Section 316.86(2), F.S.

<sup>27</sup> Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.

<sup>28</sup> The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state's long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.

The bill amends s. 316.86, F.S., to remove provisions regarding the operation of vehicles equipped with autonomous technology on roads for testing purposes, including the provisions:

- Authorizing employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, to operate such vehicles on roads in this state to test autonomous technology;
- Requiring a human operator to be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course; and
- Requiring the specified proof of insurance or surety bond before testing.

The original manufacture liability protections are not amended.

The bill amends s. 319.145, F.S., to clarify that registered autonomous vehicles must meet *applicable* federal standards and regulations for such vehicles. This section also requires an autonomous vehicle to have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

- Require the operator to take control of the autonomous vehicle; or
- If the operator does not or is unable to take control, be capable of bringing the vehicle to a complete stop.

The latter revision replaces the currently required easily accessible means by which the operator engages and disengages the technology, and the required means to alert the operator of a described technology failure to indicate to the operator to take control of the vehicle.

Taken together, these sections of the bill authorize operation of autonomous vehicles equipped with the defined autonomous technology on the public roads of this state by any person holding a valid driver license, without the need to be designated by an autonomous vehicle manufacturer for testing purposes, and without any testing. The physical presence of an operator is no longer required. Autonomous vehicles registered in this state must continue to meet federal standards and regulations that apply to such vehicles. To the extent that any new provision in the bill regarding vehicle equipment is or becomes in conflict with federal law, the bill's provision would be superseded.

The bill amends s. 339.175(7)(c)2., F.S., to include in an MPO's capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

The bill amends s. 339.64, F.S., to require DOT when updating the SIS Plan to coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology.

### **Driver-Assistive Truck Platooning (Sections 3, 4, and 5)**

#### **Current Situation**

In August of 2014, NHTSA issued an advance notice of proposed rulemaking, following NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.<sup>29</sup> NHTSA advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate

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<sup>29</sup> See the USDOT Fact Sheet on Vehicle-To-Vehicle Communication Technology, *available at*: [http://www.its.dot.gov/safety\\_pilot/pdf/safetypilot\\_nhtsa\\_factsheet.pdf](http://www.its.dot.gov/safety_pilot/pdf/safetypilot_nhtsa_factsheet.pdf). On file in the Senate Transportation Committee.

important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment.”<sup>30</sup>

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.<sup>31</sup>

The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.<sup>32</sup>

One such system uses integrated sensors, controls, and wireless communications for “connected” trucks. The system is cloud-based, determining in real time whether traffic conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver’s response time. The following vehicle is provided video showing the lead truck’s line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.<sup>33</sup>

Currently, s. 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Additionally, s. 316.303, F.S., prohibits the operation of a motor vehicle with television-type receiving equipment that is visible from the driver’s seat. This prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.<sup>34</sup>

#### Effect of the Bill

The bill amends s. 316.003, F.S., to define the term “driver-assistive truck platooning technology.”

The bill requires DOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

The bill authorizes DOT, upon conclusion of the study and in consultation with the DHSMV, to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology.<sup>35</sup> The pilot project may be conducted notwithstanding the traffic control provisions related to following too closely or the use of an electronic display by the operator of a motor vehicle.<sup>36</sup> Prior to the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested

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<sup>30</sup> See NHTSA *Vehicle-to-Vehicle Communications*, <http://www.safercar.gov/v2v/index.html>. Last visited January 25, 2016.

<sup>31</sup> See the GBT Global News website: <http://www.gobytrucknews.com/driver-survey-platooning/123>. Last visited January 25, 2016.

<sup>32</sup> See the American Transportation Research Institute, *ATRI Seeks Input on Driver Assistive Truck Platooning* (Nov. 17, 2014), <http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/>. Last visited January 25, 2016.

<sup>33</sup> See Peloton, *FAQ*, <http://www.peloton-tech.com/faq/> (last visited Jan. 25, 2016).

<sup>34</sup> s. 316.303, F.S.

<sup>35</sup> The pilot project may be conducted in such a manner and at such locations as determined by DOT.

<sup>36</sup> ss. 316.0895 and 316.303, F.S.



in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of \$5 million.

DOT, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, Senate President, and Speaker of the House upon conclusion of the pilot project.

The bill amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.

## **NEPA Delegation (Section 10)**

### **Current Situation**

DOT funds, develops and constructs highway transportation projects through several funding sources including federal, state, local, toll or combination thereof. When DOT advances a highway project as "federally eligible," the project is developed consistent with the National Environmental Policy Act (NEPA) and other laws and regulations in consultation with and subject to the oversight of the Federal Highway Administration (FHWA) of the U.S. Department of Transportation. DOT meets NEPA requirements through its Efficient Transportation Decision Making and Project Development and Environment processes.

DOT uses the Efficient Transportation Decision Making process to initiate contact with agencies and other stakeholders during the planning phase of a project to provide the opportunity for input by multiple parties and garner information that can be used to inform the Project Development and Environment process. The Project Development and Environment process is DOT's procedure for analyzing, performing outreach, guiding agency coordination and meeting regulatory requirements before a project can be advanced. The two processes have been working in concert since 2005 and Project Development and Environment has been in place for over 20 years. Under this process DOT prepares documents, analyzes alternatives, consults with agencies, makes recommendations and provides this information to the FHWA as the lead federal agency for review, comment, approval and ultimate decision making.

Under this federally assisted, state administered process DOT is responsible for providing all supporting work and effort to advance DOT projects but has limited autonomy and authority to make ultimate project decisions. The result is that DOT must perform its analysis, coordinate and consult with agencies and ultimately satisfy FHWA. The additional layer of coordination, review and satisfaction of FHWA can add considerable time and cost to project development and delivery.

From a legal standpoint, the FHWA provides legal sufficiency reviews of project documents developed by DOT and is tasked with addressing court challenges of projects. These challenges are based on the federal Administrative Procedures Act and therefore focus on the administrative record and the prepared documentation and related analysis. DOT is typically a party to these challenges to support FHWA and ensure its project advancement.

Following an initial pilot project conducted in California, Congress in 2012 enacted the Moving Ahead for Progress in the 21st Century Act, which established a permanent surface transportation project delivery program.<sup>37</sup> Under the program, in which California and Texas are already participating, the USDOT secretary may assign, and any state may assume, pursuant to a written agreement, all or part of the secretary's responsibilities under NEPA with respect to projects or classes of projects. The written agreement must provide that the state:

- Agrees to assume all or part of the described responsibilities;

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<sup>37</sup> 23 U.S.C. s. 327 (2013).

- Expressly consents, on behalf of the state, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the secretary assumed by the state,<sup>38</sup>
- Certifies that state laws and regulations are in effect that authorize the state to take the actions necessary to carry out the responsibilities; and
- Agrees to maintain the financial resources necessary to carry out the responsibilities.

### Effect of Bill

The bill creates s. 334.044(34), F.S., authorizing DOT to assume responsibilities of USDOT with respect to highway projects within the state under NEPA<sup>39</sup> or other actions required under any federal environmental law pertaining to review or approval of any highway project within the state. DOT may assume responsibilities under 23 U.S.C. § 327,<sup>40</sup> and enter into one or more agreements, including memoranda of understanding with the United States Secretary of Transportation related to the federal surface transportation project delivery program for transportation projects as provided by 23 U.S.C. § 327. DOT may adopt rules to implement this section and may adopt relevant federal environmental standards as the standards for the state for a program described above.

The bill would allow Florida to assume greater responsibility for the fate of its own projects by giving DOT direct NEPA decision making authority. By assuming FHWA's role in the review and approval of transportation projects, DOT anticipates achieving both time and cost savings in project delivery. These benefits are due in part to eliminating one layer of governmental review, allowing direct consultation between DOT and federal regulatory agencies and maximizing efficiency by consolidating all NEPA reviews under DOT. According to DOT, NEPA assignment will result in more timely delivery of transportation projects to Florida's citizens and enhancement of the infrastructure needed to support Florida's economic competitiveness.<sup>41</sup>

A limited waiver of sovereign immunity to civil suit in federal court is required before a state may assume the FHWA's NEPA responsibilities. The waiver of sovereign immunity is limited to only those actions delegated to DOT and related to carrying out its NEPA duties on state highway projects. NEPA review is governed by the federal Administrative Procedures Act. The standard for review is whether DOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Monetary damages are not permitted. Further, a state assuming the NEPA responsibilities may use federally apportioned surface transportation funds for attorneys' fees directly attributable to eligible activities associated with a project.<sup>42</sup>

## **Public-Private Partnerships (Section 11)**

### Current Situation

The Division of Bond Finance of the State Board of Administration is responsible for issuing bonds and advising on debt management policies for the state. The Division also provides technical assistance on new financing programs and legislative proposals, administers the volume cap allocation for private activity bonds, and provides an arbitrage compliance program for State bond issues.

Section 334.30, F.S., authorizes DOT to receive and solicit proposals and, with legislative approval of a project in DOT's work program, enter into agreements with private entities for the building, operation, ownership, or financing of transportation facilities. DOT may advance projects in the adopted five-year

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<sup>38</sup> This requirement apparently exists to address the Eleventh Amendment to the U.S. Constitution, which generally prohibits suits in law or equity against one of the United States by its citizens, citizens of another state, or subjects of any foreign state.

<sup>39</sup> 42 U.S.C. § 4321 et. seq.

<sup>40</sup> 23 U.S.C. § 327 relates to the surface transportation project delivery program.

<sup>41</sup> See Florida Department of Transportation, *NEPA Analysis*, July 2015. Copy on file with Transportation & Ports Subcommittee Staff.

<sup>42</sup> 23 USC § 327(a)(2)(G)

work program or projects in the 10-year Strategic Intermodal Plan greater than \$500 million that increase transportation capacity using funds provided by private entities. These partnerships allow DOT to use private financing to advance a project at an earlier date than otherwise programmed in the adopted Work Plan and the private entities are reimbursed by DOT when the project funds are released under the adopted Work Program. No more than 15 percent of total federal and state funding in any given year for the State Transportation Trust Fund may be obligated for public private partnership projects (P3).

P3 agreements are typically long-term but may not exceed 50 years, unless authorized for a term of up to 75 years by DOT secretary, or unless a term in excess of 75 years is approved by the Legislature. P3 projects are also typically large and generally involve complex financial arrangements, and often include the issuance of debt obligations such as bonds.<sup>43</sup>

Provisions in current law require DOT to make certain determinations before approval of a proposed project; *i.e.*, that a 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 in the event of default or cancellation of the agreement;
- Would have adequate safeguards in place to ensure DOT or the private entity has the opportunity to add capacity to the project and other facilities serving similar origins and destinations; and
- Would be owned by DOT upon completion or termination of the agreement.<sup>44</sup>

DOT is also required to provide an independent analysis of a proposed P3 agreement that demonstrates the cost-effectiveness and overall benefit of the project prior to moving forward with the procurement and, if the procurement moves forward, prior to awarding the contract.<sup>45</sup>

Before soliciting a proposal, DOT must provide a summary of the proposed project to the Governor, the chair of each legislative appropriations committee, the President of the Senate, and the Speaker of the House of Representatives. The summary must include a description of any anticipated commitment by DOT for the years outside the adopted work program, a description of the anticipated impacts on DOT's 20 percent overall debt load limit, and sufficient information to demonstrate that the project will not cause the debt load to exceed the debt load limitation. DOT may proceed with a project upon approval of the Governor, but the Governor may not approve a project if the chair of either appropriations committee, the President of the Senate, or the Speaker of the House of Representatives objects in writing within 14 days after receipt of the summary.<sup>46</sup>

The same summary is required for unsolicited proposals, but DOT may not accept an unsolicited proposal, advertise its receipt as required by s. 334.30, F.S., or solicit other proposals for the same project without the approval of the Governor. Again, the Governor may not approve a proposed project if a written objection is received from the chair of either appropriations committee, the President of the Senate, or the Speaker of the House of Representatives.<sup>47</sup>

### Effect of Bill

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<sup>43</sup> No more than 15 percent of total federal and state funding in any given year for the State Transportation Trust Fund may be obligated collectively for all P3 projects.

<sup>44</sup> s. 334.30(1), F.S.

<sup>45</sup> s. 334.30(6)(e), F.S.

<sup>46</sup> s. 339.2825(1), F.S. Section 339.2825, F.S., does not apply to a P3 agreement under which DOT proposes to lease an existing toll facility per s. 339.2825(3), F.S., but DOT must provide the independent analysis described above prior to awarding a contract, per s. 334.30(2)(d), F.S.

<sup>47</sup> s. 339.2825(2), F.S.

The bill amends s. 334.30, F.S., providing that DOT must provide information to, and consult with, the Division of Bond Finance of the State Board of Administration in connection with public-private partnership project proposals to finance or refinance a transportation facility. The bill authorizes the Division of Bond Finance to make an independent recommendation to the Office of the Governor.

## **Business Development Program (Section 12)**

### **Current Situation**

Section 337.025, F.S., authorizes DOT to establish a program for innovative highway projects. The program fosters innovative strategies in highway construction, maintenance, and finance and bidding in order to limit time and cost increases on construction projects. Innovative techniques are exempt from provisions of law that would otherwise prevent their use, and DOT may not enter into more than \$120 million in contracts under this program each year.<sup>48</sup>

In response to the rising cost of bids and limited competition between majority prime contractors and consultants between 2004 and 2006, DOT implemented a Business Development Initiative pilot project (Initiative). The Initiative is designed to cultivate small businesses to have the ability to bid as prime firms. The Initiative was designed to support DOT's efforts to increase competition, lower prices, and increase support to meet its contracting needs over the next 10 years. Another goal of the Initiative was to provide more opportunities and support for small businesses wishing to move from subcontracting and sub consulting to prime contracting and consulting roles.

The initial phase of the Initiative was implemented in fiscal years 2006-07 and 2007-08, with the first six months using DOT District Two as the pilot, followed by the remaining districts in January 2007. DOT conducted a series of focus group sessions in each district to discuss the initiative and various contracting barriers small businesses have when competing on DOT contracts. DOT also sent a survey to small businesses throughout the state, and more than half of the respondents found DOT's goal to be consistent their vision of becoming a prime firm. As a result, DOT implemented a number of strategies to increase competition for highway projects, including:

- Reserve construction, maintenance, and professional services contracts under \$1,000,000 for small businesses and offer assistance to firms with little or no experience of working with DOT as a prime;
- Waive bonding requirements for non-critical projects and/or reduce bid bond amount;
- Provide additional/preference points on professional services contracts and design build contracts for primes who contract with small businesses;
- Revise liability insurance requirements; and
- Reduce cost of Construction Training Qualification Program courses for small businesses.

In March 2009, DOT received approval from Federal Highway Administration to apply the Business Development Initiative strategies to federally funded projects. The program was the first of its kind to be approved by the USDOT.

The total value of innovative contracts for Fiscal Year 2016 is \$113,777,507, according to DOT, of which the Initiative accounts for \$24,320,195.

### **Effect of Bill**

The bill creates s. 337.027, F.S., providing DOT with authorization to establish a program that would assist small businesses and increase competition for highway projects in DOT Work Program. The bill would allow DOT to create a Business Development Program separate from the current authorization for the Initiative pursuant to s. 337.025, F.S. The bill allows DOT to set aside contracts, provide preferential points and special assistance, waive certain bond requirements, and implement other strategies.

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<sup>48</sup> s. 337.025, F.S.

The bill defines a qualifying small business as a business with average gross receipts under \$15 million for road and bridge contracts and under \$6.5 million for professional and non-professional services contracts.

The bill authorizes DOT to adopt rules for the implementation of a business development program.

### **Transfer of Pinellas Bayway System (Sections 13 and 14)**

#### **Current Situation**

The Pinellas Bayway System, currently owned by DOT, is a tolled system of bridges and causeways that provides an east-west link between St. Petersburg and St. Petersburg Beach via State Road 682. Tolls on the Pinellas Bayway System are collected by the Florida Turnpike Enterprise (FTE).<sup>49</sup> The system also serves Tierra Verde and Fort De Soto Park to the south via State Road 679. One of the bridges on State Road 679 over Boca Ciega Bay was classified as structurally deficient in 2013. "Structurally deficient," according to DOT, "means that a bridge has to be repaired or replaced within six years." The term does not mean that a bridge is unsafe.<sup>50</sup>

DOT's policy is to replace a structurally deficient bridge within six years of the deficient classification.<sup>51</sup> The scope of the work for the bridge over Boca Ciega Bay is to replace the existing movable bridge with a high-level fixed bridge through a design-build contract, at a proposed cost of \$52.1 million.<sup>52</sup> However, no funds for replacement of the bridge are currently included in DOT's District 7 Work Program. DOT advises that the balance of an existing reserve construction account for Pinellas Bayway improvements as of December 31, 2015, was \$7,326,346.13.<sup>53</sup>

#### **Bayway System Construction and Tolls**

In 1968, the predecessor of DOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*. In the settlement agreement, the State Road Department agreed that owners and residents of real property in the Bayway Isles Development would have the right to purchase an annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for \$15 per vehicle. That agreement remains in place.

Chapter 85-364, Laws of Florida, required a toll of \$.50 cents, following completion of widening to four lanes from the eastern toll booth to State Road 679, at the eastern and western toll plazas on State Road 682. DOT was required, after payment of annual operating costs and discharge of bond indebtedness, to establish a reserve construction account to be used for widening to four lanes State Road 682 from State Road 679 west to Gulf Boulevard. Continued collection of tolls was required upon completion of the widening to reimburse DOT for all accrued maintenance costs for the Pinellas Bayway. In addition, Chapter 85-364, Laws of Florida, required DOT to allow any person to purchase an annual pass for each motor vehicle they own at a cost of \$50 per year which exempts the motor vehicle from any Pinellas Bayway System tolls during its term. Currently, the \$50 pass remains available.

Chapter 95-382, Laws of Florida, required tolls collected to first be placed in the construction reserve account, after payment of operating costs and bond indebtedness, to be used for construction of Blind Pass Road, State Road 699 improvements in Pinellas County, and then for Phase II of the Pinellas Bayway widening to four lanes of State Road 682 from State Road 679 west to Gulf Boulevard. Tolls continue to be collected to reimburse DOT for all accrued maintenance costs.

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<sup>49</sup> See the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*: <http://www.ftc.state.fl.us/reports/TAMO.shtml>. Last visited January 21, 2016.

<sup>50</sup> Email from DOT, (January 21, 2016).

<sup>51</sup> Email from DOT, (January 5, 2016).

<sup>52</sup> *Supra*.

<sup>53</sup> DOT email to committee staff dated January 21, 2016.

Section 48 of Chapter 2014-223, Laws of Florida, repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard. These improvements have been completed. As noted, however, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient.

Currently, for a two-axle vehicle, the toll, other than for those that hold the \$15 or the \$50 annual pass, is:

- \$.53 cents for SunPass customers and \$.75 cents for cash customers, both westbound at the East Plaza and eastbound at the West Plaza, plus \$.53 cents and \$.75 cents, respectively, for each additional axle; and
- \$.26 cents for SunPass customers and \$.50 cents for cash customers southbound at the south plaza, plus an additional \$.26 cents and \$.50 cents, respectively, for each additional axle.<sup>54</sup>

Section 338.165(4), F.S., authorizes DOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in DOT's adopted Work Program. The Beeline-East Expressway (renamed the Beachline East Expressway) became part of FTE on July 1, 2012, pursuant to Chapter 2012-128, Laws of Florida.<sup>55</sup> The Navarre Bridge is now county-owned and no longer used for toll revenue.

#### Effect of the Bill

The bill amends s. 338.165(4), F.S., removing the reference to the Pinellas Bayway, as well as the obsolete references to the Beeline-East Expressway and the Navarre Bridge.

The bill creates s. 338.165(11), F.S., authorizing the transfer the Pinellas Bayway System from DOT to FTE. The bill also preserves the provisions of the settlement agreement and final judgment by retaining the ability to purchase a \$15 annual pass. Additionally, the bill transfers the construction reserve account to FTE when ownership of the system is transferred to FTE.

DOT advises that the transfer of the system would allow replacement of the structurally deficient bridge over Boca Ciega Bay on SR 679 to be moved up from 2020 to 2017 in the DOT Work Program, and funded through a combination of the accrued reserve account revenues and other financing available to FTE.

The bill repeals Chapter 85-634, Laws of Florida, as amended by Chapter 95-382 and Section 48 of Chapter 2014-223, Laws of Florida. The ability of the specified owners and residents to purchase the \$15 annual passage through the easterly terminus of the Bayway System will remain in place, pursuant to the 1968 settlement agreement, but the \$50 annual pass would no longer be available for purchase. Current holders of those passes would be required to pay tolls at all of the Bayway toll collection points.

#### **DOT Financing Corporation (Section 15)**

##### Current Situation

The Florida Constitution and current law authorize DOT to issue debt for the purpose of financing the cost of specific types of transportation projects, including:

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<sup>54</sup> See the Florida Turnpike Toll Calculator, click on "Tampa Area," roll over hot buttons to select the Pinellas Toll Plazas: <http://www.floridasturnpike.com/TollCalcV3/index.htm>. Last visited January 21, 2016.

<sup>55</sup> s. 338.165(10), F.S.

- Right of Way Acquisition and Bridge Construction Bonds to fund the acquisition of right of way for roads and the costs of bridge construction projects, authorized by Section 17, Article VII of the Florida Constitution and s. 215.605, F.S.;
- Revenue bonds payable from toll revenues of Florida's Turnpike System, and from the revenues of other Department owned toll facilities, authorized by Section 11, Article VII of the Florida Constitution and s. 338.227 and s. 338.165, F.S.;
- Federal highway apportionment grant anticipation revenue vehicle (GAARVEE) bonds, authorized by s. 215.616, F.S.; and
- Revenue bonds to finance fixed guideway projects, authorized by s. 215.615, F.S.

Article VII, section 11 of the Florida Constitution otherwise requires approval by vote of the electors for state bonds that would pledge the full faith and credit of the state to finance or refinance the cost of state fixed capital outlay projects authorized by law. Other than the limited authority for right of way acquisition and bridge construction bonds, DOT has no broad authority to pledge future State Transportation Trust Fund monies, a full faith and credit pledge, to support the issuance of debt to finance the acquisition or construction of transportation facilities.

Section 339, F.S., authorizes DOT to contractually commit future State Transportation Trust Fund revenues over its 5 year Work Program.

Section 334.30, F.S., authorizes DOT to enter into public-private partnership agreements, which are long term contractual obligations to finance the costs of acquisition and construction of transportation facilities by private entities.

#### Effect of Bill

The bill creates the Florida Department of Transportation Financing Corporation (Corporation), a conduit issuer of indebtedness that would be secured by amounts payable to the Corporation by DOT under one or more contracts.

The Corporation would be a state governmental entity, governed by a board made up of the Director of the Office of Policy and Budget in the Executive Office of the Governor, the Director of the Division of Bond Finance, and DOT Secretary. The Corporation would have the power to enter into agreements with DOT under which DOT would remit payments to the Corporation in exchange for financing services from the Corporation. DOT's commitments would be subject to appropriation and would not constitute a general obligation of the State or a pledge of the full faith and credit of the State. The payments from DOT would effectively constitute revenues in the hands of the Corporation.

The bill allows DOT to leverage the favorable terms available to governmental borrowers in the tax exempt municipal bond market when DOT enters into long term financing agreements and commits future transportation funding for the acquisition and construction of transportation facilities.

The bill would permit the issuance of debt to finance transportation projects for which DOT currently lacks legal authority to issue bonds. The Corporation would be authorized to issue debt payable from and secured by the contractual commitments of DOT and provide the proceeds of the debt to DOT for the purpose of financing identified transportation projects. The Corporation would be acting as a "conduit issuer" and would not be generally liable for repayment of the debt. Because the debt would only be secured by DOT contractual commitment to pay under its contract with the Corporation, which obligation remains subject to annual appropriation, the debt would not be secured by the full faith and credit of the State. This provides a constitutionally permissible mechanism by which DOT could leverage future State Transportation Trust Fund revenues to provide funding for currently needed projects.

#### **Work Program Review (Section 16)**

##### Current Situation

Each year, DOT develops and submits to the Legislature a Work Program, which consists of transportation projects it intends to undertake in the next five years. As part of the annual General Appropriations Act, the Legislature approves DOT's Work Program. DOT has the statutory authority to amend its Work Program.<sup>56</sup>

Current law permits amending the adopted Work Program, but Work Program amendments are only required to come before the Legislative Budget Commission (LBC) if budget authority is moved between appropriations categories.<sup>57</sup> However, historically, there has been sufficient budget authority within each appropriations category to negate the need for a LBC amendment. Therefore, most amendments to the Work Program must only be placed on consultation for 14 days, and become effective automatically unless the House of Representatives or the Senate objects to an amendment.

Current law provides that any Work Program amendment requiring the transfer of fixed capital outlay appropriations between categories within DOT or the increase of an appropriation category is subject to the approval of the LBC. However, if a meeting of the LBC cannot be held within 30 days, then the chair and vice chair of the LBC may authorize the amendment to be approved pursuant to s. 216.177, F.S.<sup>58, 59</sup>

#### Effect of Bill

The bill amends s. 339.135(7)(g), F.S., removing the authorization for the chair and vice chair of the LBC to approve an amendment to the Work Program if a LBC meeting cannot be held within 30 days.

The bill creates s. 339.135(7)(h), F.S., providing that any Work Program amendment which also adds a new project, or project phase, to the adopted Work Program in excess of \$3 million is subject to LBC approval. Any Work Program amendment submitted under s. 339.135(7)(h), F.S. must include, as supplemental information, a list of projects, or project phases, in the current five-year adopted Work Program that are eligible for the funds within the appropriation category being utilized for the proposed amendment. DOT is required to provide a narrative with the rationale for not advancing an existing project or project phase in lieu of the proposed amendment.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

##### **Port of Entry**

Currently, if a commercial vehicle operator does not have the necessary permits and credentials upon entering Florida and attempts to purchase them at the first weigh station, they will be cited for not having the necessary credentials. Creating ports of entry and the ability to purchase temporary credentials will limit the penalties and reduce revenues associated with these citations. DOT estimates there will be a \$1.6 million recurring negative fiscal impact to the State Transportation Trust Fund from allowing commercial motor vehicles to purchase IRP permits at ports of entry.<sup>60</sup>

#### **2. Expenditures:**

##### **FSTED Funding**

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<sup>56</sup> s. 339.135, F.S.

<sup>57</sup> s. 339.135(7), F.S.

<sup>58</sup> Section 216.177, F.S., relates to Appropriations acts, statement of intent, violation, notice, review and objection procedures.

<sup>59</sup> s. 339.135(7)(g), F.S.

<sup>60</sup> Florida Department of Transportation response to Transportation & Ports Subcommittee Staff Questions. February 3, 2014.



The bill provides an additional \$10 million per year for FSTED funding. This funding will come from the State Transportation Trust Fund and is a reallocation of funding from within the confines of the Work Program.

### **Port of Entry**

As a port of entry state, Florida will require infrastructure to accommodate the acceptance and processing of applications for the credentials necessary to satisfy compliance with Florida's laws. However, existing initiatives currently utilize the same equipment and technologies and will require only minor programming modifications to make them compatible with Florida's port of entry policies. It is estimated that equipment costs for all port of entry sites combined will not exceed \$58,000.<sup>61</sup>

### **Driver-Assistive Truck Platooning**

DOT will likely incur some additional workload associated with the truck platooning study. However, DOT indicates it will absorb this impact within existing resources.

### **NEPA Delegation**

DOT examined NEPA projects that were under review in 2014 and 2015, and calculated that elimination of FHWA coordination during the PD&E phase and the Design phase would have yielded an estimated cost savings of approximately \$74 million over a two year period.<sup>62</sup> Actual cost reduction or cost-avoidance will be based on specific projects.

### **Pinellas Bayway System**

The transfer of the Pinellas Bayway System does not appear to have any immediate fiscal impact, as the transfer occurs without the expenditure of any funds. Aside from the project cost information on replacing the structurally deficient bridge over Boca Ciega Bay on SR 679 provided by DOT, the method by which replacement will be funded or financed is unknown.

### **DOT Financing Corporation**

DOT may be able to accomplish faster delivery of transportation projects at reduced costs through participation of the DOT Financing Corporation in the municipal bond market.

## **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

### **1. Revenues:**

None.

### **2. Expenditures:**

None.

## **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

### **FSTED Funding**

The additional \$10 million in FSTED funding will assist seaports with various projects. Projects planned for various ports include dredging, berth rehabilitation, and the expansion of facilities. These projects will help increase the competitiveness of Florida's seaports.

### **Port of Entry**

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<sup>61</sup> Florida Department of Transportation, *Florida Port of Entry Feasibility Study*, September 2014, at 27, available at [http://www.dot.state.fl.us/trafficoperations/Traf\\_Incident/Projects\\_CVO/Presentation/FL%20POE%20Technical%20Study%20Final.pdf](http://www.dot.state.fl.us/trafficoperations/Traf_Incident/Projects_CVO/Presentation/FL%20POE%20Technical%20Study%20Final.pdf) (last accessed Nov. 18, 2015).

<sup>62</sup> Florida Department of Transportation, *NEPA Time Costs brief*, October 2015. Copy on file with Transportation & Ports Subcommittee Staff.

Commercial motor vehicle operators may see a reduction in their costs due to the ability to obtain permits at the state's ports-of-entry and avoiding fines by not having the proper permits when entering the state. Commercial motor vehicle operations may also save time with the ability to purchase permits at ports-of-entry.

### **Autonomous Vehicles**

The impact of the provisions in this bill relating to the operation of autonomous vehicles is unknown. The private sector may realize positive economic benefits in terms of improved safety and mobility, and cost and travel-time savings. The companies that sell vehicles with autonomous technology may experience more sales to the extent that the bill promotes wider use of such vehicles.

### **Pinellas Bayway System**

The impact of the repeal of the \$50 annual pass for use of the Pinellas Bayway System is unknown, but will be offset by the payment of the tolls for using the system by persons who formerly could purchase that pass. Specified owners and residents will still be able to purchase the \$15 annual passage through the easterly terminus of the Bayway System, pursuant to the 1968 settlement agreement.

### **Business Development Program**

This program should have a positive impact on small businesses by reducing barriers to entry for smaller firms competing for DOT contracts.

### **DOT Financing Corporation**

To the extent that the issuance of debt to fund transportation projects is accomplished at a lower cost by virtue of the corporation's ability to participate in the municipal bond market at reduced rates, the state's traveling public may experience an indeterminate but positive fiscal impact.

#### D. FISCAL COMMENTS:

None.