

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/CS/CS/HB 865	<b>FINAL HOUSE FLOOR ACTION:</b>		
<b>SUBJECT/SHORT TITLE</b>	Department of Transportation	118	Y's 0	N's
<b>SPONSOR(S):</b>	Government Accountability Committee; Transportation & Tourism Appropriations Subcommittee; Transportation & Infrastructure Subcommittee; Williamson and others	<b>GOVERNOR'S ACTION:</b>	Approved	
<b>COMPANION BILLS:</b>	CS/CS/SB 1118			

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**SUMMARY ANALYSIS**

CS/CS/CS/HB 865 passed the House on April 28, 2017. The bill was amended in the Senate on May 5, 2017, and was returned to the House. The House refused to concur with the Senate amendments and asked the Senate to recede. The Senate receded on its amendment and passed the bill on May 5, 2017.

The bill:

- Creates the Florida Smart City Challenge Grant Program.
- Increases the allowable weight of natural gas-fueled vehicles on the Interstate Highway System.
- Authorizes the Department of Transportation (DOT) to request permission from the Federal Highway Administration to conduct bridge inspections at risk-based intervals.
- Increases the maximum dollar threshold for rapid response contracts issued by DOT.
- Incorporates voice, data, and wireless facilities into provisions regarding utility use of the right-of-way.
- Makes the judicial validation of turnpike revenue bonds optional instead of mandatory.
- Requires DOT to study the economic feasibility of acquiring the Garcon Point Bridge and submit a report to the Governor and the Legislature.
- Provides that amendments to DOT's work program for certain emergency repairs are not subject to approval by the Legislative Budget Commission.
- Repeals the Highway Beautification Council, but retains highway beautification grants within DOT.
- Prohibits the South Florida Regional Transportation Authority (SFRTA) from entering into, extending, or renewing any contract or agreement funded with DOT-provided funds without DOT's review and written approval and clarifies that funds provided to SFRTA by DOT constitute state financial assistance and are subject to specified requirements.
- Requires DOT to submit a report regarding its district boundaries and headquarters.
- Authorizes DOT to enroll in certain federal pilot programs or projects.

The fiscal impact of this bill on the state is indeterminate, but likely insignificant. It does not appear to have a fiscal impact on local governments.

The bill was approved by the Governor on May 31, 2017, ch. 2017-42, L.O.F., and will become effective on July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0865z1.TIS

DATE: June 1, 2017

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Florida Smart City Challenge Grant Program

##### Current Situation

The United States Department of Transportation (USDOT) launched a Smart City Challenge in December 2015. The challenge asked mid-sized cities “to develop ideas for an integrated, first-of-its-kind smart transportation system that would use data, applications, and technology to help people and goods move more quickly, cheaply, and efficiently.”<sup>1</sup> USDOT committed up to \$40 million to one winning city.<sup>2</sup> The USDOT received 78 applications from cities across the United States, including the following cities in Florida: Jacksonville, Miami, Orlando, St. Petersburg, Tallahassee, and Tampa. Columbus, Ohio won the challenge by proposing “a comprehensive, integrated plan addressing challenges in residential, commercial, freight, and downtown districts using a number of new technologies, including connected infrastructure, an integrated data platform, autonomous vehicles, and more.”<sup>3</sup> USDOT then worked with seven finalists to further develop the ideas proposed by the cities and, in October 2016, announced an additional \$65 million in grants to support advanced technology transportation projects.

##### Proposed Changes

The bill requires DOT, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to develop, subject to appropriations, the Florida Smart City Challenge Grant program and establish grant award requirements for municipalities or regions for the purpose of receiving grant awards. Grant applications must demonstrate and document the adoption of emerging technologies and their impact on transportation systems and must address at least the following focus areas: autonomous vehicles, connected vehicles, sensor-based infrastructure, collecting and using data, electric vehicles, including charging stations, and developing strategic models and partnerships. The goals of the grant program include:

- Identifying transportation challenges and identifying how emerging technologies can address those challenges.
- Determining the emerging technologies and strategies that have the potential to provide the most significant impacts.
- Encouraging municipalities to take significant steps to integrate emerging technologies into their day-to-day operations.
- Identifying the barriers to implementing the grant program and communicating those barriers to the Legislature and appropriate agencies and organizations.
- Leveraging the initial grant to attract additional public and private investments.
- Increasing the state’s competitiveness in the pursuit of grants from USDOT, the U.S. Department of Energy, and other federal agencies.
- Committing to the continued operation of programs implemented in connection with the grant.
- Serving as a model for municipalities nationwide.
- Documenting the costs and impacts of the grant program and lessons learned during implementation.
- Identifying solutions that will demonstrate local or regional economic impact.

The bill requires DOT to develop eligibility, application, and selection criteria for the program grants and a plan for promotion of the grant program to municipalities or regions of the state as an opportunity to compete for grant funding, including the award of grants to a single recipient and secondary grants to

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<sup>1</sup>See USDOT website available at: <https://www.transportation.gov/smartycity>. (Last visited April 21, 2017).

<sup>2</sup>See USDOT website available at:

<https://www.transportation.gov/sites/dot.gov/files/docs/Smart%20City%20Challenge%20Lessons%20Learned.pdf>. (Last visited April 21, 2017).

<sup>3</sup>See USDOT website available at: <https://www.transportation.gov/smartycity/winner>. (Last visited April 21, 2017).

specific projects of merit within other applications. DOT may contract with a third party that demonstrates knowledge and expertise in the focuses and goal of the program, to provide guidance in the development of the program requirements.

By January 1, 2018, DOT must submit the grant program guidelines and plans for promotion of the grant program to the Governor, President of the Senate, and Speaker of the House of Representatives.

The program expires July 1, 2018.

## **Truck Weights - Natural Gas Vehicles**

### Current Situation

#### *Federal Regulations*

The federal Fixing America's Surface Transportation (FAST) Act<sup>4</sup> allows states to increase the allowable weight of natural gas vehicles by an amount equal to the difference between the weight attributable to the vehicle's natural gas tank and fueling system and the weight of a comparable diesel tank and fueling system, up to a maximum gross vehicle weight of 82,000 pounds when operating on the Interstate Highway System.<sup>5</sup> This allows states to increase the gross vehicle weight limit for natural gas-fueled vehicles on the Interstate Highway System without the Federal Highway Administration (FHWA) withholding funding from DOT.<sup>6</sup>

#### *Florida Law*

With respect to the Interstate Highway System, the overall gross weight of a vehicle or combination of vehicles, including all enforcement tolerances, is determined by a formula.<sup>7</sup> However, such overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds, including all enforcement tolerances.<sup>8</sup>

According to DOT, since the weight increase authorized by the FAST Act is not currently allowed under Florida law, DOT developed a permit process allowing natural gas-fueled vehicles at the Federal weight limits. Previously, these vehicles were not required to obtain permits. To date, DOT has not issued any of these permits, which may be due to the industry being unaware of the need to obtain a permit and the process for obtaining such permit.<sup>9</sup>

Currently, there are several cases before the Commercial Motor Vehicle Review Board (CMVRB)<sup>10</sup> regarding citations issued for operating overweight natural gas-fueled vehicles. A number of commercial motor vehicle operators assumed the change in Federal law allowed them to legally operate in Florida, without requiring any additional permits from DOT. The CMVRB is not granting relief or refunds for these citations because they are based on violations of current Florida Statutes regarding maximum vehicle weight.<sup>11</sup>

A person violating the state's overloading provisions<sup>12</sup> is presumed to have damaged Florida's highways by reason of overloading and a fine is assessed as follows:

- Ten dollars if the weight in excess of the maximum allowed weight is 200 pounds or less.<sup>13</sup>

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<sup>4</sup> Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, 129 Stat. 1312.

<sup>5</sup> Fixing America's Surface Transportation (FAST) Act, Pub. L. No. 114-94, § 1410, 129 Stat. 1312, 1411.

<sup>6</sup> 23 U.S.C. § 127 (2012).

<sup>7</sup> Section 316.535(4), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> DOT Legislative Proposal: Natural Gas Fueled Vehicles - Truck Weights (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>10</sup> The Commercial Motor Vehicle Review Board is created in s. 316.545(7), F.S.

<sup>11</sup> DOT Legislative Proposal: Natural Gas Fueled Vehicles - Truck Weights.

<sup>12</sup> Maximum weight provisions are generally provided in s. 316.535(3), F.S.

<sup>13</sup> Section 316.545(3)(a)1., F.S.

- Five cents per pound for each pound of weight in excess of the maximum allowed weight if the excess weight is greater than 200 pounds.<sup>14</sup>
- If the gross weight<sup>15</sup> of the vehicle or combination of vehicles does not exceed the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight is \$10.<sup>16</sup>

For a vehicle equipped with fully functional idle-reduction technology, the fine is calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 pounds, whichever is less.<sup>17</sup> The vehicle operator is required to present written certification of the weight of the idle-reduction technology and demonstrate or certify that the idle-reduction technology is fully functional.<sup>18</sup> This additional weight is not allowed for vehicles such as dump trucks, garbage trucks, concrete mixing trucks, and trucks constructed for a special type of work or use.<sup>19</sup>

### Proposed Changes

The bill creates s. 316.545(3)(c), F.S., establishing a process for calculating fines associated with unlawful weights and loads for vehicles fueled by natural gas. For a vehicle fueled by natural gas, the fine is calculated by reducing the actual gross vehicle weight by the certified weight difference between the natural gas tank fueling system and a comparable diesel tank and fueling system. Upon the request of any weight inspector or law enforcement officer, the vehicle operator is required to present written certification identifying the weight of the natural gas tank and fueling system and the difference in weight of a comparable diesel tank and fueling system. The written certification is required to originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

The actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds, excluding the weight allowed for idle-reduction technology.

This additional weight is not allowed for vehicles such as dump trucks, garbage trucks, concrete mixing trucks, and trucks constructed for a special type of work or use.

## **Bridge Inspections**

### Current Situation

#### *Federal Bridge Inspection Requirements*

FHWA establishes bridge inspection standards and the inspection frequency of bridges.<sup>20</sup> In general, routine inspections occur at regular intervals not to exceed 24 months;<sup>21</sup> however, certain bridges require more frequent inspections due to factors such as age, traffic characteristics, and known deficiencies.<sup>22</sup> With written FHWA approval, certain bridges may be inspected at greater than 24 month intervals, not to exceed 48 months.<sup>23</sup> Longer intervals may be appropriate when past inspection findings and analysis justifies increasing the inspection interval.<sup>24</sup>

<sup>14</sup> Section 316.545(3)(a)2., F.S.

<sup>15</sup> Section 316.003(27), F.S., defines “gross weight” as the weight of a vehicle without load plus the weight of any load thereon.

<sup>16</sup> Section 316.545(3)(a)3., F.S.

<sup>17</sup> Section 316.545(3)(b), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> These vehicles are described in s. 316.535(6), F.S.; *Id.*

<sup>20</sup> 23 C.F.R. § 650, pt. c.

<sup>21</sup> 23 C.F.R. § 650.311.

<sup>22</sup> 23 C.F.R. § 650.311(a)(2).

<sup>23</sup> 23 C.F.R. § 650.311(a)(3).

<sup>24</sup> 23 C.F.R. § 650.311(a)(3).

For underwater inspections, underwater structural elements are inspected at regular intervals not to exceed 60 months;<sup>25</sup> however, certain underwater structural elements require inspection at less than 60 month intervals.<sup>26</sup> Criteria used to determine the level and frequency to which underwater structural elements are inspected include factors such as construction material, environment, age, scour characteristics, condition rating from past inspections and known deficiencies.<sup>27</sup> Certain underwater structural elements may be inspected at greater than 60 month intervals, not to exceed 72 months, with written FHWA approval.<sup>28</sup> This may be appropriate when past inspection findings and analyses justify the increased inspection interval.<sup>29</sup>

Fracture critical members<sup>30</sup> are inspected at intervals not to exceed 24 months;<sup>31</sup> however, certain fracture critical members require inspection at less than 24-month intervals.<sup>32</sup> Criteria used to determine the level and frequency to which fracture critical members are inspected include factors such as age, traffic characteristics, and known deficiencies.<sup>33</sup>

FHWA has adopted a risk-based inspection system providing for more frequent inspections for bridges in poor condition and less frequent inspections for bridges in good condition. Sixteen states have adopted the FHWA risk-based bridge inspection cycle.<sup>34</sup>

#### *Florida Bridge Inspection Requirements*

Florida law requires safety inspection of bridges at regular intervals not to exceed two years. Each bridge on a public transportation facility is inspected for structural soundness and safety for the passage of traffic on such bridge.<sup>35</sup> The thoroughness with which bridges are to be inspected depends on factors such as age, traffic characteristics, state of maintenance, and known deficiencies.<sup>36</sup> The governmental entity responsible for maintaining the bridge is responsible for performing inspections and preparing inspection reports.<sup>37</sup>

#### Proposed Changes

The bill amends s. 335.074(2), F.S., changing the required bridge inspection interval from a time frame not to exceed two years to intervals as required by FHWA. This aligns Florida law with federal law and, subject to FHWA approval, allows DOT to establish a risk-based bridge assessment program as other states have done.

### **Rapid Response Contracts**

#### Current Situation

DOT may enter into contracts for the construction and maintenance of all roads on the State Highway System<sup>38</sup> or the State Park Road System<sup>39</sup> or of any roads placed under its supervision.<sup>40</sup> DOT may

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<sup>25</sup> 23 C.F.R. § 650.311(b)(1).

<sup>26</sup> 23 C.F.R. § 650.311(b)(2).

<sup>27</sup> 23 C.F.R. § 650.311(c)(2).

<sup>28</sup> 23 C.F.R. § 650.311(b)(3).

<sup>29</sup> 23 C.F.R. § 650.311(b)(3).

<sup>30</sup> 23 C.F.R. § 650.305 defines “fracture critical member” as “a steel member in tension, or with a tension element, whose failure would probably cause a portion or the entire bridge to collapse.

<sup>31</sup> 23 C.F.R. § 650.311(c)(1).

<sup>32</sup> 23 C.F.R. § 650.311(c)(2).

<sup>33</sup> 23 C.F.R. § 650.311(c)(2).

<sup>34</sup> The 16 states are: Arizona, Arkansas, California, Connecticut, Illinois, Minnesota, Mississippi, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Washington, and West Virginia.

<sup>35</sup> Section 335.074(1), F.S.

<sup>36</sup> Section 335.074(2), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Section 334.03(24), F.S., defines “State Highway System” as the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state’s jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state’s jurisdiction. These facilities shall be facilities to which access is regulated.

also enter into contracts for the construction and maintenance of rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities, and associated buildings used in connection with such facilities.<sup>41</sup>

If DOT determines that it is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work, DOT may enter into contracts up to \$120,000 for construction and maintenance without advertising and receiving competitive bids.<sup>42</sup> DOT may enter into these contracts only upon a determination that the work is necessary for one of the following reasons:<sup>43</sup>

- To ensure timely completion of projects or avoidance of undue delay for other projects;
- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

DOT must make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into such contract. However, when the work exists within the limits of an existing contract, DOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.<sup>44</sup> DOT often uses these contracts for items such as sinkhole and guardrail repairs.<sup>45</sup>

According to DOT, the increase in construction cost due to inflation has limited the usefulness of the rapid response contracting statute. The current threshold of \$120,000 for rapid response contracts was established in 2002. According to DOT, increasing the rapid response contract amount to \$250,000 will account for increased construction costs and extend DOT's ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.<sup>46</sup>

### Proposed Changes

The bill amends s. 337.11(6)(c), F.S., increasing the maximum amount of a rapid response contract that DOT may enter into from \$120,000 to \$250,000.

## **Use of Right-of-Way for Utility Services**

### Current Situation

Section 337.401(1)(a), F.S., authorizes DOT and local governmental entities, referred to as the "authority," that have jurisdiction and control of public roads or publicly owned rail corridors to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to as the "utility." DOT may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of DOT; however, the permit-delegation agreement does not apply to facilities of electric utilities.

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<sup>39</sup> Section 334.03(25), F.S., defines "State Park Road System" as roads embraced within the boundaries of state parks and state roads leading to state parks, other than roads of the State Highway System, the county road systems, or the city street systems.

<sup>40</sup> Section 337.11(1), F.S.

<sup>41</sup> *Id.*

<sup>42</sup> Section 337.11(6)(c), F.S.

<sup>43</sup> Section 337.11(6)(c)1.-3., F.S.

<sup>44</sup> Section 337.11(6)(c), F.S.

<sup>45</sup> DOT Bill Proposal: Rapid Response Contracts-Price Cap Increase (Copy on file with the Transportation & Infrastructure Subcommittee).

<sup>46</sup> *Id.*

### Proposed Changes

The bill amends s. 337.401(1)(a), F.S., removing the reference to “telephone” and changing it to “voice” and including data, and wireless facilities in the definition of “utility” as it applies to the use of the right-of-way.

## **Turnpike Bond Validation**

### Current Situation

#### *Bond Validation*

Chapter 75, F.S., establishes certain criteria for bond validation. Bond validation is a judicial process 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.

#### *State Bond Act*

Any bonds issued pursuant to the State Bond Act<sup>47</sup> are validated in the manner prescribed by chapter 75, F.S.<sup>48</sup> In any action to validate turnpike revenue bonds,<sup>49</sup> the complaint is filed in the circuit court of the county where the seat of state government is located and the required notice<sup>50</sup> is published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation. The complaint and order of the circuit court is served only on the state attorney of the circuit in which the action is pending.<sup>51</sup>

#### *Turnpike Revenue Bonds*

DOT may borrow money as provided by the State Bond Act for the purpose of paying all or any part of the cost of any one or more legislatively approved turnpike projects.<sup>52</sup> The principal of and the interest on turnpike revenue bonds is payable only from revenues pledged for their payment.<sup>53</sup>

### Proposed Changes

The bill creates s. 338.227(5), F.S., providing that notwithstanding s. 215.82, F.S., turnpike revenue bonds are not required to be validated, but may be validated at the option of the Division of Bond Finance. A complaint regarding such validation is filed in the circuit court of the county in which the seat of state government is situated. The required notice is published only in the county in which the complaint is filed. The complaint and order of the circuit court is served on the state attorney of the circuit in which the action is pending.

The bill also amends s. 215.82, F.S., making a conforming change by removing a cross-reference.

## **Garcon Point Bridge**

### Current Situation

The Santa Rosa Bay Bridge Authority (SRBBA) is created in Part IV of Ch. 348, F.S., for the purpose of and having the power to acquire, hold, construct, improve, maintain, operate, own and lease the Santa

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<sup>47</sup> Sections 215.57-215.83, F.S.

<sup>48</sup> Section 215.82, F.S.; *see also* s. 215.82(2), F.S.

<sup>49</sup> Turnpike revenue bonds are issued pursuant to s. 338.227, F.S.

<sup>50</sup> Notice is required pursuant to s. 75.06, F.S.

<sup>51</sup> Section 215.616(6), F.S.

<sup>52</sup> Section 338.227(1), F.S.

<sup>53</sup> *Id.*

Rosa Bay Bridge System. The only facility owned by SRBBA is the Garcon Point Bridge in Santa Rosa County. SRBBA is in default on its bonds because it failed to meet toll covenants relating to debt service coverage and reserve account requirements for failure to make its required debt service payment.<sup>54</sup>

SRBBA entered into a lease-purchase agreement with DOT, under which DOT maintains and operates the bridge and remits to SRBBA all tolls collected as lease payments. The lease-purchase agreement runs concurrently with the SRBBA's bonds and matures in 2028. In 2028, DOT will own the bridge, assuming that all of the bonds are fully paid. If, in 2028, there are any outstanding bonds, the lease extends until the bonds are paid off.<sup>55</sup>

SRBBA's board has not met since June 2014, and it currently does not have an active board.<sup>56</sup>

### Proposed Changes

The bill requires DOT to undertake an economic feasibility study relating to the acquisition of the Garcon Point Bridge. DOT must submit the completed study to the Governor, President of the Senate, and Speaker of the House of Representatives by January 1, 2018.

## **DOT Work Program**

### Current Situation

Section 339.135, F.S., establishes the DOT work program, which includes transportation projects DOT plans to undertake in the next five fiscal years. Section 339.135(7), F.S., establishes procedures related to adding, advancing, deferring, or deleting projects or major phases from the list of projects. These actions are prepared as work program amendments that are subject to notice and consultation procedures<sup>57</sup> and public notice provisions for other stakeholders.

Section 339.135(7)(e), F.S., authorizes the DOT Secretary to request the Executive Office of the Governor (EOG) to amend DOT's adopted work program when an emergency<sup>58</sup> exists and the emergency relates to the repair or rehabilitation of any state transportation facility. EOG may approve the amendment to the adopted work program and amend that portion of DOT's approved budget if a delay due to notification requirements<sup>59</sup> would be detrimental to the state's interests. DOT must immediately notify certain parties and provide such parties written justification for the emergency action within seven days after EOG's approval of the amended work program and budget. The adopted work program may not be amended under s. 339.135(7)(e), F.S., without DOT's Comptroller certifying that there are sufficient funds available pursuant to DOT's 36-month cash forecast and applicable statutes.

In 2016, the Legislature created s. 337.135(7)(h), F.S., requiring any work program amendment that adds a new project or phase of a new project to the adopted work program and that is in excess of \$3 million to be approved by the Legislative Budget Commission (LBC). However, according to DOT, it is unclear whether amendments precipitated by emergency events are exempt from this requirement.

### Proposed Changes

The bill amends s. 339.135(7)(e), F.S., exempting work program amendments related to emergency repairs that exceed \$3 million from the LBC review and approval requirements in s. 339.135(7)(h), F.S.

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<sup>54</sup> Florida Transportation Commission *Transportation Authority Monitoring and Oversight-Fiscal Year 2015 Report*. Page 59. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>55</sup> *Id.* at 60.

<sup>56</sup> <http://www.garconpointbridge.com/New/update.htm> (Last visited March 23, 2017).

<sup>57</sup> Section 216.177, F.S., provides for appropriations acts, statement of intent, violation, notice, review and objection procedures.

<sup>58</sup> Section 252.34(4), F.S., defines "emergency" as any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace that results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

<sup>59</sup> Notification requirements are provided in s. 339.135(7)(d), F.S.



## Florida Highway Beautification Council

### Current Situation

Section 344.044, F.S., requires at least 1.5 percent of the amount contracted for construction projects to be allocated by DOT on a statewide basis for the purchase of plant materials.<sup>60</sup>

The Florida Highway Beautification Council is established within DOT.<sup>61</sup> The council consists of seven members appointed by the Governor.<sup>62</sup> Council members serve at the pleasure of the Governor.<sup>63</sup>

The council meets no less than semiannually. Four members constitute a quorum and a majority vote of the members present is sufficient for all council actions.<sup>64</sup>

Council members are prohibited from participating in any discussion or decision to recommend grants to any qualified local government with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement.<sup>65</sup>

In part, the council's duties include providing information to local governments and local highway beautification councils regarding the state highway beautification grants program; accepting, reviewing, and prioritizing grant requests from local governments; and assessing the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways.<sup>66</sup> At the request of the DOT Secretary, the council may review and make recommendations on any other highway beautification matters relating to the State Highway System.<sup>67</sup>

The Secretary of DOT, after receiving recommendations from the council, awards grants to local governmental entities that have submitted grant requests for beautification of roads on the State Highway System and which requests are on the council's approved list. The grants are awarded in the order they appear on the council's prioritized list and in accordance with available funding.<sup>68</sup>

Each DOT district<sup>69</sup> appoints a District Highway Beautification Council Grant Manager who works with the District Landscape Architect and State Transportation Landscape Architect to promote the grant program and assist applicants through the grant process. Each District Grant Manager compiles a district-wide list and submits it to the State Transportation Landscape Architect, who compiles a statewide list. The council then ranks all submitted applications. After the council ranks each project, the State Transportation Landscape Architect produces a ranked list of the projects and grants are awarded in the ranked order until the remaining budget is not sufficient to fund the next ranked project.

### Proposed Changes

The bill amends s. 339.2405, F.S., eliminating the Florida Highway Beautification Council. The bill also provides that the DOT Secretary makes final highway beautification grant decisions based on input from District Grant Managers, District Landscape Architects, and the State Transportation Landscape Architect. Local governments and local highway beautification councils will continue to have input regarding the selection of landscaping projects through their local DOT districts.

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<sup>60</sup> Section 334.044(26), F.S.

<sup>61</sup> Section 339.2405(1), F.S.

<sup>62</sup> One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of DOT as designated by the Secretary of DOT, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens.

<sup>63</sup> Section 339.2405(1), F.S.

<sup>64</sup> Section 339.2405(3), F.S.

<sup>65</sup> Section 339.2405(5), F.S.

<sup>66</sup> Section 339.2405(7)(a), F.S.

<sup>67</sup> Section 339.2405(7)(b), F.S.

<sup>68</sup> Section 339.2405(10), F.S.

<sup>69</sup> DOT consists of seven geographic districts, the turnpike enterprise, and the rail enterprise.

## South Florida Regional Transportation Authority

### Current Situation

Part II of Ch. 343, F.S., is the South Florida Regional Transportation Authority (SFRTA) Act. SFRTA provides Tri-Rail commuter rail service in Palm Beach, Broward, and Miami-Dade counties. Section 343.54, F.S., establishes SFRTA'S powers and duties, which include the authority to contract for the procurement of various goods and services.<sup>70</sup>

Generally, s. 343.58, F.S., provides the statutory funding for SFRTA. This section provides that effective July 1, 2010, until as provided below, DOT is required to annually transfer from the State Transportation Trust Fund (STTF) to SFRTA the following amounts:<sup>71</sup>

- If SFRTA becomes responsible for maintaining and dispatching the South Florida Rail Corridor:
  - \$15 million from the STTF to SFRTA for operations, maintenance, and dispatch; and
  - An amount no less than the work program commitments equal to \$27.1 million for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority and corridor track maintenance and contract maintenance for the South Florida Rail Corridor.
- If SFRTA does not become responsible for maintaining and dispatching the South Florida Rail Corridor:
  - \$13.3 million from the STTF to SFRTA for operations; and
  - An amount no less than the work program commitments equal to \$17.3 million for fiscal year 2010-2011, as of July 1, 2009, for operating assistance to the authority.

SFRTA is currently responsible for maintaining and dispatching on the South Florida Rail Corridor; therefore, the first funding scenario is in effect.

Funding required by s. 343.58(4), F.S., may not be provided from the funds dedicated to the Florida Rail Enterprise.<sup>72</sup>

SFRTA may not commit these DOT-provided funds without DOT approval, which may not be unreasonably withheld.<sup>73</sup> At least 90 days before advertising any procurement or renewing any existing contract that will rely on state funds for payment, SFRTA is required to notify DOT of the proposed procurement or renewal and the proposed terms of the procurement or renewal.<sup>74</sup> If DOT, within 60 days after receiving the notice, objects in writing to the proposed procurement or renewal, specifying its reasons for objection, SFRTA may not proceed with the proposed procurement or renewal. Failure of DOT to object in writing within 60 days after notice is deemed consent.<sup>75</sup>

To enable DOT to evaluate SFRTA's proposed uses of state funds, SFRTA annually provides DOT with its proposed budget for the following fiscal year and provides DOT with any additional documentation or information required by DOT for its evaluation of the proposed uses of the state funds.

The statutorily required funding ceases upon commencement of an alternate dedicated local funding source sufficient for SFRTA to meet its responsibilities for operating, maintaining, and dispatching the South Florida Rail Corridor.<sup>76</sup> SFRTA and DOT are required to cooperate in the effort to identify and implement such an alternate dedicated local funding source before July 1, 2019.<sup>77</sup> Upon commencement of the alternate dedicated local funding source, DOT conveys to SFRTA a perpetual commuter rail easement in the South Florida Rail Corridor and all of DOT's right, title, and interest in

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<sup>70</sup> Section 343.54, F.S.

<sup>71</sup> Section 343.58, F.S.

<sup>72</sup> Funds are dedicated to the Florida Rail Enterprise pursuant to s. 201.15(4)(a)4., F.S.

<sup>73</sup> Section 348.58(4)(c)1., F.S.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Section 348.58(4)(d), F.S.

<sup>77</sup> *Id.*

rolling stock, equipment, tracks, and other personal property owned and used by DOT for the operation and maintenance of the commuter rail operations in the South Florida Rail Corridor.<sup>78</sup>

In recent correspondence with SFRTA, DOT expressed concern regarding SFRTA's accountability for DOT-provided state funds used for SFRTA's operation and maintenance costs. This concern was heightened by the SFRTA's board's decision to award a long-term operations and maintenance contract after unilaterally rejecting all but one of the proposals submitted.<sup>79</sup>

### Proposed Changes

The bill amends s. 343.52, F.S., defining the term "department" as the Department of Transportation. It also alphabetizes the definitions in that section.

The bill amends s. 343.53(2), F.S., conforming a cross-reference.

The bill creates s. 343.54(4), F.S., prohibiting SFRTA from entering into a contract or other agreement, or renewing or extending any existing contract or other agreement, which may be funded in whole or in part with DOT provided funds without DOT's prior review and written approval of SFRTA's proposed expenditures.

The bill amends s. 343.58(4)(c)1., F.S., specifying that funds provided to SFRTA by DOT constitute state financial assistance for the purpose of carrying out certain state projects. DOT must provide the funds in accordance with the terms of a written agreement to be entered into between the authority and DOT, which will allow DOT to review, approve, and audit SFRTA's expenditure of the funds. The agreement must include such other provisions required by applicable law. DOT is specifically authorized to agree to advance SFRTA one-fourth of the total funding provided in s. 343.58(4), F.S., for a state fiscal year at the beginning of each state fiscal year, with monthly payments over the fiscal year on a reimbursement basis and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year.

### **DOT Districts**

#### Current Situation

DOT's operations are organized into seven districts, with each headed by a district secretary, and a turnpike and rail enterprise, with each headed by an executive director.<sup>80</sup> In order to provide for efficient operations and to expedite the decision-making process, DOT must provide for maximum decentralization to the districts.<sup>81</sup>

While s. 20.23(4)(a), F.S., provides the headquarters of each of the DOT districts and enterprises, the counties contained in each district are not provided in statute. The districts and corresponding counties served are as follows:

<b>DOT District</b>	<b>Headquarters (County)</b>	<b>Counties Served</b>
1	Bartow (Polk)	Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Polk, Sarasota.
2	Lake City (Columbia)	Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union
3	Chipley (Washington)	Bay, Calhoun, Escambia, Franklin, Gulf, Holmes, Jackson,

<sup>78</sup> *Id.*

<sup>79</sup> Letter from DOT Secretary Jim Boxhold to Jack Stephens, Executive Director of SFRTA (January 27, 2017), Copy on file with Transportation & Infrastructure Subcommittee.

<sup>80</sup> Section 20.23(4)(a), F.S.

<sup>81</sup> *Id.*

DOT District	Headquarters (County)	Counties Served
		Jefferson, Leon, Liberty, Santa Rosa, Wakulla, Walton, Washington
4	Ft. Lauderdale (Broward)	Broward, Indian River, Martin, Palm Beach, St. Lucie
5	DeLand (Volusia)	Brevard, Flagler, Lake, Marion, Orange, Osceola, Seminole, Sumter, Volusia
6	Miami (Miami-Dade)	Miami-Dade, Monroe
7	Tampa (Hillsborough)	Citrus, Hernando, Hillsborough, Pasco, Pinellas.

Section 20.23(4)(a), F.S., requires the headquarters for the Turnpike Enterprise to be located in Orange County and the headquarters for the Rail Enterprise to be located in Leon County.

Section 20.23(4)(d), F.S., provides that DOT's district director for the Fort Myers Urban Office<sup>82</sup> is responsible for developing the five-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

#### Proposed Changes

On or before October 31, 2017, the bill requires DOT to submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives that provides a comprehensive review of the boundaries and headquarters of each DOT district. Along with its report, DOT must provide a study of the expenses associated with creating an additional DOT district with the Fort Myers urban office serving as the district headquarters.

#### **Federal Pilot Programs Enrollment**

##### Current Situation

Section 334.044, F.S., sets DOT's powers and duties, which includes the authority to conduct research studies and collect data necessary for the improvement of the state transportation system; conduct research and demonstration projects relative to innovative transportation technologies; and identify, obtain, and administer all federal funds available to the DOT for all transportation purposes.

##### Proposed Changes

The bill authorizes the Secretary of DOT to enroll the state in any federal pilot program or project for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, autonomous vehicle technology or capacity challenges.

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

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

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

DOT estimates that the bill will have an indeterminate but insignificant negative fiscal impact associated with additional weight allowances for natural gas-fueled vehicles because of the reduction in penalties assessed and collected by the state due to the increased weight limits.<sup>83</sup>

<sup>82</sup> The Fort Myers Urban Office is located in DOT District 1.

<sup>83</sup> DOT Legislative Proposal-Natural Gas Fueled Vehicles-Truck Weights, p. 3. (Copy on file with Transportation & Infrastructure Subcommittee).

2. Expenditures:

DOT estimates a reduction in expenditures of approximately \$500,000 associated with conducting bridge inspections at risk-based intervals.<sup>84</sup>

DOT should see a reduction in expenditures associated with eliminating the Highway Beautification Council and the administrative costs associated with the council. The amount is indeterminate, but is expected to be insignificant.<sup>85</sup>

DOT may incur expenses associated with studying the feasibility of taking over the Garcon Point Bridge and evaluating its districts; however, it appears that these expenditures can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Operators of natural gas-fueled commercial vehicles will see a reduction in overweight fines associated with the increase in weight allowed for those vehicles.

There may be some reduced costs to the private sector with the increased dollar threshold for rapid response contracts since these contracts do not require securing a surety bond.

D. FISCAL COMMENTS:

None.

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<sup>84</sup> DOT Legislative Proposal-Bridge Inspection Frequency, p. 2. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>85</sup> DOT Legislative Proposal-Repeal of Florida Highway Beautification Council, p. 3. (Copy on file with Transportation & Infrastructure Subcommittee).