

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 395 Transportation

SPONSOR(S): State Affairs Committee, Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Andrade

TIED BILLS: **IDEN./SIM. BILLS:** SB 7054

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Hicks	Davis
3) State Affairs Committee	23 Y, 0 N, As CS	Johnson	Williamson

SUMMARY ANALYSIS

The bill amends various statutes relating to transportation. In part, the bill:

- Effective July 1, 2023, repeals the Florida Rail Enterprise and transfers its functions to the Department of Transportation (DOT). It also authorizes DOT to utilize documentary stamp tax revenues currently allocated to the Florida Rail Enterprise for rail safety.
- Increases the debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds.
- Removes the expiration date for funding of the Intermodal Logistics Center Infrastructure Support Program.
- Revises the definition of autocycle to incorporate federal safety standards.
- Increases the allowable weight of personal delivery devices.
- Adds road and bridge maintenance or construction vehicles and postal vehicles to the Move Over Law.
- Authorizes portable radar speed display units to display flashing red and blue lights under certain circumstances, and allows the use of flashing lights on vehicles during periods of extreme low visibility.
- Revises requirements governing the use of covers on vehicles hauling agricultural products.
- Increases the age at which a child must be secured in an approved child restraint device.
- Waives commercial driver license skill test requirements for qualifying veterans.
- Authorizes for-hire vehicles to be insured by certain non-admitted carriers and reduces the number of for-hire vehicles required before an owner or lessee may self-insure.
- Provides that operating vessels in a certain manner near specified vessels constitutes careless operation of a vessel.
- Requires certain vessels to be removed from marinas located in deepwater seaports during hurricanes.
- Conforms specified airport zoning terminology and regulations to federal requirements.
- Revises qualification requirements for contractors desiring to bid on certain DOT contracts and requires the submission of specified financial statements.
- Authorizes airports to allow the same entity perform both design services and construction, engineering, and inspection services under certain circumstances.
- Requires DOT to provide the previous property owner the right of first refusal regarding the disposal of DOT property under certain circumstances.
- Requires permit applications for utility service on municipal or county rights-of-way to be acted upon in a specified period.
- Authorizes DOT to establish emergency staging areas along the Florida Turnpike system.
- Repeals the inactive Economic Development Transportation Fund.
- Increases the state's liability insurance cap for passenger rail to \$295 million.
- Extends the period the Jacksonville Transportation Authority may enter into leases.
- Requires DOT and specified bridge and expressway authorities to submit a report documenting their uncollected customer receivables.

The bill will have a fiscal impact on state and local governments. See Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Transportation Rail Program/Florida Rail Enterprise

Present Situation

The Department of Transportation (DOT) is a decentralized agency headed by the Secretary of Transportation (secretary).¹ DOT is organized into seven geographic districts headed by district secretaries, as well as a turnpike enterprise and a rail enterprise, each of which are headed by an executive director. The Florida Rail Enterprise (FRE) executive director reports directly to the Secretary, and the FRE headquarters is in Leon County.²

DOT must develop and implement a rail program designed to ensure its proper maintenance, safety, revitalization, and expansion to assure its continued and increased availability, and to respond to statewide mobility needs. DOT's statutory rail requirements include:

- Providing the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to mobility needs.
- Promoting and facilitating the implementation of advanced rail systems.
- Developing and administering state standards concerning the safety and performance of rail systems.³

In 2009, the Legislature created the FRE within DOT.⁴ The FRE was modeled after the Florida Turnpike Enterprise. The secretary must delegate the responsibility for developing and operating the high-speed and passenger rail systems, direct funding for passenger rail systems, and coordinate publicly funded passenger rail operations, including freight rail interoperability issues to the FRE executive director.

DOT, through the FRE, is authorized to use funds allocated to the FRE from documentary stamp collections to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible passenger rail capital improvement project;
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system;
- The high-speed rail system; and
- Projects necessary to identify or address anticipated impacts of increased freight rail traffic resulting from the implementation of passenger rail systems.⁵

The Florida Rail Enterprise Act,⁶ among other powers and duties, requires the FRE to "locate, plan, design, finance, construct, maintain, own, operate, and manage the high-speed rail system in this state."⁷ DOT is the only governmental entity authorized to acquire, construct, maintain, or operate the high-speed rail system, except upon specific authorization of the Legislature.⁸

To facilitate the most efficient and effective management of the rail enterprise, including the use of best business practices employed by the private sector, the FRE is exempt from DOT's policies, procedures, and standards, except as provided in the Consultants' Competitive Negotiation Act.⁹

¹ Section 20.23, F.S.

² Section 20.23(4), F.S.

³ Section 341.302, F.S.

⁴ Chapter 2009-271, L.O.F.

⁵ Section 341.303(5), F.S.

⁶ Sections 341.8201-341.842, F.S., are cited as the "Florida Rail Enterprise Act."

⁷ Section 341.822, F.S.

⁸ Section 341.8225, F.S.

⁹ Section 287.055, F.S.

The FRE, a single budget entity, submits its budget to the Legislature along with DOT's budget. All passenger rail funding is included in the FRE budget.¹⁰ The FRE is authorized to carry forward any unexpended funds appropriated to it to be used for any lawful purpose.¹¹ For fiscal year (FY) 2019-2020, the FRE was authorized one position and appropriated \$267 million.¹²

Rail Safety

In December 2019, due to the number of rail-related incidents in this state, the secretary directed DOT to implement a number of rail safety measures and to launch a statewide education initiative. The goal of the directive is to prevent additional fatalities on or near rail crossings on state roads and state owned land crossings. The directive included the following actions:

- Implementing dynamic envelopes¹³ at every existing DOT roadway and state-owned land rail crossing.
- Requiring the inclusion of a dynamic envelope in the standard design of any future railroad crossings on DOT roadways or state-owned land rail crossings.
- Launching a data-driven statewide rail safety education initiative in conjunction with rail partners.
- Partnering with state and local law enforcement agencies to help enforce rail safety laws.
- Continuing to partner with local and private rail partners by sharing DOT rail safety design standards and framework and encouraging their participation and implementation of the safety and engineering efforts.¹⁴

Documentary Stamp Tax

Chapter 201, F.S., provides for the levy of a documentary stamp tax on certain documents, such as deeds, bonds, notes and written obligations to pay money and mortgages, liens, and other evidence of indebtedness. After required distributions to the Land Acquisition Trust Fund¹⁵ and deducting the General Revenue service charge,¹⁶ the lesser of 24.18442 percent of the remainder of the tax proceeds or \$541.75 million in each fiscal year is deposited in the State Transportation Trust Fund (STTF).¹⁷ From that amount, \$75 million must be deposited into the General Revenue Fund. The remaining amount credited to the STTF must be used for:

- Capital funding for the New Starts Transit Program¹⁸ in the amount of 10 percent;
- The Small County Outreach Program¹⁹ in the amount of 10 percent;
- The Strategic Intermodal System²⁰ in the amount of 75 percent after deducting the payments for New Starts and Small County Outreach Program; and
- The Transportation Regional Incentive Program²¹ in the amount of 25 percent after deducting the payments for New Starts and Small County Outreach Program.

Currently, the first \$60 million of the funds allocated to the Transportation Regional Incentive Program are redirected annually to the FRE for the purposes established in s. 341.303(5), F.S.²²

¹⁰ Section 341.303(6)(a), F.S.

¹¹ Section 341.303(6)(b), F.S.

¹² Chapter 2019-115, L.O.F. Specific appropriations 1953-1961.

¹³ A dynamic envelope is the area a vehicle should never stop in when it is crossing railroad tracks. Pavement markings and signage are provided around a rail crossing to emphasize the area and make drivers aware of the area they should never stop in. Email from John Kotyk, Deputy Director Legislative Affairs, DOT, RE: HB 1315-Rail Safety, Jan. 24, 2020 (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁴ DOT, Press Release: *FDOT Secretary Directs Unprecedented Rail Safety Measures, Launches Statewide Education Statewide Education Initiative*, Dec. 5, 2019, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/info/co/news/newsreleases/12052019-rail-safety.pdf?sfvrsn=f58dd329_2 (last visited Jan. 23, 2020).

¹⁵ Section 201.15(1) and (2), F.S.

¹⁶ Section 215.20, F.S.

¹⁷ Section 201.15(4), F.S.

¹⁸ See 49 U.S.C. s. 5309 and s. 341.051, F.S.

¹⁹ Section 339.2818, F.S.

²⁰ Sections 339.61-339.64, F.S.

²¹ Section 339.2819, F.S.

²² Section 201.15(4)(a)4., F.S.

Effect of the Bill

Florida Rail Enterprise

The bill repeals the FRE and transfers its functions and responsibilities to DOT, effective July 1, 2023. Effective July 1, 2023, the bill:

- Removes the statutory reference to the FRE within DOT's organization, as well as references to an FRE executive director, its headquarters, and its exemption from DOT policies, procedures, and standards. Rather than delegating responsibility for rail systems, passenger rail funding, and publicly funded passenger rail operations to the FRE executive director, the bill authorizes the secretary to delegate those responsibilities, including responsibility for rail safety, to a departmental entity to be named by the secretary.
- Removes DOT's duty to promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems,²³ and replaces it with the duty to coordinate the development, general rail safety, and operation of publicly funded passenger rail systems in this state. Responsibility for the high-speed rail system remains with DOT.
- Revises various sections of the Florida Rail Enterprise Act relating to high-speed rail to conform to the repeal of the FRE and the revised documentary stamp tax funding. The bill replaces the term "enterprise" with "department" and conforms cross-references.

Effective July 1, 2023, the bill amends s. 343.58(4), F.S., relating to DOT's funding of the South Florida Regional Transportation Authority, to prohibit such funding from documentary stamp tax funds dedicated to the STTF, rather than to the FRE.

Documentary Stamp Tax

The bill continues the current allocation to the FRE of the first \$60 million of funds allocated to the Transportation Regional Incentive Program for three fiscal years (FYs), 2020-2021, 2021-2022, and 2022-2023. This allocation to the FRE expires on July 1, 2023. Beginning in the FY 2023-2024, the bill annually transfers the same \$60 million to the STTF to be used for rail projects and rail safety improvements as provided in s. 341.303(5), F.S.

Rail Funding and FRE Budget

Effective July 1, 2023, the bill amends DOT's authorized uses of the documentary stamp tax allocation projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state. The bill also removes the designation of the FRE as a single budget entity and other provisions relating to the FRE budget.

Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap

Present Situation

DOT is authorized to issue Right-of-Way Acquisition and Bridge Construction bonds to finance or refinance the cost of acquiring real property for state roads, or to finance or refinance the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, bonds must be authorized by the Legislature and must be issued pursuant to the State Bond Act.²⁴

Section 206.46, F.S., authorizes DOT to transfer up to 7 percent of the revenues deposited into the STTF in each fiscal year to the Right-of-Way Acquisition and Bridge Construction Trust Fund, to meet the requirements to meet outstanding or proposed bond obligations. However, notwithstanding this authorized annual transfer, the annual amount transferred may not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million.²⁵

Section 339.139, F.S., requires DOT to manage all levels of debt to ensure that no more than 20 percent of total projected available state and federal revenues from the STTF, together with any local

²³ Section 341.301(2), F.S.

²⁴ Sections 215.57-215.83, F.S.

²⁵ Section 206.46(2), F.S.

funds committed to DOT projects, are committed to certain obligations in any year. Right-of-Way Acquisition and Bridge Construction Bonds are included in DOT's overall debt assessment.²⁶

According to DOT, the Right-of-Way Acquisition and Bridge Construction Bond program's debt service limit has not been adjusted since 2007. Based on DOT's most recent bond sale and Revenue Estimating Conference projections, the limit on debt service based on the 7 percent of revenues threshold would have been \$286.9 million in FY 2018-2019, and will increase to \$350 million in FY 2027-2028.²⁷

Effect of the Bill

The bill increases DOT's maximum debt service coverage level from \$275 million to \$350 million. Thus, under the bill, debt service could not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less. The increase of the debt service cap will provide DOT with additional bonding capacity, offering it more flexibility in financing certain projects.

Obsolete General Revenue Surcharge References

Present Situation

Section 215.20(1), F.S., establishes an 8 percent service charge to the General Revenue Fund from all revenues deposited into most state trust funds,²⁸ representing the estimated pro rata share of the cost of general government.

Section 215.211, F.S., eliminates or reduces the general revenue service charge for specified proceeds. Effective July 1, 2002, the service charge for taxes distributed under s. 206.606(1), F.S., relating to the distribution of motor fuel taxes, s. 212.0501(6), F.S., relating to taxes on diesel fuel for business purposes, and s. 319.32(5), F.S., providing for the disposition of fees from certificate of title transactions, were eliminated.²⁹ Additionally, the service charge was eliminated, beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.³⁰ While the service charge was eliminated, references to the service charge remain in statute creating each of the above taxes or fees.³¹

Effect of the Bill

The bill removes obsolete references to the general revenue service charge in ss. 206.606(1), 206.608, 212.0501(6) and 319.32(5), F.S.

Intermodal Logistics Center Infrastructure Support Program

Present Situation

An intermodal logistics center is a facility serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out, and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports.³²

DOT's Intermodal Logistics Center Infrastructure Support Program provides funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport. DOT may provide funds to assist with local government projects or projects performed by private entities that meet the

²⁶ DOT Legislative Concepts, Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap (Copy on file with Transportation & Infrastructure Subcommittee).

²⁷ *Id.*

²⁸ Exceptions are enumerated in s. 215.22, F.S.

²⁹ Section 215.211(1), F.S.

³⁰ Section 215.211(2), F.S.

³¹ DOT Legislative Proposal, Remove Obsolete Language Relating to Service Charge (Copy on file with Transportation & Infrastructure Subcommittee).

³² Section 311.101(2), F.S.

public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport,³³ and may provide up to 50 percent of project costs for eligible projects.³⁴

When evaluating projects, DOT must consider the ability for a project to serve a strategic state interest, the ability of the project to facilitate the cost effective and efficient movement of goods, the extent the project contributes to economic activity, and certain financial and business commitments related to the project.³⁵

At least \$5 million per year must be made available from the STTF for the Intermodal Logistics Center and Infrastructure Support Program. This minimum funding requirement expires on July 1, 2020.³⁶ According to DOT, this program has leveraged local and private funding to complete 12 unique, geographically distributed projects across the state.³⁷

Effect of the Bill

The bill removes the July 1, 2020, expiration date for the \$5 million minimum annual funding for the Intermodal Logistics Center Infrastructure Support Program.

Autocycles

Present Situation

An “autocycle” is a three-wheeled motorcycle that is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it. An autocycle must be manufactured in accordance with the applicable federal motorcycle safety standards by a manufacturer registered with the National Highway Traffic Safety Administration.³⁸ Autocycle drivers are not required to hold a motorcycle endorsement on his or her driver license.³⁹

Federal Motor Vehicle Safety Standard No. 122⁴⁰ provides standards for all motorcycle braking systems.

Effect of the Bill

The bill amends the definition of the term “autocycle” to provide that it must have a “steering mechanism” rather than a “steering wheel.” The bill also requires an autocycle to have brakes meeting federal safety standards for motorcycle brakes, rather than specifying antilock brakes.

Personal Delivery Devices

Present Situation

A personal delivery device (PDD) is an electrically powered device that is operated on sidewalks and crosswalks and intended primarily for transporting property; weighs less than 80 pounds, excluding cargo; has a maximum speed of 10 miles per hour; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.⁴¹

A PDD may operate on sidewalks and crosswalks where it has all the rights and duties applicable to a pedestrian, except that a PDD may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on the sidewalk or crosswalk.⁴²

³³ Section 311.101(1), F.S.

³⁴ Section 311.101(6), F.S.

³⁵ Section 311.101(3), F.S.

³⁶ Section 311.101(7), F.S.

³⁷ DOT Legislative Proposal, Intermodal Logistics Center Support Program (Copy on file with Transportation & Infrastructure Subcommittee).

³⁸ Section 316.003(2), F.S.

³⁹ Sections 322.03(4) and 322.12, F.S.

⁴⁰ 49 C.F.R. 571.122

⁴¹ Section 316.003(55), F.S.

⁴² Section 316.2071(1), F.S.

A PDD must obey all official traffic and pedestrian control signals and devices, include identifying information on the PDD, and be equipped with a braking system.⁴³ A PDD may not operate on a public highway except to the extent necessary to cross a crosswalk, operate on a sidewalk or crosswalk unless the PDD operator is actively controlling or monitoring its navigation and operation, or transport hazardous materials.⁴⁴

Effect of the Bill

The bill increases the statutory weight limit of a PDD from 80 pounds to 150 pounds.

Move Over Law

Present Situation

Under Florida's Move Over Law, if an emergency vehicle, a sanitation vehicle, a utility service vehicle, or a wrecker is working along the side of the road, every other driver must vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce his or her speed to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater, or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road.⁴⁵ The purpose of the Move Over Law is to protect workers stopped along the road performing their jobs.⁴⁶

A violation of the Move Over Law is a noncriminal traffic infraction, punishable as a moving violation.⁴⁷ The statutory base fine for a moving violation is \$60, but with additional fees assessed by the state and local governments, the total fine increases to \$158.⁴⁸

According to DOT, for the safety of both workers and the public, temporary traffic control⁴⁹ is required for maintenance and construction activities. However, due to the risks associated with setting up traffic controls for short duration work activities, such as fence repair, ditch repair, or tree trimming, such controls may be omitted. This places road and bridge maintenance or construction vehicles in situations similar to vehicles identified in the Move Over Law,⁵⁰ where they are working along the road without any protection from adjacent traffic.

Section 316.2397, F.S., prohibits certain lights on vehicles and provides certain exceptions. With regard to road and bridge construction or maintenance vehicles, the statute provides that:

- Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists.
- Road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.⁵¹

Effect of the Bill

⁴³ Section 316.0271(2), F.S.

⁴⁴ Section 316.2071(3), F.S.

⁴⁵ Section 316.126(1)(b), F.S.

⁴⁶ Florida Driver Handbook, 2019, p. 44, available at <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited Jan. 31, 2020).

⁴⁷ Section 316.126(6), F.S.

⁴⁸ Florida Court Clerks and Comptrollers Association, *2019 Distribution of Court Related Filing Fees, Service Charges, and Fines*, available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf (last visited Jan. 13, 2019).

⁴⁹ Temporary traffic control is considered the devices and personnel that change road conditions for a work zone or following an incident. Email from John Kotyk, Deputy Director Legislative Affairs, DOT, Questions, January 31, 2020 (Copy on file with Transportation & Infrastructure Subcommittee).

⁵⁰ DOT Legislative Proposal, Move Over Law (Copy on file with Transportation & Infrastructure Subcommittee).

⁵¹ Section 316.2397(4) and (5), F.S.

The bill adds road and bridge maintenance or construction vehicles displaying warning lights consistent with s. 316.2397, F.S., operating on the roadside without advance signs and channelizing devices (such as traffic cones or barricades) and vehicles delivering the United States mail to the list of vehicles subject to the Move Over Law. This will require drivers to move over to a different lane or decrease their speed when road and bridge maintenance or construction vehicles or mail delivery vehicles are displaying warning lights on the roadside.

Flashing Red and Blue Lights on Portable Radar Speed Display Units

Present Situation

Florida law prohibits blue lights on any vehicle or equipment, except police vehicles and vehicles of the Department of Corrections or any county correctional agency when responding to emergencies.⁵²

Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may display amber lights when in operation or a hazard exists.⁵³ Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.⁵⁴

The Manual on Uniform Traffic Control Devices (MUTCD), adopted by DOT pursuant s. 316.0745, F.S., describes portable, changeable message signs as temporary traffic control devices installed for temporary use with the flexibility to display a variety of messages, including warning messages where traffic speed is expected to drop substantially.⁵⁵ Warning lights used in a temporary traffic control zone, in either a steady burn or a flashing mode, are yellow in color as required by the MUTCD.⁵⁶ In addition, the MUTCD provides that “[i]f a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX MPH or such similar legend should be displayed. The color of the changeable message legend should be a yellow legend on a black background or the reverse of these colors.”⁵⁷

Effect of the Bill

The bill authorizes portable radar speed display units in advance of a work zone area on roadways with a posted speed limit of 55 miles per hour or more to show or display flashing red or blue lights when workers are present.

Flashing Lights on Vehicles

Present Situation

Florida law prohibits flashing lights on vehicles except:

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle’s headlamps at an oncoming vehicle notwithstanding the motorist’s intent for doing so; and
- For certain lamps authorized in statute, which may flash, including various types of emergency vehicles.⁵⁸

With the exception of funeral processions,⁵⁹ Florida law does not expressly authorize the use of hazard lights on moving vehicles. The Florida Driver Handbook indicates that a driver *should not* use

⁵² Section 316.2397(2), F.S.

⁵³ Section 316.2397(4), F.S.

⁵⁴ Section 316.2397(5), F.S.

⁵⁵ MUTCD, Section 6F.60, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf> (last visited Feb. 12, 2020).

⁵⁶ MUTCD, Section 1A.13, definition of “warning light.”

⁵⁷ MUTCD, Section 2B.13.

⁵⁸ Section 316.2397(7), F.S.

⁵⁹ Section 316.1974(3)(c), F.S.

emergency flashers in instances of low visibility or rain, and may only use emergency flashers when a vehicle is disabled or stopped on the side of the road.⁶⁰

Effect of the Bill

The bill authorizes the use of flashing lights during periods of extreme low visibility on roadways with a posted speed limit of 55 miles per hour or more, effectively authorizing the use of hazard lights on moving vehicles under specified circumstances.

Agricultural Loads on Vehicles

Present Situation

Federal rules require each commercial motor vehicle, when transporting cargo on public roads, to have its cargo secured to prevent the cargo from leaking, spilling, blowing, or falling from the motor vehicle.⁶¹

Under Florida law, a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping from the vehicle.⁶²

Every vehicle owner and driver has the duty to prevent items from escaping from his or her vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover, a load-securing device meeting federal requirements, or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and constitutes compliance.⁶³ However, Florida's load covering and securing provisions do not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.⁶⁴

Effect of the Bill

The bill removes the 20-mile maximum distance that vehicles carrying agricultural products may travel without covering the load. This will allow vehicles hauling agricultural products on roads where the posted speed limit is 65 miles per hour or less to travel an unlimited distance without covering the load.

Child Restraint Requirements

Present Situation

Motor vehicle injuries are a leading cause of death among children in the United States.⁶⁵ However, use of a car seat reduces the risk of death to children by 71 to 82 percent, when compared with seat belt use alone.⁶⁶ Additionally, the use of a booster seat reduces the risk of serious injury by 45 percent for children aged 4-8 years.⁶⁷

The National Highway Traffic Safety Administration, the Center for Disease Control Prevention, and the American Academy of Pediatrics have produced guidelines for parents and caregivers to make sure children are secured appropriately for their age, height, and weight. For instance, the American Academy of Pediatrics' guidelines provide:

- All infants and toddlers should ride in a rear-facing car safety seat (CSS) until they are two years of age or until they reach the highest weight or height allowed by the manufacturer of their CSS.

⁶⁰ Department of Highway Safety and Motor Vehicles, *2018 Florida Driver Handbook*, available at: <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited Oct. 30, 2019).

⁶¹ 49 C.F.R. 393.100

⁶² Section 316.520(1), F.S.

⁶³ Section 316.520(2), F.S.

⁶⁴ Section 316.520(4), F.S.

⁶⁵ Centers for Disease Control and Prevention, *Child Passenger Safety: Get the Facts*, available at http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html (last visited Oct. 16, 2019).

⁶⁶ *Id.*

⁶⁷ *Id.*

- All children two years of age or older, or those younger than two years of age who have outgrown the rear-facing weight or height limit for their CSS, should use a forward-facing CSS with a harness for as long as possible, up to the highest weight or height allowed by the manufacturer of their CSS.
- All children whose weight or height is above the forward-facing limit for their CSS should use a belt-positioning booster seat until the vehicle lap-and-shoulder seat belt fits properly, typically when they have reached 4 feet 9 inches in height and are between eight and 12 years of age.
- When children are old enough and large enough to use the vehicle seat belt alone, they should always use lap-and-shoulder seat belts for optimal protection.
- All children younger than 13 years of age should be restrained in the rear seats of vehicles for optimal protection.⁶⁸

All 50 states and the District of Columbia have laws requiring some type of child restraint seat for children under a certain age, height, or weight. The majority of states require child restraint seats until age six or seven.⁶⁹ Additionally, many states require a rear facing CSS for children under a certain age and weight.⁷⁰

Florida law requires every operator of a motor vehicle operated on its roadways, streets, or highways to provide for protection of a child who is five years of age or younger by properly using a crash-tested, federally approved child restraint device:

- For children from birth through three years of age, the device must be a separate carrier or a vehicle manufacturer's integrated child seat.
- For children aged four through five years of age, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement does not apply when a safety belt is used and the child:
 - Is being transported gratuitously by an operator who is not a member of the child's immediate family;
 - Is being transported in a medical emergency situation involving the child; or
 - Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.⁷¹

A person who violates Florida's child restraint requirements commits a moving violation punishable by a penalty of \$60 plus any applicable local court costs.⁷² In addition, the violator will have three points assessed against his or her driver license.⁷³ In lieu of the monetary penalty and the assessment of points, a violator may elect to participate in a child restraint safety program, with the approval of the court with jurisdiction over the violation. After completing the program, the court may waive the monetary penalty and must waive the assessment of points.⁷⁴ In 2019, there were 8,394 child restraint device violations.⁷⁵

Effect of the Bill

The bill increases the age for requiring a crash-tested, federally approved child restraint device from five years of age or younger, to six years of age or younger. The bill conforms the provision to provide that from age four through six years of age, a separate carrier, an integrated child seat, or a child booster seat may be used. As a result, children being transported in a child restraint device in compliance with the current provisions of s. 316.613(1) and (1)(a)2., F.S., must be kept in that (or another) compliant device for one additional year if the child is younger than six years old.

⁶⁸ American Academy of Pediatrics, *Child Passenger Safety*, April 2011, available at <https://pediatrics.aappublications.org/content/127/4/788> (last visited Oct. 18, 2019).

⁶⁹ AAA Digest of Motor Laws, *Child Passenger Safety*, available at <https://drivinglaws.aaa.com/tag/child-passenger-safety/> (last visited Oct. 21, 2019).

⁷⁰ *Id.*

⁷¹ Section 316.613, F.S.

⁷² Section 318.18(3)(a), F.S.

⁷³ Section 322.27(3)(d)7., F.S.

⁷⁴ Section 316.613(5), F.S.

⁷⁵ Email from Kevin Jacobs, Deputy Legislative Affairs Director, DHSMV, February 4, 2020 (Copy on file with Transportation & Infrastructure Subcommittee).

Commercial Driver License Testing Exemption for Veterans

Present Situation

Florida law requires every applicant for an original driver license to pass an examination. However, the Department of Highway Safety and Motor Vehicles (DHSMV) may waive the knowledge, endorsement, and skills tests requirements for an applicant who is otherwise qualified and who surrenders a valid driver license issued by another state, a Canadian province, or the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.⁷⁶

Under Florida law, the examination for a commercial driver license (CDL) must include various tests including an actual demonstration of the applicant's ability to operate a motor vehicle or combination of vehicles of the type covered by the license classification the applicant is seeking, including his or her ability to perform a vehicle inspection.⁷⁷

Under Federal Motor Carrier Safety Administration rules, states may waive knowledge and skill test requirements for CDLs for current and former military service members who have experience driving a commercial motor vehicle in the military for an equivalent state license. The application must be made within one year of discharge of military service and certain conditions must be met.⁷⁸

Under DHSMV's rules, applicants seeking a waiver of CDL skill testing due to military experience must pass all written knowledge exams for the appropriate CDL class and any applicable endorsements, and apply for a waiver while on active duty or within 90 days of separation from military service. Additionally, he or she must certify that he or she for at least two years immediately preceding the application operated a motor vehicle in the appropriate class, and present a Certificate for Waiver of Skill Test for Military Personnel form signed by his or her commanding officer.⁷⁹

Effect of the Bill

The bill authorizes DHSMV to waive the skill test requirements for a CDL for persons with military commercial motor vehicle experience while on active military service or within one year of honorable discharge, which is consistent with federal rules regarding CDL license waivers for veterans.

For-hire Vehicle Insurance

Current Situation

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association.⁸⁰ However, a motor vehicle owner or lessee required to maintain insurance, including lessors of motor vehicles and owners who operate at least 300 for-hire passenger vehicles, may prove financial responsibility through self-insurance.⁸¹

Effect of the Bill

The bill provides that a for-hire passenger vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in this state who is a member of the Florida Insurance Guarantee Association, or by an eligible nonadmitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation. The bill reduces the minimum number of for-hire passenger vehicles an owner or lessee must operate to be eligible to self-insurance to 150 vehicles, from 300 vehicles.

⁷⁶ Section 322.12(1), F.S.

⁷⁷ Section 322.12(4), F.S.

⁷⁸ 49 C.F.R. 383.77

⁷⁹ Rule 15A-7.018, F.A.C.

⁸⁰ The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

⁸¹ Section 324.032(2), F.S. The maximum amount of self-insurance permissible under this section is \$300,000 on a per occurrence basis, and the self-insurer must maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation.

Vessel Regulation

Present Situation

Boating Speed Safety Regulations

In Florida, a vessel⁸² must be operated in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.⁸³ A person operating a vessel in excess of a posted speed limit is guilty of a civil infraction.⁸⁴

Anchoring or Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel. Mooring is accomplished using moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.⁸⁵

State Regulation of the Anchoring or Mooring of Vessels

Florida law prohibits a person from anchoring a vessel, except in case of emergency, in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.⁸⁶ Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.⁸⁷ Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.⁸⁸

With certain exceptions, the owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

- Within 150 feet of any marina, boat ramp, boatyard, or vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility; or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the local government within which the mooring field is located.⁸⁹

An owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first; or
- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk.⁹⁰

⁸² Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

⁸³ Section 327.33, F.S.

⁸⁴ Section 327.73(h), F.S.

⁸⁵ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2

(Rev. May 2012), available at https://www.law.ufl.edu/_pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf (last visited Feb. 23, 2020).

⁸⁶ Section 327.44, F.S.

⁸⁷ Section 327.44(2), F.S.

⁸⁸ Section 327.73, F.S.

⁸⁹ Section 327.4109(1), F.S.

⁹⁰ Section 327.4109(2), F.S.

The owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.⁹¹

A vessel or floating structure may not be anchored, moored, or affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. This does not apply to a private mooring owned by the owner of privately owned submerged lands.⁹²

Effect of the Bill

Careless Operation of Vessels

The bill amends s. 327.33, F.S., relating to the reckless or careless operation of a vessel. The bill provides that if an individual operates a vessel at a speed greater than slow speed, minimum wake upon approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel, or firefighting vessel, when such emergency vessel has its emergency lights activated, he or she commits careless operation. This provision does not apply to law enforcement vessels, firefighting vessels, and rescue vessels owned or operated by a governmental entity.

A vessel is not considered to be operating at slow speed, minimum wake if it is:

- Operating on plane;
- In the process of coming off plane and settling into the water or getting on plane; or
- Operating at a speed that creates a wake that unreasonably or unnecessarily endangers other vessels.

The bill provides that if an individual operates a vessel at a speed greater than slow speed, minimum wake, upon approaching within 300 feet of any construction vessel or barge when the vessel or barge is displaying an orange flag indicating the vessel is actively engaged in construction operations, he or she commits careless operation. This provision does not apply to law enforcement vessels, firefighting vessels, and rescue vessels owned or operated by a governmental entity. The required flag is considered sufficient if it:

- Is at least 2 feet by 3 feet in size;
- Is displayed from a pole extending at least 10 feet above the tallest portion of the vessel or barge or at least 5 feet above any superstructure permanently installed upon the vessel or barge;
- Is constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze;
- Is displayed so that the visibility of the flag is not obscured in any direction; and
- Is, during periods of low visibility, including any time between the hours from one-half hour after sunset and one-half hour before sunrise, illuminated such that it is visible from a distance of at least two nautical miles.

Vessels at Risk of Becoming Derelict

The bill prohibits an owner or responsible party of a vessel at risk of becoming derelict, who has been issued a citation for a second violation for the same vessel, from anchoring or mooring the vessel to, or within 20 feet of, a mangrove or upland vegetation on public lands. The 20-foot distance is measured in a straight line from the point of the vessel closest to the outermost branches of the mangrove or vegetation. The bill provides that a violation is a noncriminal infraction.

The bill authorizes the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, municipal police officers, and other municipal officers to relocate or cause to be relocated at-risk vessels in violation to a distance of greater than 20 feet from any mangrove or upland vegetation. FWC or any law enforcement officer that relocates an at-risk vessel upon state

⁹¹ Section 327.4109(3), F.S.

⁹² Section 327.4019(4), F.S.

waters is held harmless for any damages to the vessel resulting from relocation, unless the damage is the result of gross negligence or willful misconduct.

Marina Evacuations

Present Situation

In order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property, s. 327.59(1), F.S., prohibits marinas from adopting, maintaining, or enforcing policies requiring vessels to be removed from marinas following the issuance of a hurricane watch or warning.

After a tropical storm or hurricane watch has been issued, a marina owner or operator may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment, and may charge a reasonable fee for such services.⁹³

A marina owner may provide by contract that in the event a vessel owner fails to promptly remove a vessel from a marina after a tropical storm or hurricane watch has been issued, the marina owner may remove the vessel, if reasonable, from its slip or take whatever reasonable actions are deemed necessary to properly secure a vessel to minimize damage to a vessel and to protect marina property, private property, and the environment. The marina owner may charge the vessel owner a reasonable fee for any such services rendered, and such fees must be disclosed in the contract.⁹⁴

A marina owner is not liable for any damage incurred to a vessel from storms or hurricanes and is held harmless because of such actions. Nothing in s. 327.59, F.S., may be construed to provide immunity to a marina owner for any damage caused by intentional acts or negligence when removing or securing a vessel as permitted under s. 327.59, F.S.⁹⁵

Effect of the Bill

The bill provides that upon the issuance of a hurricane watch affecting the waters of a marina located in a deepwater seaport, vessels weighing under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

Vessel owners must promptly remove their vessels upon issuance of an evacuation order by the deepwater seaport. If the United States Coast Guard Captain of the Port sets the deepwater seaport condition to Yankee⁹⁶ and a vessel owner has failed to remove a vessel, the marina owner, operator, employee, or agent, regardless of existing contractual provisions between the marina owner and vessel owner, must remove the vessel, or cause it to be removed, if reasonable, from its slip and may charge the vessel owner a reasonable fee for any such services.

A marina owner, operator, employee, or agent is not liable for any damage incurred to a vessel from hurricanes and is held harmless because of such actions to remove the vessel from the waterways. The bill does not provide immunity to a marina owner, operator, employee, or agent for any damage caused by intentional acts or negligence when removing a vessel. After the hurricane watch has been issued, the owner or operator of any vessel that has not been removed from the waterway of the marina, pursuant to an evacuation order from the deepwater seaport, may be subject to a fine not exceeding three times the cost associated with removing the vessel from the waterway. The deepwater seaport issuing the evacuation order may impose and collect assessed fines.

⁹³ Section 327.59(2), F.S.

⁹⁴ Section 327.59(3), F.S.

⁹⁵ Section 327.59(4), F.S.

⁹⁶ Hurricane Port condition Yankee is when weather advisories indicate that sustained gale force winds (39-54 mph/34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours. 33 C.F.R. s. 165.781.

Airport Zoning

Present Situation

Florida's airport zoning laws⁹⁷ require every political subdivision having an airport hazard area⁹⁸ within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such area. The statute contains minimum requirements for airport protection zoning regulations, including the requirement for documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a valid aeronautical study submitted by each person applying for a permit.⁹⁹

Effect of the Bill

The bill revises the minimum requirements for airport protection zoning regulations to require a final valid determination from the Federal Aviation Administration, instead of the currently required aeronautical study. This will conform state statutes to federal requirements.¹⁰⁰

DOT Application for Qualification

Present Situation

Any contractor desiring to bid for the performance of any DOT construction contract in excess of \$250,000 must first be certified by DOT as qualified.¹⁰¹

A contractor who is not already qualified and in good standing with DOT as of January 1, 2019, who desires to bid on contracts in excess of \$50 million, must have satisfactorily completed two projects, each in excess of \$15 million, for DOT or for any other state department of transportation.¹⁰²

Each application for certification must be accompanied by the contractor's latest annual financial statement, which must have been completed within the last 12 months. If the application or the annual financial statement shows the contractor's financial condition more than four months prior to the date on which DOT receives the application, the contractor must also submit an interim financial statement and an updated application. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.¹⁰³

Effect of the Bill

The bill clarifies that a contractor must be certified by DOT as qualified before bidding on contracts in excess of \$50 million, in addition to having successfully completed two projects, each in excess of \$15 million for DOT or another state transportation department.

The bill requires each application for certification to be accompanied by audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed in this state or another state. The contractor's audited financial statements must be specifically for the applying contractor and must have been prepared within the immediately preceding 12 months. DOT may not consider any financial information relating to the contractor's parent entity. DOT may not certify as qualified any contractor that fails to submit the required audited financial statements.

If the application or the annual financial statement shows the contractor's financial condition more than four months before the date on which DOT receives the application, the contractor must also submit interim audited financial statements.

⁹⁷ Chapter 333, F.S.

⁹⁸ Section 333.03(1)(a), F.S. Section 333.01(4), F.S., defines the term "airport hazard area" as any area of land or water upon which an airport hazard might be established.

⁹⁹ Section 333.03(1)(c)3., F.S.

¹⁰⁰ DOT Legislative Proposal, Airport Determination Terminology (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁰¹ Section 337.14(1), F.S. DOT's rules regarding qualifications to bid are contained in Ch. 14-22, F.A.C.

¹⁰² Section 337.14(1), F.S.

¹⁰³ *Id.*

Airport Construction Projects

Present Situation

Under current law, a contractor,¹⁰⁴ or his or her affiliate¹⁰⁵ qualified with DOT, may not also qualify to provide testing services, construction, engineering, and inspection (CEI) services to DOT.¹⁰⁶ This limitation does not apply to any design-build prequalification¹⁰⁷ and does not apply when DOT otherwise determines by written order at least 30 days before advertisement that the limitation is not in the public's best interests with respect to a particular contract for testing services and CEI services.

DOT has adopted procedures governing conflicts of interest involving professional services consultant contracts and design-build contracts. The procedures contain a set of matrixes illustrating the variety of scenarios encountered with prime or subcontractors and when DOT would consider the arrangement a conflict.¹⁰⁸

In 2019, the Legislature passed HB 905,¹⁰⁹ which provided that for a construction project wholly or partially funded by DOT and administered by a local governmental entity, the same entity may not perform both design services and CEI services. That bill exempted certain seaports from that provision.

Effect of the Bill

The bill provides airports with the same exemption for design services and CEI services afforded seaports in 2019.

DOT Disposal of Real Property

Present Situation

DOT is authorized to convey any land, building, or other real or personal property it acquired if DOT determines the property is not needed for a transportation facility.¹¹⁰ In such cases, DOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means DOT deems to be in its best interest. DOT must advertise the disposal of property valued by DOT at greater than \$10,000.¹¹¹

A sale of unneeded property may not occur at a price less than DOT's current estimate of value except that:

- If donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.¹¹²

¹⁰⁴ Section 337.165(1)(d), F.S., defines the term "contractor" as any person who bids or applies to bid on work let by DOT or any counterpart agency of any other state or of the Federal Government or who provides professional services to DOT or other such agency. The term "contractor" includes the officers, directors, executives, shareholders active in management, employees, and agents of the contractor.

¹⁰⁵ Section 337.165(1)(a), F.S., defines the term "affiliate" as a predecessor or successor of a contractor under the same, or substantially the same, control or a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term "affiliate" includes the officers, directors, executives, shareholders active in management, employees, and agents of the affiliate. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities must be prima facie evidence that one business entity is an affiliate of another.

¹⁰⁶ Section 337.14, F.S.

¹⁰⁷ Design-build prequalification is pursuant to s. 337.11(7), F.S.

¹⁰⁸ Topic No.: 375-030-006-c, Conflict of Interest Procedure for Department Contracts (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁰⁹ Chapter 2019-153, L.O.F.

¹¹⁰ Section 337.25(1) and (4), F.S.

¹¹¹ Section 337.25(4), F.S.

¹¹² Section 337.25(4)(a), F.S.

- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.¹¹³
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, DOT may negotiate for the sale of such property as replacement housing.¹¹⁴

If DOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes DOT to significant liability risks, DOT may use the projected maintenance costs over the next 10 years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.¹¹⁵

If in DOT's discretion a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for DOT's current estimate of value.¹¹⁶

In cases of property to be used for a public purpose, and in cases of property requiring significant costs to be incurred or exposing DOT to significant liability risks, as described above, DOT may, but is not required, to first offer the property ("right of first refusal") to the local government or other political subdivision in whose jurisdiction the property is situated.¹¹⁷

Effect of the Bill

The bill requires DOT, notwithstanding any provision of s. 337.25, F.S., to the contrary, to afford a right of first refusal to the previous property owner from whom DOT originally acquired the property for DOT's current estimate of value in cases of property to be used for a public purpose, in cases of property requiring significant costs to be incurred or exposing DOT to significant liability risks, and in cases in which DOT determines that a sale to any person other than an abutting property owner would be inequitable.

In cases of property to be used for a public purpose, and in cases of property requiring significant costs to be incurred or exposing DOT to significant liability risks, DOT must offer a right of first refusal to the previous property owner before being authorized to offer the property to the local government or other political subdivision in whose jurisdiction the property is located.

The bill requires DOT to offer the previous property owner the right of first refusal in writing, by certified mail or hand delivery, effective upon receipt of the property owner. The offer must provide the previous property owner at least 30 days to exercise the right of first refusal. If the previous property owner wants to purchase the property, the owner must send notice to DOT by certified mail or hand delivery, and such acceptance is effective upon dispatch. Once the right is exercised, the previous property owner has at least 90 days to close on the property.

Utility Right-of-Way Permits

Present Situation

Section 337.401, F.S., provides that the use of the right-of-way for utilities is subject to regulation. Authorities, defined as the DOT and local governmental entities,¹¹⁸ may prescribe and enforce

¹¹³ Section 337.25(4)(b), F.S.

¹¹⁴ Section 337.25(4)(c), F.S.

¹¹⁵ Section 337.25(4)(d), F.S.

¹¹⁶ Section 337.25(4)(e), F.S.

¹¹⁷ Section 337.25(4), F.S.

¹¹⁸ Section 334.03(13), F.S., defines the term "local governmental entity" as a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

reasonable rules or regulations regarding the placing and maintaining of utilities within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions.¹¹⁹

An authority may grant to any person who is a Florida resident, or to any corporation organized under Florida law or licensed to do business within Florida, the use of a right-of-way for the utility in accordance with the authority's adopted rules or regulations. However, a utility may not be installed, located, or relocated unless authorized by a written permit issued by the authority. For roads or rail corridors under DOT's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit.¹²⁰

The Advanced Wireless Infrastructure Deployment Act (wireless act)¹²¹ authorizes the deployment of certain wireless facilities in the public right-of-way. The wireless act permits a local government¹²² to require a registration process and permit fees and provides requirements for processing and issuing such permits.¹²³

Under the wireless act, an authority must, within 14 days after receiving an application, determine and notify the applicant, by electronic mail, as to whether the application is complete. If it determines the application is incomplete, the authority must specifically identify the missing information. An application is deemed complete if the authority fails to notify the applicant within 14 days.¹²⁴

A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application. If an authority does not use a 30-day negotiation period,¹²⁵ the parties may mutually agree to extend the 60-day application review period. The authority must grant or deny the application at the end of the extended review period.¹²⁶

The authority must notify the applicant of approval or denial by electronic mail.¹²⁷ An authority must approve a complete application unless it does not meet the authority's applicable codes.¹²⁸ If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application.¹²⁹ The applicant may cure the identified deficiencies and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority must approve or deny the revised application within 30 days after receipt or the application is deemed approved.¹³⁰

The review of a revised application is limited to the deficiencies cited in the denial. If an authority provides for administrative review of the denial of an application, the review must be complete and a written decision issued within 45 days after a written request for review is made. A denial must identify the specific code provisions on which the denial is based. If the administrative review is not complete

¹¹⁹ Section 337.401(1)(a), F.S. That paragraph defines the term "utility" as electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures.

¹²⁰ Section 337.401(2), F.S.

¹²¹ Section 337.401(7), F.S.

¹²² For purposes of the wireless act, s. 337.401(7)(b)5., F.S., provides that the term "authority" means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include DOT. As such, DOT is excluded from expedited timeframes in the wireless act.

¹²³ Section 337.401(7)(d), F.S.

¹²⁴ Section 337.401(7)(d)7., F.S.

¹²⁵ The 30-day negotiation period is provided for in s. 337.401(7)(d)4., F.S.

¹²⁶ Section 337.401(7)(d)8., F.S. This subparagraph also requires applications to be processed on a nondiscriminatory basis.

¹²⁷ Section 337.401(7)(d)9., F.S.

¹²⁸ Section 337.401(7)(b)2., F.S., defines the term "applicable codes" as uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, and includes the National Electric Safety Code and the 2017 edition of DOT Utility Accommodation Manual.

¹²⁹ Section 337.401(7)(d)9., F.S.

¹³⁰ *Id.*

within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application.¹³¹

Effect of the Bill

The bill provides that a permit application relating to the use of the right-of-way for utilities required by a county or municipality under s. 337.401, F.S., must be acted on within the timeframes provided in the wireless act. Specifically, the bill requires the authority to determine whether an application is complete within 14 days after receiving the application and requires an application to be approved or denied within 60 days of receipt of the application. The bill also requires requests for reviews of denials of applications to be completed within 45 days of the request being made.

Emergency Staging Areas

Present Situation

Chapter 252, F.S., confers certain emergency powers upon the Governor, the Division of Emergency Management (DEM), and the governing bodies of each political subdivision of the state when an emergency or disaster occurs.¹³² Section 252.359, F.S., charges DEM with establishing “a statewide system to facilitate the transportation and distribution of essentials in commerce...to meet the needs of residents affected during a declared emergency and to ensure continuing economic resilience of communities impacted by disaster.”¹³³ Similarly, among other related authority, political subdivisions are authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.¹³⁴

DOT’s Florida Turnpike Enterprise operates the Florida Turnpike System, which includes the Turnpike Mainline, the Homestead Extension, Sawgrass Expressway, Seminole Expressway, Beachline Expressway, Southern Connector Extension, Veterans Expressway, Suncoast Parkway, Polk Parkway, Western Beltway, and the I-4 Connector.¹³⁵ In addition, any future multi-use corridor of regional significance (M-CORES) will be part of the turnpike system.¹³⁶ The following corridors comprise the M-CORES Program:

- Southwest-Central Florida Connector (Collier County to Polk County);
- Suncoast Connector (Citrus County to Jefferson County); and
- Northern Turnpike Connector (northern terminus of the Florida Turnpike northwest to the Suncoast Parkway).¹³⁷

Effect of the Bill

The bill authorizes DOT to plan, design, and construct staging areas for emergency response as part of the turnpike system. The sites are intended to be designated areas for the staging of emergency supplies, equipment, and personnel to facilitate the prompt provision of emergency assistance to the public in response to a declared state of emergency. The bill provides that emergency supplies, such as water, fuel, generators, vehicles, equipment, and other related materials, staged at key geographic points will aid in emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

In selecting a proposed site, DOT, in consultation with DEM, must consider the extent to which a proposed site for a staging area:

- Is located in a geographic area that best facilitates wide dissemination of emergency-related supplies and equipment;

¹³¹ Section 337.401(7)(d)9., F.S.

¹³² Section 252.32(1)(b), F.S.

¹³³ Section 252.359, F.S., defines the term “essentials” to mean goods that are consumed or used as a direct result of a declared emergency, or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

¹³⁴ Section 252.38(3), F.S.

¹³⁵ For a map of the system, *see* Florida’s Turnpike, *About*, available at <http://www.floridasturnpike.com/about.html> (last visited Feb. 22, 2020).

¹³⁶ M-CORES is authorized pursuant to s. 338.2278, F.S.

¹³⁷ For additional detailed M-CORES information, *see* DOT’s M-CORES site, available at <https://floridamcores.com/#home> (last visited Feb. 22, 2020).

- Provides ease of access to major highways and other transportation facilities;
- Is sufficiently large to accommodate staging of a significant amount of emergency-related supplies and equipment;
- Provides space in support of emergency preparedness and evacuation activities, such as fuel reserve capacity;
- Could be used during non-emergency periods for commercial motor vehicle parking or other uses; and
- Is consistent with other state and local emergency management considerations.

DOT must give priority consideration to placement of emergency staging areas in counties with a population of 200,000 or less in which an M-CORES corridor is located.¹³⁸

The bill authorizes DOT to acquire property and property rights necessary for such staging areas,¹³⁹ through either negotiated sales or eminent domain. DOT may authorize other uses of a staging area, as provided in the Florida Transportation Code,¹⁴⁰ including, but not limited to, commercial motor vehicle parking to comply with federal hours of service off-duty and sleeper berth requirements and for other vehicular parking to provide rest for drivers. The bill requires that staging area projects be included in DOT's work program.¹⁴¹

The increased availability of staging areas may elevate the efficiency of response to emergencies, thereby facilitating faster recovery from such emergencies for both the public and private sectors, including, but not limited to, quicker resumption of market activity, such as tourism. Authorization for other appropriate uses of the proposed staging areas during non-emergency periods may result in other economic efficiencies.

Work Program Submission Deadline

Present Situation

As part of its budgeting process, DOT prepares a tentative work program, based on the district work programs.¹⁴² Each district's work program is developed cooperatively with the state's metropolitan planning organizations (MPOs)¹⁴³ and includes, to the maximum extent feasible, the project priorities of MPOs that have been submitted to the district by October 1 of each year.¹⁴⁴ However, DOT and a MPO may agree, in writing, to vary this submittal date.¹⁴⁵

Prior to submitting the district work program to the central office, each district holds public hearings and makes a presentation to each MPO to determine the necessity of making any changes to the district work program.¹⁴⁶ Following submission of each district's work program to the central office, DOT develops its tentative work program based on the district work programs.¹⁴⁷

DOT's central office submits a preliminary copy of its tentative work program to the Executive Office of the Governor, the legislative appropriations committees, the Florida Transportation Commission, and the Department of Economic Opportunity (DEO) at least 14 days prior to the convening of the regular legislative session.¹⁴⁸ Following a public hearing and evaluation by the Florida Transportation Commission, DOT submits the tentative work program to the Executive Office of the Governor and the

¹³⁸ The county population is as determined by the most recent official state estimate pursuant to s. 186.901, F.S.

¹³⁹ DOT is authorized to acquire property pursuant to s. 338.04, F.S.

¹⁴⁰ The Florida Transportation Code consists of chs. 334-339, 341, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36, 351.37, and 861.011, F.S.

¹⁴¹ DOT's work program is developed pursuant to s. 339.175, F.S.

¹⁴² Section 339.135(4)(b)1, F.S.

¹⁴³ MPOs are federally-required regional transportation planning entities in urbanized areas with populations of 50,000 or more persons.

¹⁴⁴ This is pursuant to s. 339.175(8)(b), F.S.

¹⁴⁵ Section 339.135(4)(c)2., F.S.

¹⁴⁶ Section 339.135(4)(d), F.S.

¹⁴⁷ Section 339.135(4)(e), F.S.

¹⁴⁸ Section 339.135(4)(f), F.S.

legislative appropriations committees no later than 14 days after the regular legislative session begins.¹⁴⁹

According to DOT, since the Legislature meets in January in even-numbered years, the statutory period for DOT to complete its work program process has accelerated. In the past, DOT has requested that MPOs submit their project priorities lists by August 1 in order for DOT to have ample time to complete its required processes.¹⁵⁰

Effect of the Bill

The bill moves the deadline for when MPOs must submit their project priorities to DOT from October 1 to August 1. The change will provide DOT with additional time to complete its work program process prior to the beginning of the annual legislative session.

Economic Development Transportation Projects

Present Situation

The Economic Development Transportation Fund is an economic incentive program intended to encourage specific businesses to locate, expand, or remain in the state.¹⁵¹ Under this program, DOT in consultation with DEO and Enterprise Florida, Inc., may make and approve expenditures and contract with the appropriate governmental body¹⁵² for the direct costs of eligible transportation projects.¹⁵³

DOT, in consultation with DEO, reviews each transportation project for approval and funding. DOT must approve a project for it to be eligible for funding. DOT must consider the following criteria when reviewing projects: the cost per job created or retained, average wages for jobs created, capital investment by the business, local commitment, and local unemployment and poverty rates.¹⁵⁴

This program is appropriated on a non-recurring basis in the STTF.¹⁵⁵ According to DOT, this budget category has not been used for several years. In its work program, DOT has continued funding and financing the program; however, in recent years, the Legislature has utilized a unique budget category for local projects.¹⁵⁶

Effect of the Bill

The bill repeals the economic development transportation program. Repealing this program will release DOT from the requirement to include associated projects into its work program. Without appropriations, these projects have to be deferred or deleted, causing a disruption to DOT's work program.¹⁵⁷

The bill also makes conforming changes to s. 288.0656, F.S., relating to the Rural Economic Development Initiative, s. 339.18, F.S., relating to the use of moneys in the STTF, and s. 337.809, F.S., relating to the Energy Economic Zone Pilot Program.

¹⁴⁹ Section 339.135(4)(h), F.S.

¹⁵⁰ DOT Legislative Proposal, Advance MPO Deadline to Submit Project Priorities (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁵¹ DOT Legislative Proposal, Deletion of Road Fund (Copy on file with Transportation & Infrastructure Subcommittee). Chapter 2012-128, L.O.F.

¹⁵² Section 339.2821(1)(b)1, F.S., defines the term "governmental body" as an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the department for the transportation project.

¹⁵³ Section 339.2821(1)(b)2., F.S., defines the term "transportation project" as a transportation facility that DOT, in consultation with DEO, deems necessary to facilitate the economic development and growth of the state.

¹⁵⁴ Section 339.2821(2), F.S.

¹⁵⁵ DOT, Economic Development Transportation Fund Fact Sheet (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁵⁶ DOT Legislative Proposal, Deletion of Road Fund (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁵⁷ *Id.*

Passenger Rail Insurance Limits

Present Situation

Florida law authorizes DOT to purchase liability insurance for its passenger rail program, which amount may not exceed \$200 million. This liability insurance may include coverage for DOT, certain freight rail operators, the National Railroad Passenger Corporation,¹⁵⁸ commuter rail service providers, governmental entities, or any ancillary development.¹⁵⁹

In 1997, federal law set the limit on its passenger rail liability at \$200 million.¹⁶⁰ In 2015, the federal government required its liability cap to be adjusted to reflect changes to the consumer price index every five years.¹⁶¹ In 2016, the federal rail passenger liability cap was increased to \$294.3 million.¹⁶²

Effect of the Bill

The bill increases the liability insurance cap for DOT's passenger rail systems from \$200 to \$295 million, consistent with the current federal rail liability cap.

Jacksonville Transportation Authority Leases

Present Situation

Chapter 349, F.S., creates the Jacksonville Transportation Authority (JTA) as a body politic and corporate and an agency of the state.¹⁶³ Included in its purposes and powers is the power to enter into and make leases for terms not exceeding 40 years, as either lessee or lessor, in order to carry out the right to lease as set forth in chapter 349, F.S.¹⁶⁴ JTA designs and constructs bridges and highways and provides varied mass transit services, including express and regular bus service, a downtown Skyway monorail, the St. Johns River Ferry, the Gameday Xpress for various sporting events, paratransit for the disabled and elderly, and ride request on-demand services.¹⁶⁵

While JTA is authorized to enter into 40-year leases, the Central Florida Expressway Authority is authorized to enter into leases not exceeding 99 years.¹⁶⁶ Additionally, DOT is authorized to enter into 99-year leases for the use of DOT property, including rights-of-way, for certain purposes.¹⁶⁷

Effect of the Bill

The bill authorizes JTA to enter into 99-year leases, instead of the current 40 years authorized by law.

DOT and Toll Authority Receivables Report

Present Situation

Current law authorizes DOT, including the Florida Turnpike Enterprise and various expressway and bridge authorities, to assess tolls for the use of their facilities. Depending on the toll facility and the location of the toll collection point, toll payment methods include cash, electronic tolling utilizing a transponder attached to the vehicle, or toll-by-plate. With toll-by-plate, a camera takes a photograph of the vehicle's license plate and the vehicle owner is mailed a bill for the tolls, plus a service charge. Overdue toll-by-plate invoices (or receivables) may be referred to a collection agency.

¹⁵⁸ The National Railroad Passenger Corporation is also known as AMTRAK.

¹⁵⁹ Section 341.302(17)(b), F.S.

¹⁶⁰ 49 U.S.C. 28103.

¹⁶¹ Email from John Kotyk, Deputy Director of Legislative Affairs, DOT, Rail Liability Adjustment. Jan. 23, 2020 (Copy on file with Transportation & Infrastructure Subcommittee). See Pub. L. 114-94, div. A, title XI, s. 11415(b), Dec. 4, 2015.

¹⁶² Federal Register Document No. 2016-00301, filed Jan. 8, 2016, available at <https://www.federalregister.gov/documents/2016/01/11/2016-00301/adjustment-to-rail-passenger-transportation-liability-cap> (last visited Jan. 23, 2020).

¹⁶³ Section 349.03(1), F.S.

¹⁶⁴ Section 349.04(2)(d), F.S.

¹⁶⁵ JTA Website, <https://www.jtafla.com/about-jta/> (last visited Feb. 22, 2020).

¹⁶⁶ Section 348.754(1)(d), F.S.

¹⁶⁷ Section 337.251, F.S.

Effect of the Bill

The bill requires DOT, each expressway and bridge authority created pursuant to ch. 348, F.S.,¹⁶⁸ and the Mid-Bay Bridge Authority,¹⁶⁹ to submit a report documenting its uncollected customer receivables to the Governor, the President of the Senate and the Speaker of the House of Representatives by October 1, 2020. Each report must include an aged summary of customer receivables for electronic toll collection, as well as toll-by-plate, as of June 30, 2020. Additionally, each report must include a schedule by year of customer receivables written off, sold to a collection agency, or assigned to a collection agency. Each report must include a detailed discussion by each entity from its independent certified public accountant describing the accounting methodology utilized within the entity's audited financial statements to record revenue and bad debt.

B. SECTION DIRECTORY:

Section 1 amends s. 20.23, F.S., relating to the DOT, effective July 1, 2023.

Section 2 amends s. 201.15, F.S., relating to the distribution of taxes collected.

Section 3 amends s. 206.46, F.S., relating to the STTF.

Section 4 amends s. 206.606, F.S., relating to the distribution of certain proceeds.

Section 5 amends s. 206.608, F.S., relating to the State Comprehensive Transportation System Tax.

Section 6 amends s. 212.0501, F.S., relating to the tax on diesel fuel for business purposes.

Section 7 amends s. 288.0656, F.S., relating to the Rural Economic Development Initiative, to conform.

Section 8 amends s. 311.101, F.S., relating to the Intermodal Logistics Center Infrastructure Support Program.

Section 9 amends s. 316.003, F.S., defining terms.

Section 10 amends s. 316.126, F.S., relating to the operation of vehicles and actions of pedestrians on approach of an authorized emergency, sanitation, or utility service vehicle.

Section 11 amends s. 316.2397, F.S., relating to certain lights prohibited; exceptions.

Section 12 amends s. 316.520, F.S., relating to loads on vehicles.

Section 13 amends s. 316.613, F.S., relating to child restraint requirements.

Section 14 amends s. 319.32, F.S., relating to fees; service charges; disposition.

Section 15 amends s. 322.12, F.S., relating to the examination of applicants.

Section 16 amends s. 324.031, F.S., relating to the manner of providing financial responsibility.

Section 17 amends s. 324.032, F.S., relating to the manner of providing financial responsibility; for-hire passenger transportation vehicles.

Section 18 amends s. 327.33, F.S., relating to the reckless or careless operation of a vessel.

Section 19 amends s. 327.4107, F.S., relating to vessels at risk for becoming derelict on waters of this state.

¹⁶⁸ Chapter 348, F.S., creates the Greater Miami Expressway Agency, the Tampa-Hillsborough County Expressway Authority, the Central Florida Expressway Authority, and the Santa Rosa Bay Bridge Authority.

¹⁶⁹ The Mid-Bay Bridge Authority was recreated pursuant to ch. 2000-411, L.O.F.

Section 20 amends s. 327.59, F.S., relating to marina evacuations.

Section 21 amends s. 333.03, F.S., relating to requirements to adopt airport zoning regulations.

Section 22 amends s. 337.14, F.S., relating to applications for qualification.

Section 23 amends s. 337.25, F.S., relating to the acquisition, lease, and disposal of real and personal property.

Section 24 amends s. 337.401, F.S., relating to the use of the right-of-way for utilities subject to regulation.

Section 25 creates s. 338.236, F.S., relating to staging areas for emergencies.

Section 26 amends s. 339.08, F.S., relating to the use of moneys in the STTF, to conform.

Section 27 amend s. 339.135, F.S., relating to DOT's work program.

Section 28 amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 29 repeals s. 339.2821, F.S., relating to economic development transportation projects.

Section 30 amends s. 341.302, F.S., relating to the rail program; duties and responsibilities of DOT.

Section 31 amends s. 341.302, F.S., relating to the rail program; duties and responsibilities of DOT, effective July 1, 2023.

Section 32 amends s. 341.303, F.S., relating to funding authorization and appropriations, effective July 1, 2023.

Section 33 repeals s. 341.8201, F.S., providing a short title, effective July 1, 2023.

Section 34 amends s. 341.8203, F.S., providing definitions, effective July 1, 2023.

Section 35 amends s. 341.822, F.S., providing powers and duties of the FRE, effective July 1, 2023.

Section 36 amends s. 341.825, F.S., relating to communications facilities, effective July 1, 2023.

Section 37 amends s. 341.836, F.S., relating to associated development, effective July 1, 2023.

Section 86 amends s. 341.838, F.S., relating to fares, rates, rents, fees, and charges, effective July 1, 2023.

Section 39 amends s. 341.839, F.S., relating to alternative means, effective July 1, 2023.

Section 40 amends s. 341.840, F.S., providing a tax exemption, effective July 1, 2023.

Section 41 amends s. 343.58, F.S., relating to County Funding for the South Florida Regional Transportation Authority, effective July 1, 2023, to conform.

Section 42 amends s. 349.04, F.S., relating to the purposes and powers of the JTA.

Section 43 amends s. 377.809, F.S., relating to the Energy Economic Zone Pilot Program, to conform.

Section 44 reenacts s. 327.73, F.S., relating to noncriminal infractions.

Section 45 requires DOT and certain expressway and bridge authorities to submit a report.

Section 46 provides a declaration of important state interest.

Section 47 provides that except as otherwise expressly provided, this act takes effect July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Permanent funding of the Intermodal Logistics Center Infrastructure Support Program may provide for additional intermodal logistics center projects in the state.

The change in child safety restraint requirements may result in more motorists being assessed traffic fines, and may require motorists to purchase new child safety restraint seats.

Requiring specified timeframes for approving permits for utilities on rights-of-way may reduce costs for companies wishing to place utilities in such rights-of-way.

Increased availability of staging areas on the turnpike system may provide the public with earlier provision of essential emergency supplies during emergencies and may provide additional benefits, such as increased availability of parking on the turnpike system during non-emergency periods. The business community may experience a positive impact in that more efficient emergency response may allow for a faster return to normal market activity. DOT's maintenance and construction contractors may benefit from increased availability of staging areas during non-emergency periods.

D. FISCAL COMMENTS:

Increasing the \$275 million debt cap on Right-of-Way and Bridge Construction Bonds will give DOT the flexibility to utilize that program to meet future bridge replacement needs with minimal disruption to capacity projects in DOT's work program.¹⁷⁰

Federal rules require each commercial motor vehicle to have its cargo secured to prevent the cargo from leaving the motor vehicle. The bill authorizes agricultural loads to travel across the state uncovered. It is unknown if this conflict with federal law will jeopardize federal funding.

Including road and bridge construction or maintenance vehicles and postal vehicles to the list of vehicles subject to the Move Over Law may increase state and local revenues associated with

¹⁷⁰ DOT Legislative Proposal, Change in Right-of-Way Acquisition and Bridge Construction Bond Debt Service Cap.
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penalties for violations. However, the impact is indeterminate. DHSMV may incur expenditures associated with enforcement and public education regarding changes to the Move Over Law. The amount is indeterminate, but is likely to be insignificant.

To the extent there is an increase in the number of traffic citations issued due to the new child safety restraint requirements, the state and local governments may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

DOT may incur administrative expenses associated with the removal of the FRE from DOT's organization and with the DOT secretary naming a departmental entity to oversee rail responsibilities. However, the amount of any such expenses should be insignificant, as DOT currently funds the expenditures of both the FRE and its Rail Office.

The fiscal impact of the emergency staging area provisions are indeterminate. DOT must first exercise the authority granted in the bill, select a site or sites, and estimate the costs to plan, design, and construct the staging areas, which costs are unknown at this time. However, having such staging areas in place may reduce costs associated with providing necessary staging areas for emergency response purposes, for both state and local governments, and may reduce costs incurred by DOT for the provision of other uses authorized by the bill during non-emergency periods.

DOT may incur indeterminate expenditures associated with purchasing additional rail liability insurance. However, the cost of any such additional insurance is unknown and, under current law, the costs to DOT would be shared with any covered freight rail operator, AMTRAK, commuter rail service providers, governmental entities, or ancillary development.

DOT and expressway and bridge authorities may incur expenditures associated with preparing its report on uncollectable toll receivables; however, the cost is expected to be insignificant.

Counties and municipalities may incur expenditures associated with complying with the specified timeframes to approve permits for utilities within their rights-of-way. However, the expenditures may be insignificant.

Local governments operating airports may see a reduction in expenditures due to the exemption from the construction engineering and inspection services requirements in the bill. However, the cost savings is associated with specific projects; therefore, this reduction in expenditures is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because the bill requires counties and municipalities to act on applications for permits relating to the use of rights-of-way for utilities within a specified timeframe. However, an exemption may apply if the provisions are found to have an insignificant fiscal impact. In addition, an exception may apply if the bill is approved by a two-thirds vote of the membership of each house because it includes a finding that the bill fulfills an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOT may need to amend its rules regarding qualifications to bid on construction projects. DHSMV will need to amend its rules to authorize additional time for veterans to be exempt from CDL testing requirements. DOT and DHSMV appears to have sufficient rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed provisions authorizing the use of blue lights on construction vehicles;
- Amended the definition of the term “autocycle” to clarify equipment requirements;
- Removed provisions establishing the Secretary of Transportation’s salary;
- Increased the allowed weight of a personal delivery device from 80 to 150 pounds;
- Authorized an exemption for commercial driver license skill test requirements for certain veterans;
- Expanded the distance that certain vehicles may transport agricultural products without covering the load;
- Removed the expansion of a public records exemption for certain DOT bid documents;
- Removed provisions revising DOT contractor liability;
- Authorized for-hire vehicles to be insured by certain non-admitted carriers and reduced the number of for-hire vehicles required before an owner or lessee may self-insure;
- Required certain vessels to be removed from marinas located in deepwater seaports during hurricanes;
- Authorized disability-accessible Transportation Network Companies and preempted their regulation to the state; and
- Removed provisions relating to the reinstatement of tolls after an emergency evacuation.

On February 10, 2020, the Transportation & Tourism Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarified the fines that can be assessed by deepwater seaports when vessels are not removed in certain situations; and
- Removed the framework governing the operation of disability-accessible transportation network companies and revised the definition of the term “for-hire vehicle,” providing that disability-accessible vehicles meeting specified conditions are not for-hire vehicles.

On February 27, 2020, the State Affairs Committee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed a provision in the bill revising the definition of “for-hire vehicle,” and added the following provisions to the bill:

- Effective July 1, 2023, repealed the FRE and transferred its functions to DOT and authorized DOT to utilize documentary stamp tax revenues currently allocated to the FRE for rail safety;
- Increased the debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds;
- Removed obsolete references to the general revenue service charge for transportation-related revenues;
- Removed the expiration date for funding of the Intermodal Logistics Center Infrastructure Support Program;
- Added road and bridge maintenance or construction vehicles and postal vehicles to the Move Over Law;
- Increased the age at which a child must be secured in a child restraint device;
- Required vessels to reduce speed in close proximity to emergency responders and marine construction workers;
- Prohibited certain derelict vessels from anchoring or mooring near mangroves and upland vegetation;
- Conformed specified airport zoning terminology and regulations to federal requirements;
- Authorized airports to allow the same entity to perform design services and construction, engineering, and inspection services under specified circumstances;
- Required DOT to provide the previous property owner the right of first refusal regarding the disposal of DOT property under certain circumstances;
- Required permit applications for utility services on municipal or county rights of way to be acted upon in a specified time frame;
- Authorized DOT to establish emergency staging areas along the Florida Turnpike system;

- Advanced the deadline for the MPOs to submit lists of project priorities to DOT;
- Repealed the inactive Economic Development Transportation Fund;
- Increased the state's liability insurance cap for passenger rail;
- Authorized the Jacksonville Transportation Authority to enter into 99 year leases; and
- Required DOT and certain expressway and bridge authorities to submit a report regarding uncollected toll revenues.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.