The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SB 7018
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Infrastructure and Security Committee
SUBJECT:	Essential State Infrastructure
DATE:	March 2, 2020 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Miller		**IS Submitted as Committee Bill**
1.	Sanders/Blizzard	Betta	AEG	**Recommend: Fav/CS**
2.	Sanders/Blizzard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7018:

- Authorizes the Department of Transportation (FDOT) to plan, design, and construct staging areas for emergency response on the turnpike system. These areas are 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;
- Directs the FDOT, in consultation with the Division of Emergency Management (DEM), to consider certain factors when selecting a proposed site, and the FDOT is authorized to acquire property necessary for such staging areas;
- Requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which a multi-use corridor of regional significance is located;
- Grants the FDOT power to authorize other uses of a staging area and requires that staging-area projects be included in the FDOT's work program;
- Provides that a permit application by a county or municipality to use the right-of-way for a utility must be processed and acted upon within the expedited time frames of the "Advanced Wireless Infrastructure Deployment Act," s. 337.401(7)(d)7.,8., and 9., F.S.;
- Requires the Public Service Commission (PSC), in coordination with the FDOT and the Department of Agriculture and Consumer Services, to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway

System (SHS). The bill sets out a number of legislative findings, as well as the nonexclusive goals and objectives of the recommended plan;
- Requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include other recommendations as determined by the PSC. The bill also requires the PSC, by December 1, 2020, to file a status report containing any preliminary recommendations, including recommendations for legislation; and
- Clarifies that ss. 570.71 and 704.06, F.S., not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

The bill appears to have an indeterminate fiscal impact on local and state governmental entities. See Section V.

The bill takes effect July 1, 2020.

II. Present Situation:

Emergency Declaration and Staging Areas

Chapter 252, F.S., confers certain emergency powers upon the Governor, the DEM, and the governing bodies of each political subdivision of the state when an emergency or disaster occurs in Florida.[1] Section 252.36(2), F.S., authorizes the Governor to declare a state of emergency by executive order or proclamation if the Governor finds an emergency or the threat of an emergency has occurred or is about to occur.[2] The Governor's order or proclamation, among other items:
- Activates the emergency mitigation, response, and recovery aspects of the applicable state, local, and inter-jurisdictional emergency management plans, and
- Activates plans and resources to carry out the distribution of any supplies, equipment, and materials, and facilities relating to emergencies.

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."[3] Similarly, among other related authority, political subdivisions are authorized to obtain and distribute equipment, materials, and supplies for emergency management purposes.[4]

[1] Section 252.32(1)(b), F.S.
[2] The law provides that the state of emergency continues until the Governor finds the emergency conditions no longer exist and terminates the state of emergency. However, a state of emergency may not exist for more than 60 days unless the Governor renews it. The Legislature may terminate a state of emergency at any time by concurrent resolution.
[3] 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.
[4] Section 252.38(3), F.S.

Generally, when the Governor declares a state of emergency, the acquisition of property for staging area purposes involves similar processes at both the state and local level; identification of a potential site and execution of an agreement for use of the site. For example, DEM logistics personnel work with regional coordination teams and other DEM field staff to identify potential staging area sites suitable for the expected emergency. For purposes of executing a memorandum of agreement (MOU), the DEM requires the site location and owner, a point of contact, the square footage of the site, and photos or maps of the site. Locations are finalized after a site visit with the site owner to verify the site's feasibility for use. If agreement is reached, an MOU is executed. The acquired sites are mobilized to ensure resources are logged, prepared, and readied for redeployment to an impacted area.[5]

Pre-designated sites are also used for staging. For example, the FDOT allows utility providers and first responders to use commercial motor vehicle weigh stations as staging areas, most of which are along I-75. The FDOT also uses its maintenance yards and operations centers to stage FDOT crews and contracted crews.[6, 7]

At the local level, both pre-designated sites and sites identified in anticipation of need may be used. For example, Leon County Emergency Management staff advise that both the county and the City of Tallahassee have regularly used public property (such as the fairgrounds and the airport), as well as private property for staging areas.[8]

Florida's Turnpike

The Florida Turnpike Enterprise (FLTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The term, "turnpike system," is defined to mean "those limited access toll highways and associated feeder roads and other structures, appurtenances, or rights previously designated, acquired, or constructed pursuant to the Florida Turnpike Enterprise Law and such other additional turnpike projects as may be acquired or constructed as approved by the Legislature."[9] The turnpike system currently includes the mainline from Miami to Central Florida, as well as 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.[10]

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[5] *See* DEM email to Senate Infrastructure and Security Committee staff November 14, 2019 (copy on file in the Senate Infrastructure and Security Committee).
[6] *See* the FDOT email to Senate Infrastructure and Security Committee staff November 18, 2019 (copy on file in the Senate Infrastructure and Security Committee).
[7] For a map of the FDOT's maintenance yards and operations centers, *see* FDOT, *Transportation Organizational Partners Map*, select Legend icon, bottom left, available at https://fdot.maps.arcgis.com/apps/webappviewer/index.html?id=659db618c58d4a279bc95386ab20fe30 (last visited January 10, 2020).
[8] Telephone conversation between Senate Infrastructure and Security Committee staff and Leon County Emergency Management staff November 12, 2019.
[9] Section 338.221(6), F.S.
[10] For a map of the system, *see* Florida's Turnpike, under the *About* heading, available at http://www.floridasturnpike.com/about.html (last visited January 10, 2020).

In addition, any future multi-use corridor of regional significance (M-CORES corridor) constructed as authorized under s. 338.2278, F.S., will be part of the turnpike system. Enacted during the 2019 Regular Session, M-CORES is a program designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is to revitalize rural communities, encourage job creation in those communities, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The following three 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.[11]

FDOT Acquisition of Property

Section 338.04, F.S., grants the FDOT's FLTE (and others, collectively called "authorities") authorization to acquire private or public property and property rights for limited access facilities and service roads in the same manner as they are authorized to acquire property or property rights for highways. That process involves negotiated sales or, failing successful negotiation, the power of eminent domain granted to the FDOT under s. 337.27, F.S.

Eminent domain is the constitutional power of the government to take private property for public use. Chapters 73 and 74, F.S., provide for eminent domain and proceedings supplemental to eminent domain, respectively. Chapter 73, F.S., specifies the pre-suit negotiation requirements, the petition filing requirements, the service of process and publication requirements, the pretrial process, jury trial process, and post-trial process. Chapter 74, F.S., sets out the supplemental proceedings to eminent domain, including provisions allowing a governmental entity to take possession and title of property in advance of entry of final judgment by depositing with the court an amount no less than the governmental entity's good faith estimate of the value of the property being sought.

Before an eminent domain proceeding can be filed, the FDOT must attempt to negotiate in good faith with the fee owner of the property to be acquired and attempt to reach an agreement regarding the amount of compensation to be paid for the owner's property.[12] The condemning authority must meet additional requirements, such as providing the owner with a written offer, notifying the owner of statutory rights to receive fees and costs,[13] and notifying business owners of all of their rights.[14] Once a petition for eminent domain is filed, both the FDOT and the owner must make offers of judgment; *i.e.*, an offer to have judgment entered for payment of compensation for amounts specified in the offers.

In accordance with s. 73.071, F.S., eminent domain trials for valuation of property are argued before a twelve-person jury. The amount of compensation is determined as of the date of trial, or

[11] For additional detailed M-CORES information, *See* the FDOT M-CORES site, available at https://floridamcores.com/#home (last visited January 10, 2020).
[12] Section 73.015, F.S.
[13] Section 73.0511, F.S.
[14] Section 73.015(2), F.S.

the date upon which title passes, whichever occurs first. The jury determines solely the amount of compensation to be paid. Generally, whether the parties settle prior to or after a petition is filed, the landowners and business owners are entitled to attorney fees[15] and reasonable costs incurred, including appraisal fees and accountant fees.[16]

The Florida Transportation Code

The Florida Transportation Code (code)[17] includes all Florida Statutes governing the duties and responsibilities for the FDOT. The code authorizes the FDOT to provide space to facilitate the conduct of research and demonstration projects relative to innovative transportation technologies[18] or serve as staging areas for the FDOT's construction and maintenance contractors.[19] The sites may provide additional or overflow parking for both commercial motor vehicles and other vehicular traffic[20] or serve other functions, such as making fuel or food services available to travelers.[21]

Use of Right-of-Way by Utilities

Section 337.401, F.S., addresses the use of public right-of-way for utility purposes and sets out regulations governing such use. That section authorizes the Florida Department of Transportation (FDOT) and local governmental entities (referred to as "authorities") to adopt and enforce reasonable rules or regulations relating to the placement and maintenance of facilities or equipment, across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdiction. This includes any 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 referred to as "utilities" in ss. 337.401-337.404, F.S.

Authorities may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility in accordance with the authority's rules or regulations.[22] A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit.[23] Entities interested in performing utility work in a right-of-way may file an application to use a right-of-way for placing and maintaining utilities with the appropriate jurisdictional permitting authority.

FDOT Utility Permitting

Pursuant to the grant of authority in s. 337.401, F.S., the FDOT generally issues permits for the construction, alteration, operation, relocation, removal, and maintenance of utilities in the

[15] Section 73.092, F.S.
[16] Section 73.091, F.S.
[17] Chapters 334-339, 348, and 349 and ss. 332.003-332.007, 351.35, 351.36 351.37, and 861.011, F.S.
[18] Section 334.044(21), F.S.
[19] Section 337.11(1), F.S.
[20] *Id.*
[21] Section 338.234, F.S.
[22] Section 337.401(2), F.S.
[23] *Id*.

FDOT's right-of-way in conformance with its Utility Accommodation Manual (UAM).[24] The UAM requires the FDOT to process all permit applications in accordance with s. 120.60, F.S., related to licensing.

Section 120.60, F.S., requires the FDOT to: examine a utility permit application; notify the applicant of any apparent errors or omissions within 30 days of its receipt; and request any additional information the FDOT is permitted by law to require. That section of law also authorizes the FDOT to establish by rule the time period for submitting any requested additional information. However, the UAM sets out no such time period.

Under s. 120.60, F.S., an application is complete upon the FDOT's receipt of all requested information and correction of any error or omission for which the applicant was timely notified. The FDOT must approve or deny a utility permit application within 90 days after receipt of the completed application.

Municipal and County Utility Permitting

Based on research, no set time period govern local governmental entity processing of general utility permit applications. However, under current law, a shorter period of time for processing utility permit applications is provided in the Advanced Wireless Infrastructure Deployment Act (the Act). The Act applies only to a county or municipality as the "authority" and expressly provides that the term "authority" does not include the FDOT. Rights-of-way under the jurisdiction and control of the FDOT are expressly excluded from subsection (7) of s. 337.401, F.S.

Under the Act:

- Within 14 days after receiving an application, a county or municipality with jurisdiction and control of the rights-of-way of any public road must determine whether the application is complete and notify the applicant by electronic mail. If this requirement is not met within the 14 day timeframe, the application is deemed complete.[25]
- A complete application must be approved or denied within 60 days after receipt or it is deemed approved.[26]
- If the application is denied, the county or municipality must specify in writing the basis for denial and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority 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. 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. If the administrative review is not complete within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application.[27]

[24] Rule Chapter 14-46, F.A.C.
[25] Section 337.401(7)(d)7., F.S.
[26] Section 337.401(7)(d)8., F.S.
[27] Section 337.401(7)(d)9., F.S.

Electric Vehicle Charging Station Infrastructure

Burning fossil fuels, such as gasoline and diesel, releases carbon dioxide into the atmosphere. Increased levels of carbon dioxide, along with other greenhouse gas levels, warm the earth's atmosphere, resulting in documented effects such as sea-level rise, storm surge intensity, and increased rainfall and intensity.[28] According to information released in February 2019 by the United States Energy Information Administration, of the 230.1 million metric tons (MMTs) of carbon dioxide produced in Florida in 2016, the transportation sector accounted for 103.6 MMTs.[29]

Electric vehicles (EVs) offer a cleaner fuel source, and interest in EV use has been driven in part by their potential for reduction in greenhouse gas emissions. However, their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.[30] Yet, while advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping, representatives in both the government and the private sector suggest that successful adoption of EV use is heavily dependent on the accessibility of charging stations.[31]

Types of EVs

The U.S. Department of Energy's Alternative Fuels Data Center (AFDC) uses the term, "electric-drive vehicles," to collectively refer to hybrid electric vehicles (HEVs), plug-in hybrid electric vehicles (PHEVs), and all-electric vehicles (AEVs). According to the AFDC:

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery. The vehicle can be plugged in to an electric power source to charge the battery. Some can travel nearly 100 miles on electricity alone, and all can operate solely on gasoline (similar to a conventional hybrid).
- AEVs use a battery to store the electric energy that powers the motor. AEV batteries are charged by plugging the vehicle in to an electric power source.[32]

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[28] Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida*, 106, 141 (2018) available *at* https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited February 6, 2020).

[29] U.S. Energy Information Administration, *Energy-Related Carbon Dioxide Emissions by State, 2005-2016* (February 2019), Table 4, available at https://www.eia.gov/environment/emissions/state/analysis/pdf/stateanalysis.pdf (last visited February 6, 2020).

[30] *See* the Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at https://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf (last visited February 6, 2020).

[31] *Id.* at p. 2. *See also* CBS Chicago, *Electric Vehicle Sales on the Rise, But More Charging Stations Needed To Keep the Trend Going*, September 19, 2019, available at https://chicago.cbslocal.com/2019/09/19/electric-vehicles-super-fast-charging-stations/ (last visited February 6, 2020).

[32] U.S. Department of Energy, Alternative Fuels Data Center, *Hybrid and Plug-In Electric Vehicles*, available at https://www.afdc.energy.gov/vehicles/electric.html (Last visited February 6, 2020).

EV Charging Equipment

EV charging equipment is generally classified based on the rate at which the equipment charges the EV batteries. Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment. According to the AFDC, charging times can range from less than 20 minutes to 20 hours or more, depending on the identified factors. Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for AC Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for AC Level 2 supply equipment; and
- Sixty to eighty miles per twenty minutes of charging for DC fast charging supply equipment.[33]

According to the AFDC, for most drivers, charging currently occurs at home or at fleet facilities.[34]

More specifically, Level 1 (home) charging cords come as standard equipment on new EVs, only require a standard 120-volt outlet, and can add about 50 miles of range in an overnight charge. Level 1 charging is sufficient for low- and medium-range PHEVs and all AEVs for drivers with relatively low daily driving.[35]

Level 2 (home and public) charging commonly requires a charging unit on a 240-volt circuit, such as one used to run a household clothes dryer, with the charging rate dependent on the rate at which a vehicle can accept a charge and the maximum current available. An eight-hour charge will add about 180 miles of range with a typical 30-amp circuit. This method may require the purchase of a home charging unit and modifications to a home electric system but charges from two to eight times faster than a Level 1, depending on the amperage and the vehicle. These chargers are said to be the most common at public charging places like offices, grocery stores, and parking garages.[36]

DC Fast Chargers (public charging) can typically add 50 to 90 miles in 30 minutes, depending on the charging station's power capacity and the make of the EV. These chargers are best used for longer travel distances; vehicles used the major portion of a day, such as taxis; and for vehicles whose drivers have limited access to home charging.[37]

Tesla recently opened a "next-generation" EV charging station in Las Vegas supporting a peak rate of up to 250 kilowatts capable of charging up to 1,500 vehicles per day. However only one

[33] *Id.*
[34] U.S. Department of Energy, Alternative Fuels Data Center, *Developing Infrastructure to Charge Electric Plug-In Vehicles*, available at https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited February 6 ,2020).
[35] Union of Concerned Scientists, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings (last visited February 6, 2020).
[36] *Id.*
[37] *Id.*

Tesla vehicle can charge at the peak rate, resulting in up to 180 miles of range in 15 minutes on a Tesla Model 3 Long Range. [38]

Additional charging options are under development, such as an industry standard for higher rates of charging using power levels common at commercial and industrial locations in the United States. The standard's target is power levels far exceeding currently typical voltages.[39]

Current Availability of EV Charging Stations in Florida

Section 377.815, F.S., authorizes, but does not require, the Florida Department of Agriculture and Consumer Services (DACS) to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state. The DACS's website contains addresses by city and county on EV charging station locations in Florida reflecting 889 charging station locations by specific address.[40] The AFDC currently indicate that the total number of public EV charging stations in Florida is 1,359, consisting of 3,923 charging outlets.[41]

Whether the currently available charging stations are sufficient (in number, location, and charging capability) to encourage expansion of EV use in Florida, by individuals and by commercial fleets, as a tool against the effects of climate change, is an open question.

Conservation Easements

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition. Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition.

A conservation easement must prohibit or limit any or all of the following:

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;

[38] *See* TechCrunch*, Tesla's new V3 Supercharger can charge up to 1,500 electric vehicles a day*, Korosec, K., (July 18, 2019), available at https://techcrunch.com/2019/07/18/teslas-new-v3-supercharger-can-charge-up-to-1500-electric-vehicles-a-day/ (last visited February 6, 2020).
[39] *See supra* note 7.
[40] *See* the Florida Department of Agriculture and Consumer Services website, select *Electricity*, available at https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation (last visited February 6, 2020).
[41] U.S. Department of Energy, Alternative Fuels Data Center, *Alternative Fueling Station Counts by State*, available at https://afdc.energy.gov/stations/states (last visited February 27, 2020).

- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- Activities detrimental to drainage, flood control, water conservation erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; and
- Acts or uses detrimental to the preservation of the structural integrity or physical appearances of sites or properties of historical, architectural, archaeological, or cultural significance.[42]

Section 704.06(11), F.S., dictates that no provision of law may prohibit or limit the owner of land or the owner of a conservation easement from voluntarily negotiating the sale or use of such land or easement for the construction and operation of linear facilities, to include; electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances.

III. Effect of Proposed Changes:

Emergency Staging Areas

Section 1 creates s. 338.236, F.S, and authorizes the FDOT 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 aide in emergency response and assistance, including evacuations, deployment of emergency-related supplies and personnel, and restoration of essential services.

In selecting a proposed site, the bill directs the FDOT, in consultation with the DEM, to 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;
- 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.

[42] Section 704.06, F.S.

The FDOT must give priority consideration to placement of emergency staging areas in counties with a population of 200,000 or less in which a Multi-use Corridors of Regional Economic Significance (M-CORES)[43] corridor is located.[44]

The bill authorizes the FDOT to acquire property and property rights necessary for such staging areas as provided in s. 338.04, F.S., through negotiated sales or the eminent domain process. The FDOT is also granted the power to authorize other uses of a staging area, as provided in the Florida Transportation Code, 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 the FDOT's work program.[45]

The increased availability of staging areas may elevate the efficiency of response to emergencies in this state, 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.

Utility Permit Applications

Section 2 amends s. 337.401(2), F.S., to apply the expedited timeframes for processing utility permit applications for communications facilities in county or municipal rights-of-way to all utility permit applications submitted to a county or municipality under s. 337.401, F.S. Any utility permit application submitted to a county or municipality would be subject to the described, expedited timeframes under s. 337.401(7), F.S.

Electric Vehicle Charging Station Infrastructure

Section 3 creates s. 366.945, F.S., to require development of a recommended plan for the development of EV charging station infrastructure along the SHS.[46]

The bill recites the following legislative findings:

- Climate change may have significant impacts to the State of Florida which will require the development of avoidance, adaptation, and mitigation strategies to address these potential impacts on future state projects, plans, and programs;

[43] The M-CORES program is intended to revitalize rural communities, encourage job creation and provide regional connectivity while leveraging technology, enhancing the quality of life and public safety, and protecting the environment and natural resources. M-CORES, *About M-CORES*, https://floridamcores.com/ (last visited February 20, 2020).
[44] The county population is as determined by the most recent official state estimate pursuant to s. 186.901, F.S.
[45] The FDOT's work program is developed pursuant to s. 339.175, F.S. FDOT is responsible for developing a five-year plan of transportation projects in partnership with other entities such as communities, metropolitan planning organizations, local governments, other state and federal agencies, modal partners, and regional entities.
[46] Section 334.03(24), F.S., defines the State Highway System as "the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated."

- A significant portion of the carbon dioxide emissions in Florida are produced by the transportation sector;
- EVs can help reduce these emissions, thereby helping to reduce the impact of climate change on the state;
- Use of EVs for non-local driving requires adequate reliable charging stations to help with electric vehicle battery range limitations;
- Having adequate reliable charging stations along the SHS will also help with evacuations during hurricanes or other disasters;
- Ensuring the prompt installation of adequate reliable charging stations is in the public interest; and
- A recommended plan for electric vehicle charging station infrastructure should be established to address changes in the emerging electric vehicle market and necessary charging infrastructure.

The PSC,[47] in coordination with the Department of Transportation and the Department of Agriculture and Consumer Services, is directed to develop and recommend a plan for current and future plans for the development of EV charging station infrastructure along the SHS. The PSC is authorized to consult with other agencies as it deems appropriate.

The bill requires the recommended plan to be developed and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2021. The plan must include recommendations for legislation and may include any other recommendations as determined by the PSC.

The bill sets out the following goals and objectives of the plan, including, but not limited to:

- Projecting the increase in use of EVs in the state over the next 20 years and determining how to ensure an adequate supply of reliable EV charging stations to support and encourage this growth in a manner supporting a competitive market with ample consumer choice;
- Evaluating and comparing the types of EV charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, along with the circumstances within which each type of station and infrastructure is typically used, including fleet charging, for the purpose of identifying any advantages to developing particular types or uses of these stations;
- Considering strategies to develop this supply of charging stations, including but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of EV charging stations;
- Identifying the types or characteristics of locations along the SHS to support a supply of electric vehicle charging stations that will:

[47] Sections 350.011, 366.04, and 366.05, F.S., set out the jurisdiction, powers, and duties of the PSC. With respect to the PSC's current regulation of electric industries, the PSC regulates investor-owned electric companies and matters such as rates and charges, meter and billing accuracy, electric lines up to a meter, reliability of electric service, new construction safety code compliance for transmission and distribution; territorial agreements and disputes, and the need for certain power plants and transmission lines. The PSC does not regulate rates and adequacy of services provided by municipally-owned and rural cooperative electric utilities, except for safety oversight; electrical wiring inside a customer's building; taxes on the electric bill; physical placement of transmission and distribution lines; damages claims; right of way matters, or physical placement or relocation of utility poles. *See* PSC, *When to Call the Florida Public Service Commission*, available at http://www.psc.state.fl.us/Files/PDF/Publications/Consumer/Brochure/When_to_Call_the_PSC.pdf (last visited February 6, 2020).

  - Accomplish the goals and objectives of this section;
  - Support both short-range and long-range electric vehicle travel;
  - Encourage the expansion of EV use in this state; and
  - Adequately serve evacuation routes in this state;
- Identifying any barriers to the use of EVs and EV charging station infrastructure both for short- and long-range EV travel along the SHS;
- Identifying an implementation strategy for expanding electric vehicle and charging station infrastructure use in this state;
- Identifying the type of regulatory structure for the delivery of electricity to EVs and charging station infrastructure, including competitive neutral policies and the participation of public utilities in the marketplace; and
- Reviewing emerging technologies in the electric and alternative vehicle market, including alternative fuel sources.
- Quantifying the loss of revenue to the State Transportation Trust Fund due to the current and projected future use of EVs and summarizing the efforts of other states to address the revenue loss.

The bill requires the PSC, by December 1, 2020, to file a status report with the Governor, the President of the Senate, and the Speaker of the House of Representatives containing any preliminary recommendations, including recommendations for legislation.

Conservation Easements

Section 4 clarifies that ss. 570.71 and 704.06, F.S., not be interpreted to prohibit lands traditionally used for agriculture and subject to a conservation easement from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated. Reasonable compensation for use of the conservation easement must be based on the resulting diminution in value of the easement. The bill provides that a linear facility remains subject to state environmental permitting regulations.

Effective Date

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increased availability of staging areas on the turnpike system may provide the general 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. The Florida Department of Transportation's (FDOT) maintenance and construction contractors may benefit from increased availability of staging areas during non-emergency periods.

To the extent that development of the required plan increases the number of electric vehicle (EV) charging stations in the state, residents, businesses, and tourists are expected to benefit from increased availability of EV charging stations, facilitating mobility and commerce and reducing costs related to EV travel.

The ability to construct linear facilities through a conservation easement instead of bypassing the easement, may provide a cost savings to private companies.

Landowners will be required to compensate governmental entities based on the reduction in value of conservation easements, however, this cost may be offset by the amount received from private entities for the construction of linear facilities through the easements.

C. Government Sector Impact:

The fiscal impact of implementing emergency staging areas is indeterminate. The FDOT must first exercise the authority granted in this bill and select a site or sites, in consultation with Department of Emergency Management, and estimate the costs to plan, design, and construct the staging areas. These 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 the FDOT for the provision of other uses authorized by the bill during non-emergency periods of time.

The Public Service Commission estimates a fiscal impact of $43,871 to implement provisions relating to the electric vehicle charging station infrastructure plan.[48] This will be necessary to support activities related to developing and submitting the required status report, recommended plan, and recommended legislation; however, based upon information received, this could be handled within existing resources. The FDOT has indicated the bill has an indeterminate but negative impact due to the loss of fuel tax revenue and the costs associated with implementing coordination of the recommended plan.[49] In addition, the fiscal impact related to potential increased workload to accommodate the expedited time periods for all utility permit applications to local governmental entities is unknown and indeterminate. The Department of Agriculture and Consumer Services will have indeterminate expenses related to the required coordination in developing the recommended plan, but these costs can be absorbed within existing resources.[50]

There may be an indeterminate positive impact to governmental entities relating to the construction of linear facilities across land subject to a conservation easement owned by a governmental entity. The bill requires landowners to compensate the entities for the reduced value of the conservation easement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 337.401 and 704.06.

This bill creates the following sections of the Florida Statutes: 338.236 and 366.945.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations on February 27, 2020:
The committee substitute:

[48] Public Service Commission, *Senate Bill 7018 Agency Bill Analysis* (December 18, 2019) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).
[49] Conversation with John Kotyk, Legislative Affairs Director, Florida Department of Transportation (February 13, 2020).
[50] Florida Department of Agriculture and Consumer Services, *Senate Bill 7018 Agency Bill Analysis* (January 1, 2020) (on file with Appropriations Subcommittee on Agriculture, Environment and General Government).

- Authorizes the Florida Department of Transportation (FDOT) to plan, design, and construct staging areas for emergency response on the turnpike system;
- Directs the FDOT, in consultation with the Division of Emergency Management, to consider certain factors when selecting a proposed site, and authorizes the FDOT to acquire property necessary for such staging areas;
- Requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less in which a multi-use corridor of regional significance is located;
- Grants the FDOT power to authorize other uses of a staging area and requires that staging-area projects be included in the FDOT's work program;
- Excludes the FDOT from provisions requiring permit application to use the right-of-way for a utility must be processed and acted upon within time frames of the "Advanced Wireless Infrastructure Deployment Act," s. 337.401(7)(d)7.,8., and 9., F.S., which provides for expedited timeframes;
- Requires the Public Service Commission (PSC), in coordination with the FDOT and the Department of Agriculture and Consumer Services (DACS), to develop and recommend a plan for the development of electric vehicle (EV) charging station infrastructure along the State Highway System;
- Requires the PSC, FDOT and DACS to quantify the loss of revenue to the State Transportation Trust Fund due to the current and projected future use of electric vehicles in the state and to summarize the efforts of other states to address such revenue loss in the consideration of the recommended plan; and
- Clarifies that sections 570.71 and 704.06, F.S., shall not be interpreted to prohibit lands traditionally used for agriculture that are subject to a conservation easement, from being utilized for the construction of any public or private linear facility and right of access, if such rights are voluntarily negotiated.

B. Amendments:

None.