

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 100

INTRODUCER: Senators Harrell and Taddeo

SUBJECT: Highway Projects

DATE: March 17, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 100 repeals the Multi-use Corridors of Regional Economic Significance (M-CORES) program and related provisions and instead creates programs related to arterial highway projects. More specifically, the bill:

- Authorizes the Florida Department of Transportation (FDOT) to upgrade existing arterial roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting roadways with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic.
- Prohibits reduction of any non-tolled general use lanes of an existing facility, requires maintenance of existing access points, and limits the location of any tolling points such that a non-tolled alternative exists for local traffic.
- Maintains current law that any project to be tolled is subject to federal and state environmental reviews and to the same review and development requirements and processes applicable to the FDOT's projects.
- Directs the FDOT to develop by December 31, 2035, and include in the work program construction of controlled access facilities to achieve free flow of traffic on U.S. 19 and requires the facility to be developed using existing or portions of existing roadway by specified improvements.
- Directs the FDOT to identify and include in the work program projects to widen certain two-lane arterial rural roads serving high volumes of truck traffic to four lanes.
- Directs the FDOT to begin the project development and environmental phase for a project to extend the Florida Turnpike from its current terminus in Wildwood to a terminus as determined by the FDOT, and to submit a summary report by December 31, 2022.

The revenue redirected to the STTF as a result of the 2019 M-CORES legislation is retained in the STTF and is dedicated for purposes of funding the authorized controlled access facility projects and widening projects on arterial rural highways. Additionally, beginning July 1, 2023, the distribution of \$35 million to the Florida Turnpike Enterprise for feeder roads and related

projects is discontinued; such funds will remain in the STTF to support statewide transportation priorities.

The bill is expected to have a minimal fiscal impact to the STTF, as it does not change the amount of revenue distributed to the STTF, but it does revise the authorized uses of such funding. See Section V. “Fiscal Impact Statement” for additional information.

Except as otherwise provided, the bill takes effect July 1, 2021.

## II. Present Situation:

The FDOT is generally charged with providing “a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.”<sup>1</sup> Funds in the STTF<sup>2</sup> support the projects contained in the FDOT’s work program, developed pursuant to s. 339.135, F.S. Current law identifies specific funding from the STTF for certain transportation systems and projects, as well as specific funding programs aimed at transportation projects in rural communities.

### The Florida Strategic Intermodal System

The Strategic Intermodal System (the SIS)<sup>3</sup> is composed of transportation facilities and services of statewide and interregional significance. The FDOT describes the SIS as representing “an effort to link Florida’s transportation policies and investments to the state’s economic development strategy.”<sup>4</sup> The SIS consists of all major limited access federal and state highways, ports, major rail facilities, intermodal facilities, and other corridors that serve a statewide or interregional purpose.<sup>5</sup>

Section 339.65, F.S., requires the FDOT to plan and develop SIS highway corridors, to include limited<sup>6</sup> and controlled access<sup>7</sup> facilities allowing for high-speed and high-volume traffic movements. Limited access facilities are highways that do not allow easement of access for adjacent property owners in order to allow uninterrupted through traffic. A controlled access facility does allow some easement of access but it is highly regulated. SIS corridors may also include arterial highways,<sup>8</sup> which include any road providing service that is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance.

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<sup>1</sup> FDOT, *About FDOT*, available at <https://www.fdot.gov/agencyresources/aboutfdot.shtm> (last visited March 8, 2021).

<sup>2</sup> The trust fund is established in s. 206.46, F.S.

<sup>3</sup> Section 339.61, F.S.

<sup>4</sup> FDOT, *Work Program Instructions FY 21/22-25/26*, September 18, 2020, at p. 378, available at <https://fdotewp1.dot.state.fl.us/fmsupportapps/Documents/development/WorkProgramInstructions.pdf> (last visited March 8, 2021).

<sup>5</sup> Section 339.62, F.S.

<sup>6</sup> Section 334.03(12), F.S.

<sup>7</sup> Section 334.03(7), F.S.

<sup>8</sup> Section 334.03(1), F.S.

## Florida's Turnpike System

The Florida Turnpike Enterprise (FTE) within the FDOT is empowered to plan, construct, maintain, repair, and operate the Florida Turnpike System. The FTE's powers are in addition to those of the FDOT.<sup>9</sup> The FTE is a single budget entity that develops its own budget, which is submitted to the Legislature along with the FDOT's.<sup>10</sup> For the 2020-2021 fiscal year, the FTE's total budget is \$1,298,303,602.<sup>11</sup>

A proposed project may not be added to the turnpike system unless the project is determined to be economically feasible, a statement of environmental feasibility is completed for the project, and the project is determined to be consistent with approved local comprehensive plans of the local governments in which the project is located, to the maximum extent feasible.<sup>12, 13</sup>

“Economically feasible” for a proposed turnpike project means that, as determined by the FDOT before issuance of revenue bonds for the project, the estimated net revenues of the project will be sufficient to pay at least 50 percent of the annual debt service on the bonds by the end of the 12<sup>th</sup> year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 30<sup>th</sup> year of operation. Up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.<sup>14</sup> The required statement of environmental feasibility is a statement by the Department of Environmental Protection of the project's significant environmental impacts.<sup>15</sup>

Legislative approval of the FDOT's tentative work program containing the turnpike project constitutes approval to issue bonds for such project as required by the Florida Constitution.<sup>16</sup> Section 338.227, F.S., authorizes the Division of Bond Finance to issue turnpike revenue bonds as provided in the State Bond Act to pay all or any part of the cost of legislatively approved turnpike projects. However, no more than \$10 billion of bonds may be outstanding to fund approved turnpike projects.<sup>17</sup> As of June 30, 2020, the FTE had \$2.8 billion of outstanding bonds related to financing the construction of expansion projects and system improvements.<sup>18</sup>

The principal and interest on such bonds is payable solely from revenues pledged for their payment. All revenues or bond proceeds are restricted to paying the cost of turnpike projects and improvements and for the administration, operation, maintenance, and financing of the turnpike

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<sup>9</sup> Section 338.2216(1)(a), F.S.

<sup>10</sup> Section 338.2216(3)(a), F.S.

<sup>11</sup> Chapter 2020-111, s. 6, Specific Appropriations 1987 – 2011, Laws of Fla.

<sup>12</sup> For a map of the system, see Florida's Turnpike System Maps available at <https://floridasturnpike.com/system-maps/> (last visited March 8, 2021).

<sup>13</sup> Section 338.223(1)(a), F.S.

<sup>14</sup> Sections 338.223(1)(a) and 338.221(8)(a), F.S.

<sup>15</sup> Section 338.221(10), F.S. The FDOT may authorize engineering, traffic, environmental, and other expert studies of the location, costs, economic feasibility, and practicality of proposed projects but may not request legislative approval of such project until the design phase is at least 30 percent complete. Section 338.223(1)(a), F.S.

<sup>16</sup> Section 338.2275, F.S.

<sup>17</sup> *Id.*

<sup>18</sup> Florida's Turnpike System, *2020 Comprehensive Annual Financial Report, Fiscal Years Ended June 30, 2020 and 2019*, at p. 37, available at [https://floridasturnpike.com/wp-content/uploads/2021/01/2020-CAFR-Final\\_low-resolution-for-web\\_1-29\\_Final.pdf](https://floridasturnpike.com/wp-content/uploads/2021/01/2020-CAFR-Final_low-resolution-for-web_1-29_Final.pdf) (last visited March 8, 2021).

system. No revenues or bond proceeds from the turnpike system may be spent for the operation, maintenance, construction, or financing of any project that is not part of the turnpike system.<sup>19</sup>

The FDOT may use turnpike revenues, STTF moneys allocated for turnpike projects as a component of the SIS, federal funds, and bond proceeds in developing a financial plan for funding turnpike projects<sup>20</sup> and may use federal and state funds to pay the cost of the operation, maintenance, and capital costs of turnpike projects.<sup>21</sup>

### **Other Available Funding Mechanisms**

In addition to issuance of turnpike revenue bonds for turnpike projects, funding mechanisms currently available to the FDOT for transportation-related projects also include, but are not limited to:

- Right-of-way acquisition or bridge construction bonds: These bonds may be issued to finance or refinance the cost of acquiring real property or related rights for state roads or to finance or refinance the cost of state bridge construction. The bonds are payable primarily from motor and diesel fuel taxes and are secured by the full faith and credit of the state. After debt service and other obligations, the proceeds are deposited into the STTF.<sup>22</sup>
- The FDOT Financing Corporation: Headed by a board of directors, the nonprofit corporation finances or refinances transportation projects on behalf of the FDOT. The FDOT may enter into service contracts with the corporation in connection with projects approved in the FDOT's work program. The indebtedness does not constitute a debt or obligation of the state or a pledge of the full faith and credit or taxing power of the state. Payment of obligations by the FDOT to the corporation are payable solely from amounts available in the STTF, subject to annual appropriation.<sup>23</sup>
- Public-private transportation facilities: The FDOT is authorized to receive or solicit proposals and, with legislative approval of projects in the FDOT's work program, enter into agreements with private entities for the building, operation, ownership, or financing of transportation facilities. Under specified conditions, the FDOT may advance projects in the 10-year Strategic Intermodal Plan developed for the SIS that are programmed in the adopted 5-year work program or that increase transportation capacity and are greater than \$500 million. Advanced projects use funds provided by public-private partnerships or private entities, which are reimbursed by FDOT for the project as programmed in the work program.<sup>24</sup>

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<sup>19</sup> Section 338.227, F.S.

<sup>20</sup> Section 338.2275(2), F.S.

<sup>21</sup> Section 338.223(4), F.S.

<sup>22</sup> Section 215.605, F.S.

<sup>23</sup> Section 339.0809, F.S. The board of directors consists of the director of the Office of Policy and Budget within the Executive Office of the Governor, the director of the Division of Bond Finance, and the FDOT secretary.

<sup>24</sup> Section 334.30, F.S.

## **Rural Transportation Programs**

### ***Small County Road Assistance Program (SCRAP)***

The FDOT administers the SCRAP to assist small county governments in resurfacing or reconstructing county roads that were part of the county road system on June 10, 1995.<sup>25</sup> Counties eligible to compete for funding based on population include those with a population of 75,000 or less according to the 1990 federal census.<sup>26</sup> Capacity improvements on county roads are not eligible for SCRAP funding, except where the FDOT determines that widening existing lanes as part of a resurfacing or reconstruction project is necessary to address safety concerns. Available funds are allocated to the FDOT districts based on the number of counties eligible for funding under the criteria in s. 339.2816, F.S.

In Fiscal Year 2019-2020, the Legislature appropriated approximately \$39.3 million<sup>27</sup> to fund the program and, in 2020-2021, included in the budget approximately \$47.6 million<sup>28</sup> to fund the program. These amounts *include* \$10 million in funding redirected under the M-CORES law, as discussed below.

### ***Small County Outreach Program (SCOP)***

The SCOP program within the FDOT assists small counties in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads. Small counties eligible to compete for project funding include those with a population of 200,000 or less as determined by the most recent official estimate of the Office of Economic and Demographic Research.<sup>29</sup> Like the SCRAP program, available funds are allocated to the FDOT districts based on the number of counties eligible for funding under the criteria in s. 339.2818, F.S.

The FDOT is required to fund 75 percent of the cost of projects on county roads selected for funding under the program<sup>30</sup> and the county must provide 25 percent of such costs. Rural counties qualifying under the Rural Economic Development Initiative<sup>31</sup> may apply for a waiver or reduction of the required 25 percent local match.<sup>32</sup> Subject to specific appropriation, municipalities within a rural area of opportunity (RAO) may also compete for funding at up to 100 percent of project costs, excluding capacity improvement projects.<sup>33</sup>

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<sup>25</sup> Section 339.2816, F.S.

<sup>26</sup> *Supra* note 4 at p. 342.

<sup>27</sup> Chapter 2019-115, s. 5, Specific Appropriation 1974, Laws of Fla., and Budget Amendment W0021 Fiscal Year 2019-20.

<sup>28</sup> Chapter 2020-111, s. 5, Specific Appropriation 1943, Laws of Fla.

<sup>29</sup> Section 339.2818, F.S.

<sup>30</sup> Section 339.2818(4)(a), F.S.

<sup>31</sup> *See* s. 288.0656, F.S., for a full description of the Rural Economic Development Initiative. Subsection (7) of that section authorizes waiver of criteria, requirements, or similar provisions of any economic development incentive, including but not limited to waivers of matching funds for transportation projects in the SCOP.

<sup>32</sup> *Supra* note 4 at p. 334.

<sup>33</sup> Section 339.2818(7), F.S.

In Fiscal Year 2019-2020, the Legislature appropriated approximately \$81.3 million<sup>34</sup> to fund the program, \$9 million of which was specifically appropriated to fund projects in municipalities within RAOs and, in 2020-2021, included in the budget approximately \$96 million<sup>35</sup> to fund the program, \$9 million of which was specifically appropriated for competing municipalities in RAOs. These amounts *include* \$10 million in funding redirected under the M-CORES law, discussed below.

### **The Multi-use Corridors of Regional Economic Significance Program (M-CORES)**

The 2019 Legislature established the M-CORES Program within the FDOT.<sup>36</sup> The program was designed to advance construction of regional corridors accommodating multiple modes of transportation and multiple types of infrastructure 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 goals of the program include “non-traditional” approaches to transportation, such as providing within the three corridors infrastructure to facilitate expansion of broadband, water, and sewer connectivity in rural areas. Construction of the projects must begin no later than December 31, 2022, and be open to traffic no later than December 31, 2030.

The Legislature identified three corridors comprising the program<sup>37</sup> and directed the FDOT to convene a task force for each corridor comprised of representatives from state agencies and other stakeholders to evaluate and coordinate corridor analysis, environmental and land use impacts, and other pertinent impacts of the corridors.

#### ***M-CORES Task Force Reports***

After numerous meetings of the required task forces beginning in August of 2019 (some virtual due to COVID-19), community open houses, webinars, as well as opportunities for public comment, the task forces issued their final reports in November of 2020.<sup>38</sup>

Key findings and recommendations of the task forces include:

- Among the responsibilities assigned to the task forces was a charge to evaluate the need for and the impacts of each corridor. Each task force identified an inability to complete this charge, “due to the early stage of planning for [each] corridor and the limited data and analysis on potential needs and impacts available at this time,” and directed the FDOT to establish at least a preliminary determination of transportation need and initial financial feasibility before proceeding with the project development and environment (PD&E) phase.
- The task forces did develop high-level needs that require further evaluation by FDOT and project-level needs will be evaluated consistent with the task force recommendations. Each task force *expressed a preference, if specific needs are identified, for improvement or*

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<sup>34</sup> Chapter 2019-115, s. 5, Specific Appropriation 1975, Laws of Fla., and Budget Amendment W0021 Fiscal Year 2019-20.

<sup>35</sup> Chapter 2020-111, s. 5, Specific Appropriation 1944, Laws of Fla.

<sup>36</sup> Chapter 2019-43, Laws of Fla., creating s. 338.2278, F.S.

<sup>37</sup> The Southwest-Central Florida Connector, extending from Collier County to Polk County; the Suncoast Connector, extending from Citrus County to Jefferson County; and the Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway. Section 338.2278(2), F.S.

<sup>38</sup> See FDOT, *Final Task Force Reports*, for all three task force reports, available at <https://floridamcores.com/> (last visited March 8, 2021.)

*expansion of existing major highway corridors* and acknowledged the process for FDOT to consider a “no build” alternative in future project development activities until a final recommendation about each specific project is made.

- Each task force also recommended guiding principles, instructions and an action plan, based on the data and analysis provided, as a “set of directions to FDOT and other partners for future planning, project development, and implementation activities.” Each report was submitted “with a qualifier that FDOT must still develop project-specific needs, environmental feasibility, and economic feasibility for future projects.”

While the program has support from certain public officials and interested stakeholders, the public comments received by the FDOT in the course of task force deliberations revealed significant opposition to the M-CORES program. Following a public records request, a coalition of Florida-based organizations and businesses reportedly performed an analysis of 9,886 comments released by the FDOT, finding that 93 percent of the commenters oppose the toll roads.<sup>39</sup>

### ***Current FDOT M-CORES Status***

According to the FDOT, the corridors are being evaluated in a five-step process:

- Task Force.
- Alternative Corridor Evaluation.
- Project Development & Environment and Design.
- Right-of-Way.
- Construction.

All three corridors are currently undergoing alternative corridor evaluation. The FDOT notes “[t]he Task Force Guiding Principles, in collaboration with federal, state, and local partners, will be used to conduct the preliminary needs and financial analysis and evaluation of potential corridors, including opportunities for linear infrastructure (broadband, sewer, and water) and co-location with existing corridors.” Further, “[a] final report will identify which sections and which corridor(s), if any, are carried forward for further evaluation.”<sup>40</sup>

### **The Impact of COVID-19 on Transportation Revenues**

As the FDOT and the task forces engaged in their work, reports of increasing cases of COVID-19 infection began to proliferate. Reports of the impacts of COVID-19 on various sources of revenue began, as well, including impacts on transportation revenue sources. In a presentation to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 9, 2021, the FDOT noted projected transportation revenue reductions (from traditional sources such as fuel taxes, documentary stamp tax proceeds, and toll facility revenues) for the 5-year work program for the 2020-21 through 2025-2026 fiscal years in

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<sup>39</sup> See MSN News, *Thousands of Public Comments Show Overwhelming Opposition to M-CORES Toll-Road Projects*, October 15, 2020, available at <https://www.msn.com/en-us/news/us/thousands-of-public-comments-show-overwhelming-opposition-to-m-cores-toll-road-projects/ar-BB1a7H1d> (last visited March 8, 2021).

<sup>40</sup> See the FDOT’s M-CORES Program Overview (on file in the Senate Transportation Committee).

the amount of \$2.91 billion.<sup>41</sup> For the 2020-2021 fiscal year, the revenue reductions resulted in 23 projects being deferred, while 54 projects were deleted entirely.<sup>42</sup>

### **Further Present Situation**

For ease of organization and readability, additional information on related present situation is discussed below in conjunction with the effect of the proposed changes.

## **III. Effect of Proposed Changes**

### **M-CORES Program (Section 3)**

#### *Present Situation*

Section 338.2278, F.S., establishes the M-CORES Program within the FDOT. If projects in the corridors are determined to be economically and environmentally feasible and are consistent to the maximum extent feasible with the appropriate approved local government comprehensive plans, the projects will be included in the FDOT's tentative work program. Funding for M-CORES projects through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof is authorized. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

The 2019 legislation redirected motor vehicle license tax revenues from the General Revenue Fund taxes to the STTF, with transfers from STTF to the General Revenue Fund in Fiscal Years 2019-2020 and 2020-21.<sup>43</sup> Beginning Fiscal Year 2021-2022 and thereafter, the General Revenue Fund receives no further transfers, and the estimated \$132 million is retained in the STTF.

The redirected motor vehicle license tax proceeds are directed to the M-CORES program; as additional funding for the SCRAP, the SCOP, and the Transportation Disadvantaged Trust Fund (TDTF);<sup>44</sup> and to the FDOT's workforce development program, as revised by the law. These funds are in addition to any other statutory funding allocations provided by law.

For the 2019-2020 fiscal year and annually thereafter, from the amounts retained in the STTF, the SCRAP, the SCOP, and the TDTF receive \$10 million annually each and the workforce development program receives \$2.5 million annually ending in the 2021-2022 fiscal year.

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<sup>41</sup> See Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development, February 9, 2021, meeting packet, FDOT presentation at p. 15, available at [https://www.flsenate.gov/Committees/Show/ATD/MeetingPacket/5021/8989\\_MeetingPacket\\_5021.pdf](https://www.flsenate.gov/Committees/Show/ATD/MeetingPacket/5021/8989_MeetingPacket_5021.pdf) (last visited March 8, 2020).

<sup>42</sup> *Id.* at p. 12.

<sup>43</sup> The transfer in Fiscal Year 2019-2020 was \$65.7 million and the transfer for Fiscal Year 2020-2021 is estimated to be \$38.6 million.

<sup>44</sup> The Transportation Disadvantaged Program established in Part I of ch. 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The Commission for the Transportation Disadvantaged (CTD) is authorized to use moneys in the TDTF to subsidize a portion of a transportation disadvantaged person's non-sponsored (for example, not paid for by Medicaid) transportation costs.



The funds allocated to the TDTF must be used to award competitive grants to community transportation coordinators and transportation network companies to provide cost-effective, door-to-door, on-demand, and scheduled transportation services (services that increase access to job training, employment, health care, and other life-sustaining services; that enhance regional connectivity and cross-county mobility; or that reduce difficulty in connecting to transportation hubs and from hubs to final destinations).

### *Effect of Proposed Changes*

**Section 3** of the bill repeals s. 338.2278, F.S., related to the M-CORES program and the motor vehicle license tax proceeds directed to other programs. Beginning in Fiscal Year 2021-2022, the annual allocation to the M-CORES program, the additional annual allocations over current statutory funding for the SCRAP, the SCOP, and the TDTF, as well as the last year of funding for workforce development are repealed.

As discussed below, however, the increased revenues derived from redirecting to the STTF portions of motor vehicle license taxes remain in the STTF under the bill.

### **Conforming Revisions (Sections 1, 2, 4, 5, and 8)**

#### *Effect of Proposed Changes*

**Section 1** amends s. 334.044(35), F.S., to remove the M-CORES-related revisions enacted in 2019 with respect to workforce development, including authorization for the FDOT to enter into contracts with consultants and non-profit entities for the provisions of workforce recruitment, training curriculum, and support services, and a requirement for a report the FDOT has already completed. Current funding for the program would expire on July 1, 2021, instead of continuing through the end of the 2021-2022 fiscal year. The FDOT's authorization for the workforce development program is not repealed. The FDOT may continue administration of the program to the extent that future funding resources are available.

**Section 2** repeals s. 163.3168(4), F.S., to remove an M-CORES-related provision relating to local applications for technical assistance from the Department of Economic Opportunity (DEO). This provision currently requires the DEO to give preference to a county with a population of 200,000 or less, and to a municipality located within such a county, for assistance in determining whether the area in and around a proposed M-CORES interchange contains appropriate land uses and natural resource protections and for aid in developing or amending a local government's comprehensive plan to provide for such uses, protections, and intended benefits under the M-CORES program.

**Section 4** repeals an M-CORES-related provision contained in s. 338.236, F.S., relating to staging areas to be activated during a declared state of emergency on the turnpike system. That section currently requires the FDOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less and in which an M-CORES corridor is located.

**Section 5** amends s. 339.0801(2), F.S., to remove an M-CORES-related allocation and restore that subsection as it existed prior to enactment of the M-CORES program. This subsection

currently provides \$35 million in annual funding to the FTE to be used in accordance with turnpike requirements and to the maximum extent feasible for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system, and beginning in Fiscal Year 2022-2023 the funds must be used for similar access to M-CORES corridors.<sup>45</sup>

This statute is also amended under Section 6 of the bill at a future date.

**Section 8** repeals s. 339.1373, F.S., relating to M-CORES specific financing and planning requirements of the FDOT.

### **Arterial Highway Projects (Sections 6, 7, and 9-12)**

#### ***Present Situation***

The FDOT routinely manages and improves arterial roads to increase capacity and facilitate traffic throughput, while at the same time achieving the paramount goal of improving safety. The FDOT and the FTE are experienced in retrofitting transportation facilities with grade separations and adding new alignments for the same purposes.

An example of upgrades to existing arterial highways to maximize operational efficiency and safety is implementation of controlled access facilities. The FDOT's Access Control Classification System and Access Management Standards for roads on the State Highway System employs seven classes of controlled access facilities, beginning with Class 1 (limited access facilities providing for high speed and high volume traffic movements serving interstate, interregional, and intercity highways but which do not provide direct property connections).

According to the FDOT rule,

Access Classes 2 through 7 consist of controlled access facilities and are arranged from the most restrictive (Access Class 2) to the least restrictive (Access Class 7) class based on development. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3 and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6 and 7). The access management standards for each access class are further determined by the posted speed limit.<sup>46</sup>

The rule appears to provide the FDOT the flexibility, based on engineering decisions, to employ the most appropriate type of upgrade to an existing arterial highway given its characteristics and the particular goal of a given project, such as congestion management.

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<sup>45</sup> The \$35 million is from increased revenues to the STTF due to changes enacted in 2012.

<sup>46</sup> Rule 14-97.003, F.A.C. The rule implements the FDOT's statutory duties with respect to regulation of access to the State Highway System, access permitting, and access management standards in ss. 335.182, 335.184, and 335.188, F.S.

### *Effect of Proposed Changes*

**Section 9** creates s. 339.66, F.S., relating to upgrading arterial highways with controlled access facilities. The bill sets forth Legislative findings that provision and maintenance of safe, reliable, and predictably free-flowing facilities to support the movement of people and freight and to enhance hurricane evacuation efficiency is important; and that planning now for population growth and technology changes while prudently making timely improvements to address demand is in the best interest of the state.

The bill directs the FDOT, in coordination with the FTE, to evaluate existing or portions of existing roadways for development of specific controlled access facilities and include such projects as identified in the work program. The FDOT is authorized to upgrade roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting existing roadway with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic.

The FDOT may *not* reduce any non-tolled general use lanes of an existing facility and *must*:

- Maintain existing access points to the roadway provided by designated streets, graded roads, or driveways, avoiding community impact.
- After construction is completed, provide property owners of land with no existing access the right to one access point and provide owners with more than one mile of roadway frontage along the facility with one access point for each mile owned.
- Locate any tolling points so that a non-tolled alternative exists for local traffic.
- Establish any new alignments with the goal of enhancing the economic prosperity of affected communities.

Under the bill, any portions of a controlled access facility to be tolled are approved turnpike projects that are part of the turnpike system, and a controlled-access portion of a roadway constructed under the new section of law is considered a SIS facility. The existing economic feasibility test applies, as under current law, only to projects that involve tolled upgrades to a facility, but the existing requirement for a statement of environmental feasibility applies to all projects. In addition, as is the case under current law, all projects using federal funds or requiring federal action are subject to environmental review, consultation, or other action required under the National Environmental Policy Act of 1969.<sup>47</sup> Projects that do not use federal funds or require federal action are likewise subject to environmental review by the FDOT. Decisions on matters such as configuration, project alignment, and interchange locations must be determined in accordance with applicable FDOT rules, policies, and procedures.

The bill also requires the FDOT to consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate environmental mitigation or ecosystem, wildlife habitat, or water quality protection or restoration. Further, to the greatest extent practical, the FDOT must design roadway alignments, project alignment, and any interchange locations so that project rights-of-way are not located within conservation lands acquired under the Florida Preservation 2000 Act<sup>48</sup> and the Florida Forever Act.<sup>49</sup>

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<sup>47</sup> The FDOT assumed responsibility for such review under authorization in s. 334.044(34), F.S.

<sup>48</sup> Section 259.101, F.S.

<sup>49</sup> Section 259.105, F.S.

Lastly, the bill authorizes project funding through turnpike revenue bonds, right-of-way and bridge construction bonds, the FDOT Financing Corporation, the use of public-private partnerships, or by any combination thereof, as applicable. However, project construction is not eligible for funding until completion of 30 percent of the design phase, except for projects that are under construction or for which project alignment has been determined. The FDOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

To the extent legally available, any toll revenues from the turnpike system not required for payment of principal, interest, reserves, and other required deposits for bonds; costs of operations and maintenance; other contractual obligations; or system improvement project costs must be used to repay to the STTF advances made from that fund. In accordance with existing authority, the Division of Bond finance is authorized to issue right-of-way and bridge construction bonds, turnpike revenue bonds, and FDOT financing corporation bonds to finance controlled access facilities as provided in the State Bond Act.

**Section 10** creates s. 339.67, F.S., relating to U.S. 19 controlled access facilities. The bill directs the FDOT to develop and include in the work program construction of controlled access facilities necessary to achieve free flow of traffic on U.S. 19, beginning at the terminus of the Suncoast Parkway 2 Phase 3 north along U.S. 19 to a logical terminus on I-10 in Madison County. The bill deems the project as a SIS facility, which must be developed using existing or portions of existing roadway to ensure the free flow of traffic by improvements. The FDOT must develop the project no later than December 31, 2035.

**Section 11** creates s. 339.68, F.S., relating to arterial rural highway projects. The bill directs the FDOT to identify and include in the work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes. To be included in a program project, the road must be classified as an arterial rural road and truck traffic using the road must amount to at least 15 percent of all such traffic, as determined by the FDOT. The bill directs the FDOT to fund at least \$20 million annually for such projects.

**Section 12** directs the FDOT to begin the PD&E phase of the extension of the Florida Turnpike from its northerly terminus in Wildwood to a logical and appropriate terminus determined by the FDOT. FDOT is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the result of the PD&E phase, including consideration of project configuration, alignment, cost, and schedule, by December 31, 2022. The bill does not authorize construction of the extension.

**Section 6**, effective July 1, 2023, amends s. 339.0801, F.S., to repeal the annual transfer from the STTF to the Turnpike Enterprise of the \$35 million for feeder roads, etc. In effect, the annual \$35 million will remain in the STTF to be used annually for existing or planned strategic transportation projects, as required under current law.

**Section 7** creates s. 339.0803, F.S., to allocate the increased motor vehicle license tax revenues to the STTF from the 2019 M-CORES law. The funds must be used to fund arterial highway projects identified by the FDOT under s. 339.65, F.S., relating to the SIS, and may be used for

controlled access facility projects specified in ss. 339.66 and 339.67, F.S., created by the bill. The FDOT must prioritize use of existing facilities when upgrading arterial highways to limited or controlled access facilities, but the FDOT is not precluded from use of such funding for projects that enhance the capacity of an arterial highway. These funds are in addition to any other statutorily required funding allocations.

**Effective Date**

Except as otherwise provided, the bill takes effect July 1, 2021.

**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 identified.

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

None. The bill does not change the collection of motor vehicle license tax revenues, but instead changes the use of the revenues in the STTF.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not change the amount of revenue distributed to the STTF. The bill repeals the funding for the M-CORES program, the workforce development program, and the additional funds dedicated to the SCRAP, the SCOP, and the TDTF. Instead, these revenues will be used for arterial roads in the SIS.

The bill repeals the future change in use of \$35 million of funds transferred to the FTE to conform to the repeal of the M-CORES law, and on July 1, 2023, the bill repeals the transfer of those funds to the FTE. Instead, the funds will be retained in the STTF. Any impact to FTE programming is reduced by the delayed effective date of the elimination of the transfer.

The impact to the 5-year Work Program is expected to be minimal. The funds remain in the STTF for use by the FDOT on arterial roads in the SIS. The bill does require the FDOT to incorporate into the work program projects related to upgrade of existing facilities with controlled access roads and expansion of certain two-lane arterial rural roadways.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.3168, 334.044, 338.236, and 339.0801.

This bill creates the following sections of the Florida Statutes: 339.0803, 339.66, 339.67, and 339.68.

The bill creates an undesignated section of Florida law.

This bill repeals the following sections of the Florida Statutes: 338.2278 and 339.1373.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.