

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 1126

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); and Senator Harrell

SUBJECT: Department of Transportation

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>McAuliffe</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1126 represents the Florida Department of Transportation's (FDOT) legislative proposals for the 2021 Legislative Session. The bill contains a number of FDOT-related revisions to current law including:

- Adds road and bridge maintenance or construction vehicles to the list of vehicles subject to the Move Over Law.
- Increases from \$275 to \$300 million the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds issued to finance or refinance the cost of acquiring real property for state roads or the cost of bridge construction.
- Removes the expiration date for the Legislative Budget Commission (LBC) chair and vice chair's authority to approve amendments to the FDOT's work program that transfer fixed capital outlay appropriations between categories or increase an appropriation category.
- Clarifies that the Department of Revenue is the entity responsible for transferring a portion of documentary stamp tax revenues distributed to the State Treasury and credited to the State Transportation Trust Fund (STTF) from the State Treasury to the General Revenue Fund.
- Revises from October 1 to August 1 the date for metropolitan planning organization (MPO) annual submissions of project priorities to the FDOT districts for purposes of developing the FDOT's tentative work program and MPO transportation improvement programs.
- Removes provisions requiring the FDOT to provide space and video conference capability at each FDOT district office for persons requesting a hearing before the Commercial Motor

Vehicle Review Board, instead requiring the FDOT to allow such persons to appear remotely before the board via communications media technology already authorized by Administration Commission rule.

- Grants the FDOT rulemaking authority for the purpose of implementing statutory provisions relating to airport zoning.
- Revises provisions relating to a notice and hearing the FDOT is required to provide when a transportation project on the State Highway System modifies an existing access to an abutting property owner to provide clarity and improve readability.
- Removes obsolete references to a previously expired general service revenue service charge from specified collected revenue deposited into the STTF.

The bill 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 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.
- 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 FTE 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. The extent of any potential fiscal impact to the FDOT resulting from the increased alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Trust Fund bonds is unknown. The remaining revisions are primarily administrative and housekeeping in nature and are expected to present no immediate fiscal impact to state or local revenues.

The bill takes effect July 1, 2021, except as otherwise expressly provided.

II. Present Situation:

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

III. Effect of Proposed Changes:

M-CORES Program (Section 13)

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 2020-21.¹ 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);² 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.

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 13 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

¹ 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.

² 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.

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, 11, 14, 15, and 19)

Effect of Proposed Changes

Section 11 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 1 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 14 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 15 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.³

This statute is also amended under Section 16 of the bill at a future date.

Section 19 repeals s. 339.1373, F.S., relating to M-CORES specific financing and planning requirements of the FDOT.

³ The \$35 million is from increased revenues to the STTF due to changes enacted in 2012.

Arterial Highway Projects (Sections 16, 17, 21, 22, 23, and 25)

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.⁴

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.

Effect of Proposed Changes

Section 21 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

⁴ 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.

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. Such improvements must enhance the economic prosperity and preserve the character of impacted communities.

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.

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. All existing applicable requirements relating to FDOT or turnpike projects, including environmental review, also apply to any projects undertaken to upgrade the arterial roadways with controlled access facilities. Further, the FDOT and FTE must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects, including previous task force reports.⁵

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 Act⁶ and the Florida Forever Act.⁷

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,

⁵ The bill also applies this requirement to ss. 339.67 and 339.68, F.S., created by the bill related to relating to U.S. 19 controlled access facilities and relating to U.S. 19 controlled access facilities, respectively.

⁶ Section 259.101, F.S.

⁷ Section 259.105, F.S.

turnpike revenue bonds, and FDOT financing corporation bonds to finance controlled access facilities as provided in the State Bond Act.

Section 22 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 predominantly 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 23 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 25 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 status 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 16, 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 17 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.

Move Over Law (Section 7)

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 (MPH) less than the posted speed limit when

the posted speed limit is 25 MPH or greater; or travel at 5 MPH when the posted speed limit is 20 MPH miles per hour or less when driving on a two-lane road.⁸ The purpose of the Move Over Law is to protect workers stopped along the road performing their jobs.

A violation of the Move Over Law is a noncriminal traffic infraction, punishable as a moving violation.⁹ 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 \$158.¹⁰

Effect of Proposed Changes

Section 7 of the bill amends s. 316.126, F.S., to add road and bridge maintenance or construction vehicles displaying warning lights and operating on the roadside without advance signs and channelizing devices (such as traffic cones or barricades) 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 are displaying warning lights on the roadside.

Section 24 of the bill reenacts s. 318.18, F.S., to incorporate these changes.

Debt Service Cap on Right-of-Way Acquisition and Bridge Construction Bonds (Section 3)

Present Situation

Section 215.605, F.S., authorizes the issuance of state 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, the Legislature must authorize bonds, which must be issued pursuant to the State Bond Act.¹¹ The proceeds from the sale of issued bonds must be deposited into the Right-of-Way Acquisition and Bridge Construction Trust Fund.¹²

Section 206.46, F.S., authorizes the FDOT to transfer up to 7 percent of the revenues deposited into the STTF in each fiscal year into the Right-of-Way Acquisition and Bridge Construction Trust Fund to meet outstanding or proposed bond obligations; or, at a minimum, an amount sufficient to pay for the debt service coverage of outstanding bonds.¹³ The annual transfer amount, however, may not exceed that which is necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million. Thus, debt service may not exceed 7 percent of the revenues deposited into the STTF or \$275 million, whichever is less.

The FDOT noted in 2020 that no adjustment has been made to the \$275 million cap since 2007. The FDOT provided information that based on the FDOT's most recent bond sale and Revenue

⁸ Section 316.126(1)(b), F.S.

⁹ Section 316.126(6), F.S.

¹⁰ Florida Court Clerks and Comptrollers Association, *2020 Distribution of Court Related Filing Fees, Service Charges, and Fines – Final, Corrected*, p. 39 available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf (last visited April 14, 2021).

¹¹ Sections 215.57-215.83, F.S.

¹² Section 215.605(4), F.S.

¹³ The transfer is required to be payable primarily from the motor and diesel fuel taxes transferred to the STTF.

Estimating Conference projections [at that time], the limit on debt service based on the 7-percent-of-revenue threshold would have been \$287 million in Fiscal Year 2019-2020 (based on revenues of \$4.1 billion), growing to \$350 million in Fiscal Year 2028-2029 (based on revenues of \$5 billion). Additionally, the FDOT advised that under the current statutory limit, the \$275 million cap leaves the FDOT with only about \$100 million of available bonding capacity.¹⁴

Effect of Proposed Changes

Section 3 of the bill amends s. 206.46, F.S., to increase the authorized dollar amount representing an alternative debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds. Thus, under the bill, debt service could not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less.

Work Program Amendments (Section 18)

Present Situation

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.¹⁵ However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the LBC.

Prior to 2016, if a meeting of the LBC could not be held within 30 days after the FDOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.¹⁶ In 2016, the Legislature repealed the authorization for LBC chair and vice chair approval if the LBC could not meet.¹⁷ In 2019, this authorization was reinstated with an expiration date of July 1, 2020.¹⁸ In 2020, the authorization was reinstated with an expiration date of July 1, 2021.¹⁹

Effect of Proposed Changes

Section 18 of the bill amends s. 339.135(7)(g), F.S., to remove the expiration of authorization for LBC chair and vice chair approval of the identified amendments to the FDOT's adopted work program, thereby making the provision permanent.

Documentary Stamp Tax/General Revenue Fund Transfer (Section 2)

Present Situation

Chapter 201, F.S., levies an excise tax (documentary stamp tax) on documents such as deeds, stocks and bonds, notes and written obligations to pay money, mortgages, liens, and other evidences of indebtedness. The Florida Department of Revenue (DOR) administers the provisions of that chapter,²⁰ including provisions governing the collection of documentary stamp

¹⁴ See the FDOT's 2020 Legislative Proposal, *Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap* (on file in the Senate Transportation Committee).

¹⁵ Section 339.135(7), F.S.

¹⁶ Section 339.135(7)(g), F.S. (2015).

¹⁷ Chapter 2016-181, s. 16, Laws of Fla.

¹⁸ Chapter 2019-116, s. 11, Laws of Fla.

¹⁹ Chapter 2020-144, s. 93, Laws of Fla.

²⁰ Section 201.11, F.S.

taxes, which are distributed each fiscal year to the General Revenue Fund and various other trust funds.

After certain required distributions to the Land Acquisition Trust Fund,²¹ approximately 24 percent of the remainder of the taxes collected or \$541.75 million, whichever is less, is paid into the State Treasury to the credit of the STTF, \$75 million of which must be transferred to the General Revenue Fund. The remaining amount credited to the STTF must be used to fund certain transportation-related programs.²² Although current law specifies the DOR as the administering agency of that chapter, the DOR is not expressly identified as the entity responsible for making the \$75 million transfer each fiscal year.

Effect of Proposed Changes

Section 2 of the bill amends s. 201.15(4)(a), F.S., to expressly require the DOR to make the \$75 million transfer each fiscal year from funds credited to the STTF in the State Treasury to the General Revenue Fund.

Metropolitan Planning Organizations Project Priority Submissions to the FDOT (Sections 18 and 20)

Present Situation

The FDOT's adopted work program is the 5-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the 5-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the 5-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs.²³ Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

With respect to development of the tentative work program, as outlined in s. 339.135(4), F.S., the district work program is developed cooperatively with the various metropolitan planning organizations (MPOs) around the state and must include, to the maximum extent feasible, the project priorities submitted by the MPOs to the FDOT's districts by October 1 of each year. The FDOT and an MPO may agree in writing to vary the submission date.²⁴

The FDOT advises that during a "normal" work program development cycle, submission of MPO project priorities by October 1 allows sufficient time for development of the tentative work program cycle. However, because the Legislature meets beginning in January in even-numbered years,²⁵ the tentative work program cycle is "compressed" by two months, creating a need for

²¹ Section 201.15(1) and (2), F.S.

²² Section 201.15(4)(a), F.S. The programs include the New Starts Transit Program, the Small County Outreach Program, the Strategic Intermodal System, and the Transportation Regional Incentive Program.

²³ Section 339.135(1), F.S.

²⁴ Section 339.135(4)(c)2., F.S.

²⁵ FLA. CONST. art. III, s. 3(b).

earlier submission of project information. The FDOT notes that no failure to submit a priority list has occurred, but earlier submission has been provided as a courtesy, rather than a mandate.²⁶

The MPOs are also required, in cooperation with the state and affected public transportation operators, to develop a transportation improvement program for the area within the jurisdiction of the MPO. Similar to work program development, each MPO is required to submit to the appropriate FDOT district a list of project priorities by October 1 of each year. Again, the FDOT and an MPO may agree in writing to vary the submission date. The MPO-approved lists must be used by the FDOT districts in developing the district work programs.²⁷

Effect of Proposed Changes

Sections 18 and 20 of the bill, respectively, amend ss. 339.135(4)(c) and 339.175(8)(b), F.S., to revise from October 1 to August 1 the deadline for MPOs to submit their project priority lists for purposes of developing the FDOT's tentative work program and for purposes of development of MPO transportation improvement programs.

Commercial Motor Vehicle Review Board/Remote Appearance (Section 8)

Present Situation

The Commercial Motor Vehicle Review Board (the Board), established within the FDOT, is composed of three permanent members (the FDOT secretary as chair, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their designees); three members appointed by the Governor (one each from the road construction industry and the trucking industry, and one with a general business or legal background); and one member appointed by the Commissioner of Agriculture from the agriculture industry.²⁸

The Board is authorized to review any penalty imposed upon any vehicle or person under the provisions of ch. 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations, and the Board may modify, cancel, revoke, or sustain any such penalty.²⁹ The Board is authorized to hold sessions and conduct proceedings at any place. According to the FDOT's website, the Board meets physically in Tallahassee.³⁰

Any person against whom a penalty is imposed may apply to the Board for a modification, cancellation, or revocation of the penalty. A written explanation provided within a letter protesting a penalty is acceptable in lieu of physical attendance by a person requesting a hearing before the Board, but attendance "will provide the petitioner the opportunity to respond to Review Board inquiries into subjects that the petitioner may have overlooked when drafting his

²⁶ See the FDOT's 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities* (on file in the Senate Transportation Committee).

²⁷ Section 339.175(8), F.S.

²⁸ Section 316.545(7)(a) and (b), F.S. See the FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*, for more details on the Board, as well as its 2021 meeting schedule, available at <https://www.fdot.gov/traffic/reviewboard.shtm> (retrieved March 12, 2021).

²⁹ Section 316.545(4)(c), F.S.

³⁰ Section 316.545(7), F.S.

letter of protest.”³¹ Appearance by telephone is not available, but pursuant to the provisions of s. 316.545(7)(f), F.S., the FDOT is required to provide space and video conference capability at each of its seven district offices to enable a person requesting a hearing to appear remotely before the board, provided the requester notifies the Board at least 14 calendar days before the hearing date.³²

By rule of the Administration Commission, agencies are currently authorized to conduct proceedings using communications media technology; *i.e.*, the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.³³

The current requirement for providing space and video conference capability at each of the seven FDOT district offices does not take advantage of the various forms of communications media technology authorized for use in conducting agency proceedings.

Effect of Proposed Changes

Section 8 of the bill amends s. 316.545(7), F.S., to remove the requirement that remote appearance before the Board by a person requesting a hearing must take place at one of the FDOT district offices by means of video conference capability and replace it with authorization for use of communications media technology by any means.

When using communications media technology the FDOT would be required to provide a notice to the requester specifying the address or addresses of all access points, specifically designating those which are in locations normally open to the public; the address of each access point where an interested person may go to attend the proceedings; an address, email address, and telephone number where an interested person may write or call for additional information; and an address, email address, and designated person to whom a person may submit written or other physical evidence which he or she intends to offer into evidence during the proceedings.³⁴

This revision would allow the FDOT to more efficiently conduct proceedings before the Board and reduce the burden on a person requesting a hearing to travel to one of the FDOT district offices to be heard. The FDOT advises any person requesting to appear before the Board at one of the FDOT district offices will continue to be accommodated.³⁵

Airport Zoning/FDOT Rulemaking (Section 10)

Present Situation

The Legislature in 2016 enacted a substantial re-write of ch. 333, F.S., which contains airport zoning provisions relating to the management of airspace and land use at or near airports.³⁶ Generally, the 2016 re-write:

³¹ FDOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*.

³² *Id.*

³³ Fla. Admin. Code R. 28-109.

³⁴ *Id.*

³⁵ Telephone conversation between Senate Transportation Committee staff and FDOT staff, February 1, 2021.

³⁶ Chapter 2016-239, Laws of Fla.

- Updated statutory definitions and terms in accordance with federal regulations.
- Streamlined the local airport protection zoning process to a simpler permitting model.
- Provided local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repealed duplicative requirements for obtaining a variance.

The FDOT has a long-standing rule that pre-dates the 2016 substantial re-write: Florida Administrative Code Rule Chapter 14-60, “*Airport Licensing, Registration, and Airspace Protection*,” the purpose of which is “to promote safe civil aviation by eliminating hazards; to provide airfield standards for airports; to provide standards for airport marking and lighting; to license and register airports, pursuant to the licensing and registration requirements of Chapter 330, F.S., and to promote flight safety by providing for airspace protection, pursuant to the requirements of Chapter 333, F.S.”³⁷ The provisions of the rule appear to be critical to promotion of safe civil aviation. However, in the midst of the 2016 re-write, authority for the long-standing rule was apparently inadvertently overlooked.

Effect of Proposed Changes

Section 10 of the bill creates s. 333.15, F.S., to provide the FDOT with express authority to adopt rules to implement the provisions of ch. 333, F.S., thereby providing specific authorization for Florida Administrative Code Rule Chapter 14-60.

Transportation Projects/Modifying Access/Abutting Property Owners (Section 12)

Present Situation

Under current law, when the FDOT proposes a project on the State Highway System that will divide a state highway, erect median barriers modifying currently available vehicle turning movements, or have the effect of closing or modifying an existing access to an abutting property owner, the FDOT is required to notify all affected property owners, municipalities, and counties at least 180 days before the design of the project is finalized. The notice must include a written explanation regarding the need for the project and an indication that all affected parties will be given an opportunity to provide comments to the FDOT regarding potential impacts of the change. The FDOT must hold at least one public hearing in the jurisdiction where the project is located to receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community. The FDOT must review all comments from the public hearing and take the comments and any alternatives presented by a local government during the hearing into consideration in the final design of the highway project.³⁸

Effect of Proposed Changes

Section 12 of the bill amends s. 335.199, F.S., to make editorial revisions and improve readability. The bill clarifies that the FDOT must provide the required notice at least 180 days before the design phase of the project is completed, rather than finalized. The bill also revises all occurrences of the word “hearing” to “meeting,” to remove any sort of legal connotation, as the

³⁷ Fla. Admin. Code R. 14-60.003(1) (2004).

³⁸ Section 335.199, F.S.

required events are not in the nature of any sort of judicial proceeding but are more closely akin to informational “meetings.”

The bill clarifies that the FDOT must hold at least one public meeting *prior to completing* the design phase of the project, so that the FDOT reviews all comments from the public meeting and takes the comments and any alternatives presented by a local government during the meeting into consideration in the *final* design of the project.

Obsolete References to the General Revenue Service Charge (Sections 4, 5, 6, and 9)

Present Situation

Section 215.20(1), F.S., appropriates from revenue deposited into most state trust funds³⁹ an 8 percent service charge, which represents the estimated pro rata share of the cost of general government. All such appropriations are deposited into the General Revenue Fund.

Section 215.211(1), F.S., however, eliminated the service charge beginning July 1, 2000, for taxes distributed under:

- Section 206.606(1), F.S., relating to the distribution of motor and diesel fuel taxes;
- Section 212.0501(6), F.S., relating to taxes on diesel fuel used in self-propelled off-road equipment for business purposes; and
- Section 319.32(5), F.S., relating to the disposition of fees from certificate of title transactions.

Additionally, s. 215.211(2), F.S., eliminated the service charge beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.

Although the service charge on the specified taxes has been eliminated, references to the service charge remain in statute for the described taxes or fees.

Effect of Proposed Changes

Sections 4, 5, 6, and 9, respectively, remove the obsolete references to the general revenue service charge that remain in ss. 206.606(1), 206.608, 212.0501(6), and 319.32(5), F.S.

Effective Date (Section 26)

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁹ Section 215.22, F.S., sets out a list of items and trust funds that are exempt from the service charge, including trust funds administered by the Department of Transportation.

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.

B. Private Sector Impact:

Individuals requesting a hearing before the Commercial Motor Vehicle Review Board who are authorized to appear remotely via communications media technology may experience reduced expenses associated with travel to an FDOT district office to appear.

C. Government Sector Impact:

Currently, the amount transferred by the FDOT into the Right-of-Way Acquisition and Bridge Construction Trust Fund may not exceed 7 percent of the revenues deposited into the STTF, or \$275 million, whichever is less. The bill provides that the amount transferred may not exceed 7 percent of the revenues deposited into the STTF or \$350 million, whichever is less. This revision may provide the FDOT with additional bonding capacity. However, the resulting impact of any additional bonding capacity is unknown.

The M-CORES portions of the bill do 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, 201.15, 206.46, 206.606, 206.608, 212.0501, 316.545, 319.32, 334.044, 335.199, 339.135, 338,236, 339.0801, and 339.175.

This bill creates the following sections of the Florida Statutes: 333.15, 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 Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that when FDOT submits a work program amendment to the Legislative Budget Commission, but the commission does not consider the amendment within 30 days after submittal, the chair and vice chair of the commission may approve the amendment.
- Adds road and bridge maintenance or construction vehicles to the list of vehicles subject to the Move Over Law.
- Repeals statutes and provisions related to the Multi-use Corridors of Regional Economic Significance program and redirects the funding to the Strategic Intermodal System. Additionally, beginning July 1, 2023, the committee substitute discontinues a distribution from the STTF to the FTE for feeder roads.
- Authorizes the FDOT to upgrade existing arterial roadways with targeted improvements.

- 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.
- 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.

B. Amendments:

None.