

**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 Transportation

BILL: SB 1250

INTRODUCER: Senator DiCeglie

SUBJECT: Department of Transportation

DATE: March 17, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Pre-meeting</b>
2.			ATD	
3.			FP	

**I. Summary:**

SB 1250 contains the Florida Department of Transportation’s (FDOT’s) 2023 legislative proposals. The bill:

- Adds rating agency services to the list of contractual services and commodities not subject to certain competitive solicitation requirements.
- Provides that the prohibition against use of bond proceeds for acquisition of any building or facility that will be, during the pendency of financing, used by, occupied by, leased to, or paid for by any state, county or municipal agency or entity does not prohibit the use of proceeds from Florida Development Finance Corporation private activity bonds to finance acquisition or construction of a transportation facility under a public-private partnership.
- Authorizes the Florida Development Finance Corporation to issue revenue bonds to finance the costs of acquisition or construction of a transportation facility by a private entity or a consortium of private entities under a specified public-private partnership.
- Authorizes the FDOT to purchase promotional items for the promotion of electric vehicle use and charging stations, autonomous vehicles, and context design for electric vehicles and autonomous vehicles.
- Authorizes the FDOT to expend funds, within its discretion, for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.
- Increases from \$250K to \$500K the cap on entering into contracts for construction and maintenance without advertising and receiving competitive bids for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work.
- Removes the expiration date of a provision allowing the chair and vice chair of the Legislative Budget Commission to authorize an FDOT work program amendment if the Commission does not meet or consider the amendment within 30 days after its submittal.

- Requires that public transit development plans of eligible providers of public transit block grants be consistent, to the maximum extent feasible, with the long-range transportation plans of the metropolitan planning organization in which the provider is located.
- Removes from annual public transit provider reports a requirement to specifically address potential enhancements to productivity and performance that would have the effect of increasing farebox recovery ratio; and requires each public transit provider to publish on its website, rather than in the local newspaper, the productivity and performance measures established for the year and a report on attainment of such measures.
- Repeals part IV of Chapter 348, F.S., relating to the creation and operation of the Santa Rosa Bay Bridge Authority; transfers governance and control of the Authority and its bridge system and any remaining assets and rights to the FDOT; authorizes the FDOT to assume legal liability for contractual obligations determined to be necessary and authorizes transfer of the bridge system to the Turnpike.

The bill's fiscal impact is indeterminate. See the "Fiscal Impact Statement" heading for additional information.

Except as otherwise provided, the bill takes effect July 1, 2023.

## **II. Present Situation:**

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

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

### **Rating Agency Procurement (Section 1)**

#### *Present Situation*

Generally, if the purchase price of commodities or contractual services exceeds the threshold amount specified in s. 287.017, F.S., for CATEGORY TWO (\$35,000), the commodities or contractual services must be procured by receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies.<sup>1</sup> A number of exceptions to the general rule are present in current law. In addition, current law provides a list of 13 commodities and contractual services that are not subject to the competitive solicitation requirements.<sup>2</sup>

The FDOT advises that rating agencies<sup>3</sup> do not compete in the market by responding to requests for information, for applications, for quotations, or for proposals. When rating agency services

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<sup>1</sup> Section 287.057(3), F.S.

<sup>2</sup> Section 287.057(3)(e), F.S. These include, for example, commodities or services such as artistic services, legal services, and certain substance abuse and mental health services.

<sup>3</sup> "Bond rating agencies work somewhat like credit bureaus in that they both research financial information to determine creditworthiness. But instead of assessing an individual's likelihood of repaying their debts, a bond rating agency determines whether the issuers of debt securities like bonds are likely to fulfill their promises to pay interest and repay the principal you loaned them." See Forbes Advisor, *Understanding Bond Rating Agencies*, available at [What Are Bond Rating Agencies? – Forbes Advisor](#) (last visited February 8, 2023).

are needed, the FDOT “must engage them via Sole Source procurement for the Agency to be able to analyze the bond and then discuss analysis with FDOT.”<sup>4</sup>

Procurement of commodities or contractual services available only from a single source is one of the exceptions to the general rule noted above. Current law contains a number of requirements imposed on an agency believing that commodities or contractual services are available only from a single source, such as electronically posting a description of the desired commodities or services and providing a notice of the agency’s intended decision to enter a single source purchase contract.<sup>5</sup>

The FDOT advises that “Exempting Rating Agencies from competitive contracting services improves speed of delivery for analyzing bonding instruments.”<sup>6</sup>

### ***Effect of Proposed Changes***

The bill amends s. 287.057(3)(e), F.S., to add rating agency services to the list of contractual services and commodities that are not subject to the competitive-solicitation requirements of that section. The FDOT would not be required to comply with the statutory requirements for procurement available only from a single source.

## **Infrastructure Financing/Private Activity Bonds (Section 2)**

### ***Present Situation***

Generally, a private activity bond (PAB) is a tax-exempt security issued by or on behalf of a local or state government for the purpose of extending special financing benefits for qualified projects. PABs finance projects for a private user, and the governmental issuer’s credit usually isn’t pledged, but PABs provide a public benefit as well. They are used to attract private investments for projects “that have public or common utility,” and result in increased spending on infrastructure.”<sup>7</sup>

The federal government controls the amount of private activity bonds that are permitted to be issued in each state. Part VI of ch. 159, F. S., establishes statewide procedures for allocating Florida’s share of private activity bonds. Such allocation is statutorily referred to as the allocation of state volume limitation (s. 159.804, F.S.). The Division of Bond Finance of the State Board of Administration is responsible for annually determining the amount of the private activity bonds permitted for statewide allocation under the 1986 Internal Revenue Code, as amended. Generally, “traditional” road and bridge projects are not qualified under state private activity volume caps, but there is a private activity volume cap available at the federal level for such transportation projects, which was recently increased from \$15 to \$30 billion:

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<sup>4</sup> See the FDOT response to staff questions, Question 7 (on file in the Senate Transportation Committee).

<sup>5</sup> Section 287.057(3)(c), F.S.

<sup>6</sup> *Supra* note 4.

<sup>7</sup> See [MunicipalBonds.com](http://MunicipalBonds.com), *Understanding Private Activity Bonds*, available at [Understanding Private Activity Bonds \(municipalbonds.com\)](http://Understanding Private Activity Bonds (municipalbonds.com)) (last visited March 7, 2023).

According to the United State Department of Transportation:

Section 11143 of Title XI of SAFETEA-LU amended Section 142 of the Internal Revenue Code to add highway and freight transfer facilities to the types of privately developed and operated projects for which private activity bonds (PABs) may be issued. This change allowed private activity on these types of projects, while maintaining the tax-exempt status of the bonds. The law limited the total amount of the bonds to \$15 billion and directed the Secretary of Transportation to allocate this amount among qualified facilities. The Infrastructure Investment and Jobs Act signed into law on November 15, 2021 increased the available PAB authority from \$15 billion to \$30 billion. Passage of the private activity bond legislation reflects the Federal Government's desire to increase private sector investment in U.S. transportation infrastructure. Providing private developers and operators with access to tax-exempt interest rates lowers the cost of capital significantly, enhancing investment prospects. Increasing the involvement of private investors in highway and freight projects generates new sources of money, ideas, and efficiency. The \$30 billion in exempt facility bonds is not subject to the state volume caps.<sup>8</sup>

In Florida, access to PABs is provided by the Florida Development Finance Corporation (FDFC),<sup>9</sup> the “conduit issuer” of PABs, with the power to function within the corporate limits of any public agency with which it has entered into an interlocal agreement. The FDFC issues the bonds, which are purchased by a bank or investor(s). The proceeds from the sale are then loaned to finance capital projects. The interest received by the investor, if specific criteria are met, is exempt from federal income tax.<sup>10</sup>

Current law provides that the proceeds of any bonds of the FDFC may not be used, in any manner, to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity.<sup>11</sup>

The FDFC is currently authorized, without authorization from a public agency,<sup>12</sup> to issue revenue bonds to:

- Finance the undertaking of any projects within the state that promotes renewable energy;
- Finance the undertaking of any project within the state that is a project contemplated or allowed under the American Recovery and Reinvestment Act of 2009; or

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<sup>8</sup> See [transportation.gov, Private Activity Bonds](https://www.transportation.gov/private-activity-bonds), available at [Private Activity Bonds | Build America \(transportation.gov\)](https://www.transportation.gov/private-activity-bonds) (last visited March 7, 2023).

<sup>9</sup> Created in s. 288.9604, F.S. The board consists of seven directors. The secretary of Economic Opportunity, or designee, serves as the chair of the board. The director of the Division of Bond Finance, or designee, serves as a director. The Governor appoints the remaining five directors, subject to confirmation by the Senate.

<sup>10</sup> See [fdfcpace.com, Private Activity Bonds](https://www.fdfcpace.com/private-activity-bonds), available at [Private Activity Bonds | FDFC \(fdfcpace.com\)](https://www.fdfcpace.com/private-activity-bonds) (last visited March 7, 2023).

<sup>11</sup> Section 288.0606(6), F.S.

<sup>12</sup> Section 163.01(7), F.S., authorizes an interlocal agreement for a separate legal or administrative entity to administer an interlocal agreement authorizing a public agency of this state to exercise jointly with any other public agency of the state, of any other state, or of the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.

- If permitted by federal law, finance qualifying improvement projects with the state under s. 163.08, F.S.<sup>13</sup>

Section 334.30, F.S., authorizes the FDOT to enter into public-private partnerships with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. Such agreements, with associated PAB financing, may result in use of proceeds of the FDFC bonds to acquire a transportation facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity.

### ***Effect of Proposed Changes***

The bill amends s. 288.9606(6), F.S., providing that the prohibition against use of the proceeds of any FDFC bonds to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity, does not prohibit the use of proceeds of the bonds of the FDFC for the purpose of financing the acquisition or construction of a transportation facility under a public-private partnership agreement authorized under s. 334.30, F.S.

The bill also amends s. 288.9606(7), F.S., authorizing the FDFC, without authorization from a public agency under s. 163.01(7), F.S., to issue bonds or other evidence of indebtedness to finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a public-private partnership agreement authorized by s. 334.30, F.S.

### **Promotional Items/Public Information and Education Campaigns (Section 3)**

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

The FDOT is currently authorized to purchase, lease, or otherwise acquire property and materials, including the purchase of promotional items, as part of public information and education campaigns for the promotion of scenic highways, traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety.<sup>14</sup>

The FDOT recently published Florida's Electric Vehicle Infrastructure Deployment Plan,<sup>15</sup> deemed as the "framework for implementing the National Electric Vehicle Infrastructure Program (NEVI) to invest funding for EV infrastructure improvements to address charging gaps identified in the market," which will serve "as a guide for how EV funds will be invested across the State over the five-year timeline of the NEVI program." Florida reportedly will receive approximately \$198 million in NEVI formula funds through the federal 2026 fiscal year to grow the state's network of EV chargers.

The Federal Highway Administration views public engagement activities as enabling "a more inclusive, accessible, and transparent process to gain input from communities," and NEVI funds

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<sup>13</sup> See s. 163.08(2)(b), F.S., for a listing of such improvements, available at [Chapter 163 Section 08 - 2022 Florida Statutes - The Florida Senate \(flsenate.gov\)](#) (last visited March 7, 2023).

<sup>14</sup> Section 334.044(5), F.S.

<sup>15</sup> See FDOT, *Florida's Electric Vehicle Infrastructure Deployment Plan*, p. 3 of 55, available at [florida's-evidp\\_2022-07-29\\_final\\_v2.pdf \(windows.net\)](#) (last visited February 10, 2023).

can be used for public engagement.<sup>16</sup> The FDOT advises that public engagement activities include “briefings, meetings, venues, social media, interactive displays, kiosks, visual materials, etc.”<sup>17</sup> However, the FDOT has no state statutory authority to purchase promotional items relating to electric vehicles or electric vehicle charging stations, nor for autonomous vehicles (which may be electrically powered), or context design for each.<sup>18</sup>

### ***Effect of Proposed Changes***

The bill amends s. 334.044(5), F.S., to authorize the FDOT to purchase promotional items as part of public information and education campaigns for the promotion of electric vehicle use and charging stations, autonomous vehicles, and context design for electric vehicles and autonomous vehicles.

## **Employee Training, Testing, and Licensing/Commercial Driver Licenses (Section 3)**

### ***Present Situation***

The FDOT notes that truck drivers licensed to drive commercial motor vehicles “are the Department’s heaviest need right now. This can also extend to heavy equipment drivers such as bridge snoopers<sup>19</sup> and dump trucks, all of which also require a [commercial driver license] as a condition of employment.”<sup>20</sup>

The 2022 General Appropriations Act contained proviso authorizing the FDOT to expend \$500,000 for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.<sup>21</sup>

### ***Effect of Proposed Changes***

The bill creates s. 334.044(36), F.S., authorizing the FDOT, within its discretion, to expend funds for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.

## **Fast Response Contracting**

### ***Present Situation***

Generally, the FDOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System, the State Park Road System, or of

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<sup>16</sup> See FHWA, *National Electric Vehicle Infrastructure (NEVI) Formula Program Q&A*, pp. 12-13, available at [National Electric Vehicle Infrastructure \(NEVI\) Formula Program Q&A \(dot.gov\)](https://www.fhwa.dot.gov/infrastructure/2022/02/10/national-electric-vehicle-infrastructure-nevi-formula-program-q-a-dot-gov) (last visited February 10, 2023).

<sup>17</sup> See the FDOT’s responses to committee staff questions, Question 2 (on file in the Senate Transportation Committee).

<sup>18</sup> According to the FDOT, context design relates to the various design needs in different communities as electric vehicle and autonomous vehicle technology continues to evolve. *Supra* note 4, Question 4.

<sup>19</sup> Bridge snoopers are designed for under-bridge access inspections and bridge maintenance work. See [paxton-mitchell.com](https://www.paxton-mitchell.com), *The Original Snooper Underbridge Inspection Truck*, for a picture of a snooper, available at [Bridge Inspection Equipment | \(paxton-mitchell.com\)](https://www.paxton-mitchell.com) (last visited February 10, 2023).

<sup>20</sup> *Supra* note 4, Question 1 (on file in the Senate Transportation Committee).

<sup>21</sup> Ch. 2022-156, L.O.F., p. 319 of 518, available at [156 \(flrules.org\)](https://www.flrules.org) (last visited February 10, 2023).

any roads placed under its supervision by law. This authorization includes construction and maintenance contracts for rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. With certain exceptions, these contracts must be advertised for competitive bidding, and such contracts generally must be awarded to the lowest responsible bidder.<sup>22</sup>

One of the exceptions to the competitive bidding requirement currently authorizes the FDOT, under certain conditions, to enter into construction and maintenance contracts, up to the amount of \$250,000, without advertising and receiving competitive bids. The FDOT may exercise this authority when the FDOT determines that doing so is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work:

- To ensure timely completion of projects or avoidance of undue delay for other projects;
- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.<sup>23</sup>

The FDOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract and give consideration to disadvantaged business enterprise participation. If, however, the work exists within the limits of an existing contract, the FDOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract. These contracts fund projects such as sinkhole repairs that protect roadways and other infrastructure, traffic railing and guardrail repairs needed to protect the safety of the traveling public, and drainage and inlet work that prevents roadway flooding during heavy rain.

When first enacted in 1999, the dollar amount was capped at \$60,000.<sup>24</sup> The Legislature increased that amount to \$120,000 in 2002.<sup>25</sup> In 2017, the cap was increased to \$250,000 at the request of the FDOT, citing increased construction costs due to inflation.<sup>26</sup>

### ***Effect of Proposed Changes***

The bill amends s. 337.11(6)(c), F.S., to increase the threshold amount on fast response contracting from \$250,000 to \$500,000. The FDOT advises that increasing the cap to \$500,000 “will account for increased construction costs and extend the Department’s ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.”<sup>27</sup>

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<sup>22</sup> Section 337.11, F.S.

<sup>23</sup> Section 337.11(6)(c), F.S.

<sup>24</sup> Ch. 99-385, L.O.F.

<sup>25</sup> Ch. 2002-20, L.O.F.

<sup>26</sup> See the FDOT’s 2017 Legislative Proposal, *Rapid Response Contracts-Price Cap Increase* (on file in the Senate Transportation Committee), and Ch. 2017-42, L.O.F.

<sup>27</sup> See Florida Department of Transportation, *2023 Legislative Proposals*, Number 2 (on file in the Senate Transportation Committee).



## **Work Program Amendment Approval (Section 5)**

### ***Present Situation***

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.<sup>28</sup> Any work program amendment that adds a new project, or phase thereof, to the adopted work program in excess of \$3 million is subject to approval by the Legislative Budget Commission (LBC). The submission must be accompanied by specified supplemental information.<sup>29</sup>

If the FDOT submits such an amendment to the LBC and the LBC does not meet or consider the amendment within 30 days after its submittal, the chair and vice chair of the LBC may authorize the amendment.<sup>30</sup>

This provision first appeared in law in 2016, with no expiration date. In 2020, the Legislature added an expiration date of July 1, 2021.<sup>31</sup> The Legislature extended the expiration date by one year in 2021,<sup>32</sup> and did the same in 2022.<sup>33</sup> The authorization for LBC approval of the specified work program amendment is currently set to expire on July 1, 2023.

### ***Effect of Proposed Changes***

The amends s. 339.135(7)(h)2., F.S., to remove the expiration date for the current authorization of the LBC to approve the specified amendments under the conditions specified. The authorization would remain in place unless subsequently revised or repealed.

## **Public Transportation Development Plan Consistency (Section 6)**

### ***Present Situation***

The federal Surface Transportation Block Grant Program apportions funding for each state<sup>34</sup> that may be used by states and localities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge, and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects,<sup>35</sup> including intercity bus

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<sup>28</sup> Section 339.175(7), F.S.

<sup>29</sup> Section 339.135(7)(h)1., F.S..

<sup>30</sup> Section 339.135(7)(h)2., F.S.

<sup>31</sup> Ch. 2020-114, s. 93, L.O.F.

<sup>32</sup> Ch. 2021-37, ss. 54 and 96, L.O.F.

<sup>33</sup> Ch. 2022-157, s. 75, L.O.F.

<sup>34</sup> See the Surface Transportation Block Grant Fact Sheet available at [Bipartisan Infrastructure Law - Surface Transportation Block Grant \(STBG\) Fact Sheet | Federal Highway Administration \(dot.gov\)](#) (last visited February 13, 2023).

<sup>35</sup> Florida law defines “public transit capital project” as a project undertaken by a public agency to provide public transit to its constituency, and is limited to acquisition, design, construction, reconstruction, or improvement of a governmentally owned or operated transit system.” Section 341.031(7), F.S.



terminals.<sup>36</sup> The FDOT and local governmental entities are authorized to receive federal grants or apportionments for public transit<sup>37</sup> and intercity bus service projects<sup>38</sup> in this state.<sup>39</sup>

Section 341.052, F.S., establishes a public transit block grant program which is administered by the FDOT. Block grant funds may only be provided to “Section 9” providers<sup>40</sup> and “Section 18” providers,<sup>41</sup> as specified. Eligible providers must establish public transportation development plans consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the provider is located.<sup>42</sup> Section 341.051(4)(b), F.S., provides that expenditures for public transit and intercity bus service programs are subject to approval by the FDOT as being consistent with the Florida Transportation Plan and regional transportation goals and objectives.

The FDOT already requires that transportation development plans be consistent with the Florida Transportation Plan, local government comprehensive plans, and the local metropolitan planning organization’s long-range transportation plan.<sup>43</sup>

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<sup>36</sup> See FHWA, *Surface Transportation Block Grant Program (STBG)*, available at [STBG - Federal-aid Programs - Federal-aid Programs and Special Funding - Federal Highway Administration \(dot.gov\)](#) (last visited February 13, 2023).

<sup>37</sup> “Public transit” means the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Section 341.013(6), F.S.

<sup>38</sup> “Intercity bus service” means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains scheduled information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Section 341.031(11), F.S.

<sup>39</sup> Section 341.051(1), F.S.

<sup>40</sup> This is historical federal terminology. A “Section 9” provider is now referred to as a Section 5307 provider, one eligible to receive funds from the Urbanized Area Formula Grants program under 49 U.S.C. 5307. The program makes federal resources available to urbanized areas (50,000 population or more) and to governors for transit capital and operating assistance in urbanized areas and for transportation-related planning. Designated recipients that are public bodies with the legal authority to receive and dispense federal funds are eligible. For a long list of eligible activities, see Federal Transit Administration, *Urbanized Area Formula Grants – 5307*, available at [Urbanized Area Formula Grants - 5307 | FTA \(dot.gov\)](#) (last visited February 13, 2023). See also

<sup>41</sup> Again, this is historical federal terminology. A “Section 18” provider is now referred to as a Section 5311 provider, one eligible to receive funds from the Formula Grants for Rural Areas under 49 U.S.C. 5311. The grants provide capital, planning, and operating assistance to states to support public transportation in rural areas with populations of less than 50,000, where many residents often rely on public transit to reach their destinations. The program also provides funding for state and national training and technical assistance through the Rural Transportation Assistance Program. Eligible recipients include states and federally recognized Indian Tribes. Subrecipients may include state or local government authorities, nonprofit organizations, and operators of public transportation or intercity bus service. Eligible activities include planning, capital, operating, job access and reverse commute projects, and the acquisition of public transportation services. See Federal Transit Administration, *Formula Grants for Rural Areas – 5311*, available at [Formula Grants for Rural Areas - 5311 | FTA \(dot.gov\)](#) (last visited February 13, 2023).

<sup>42</sup> Section 341.052(1), F.S.

<sup>43</sup> The FDOT’s *TDP Handbook, FDOT Guidance for Preparing & Reviewing Transit Development Plans*, Version III, 2022 Update, p. 107 of 178, available at [2022-transit-development-plan-handbook.pdf \(windows.net\)](#), provides that “At a minimum, TDPs must be consistent with the Florida Transportation Plan, local government comprehensive plans, and the local MPO’s L RTP.” Emphasis added. (Last visited February 13, 2023).

### *Effect of Proposed Changes*

The bill amends s. 341.052(1), F.S., to statutorily require provider transportation development plans to also be consistent, to the maximum extent feasible, with the long-range transportation plans of the metropolitan planning organization in which the provider is located.

### **Public Transit Provider Productivity and Performance Measures (Section 7)**

#### *Present Situation*

Section 341.071(2), F.S., requires each public transit provider to establish productivity and performance measures and, by January 31 of each year, to report to the FDOT relative to these measures. The report must specifically address potential enhancements to productivity and performance which would have the effect of increasing farebox recovery. Each provider must publish in the local newspaper of its area the productivity and performance measures established for the year and a report which provides quantitative data relative to the attainment of established productivity and performance measures.

#### *Effect of Proposed Changes*

The bill amends s. 341.071(2), F.S., to remove from the annual report requiring providers to specifically addressing potential enhancements to productivity and performance measures having the effect of increasing farebox recovery. The bill would require the report to include the farebox recovery.

According to the FDOT, “This language is targeted to positive changes in ridership behavior following the pandemic. Localities across Florida have moved to a ‘free fare’ ridership model which has actually increased their ridership levels – the exact concept targeted with reporting their productivity and performance measures. Updating this language allows the localities to better tailor[] their reporting to reflect current state.”<sup>44</sup>

The bill amends s. 341.071(3), F.S., to authorize public transit providers to publish on its website (or on the city/county websites if those agencies are the managing agency for reporting requirements, according to the FDOT<sup>45</sup>) the productivity and performance measures established for the year, as well as the required report providing quantitative data relative to the attainment of those established measures.

### **Santa Rosa Bay Bridge Authority and Bridge System (Sections 8 and 9)**

The Santa Rosa Bay Bridge Authority (SRBBA) was created in 1984 under part IV of ch. 348, F.S., with the right to acquire, hold, construct, improve, maintain, operate, own, and lease all or any part of the Santa Rosa Bay Bridge System, including the Garcon Point Bridge and related infrastructure. Toll revenues fell short of projections, and payment of debt service on the bonds issued to construct the system went into default. A planned 2014 toll increase was never implemented, the SRBBA board ceased to function, and the bondholders then demanded that the

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<sup>44</sup> See the FDOT’s responses to committee staff questions, Question 6 (on file in the Senate Transportation Committee).

<sup>45</sup> See the FDOT’s document, “Florida Department of Transportation 2023 Legislative Proposals” (on file in the Senate Transportation Committee.)

FDOT increase the toll in amounts recommended by their consultant. The FDOT disputed its legal obligation to increase the tolls, litigation ensued, and subsequent Legislative efforts to resolve the matter were unsuccessful.

The on-going litigation between UMB Bank (for the bondholders) and the FDOT has been settled. The settlement called for the FDOT to pay \$134 million lump sum to UMB on June 17, 2022 (two days after toll reductions were announced) and, by July 29, 2022, to pay any previously unremitted tolls or revenues collected for use of the bridge through the lump sum payment date. According to the FDOT, the underlying bonds were paid in full on June 30, 2022, which effectuated transfer of title to the bridge system to the FDOT.<sup>46</sup> Given the recent settlement, part IV of Ch. 348, F.S., appears to be a candidate for repeal.

### *Effect of Proposed Changes*

The bill repeals part IV of Ch. 348, F.S.,<sup>47</sup> relating to the creation and operation of the SRBBA. The SRBBA is abolished. The bill creates an undesignated section of law, effective upon the act becoming law, transferring governance and control of the SRBBA, as well as any remaining assets, facilities, tangible and intangible property, and any rights in such property, and other legal rights of the authority, to the FDOT. The FDOT succeeds to all powers of the authority.

The bill authorizes the FDOT to review other contracts, financial obligations, and contractual obligations and liabilities of the authority, and to assume legal liability for such obligations the FDOT determines to be necessary for continued operation of the bridge system.

The bill also authorizes the FDOT to transfer the bridge system, or any portion thereof, to become part of the turnpike system under the Florida Turnpike Enterprise Law.<sup>48</sup>

### **Effective Date (Section 10)**

The bill takes effect July 1, 2023, except that sections 8 and 9 take effect upon becoming law.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

<sup>46</sup> See FDOT email to committee staff, February 7, 2023 (on file in the Senate Transportation Committee).

<sup>47</sup> Consisting of ss. 348.965, 348.966, 348.967, 348.968, 348.969, 348.97, 348.971, 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.9771, and 348.9781, F.S.

<sup>48</sup> Sections 338.22-338.241, F.S.

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:

None.

C. Government Sector Impact:

The authorization for the use of proceeds from Florida Development Finance Corporation private activity bonds to finance the acquisition or construction of a transportation facility under a public-private partnership presents an indeterminate fiscal impact, as it is unknown how many public-private partnerships the FDOT will enter into or the amount of such bonds that would be issued for each such partnership.

The authorization to produce promotional items for the promotion of electric vehicles and autonomous vehicles, and context design for each, is likely to produce an insignificant negative impact that would be absorbed within existing resources, but may be covered by NEVI funds.

The authorization for the FDOT to expend funds within its discretion for training, testing, and licensing for full-time employees of the FDOT is indeterminate but expected to be absorbed within existing resources.

The fiscal impact of the increased fast-response contracting cap is indeterminate, as it is unknown how many such contracts the FDOT will enter into or the cost of such contracts, but such contracting is capped at \$500,000 and is expected to be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 287.057, 288.9606, 334.044, 337.11, 339.135, 341.052, and 341.071.

This bill repeals the following sections of the Florida Statutes: 348.965, 348.966, 348.967, 348.968, 348.969, 348.97, 348.971, 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.9771, and 348.9781.

The bill creates an undesignated section of Florida law.

**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.