

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1305 Department of Transportation

SPONSOR(S): Infrastructure & Tourism Appropriations Subcommittee, Transportation & Modals Subcommittee, Abbott

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	13 Y, 0 N, As CS	Johnson	Hinshelwood
2) Infrastructure & Tourism Appropriations Subcommittee	15 Y, 0 N, As CS	Hicks	Davis
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

The bill relates to the Department of Transportation (DOT). The bill:

- Authorizes the Florida Development Finance Corporation to finance certain DOT-related public-private partnership projects.
- Authorizes installation of automated license plate recognition systems within the rights-of-way of the State Highway System, at DOT's discretion, when installed at the request of a law enforcement agency for the purpose of collecting active criminal intelligence or investigative information.
- Provides that DOT may not, when granting airport site approval, require a written memorandum of understanding or letter of agreement with other airport sites regarding air traffic pattern separation procedures unless it is required by the Federal Aviation Administration or is deemed necessary by DOT.
- Authorizes DOT to acquire promotional items and materials to promote electric vehicle use and charging stations and autonomous vehicles.
- Authorizes DOT, at its discretion, to expend funds for training, testing, and licensing for full-time DOT employees who are required to have a valid Class A or Class B commercial driver license as a condition of employment with DOT.
- Increases DOT's contracting cap where it is not required to receive competitive bids in certain circumstances from \$250,000 to \$500,000.
- Requires a public transit provider's transportation development plan to be consistent, to the maximum extent feasible, with the long-range transportation plan of the local metropolitan planning organization.
- Removes the requirement that each public transit provider's productivity and performance report specifically address potential enhancements to productivity and performance that would have the effect of increasing the farebox recovery ratio.
- Requires public transit providers to publish productivity and performance information on its website, instead of in the local newspaper.
- Transfers the Santa Rosa Bay Bridge Authority's bridge system to DOT and authorizes DOT to transfer it to the Florida Turnpike Enterprise.
- Repeals the Santa Rosa Bay Bridge Authority in statute.

The bill has an indeterminate fiscal impact on the state and local governments and the private sector.

The bill has an effective date of July 1, 2023, except as otherwise provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Development Finance Corporation - Issuance of Revenue Bonds

Current 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."¹

The federal government controls the amount of PABs that are permitted to be issued in each state. Chapter 159, part VI, F. S., establishes statewide procedures for allocating Florida's share of PABs. Such allocation is statutorily referred to as the allocation of state volume limitation (section 159.804, F.S.). The Division of Bond Finance² is responsible for annually determining the amount of the PABs 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.

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 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 PAB 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.³

Florida Development Finance Corporation

In Florida, access to PABs is provided by the Florida Development Finance Corporation (FDPC),⁴ 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 FDPC 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.⁵

¹ See MunicipalBonds.com, *Understanding Private Activity Bonds*, <https://www.municipalbonds.com/education/understanding-private-activity-bonds/> (last visited Mar. 22, 2023).

² The Division of Bond Finance is part of the State Board of Administration.

³ See [transportation.gov, Private Activity Bonds](https://www.transportation.gov/buildamerica/financing/private-activity-bonds), <https://www.transportation.gov/buildamerica/financing/private-activity-bonds> (last visited Mar. 22, 2023).

⁴ The Florida Development Finance Corporation is created in section 288.9604, F.S.

⁵ See Municipalbonds.com *Understanding Private Activity Bonds*, <https://www.municipalbonds.com/education/understanding-private-activity-bonds/> (last visited Mar., 22, 2023).

The proceeds of any FDFC bonds may not be used 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.⁶

However, section 288.9606(6), F.S., authorizes the FDFC in its corporate capacity may, without authorization from a public agency, issue revenue bonds or other evidence of indebtedness to:

- Finance the undertaking of any project within the state that promotes renewable energy;
- Finance the undertaking of any project within the state that is a project contemplated or allowed under section 406 of the American Recovery and Reinvestment Act of 2009;⁷ or
- If permitted by federal law, finance qualifying improvement projects under section 163.08, F.S.⁸

DOT Public-Private Partnerships

Section 334.30, F.S., authorizes DOT to enter into public-private partnership agreements for the building, operation, ownership, or financing of transportation facilities. Legislative approval of such projects is evidenced by approval of the project in DOT's work program.⁹ According to DOT:

A Public-Private Partnership (P3) is a contractual agreement between a public agency (federal, state, or local) and a private sector entity. Through this agreement, the skills and assets of the public agency and the private sector entity are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risk and reward potential in the delivery of the service or facility.¹⁰

Examples of DOT's P3 projects include the I-4 Ultimate and the Port Miami Tunnel.¹¹

Effect of the Bill

The bill amends section 288.9606, F.S., relating to the issuance of revenue bonds by FDFC, providing that section 288.9606(6), F.S., does not prohibit the use of proceeds of FDFC revenue bonds for purposes of financing the acquisition or construction of a transportation facility under a P3 agreement authorized for DOT.

The bill also authorizes FDFC to finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a P3 agreement authorized for DOT.

Automated License Plate Recognition Systems/State Highway System

Present Situation

An automated license plate recognition system (ALPRS) is a system of mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.¹² Data obtained from an ALPRS is generally used to check license plates against law enforcement hot lists. Hot lists contain a list of stolen plates and vehicles entered into the National Crime Information Center database, the Florida Crime Information Center database, Driver and Vehicle Information Database, and any information entered manually by the operating member. Examples of manual entries include, but are not limited to: attempt to locate; AMBER/SILVER alerts, child abductions, missing or wanted persons, and registered sexual predators.¹³

⁶ Section 288.9606(6), F.S.

⁷ Pub. L. 111-5

⁸ See section 163.08(2)(b), F.S., for a listing of such improvements.

⁹ Section 334.30(1), F.S.

¹⁰ DOT, *Public-Private Partnerships*, <https://www.fdot.gov/comptroller/pfo/p3.shtm> (last visited Mar. 19, 2023).

¹¹ DOT, *Florida Department of Transportation, Public-Private Partnership Projects*, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/comptroller/pfo/p3-summary.pdf?sfrsn=6db86d82_4 (last visited Mar. 19, 2023).

¹² Section 316.0778(1), F.S.

¹³ Department of Highway Safety and Motor Vehicles' "Florida Highway Patrol Policy Manual" on ALPRS available at:

<https://www.flhsmv.gov/pdf/fhp/policies/1725.pdf> (last visited Mar. 24, 2023).

Florida law requires the Department of State in consultation with the Department of Law Enforcement to establish a retention schedule, including a maximum period that records may be retained, for records containing images and data generated through the use of an ALPRS.¹⁴

The Department of State specifies the retention of license plate recognition records: “Retain until obsolete, superseded, or administrative value is lost, but no longer than 3 anniversary years unless required to be retained under another record series.”¹⁵

Images and data containing or providing personal identifying information held by an agency and obtained by an ALPRS, as well as personal identifying information derived from ALPRS data or images is confidential and exempt from public record requirements.¹⁶ Such information may be disclosed under the following conditions:

- By or to a criminal justice agency, as defined in section 119.011(4), F.S., in performance of the agency’s official duties.
- To a license plate registrant requesting his or her own information, unless such information constitutes active criminal intelligence information or active criminal investigative information.

Effect of the Bill

The bill creates section 316.0777(2), F.S., defining the term “law enforcement agency” for purposes of this subsection to mean an agency that has a primary mission of preventing and detecting crime and enforcing the state penal, criminal, traffic, and motor vehicle laws and in furtherance of that mission employs law enforcement officers.¹⁷

The bill authorizes, at DOT’s discretion, the installation of ALPRSs within the right-of-way of a road on the State Highway System when installed at the request of a law enforcement agency for the purpose of collecting active criminal intelligence information or active criminal investigative information. Such installation must be in accordance with DOT-developed placement and installation guidelines and be removed within 30 days after DOT notifies the requesting law enforcement agency that such removal must occur at the sole expense of the requesting agency.

The bill provides that DOT is not liable for any damages caused to any person by the requesting law enforcement agency’s operation of an ALPRS, and prohibits retention of records containing images and data generated through use of an ALPR for longer than the maximum period provided in the applicable retention schedule.

DOT Airport Site Approval

Current Situation

DOT is responsible for administering and enforcing chapter 330, F.S., relating to the regulation of aircraft, pilots, and airports, including, but not limited to, establishing requirements for airport site approval, licensure, and registration.¹⁸ With some exception,¹⁹ the owner or lessee of any proposed

¹⁴ Section 316.0778(2), F.S.

¹⁵ Florida Department of State, General Records Schedule GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners, Effective: February 2021, <https://fldoswebumbracoprod.blob.core.windows.net/media/703921/gS2-2021-final.pdf> (last visited Mar. 24, 2023).

¹⁶ Section 316.0777(2), F.S.

¹⁷ Section 943.10(1), F.S., defines the term “law enforcement officer” to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁸ Section 330.30, F.S.

¹⁹ Section 330.30(3), F.S.

airport must obtain DOT's approval of the airport site before site acquisition or construction or establishment of the proposed airport. DOT is required to grant site approval upon satisfaction that:

- The site has adequate area allocated for the airport as proposed.
- The proposed airport will conform to licensing or registration requirements and will comply with applicable local government land development regulations or zoning requirements.
- All affected airports, local governments, and property owners have been notified and any comments submitted by them have been given adequate consideration.
- Safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.²⁰

DOT has adopted rules regarding airport site approval.²¹ Rule 14-60.005, F.A.C., lists supporting documentation that must accompany an application for public airport site approval. With respect to air traffic patterns, an applicant must provide written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site. The applicant must provide a copy of a written memorandum of understanding or letter of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.²²

Effect of the Bill

The bill creates section 330.30(1)(d), F.S., providing that for the purpose of granting airport site approval, DOT may not require an applicant to provide a written memorandum of understanding or letter of agreement with other airport sites regarding air traffic pattern separation procedures unless such memorandum or letter is required by the Federal Aviation Administration or is deemed necessary by DOT.

DOT Public Information and Educational Campaigns

Current Situation

Section 334.044(5), F.S., authorizes DOT 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; to purchase, lease, or otherwise acquire equipment and supplies; and to sell, exchange, or otherwise dispose of any property that is no longer needed by DOT.

DOT recently published Florida's Electric Vehicle Infrastructure Deployment Plan,²³ 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."

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 can be used for public engagement.²⁴ DOT advises that public engagement activities include "briefings, meetings, venues, social media, interactive displays, kiosks, visual materials, etc."²⁵ However, DOT does not

²⁰ Section 330.30(1)(a), F.S.

²¹ Chapter 14-60, F.A.C.

²² Rule 14-60.005(5)(j), F.A.C.

²³ See Department of Transportation (DOT), *Florida's Electric Vehicle Infrastructure Deployment Plan*, p. 3, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/electric-vehicle/florida-s-evidp_2022-07-29_final_v2.pdf?sfvrsn=21099b3e_2 (last visited Mar. 19, 2023).

²⁴ See FHWA, *National Electric Vehicle Infrastructure (NEVI) Formula Program Q&A*, pp. 12-13, https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/resources/nevi_program_faqs.pdf (last visited Mar. 23, 2023).

²⁵ See DOT's responses to Senate committee staff questions, Question 3.(on file with the Transportation & Modals Subcommittee).

have 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.²⁶

According to DOT, context design relates to the various design elements surrounding roads/other infrastructure that will have to be updated to account for these emerging technologies and the respective community's environment and educating the public about these new features. This is applicable to both type of emerging technologies – electric vehicle and autonomous vehicles.

Effect of the Bill

The bill amends DOT's powers and duties authorizing it to purchase, lease, or otherwise acquire property and materials, including 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.

DOT Employee Commercial Driver Licenses

Current Situation

DOT 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 snoopers²⁷ and dump trucks, all of which also require a [commercial driver license] as a condition of employment.”²⁸

The 2022 General Appropriations Act contained the following proviso language:

From the funds in Specific Appropriations 1969 and 1995, \$500,000 may be expended for training, testing, and licensing for full-time employees of the Department of Transportation who are required to have a valid Class A²⁹ or Class B³⁰ commercial driver license as a condition of employment with the department.³¹

Effect of the Bill

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

DOT Rapid Response Contracting Authority

Current Situation

Under current law, DOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System or the State Park Road System or of any roads placed under its supervision. DOT also has the authority to enter into contracts for the construction and

²⁶ According to the DOT, context design relates to the various design needs in different communities as electric vehicle and autonomous vehicle technology continues to evolve. *Id.*, Question 5.

²⁷ Bridge snoopers are designed for under-bridge access inspections and bridge maintenance work. See paxton-mitchell.com, *The Original Snooper Underbridge Inspection Truck*, for a picture of a snooper, <https://paxton-mitchell.com/category/bridge-inspection-equipment/> (last visited Mar. 19, 2023).

²⁸ Attachment to e-mail from Brett Tubbs, Legislative Affairs Director, Department of Transportation, RE HB 1305, Initial Questions. (Mar. 10, 2023)

²⁹ A Class A commercial driver license is for trucks or truck combinations weighing with a Gross Vehicle Weight Rating of 26,001 lbs. or more, provided towed vehicle is more than 10,000 lbs. Department of Highway Safety and Motor Vehicles, *License Classes, Endorsements, and Designations*, <https://www.flhsmv.gov/driver-licenses-id-cards/general-information/license-classes-endorsements-designations/> (last visited Mar. 23, 2023).

³⁰ A Class B commercial driver license is for straight trucks weighing 26,001 lbs. Gross Vehicle Weight Rating or more. *Id.*

³¹ Chapter 2022-156, Laws of Florida. Provision Language to specific appropriation 1969.

maintenance of rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities.³²

When DOT determines that it is in the public's best interest for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work, DOT may enter into contracts for construction and maintenance, up to the amount of \$250,000, without advertising and receiving competitive bids. DOT may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

- 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.

DOT must make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. DOT must consider disadvantaged business enterprise participation. However, when the work exists within the limits of an existing contract, DOT should make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.³³

The maximum dollar threshold was most recently increased in 2017, when it was increased from \$120,000 to \$250,000.³⁴

Effect of the Bill

The bill increases the threshold amount from \$250,000 to \$500,000 when DOT may enter into construction and maintenance contracts without advertising and receiving competitive bids. DOT may only enter into such contracts as provided above.

Public Transit Development

Current Situation

Public Transit Block Grants

The federal Surface Transportation Block Grant Program apportions funding for each state³⁵ 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,³⁶ including intercity bus terminals.³⁷ DOT and local governmental entities are authorized to receive federal grants or apportionments for public transit³⁸ and intercity bus service projects³⁹ in this state.⁴⁰

³² Section 337.11(1), F.S.

³³ Section 337.11(6)(c), F.S.

³⁴ Chapter 2017-196, Laws of Florida.

³⁵ See the Surface Transportation Block Grant Fact Sheet <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/stbg.cfm> (last visited Mar. 19, 2023).

³⁶ Section 341.031(7), F.S., defines the term "public transit capital project" to mean 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.

³⁷ See FHWA, *Surface Transportation Block Grant Program (STBG)*,

<https://www.fhwa.dot.gov/specialfunding/stp/#:~:text=The%20Surface%20Transportation%20Block%20Grant%20program%20%28STBG%29%20provides,and%20transit%20capital%20projects%2C%20including%20intercity%20bus%20terminals> (last visited Mar. 23, 2023).

³⁸ Section 341.013(6), F.S., defines the term "public transit" to mean 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.

³⁹ Section 341.031(11), F.S., defines the term "intercity bus service" to mean 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 341.052, F.S., creates a public transit block grant program which is administered by DOT. Block grant funds may only be provided to “Section 9” providers⁴¹ and “Section 18” providers⁴² designated by the United States Department of Transportation and community transportation coordinators.⁴³ 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. In developing public transportation development plans, eligible providers must solicit comments from local workforce development boards.⁴⁴ The development plans must address how the public transit provider will work with the appropriate local workforce development board to provide services to participants in the welfare transition program. Eligible providers must provide information to the local workforce development board serving the county in which the provider is located regarding the availability of transportation services to assist program participants.⁴⁵

Costs for which public transit block grant program funds may be expended include:

- Costs of public bus transit and local public fixed guideway capital projects.
- Costs of public bus transit service development and transit corridor projects.
- Costs of public bus transit operations.

All projects must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government in which the project is located.⁴⁶

Transit Productivity and Performance Measures

Where there is an approved local government comprehensive plan in the political subdivision or political subdivisions in which the public transportation system is located, each public transit provider must establish public transportation development plans consistent with approved local government comprehensive plans.⁴⁷

Each public transit provider must establish productivity and performance measures, which must be approved by the department and which must be selected from measures developed pursuant to section 341.041(3), F.S. Each provider must, by January 31 of each year, report to DOT relative to these measures. In approving these measures, DOT must consider the goals and objectives of each system, the needs of the local area, and the role for public transit in the local area. The report shall also specifically address potential enhancements to productivity and performance which would have the effect of increasing farebox recovery ratio.⁴⁸

⁴⁰ Section 341.051(1), F.S.

⁴¹ 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 <https://www.transit.dot.gov/funding/grants/urbanized-area-formula-grants-5307> (last visited Mar. 23, 2023)

⁴² 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, <https://www.transit.dot.gov/rural-formula-grants-5311> (last visited Mar. 23, 2023).

⁴³ Section 427.011(5), F.S., defines the term “community transportation coordinator” to mean a transportation entity recommended by a metropolitan planning organization, or by the appropriate designated official planning agency as provided for in ss. 427.011-427.017, F.S., in an area outside the purview of a metropolitan planning organization, to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area.

⁴⁴ Workforce development boards are established under chapter 445, F.S.

⁴⁵ Section 341.052(1), F.S.

⁴⁶ Section 341.052(2), F.S.

⁴⁷ Section 341.071(1), F.S.

⁴⁸ Section 341.071(2), F.S.

Each public transit 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.⁴⁹

Metropolitan Planning Organization Long-Range Transportation Plans

Metropolitan Planning Organizations (MPOs) are federally-required transportation planning organizations in urbanized areas with populations of greater than 50,000 persons.⁵⁰

Each MPO is required to develop a long-range transportation plan with a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility.⁵¹

Effect of the Bill

The bill requires that eligible public transit providers public transportation development plan to be consistent, to the maximum extent feasible, with the long-range transportation plans of the MPO in which the provider is located. Currently, DOT's Transit Development Plan Handbook provides that at a minimum a transportation development plan must be consistent with the Florida Transportation Plan, local government comprehensive plans and local MPO long-range transportation plans.⁵² Therefore, it appears that the bill is codifying current practice.

The bill provides that each public transit provider's productivity and performance report must include the farebox recovery ratio, but removes the requirement that the report specifically address potential enhancements to productivity and performance that would have the effect of increasing the farebox recovery ratio.⁵³

The bill also requires each public transit provider to publish on its website, instead of in the local newspaper, its productivity and performance measure and data relative to the attainment of those measures.

Santa Rosa Bay Bridge Authority

Current Situation

Originally created in 1984,⁵⁴ chapter 348, part IV, F.S., creates the Santa Rosa Bay Bridge Authority (SRBBA) in Santa Rosa County. The SRBBA was created for the purpose of acquiring, holding, constructing, maintaining, operating, owning, and leasing the Santa Rosa Bay Bridge System (system),⁵⁵ commonly known as the Garcon Point Bridge. Bridge construction began in December 1996, and the bridge opened to traffic in May 1999.⁵⁶

Toll Facility Revolving Trust Fund Loans

⁴⁹ Section 341.071(3), F.S.

⁵⁰ Federal Transit Administration, *Metropolitan Planning Organization (MPO)*, <https://www.transit.dot.gov/regulations-and-guidance/transportation-planning/metropolitan-planning-organization-mpo> (last visited Mar. 23, 2023).

⁵¹ Section 339.175(7), F.S.

⁵² DOT, TPD Handbook, Version III, 2022 Update, p. 101. https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/transit/documents/2022-transit-development-plan-handbook.pdf?sfvrsn=be593482_2 (last visited Mar. 19, 2023).

⁵³ The farebox recovery ratio is the percentage of direct operating costs for a route that are recovered through the fare paid by the ridership. It is equal to fare revenue divided by total expenses. Attachment to E-mail from Brett Tubbs., Legislative Affairs Director, Department of Transportation, RE: HB 1305 Initial Questions, Mar. 10, 2023.

⁵⁴ Chapter 84-354, Laws of Florida.

⁵⁵ Department of Transportation/Division of Bond Finance; *Economic Feasibility Study: State Acquisition of the Garcon Point Bridge*. December 2017, p. 11.

⁵⁶ *Id.* at B-2.

The Toll Facilities Revolving Trust Fund was a loan program used to develop and enhance the financial feasibility of revenue-producing road projects. The trust fund provided interest free loans to pay the toll facility's initial project development costs. Loans of greater than \$1.5 million required specific legislative appropriation. In 2012, the Legislature repealed the Toll Facilities Revolving Trust Fund.⁵⁷

Between 1989 and 1994, SRBBA received \$8.5 million in Toll Facilities Revolving Trust Fund loans. SRBBA used the loan proceeds to pay preliminary expenditures related to the bridge. Toll Facilities Revolving Trust Fund loan repayment is subordinate to the SRBBA's debt service and administrative costs. As of June 30, 2016, SRBBA owed DOT \$7.9 million in Toll Facilities Revolving Trust Fund loans and has not made any loan payments since August 1999.⁵⁸

In January 2001, SRBBA requested an additional loan of over \$2.9 million, anticipated to be sufficient to cover revenue shortfalls in Fiscal Years 2001 and 2002. SRBBA's request was reduced to \$1.4 million after updated revenue estimates decreased its anticipated revenue shortfall. In May 2001, the Legislature approved SRBBA's loan request;⁵⁹ however, Governor Bush vetoed the loan.⁶⁰

Following the veto, SRBBA used its operating reserves to cover the revenue shortfall for its July 1, 2001, debt service payment. This temporarily allowed SRBBA to delay drawing on its \$9.2 million debt service reserve fund. This also left SRBBA without funds for its day-to-day operations. By mid-2001, SRBBA was using all available toll revenues for debt service, leaving it without operating funds. By the end of 2001, due to lack of funds, SRBBA closed its office and ceased all administration services. DOT agreed to take possession of all SRBBA's records and provide administrative support for SRBBA's future board meetings.⁶¹

Financing and Construction

In 1996, SRBBA issued \$95 million in bonds to pay for the construction of the Garcon Point Bridge. Also in 1996, SRBBA entered into a lease-purchase agreement with DOT, where DOT operated, maintained, repaired, and insured the bridge, and SRBBA was to reimburse DOT for associated expenditures only when it was able to meet its bond obligations.⁶²

Of SRBBA's \$95 million in bonds, \$75.5 million are fixed-rate current-interest bonds. Fixed-rate current-interest bonds pay interest at a set rate on a periodic basis. At maturity, the final interest payment and the original principal amount is paid to the bondholder. This is the conventional debt structure in the municipal bond market and is utilized for the vast majority of the state's debt transactions.⁶³

The remaining \$19.5 million in bonds are Capital Appreciation Bonds. Capital Appreciation Bonds do not make periodic interest payments and instead increase in value at a compounded rate. At maturity, bondholders receive a single payment equal to their original principal and all compounded interest. The total amount due at maturity of SRBBA's in Capital Appreciation Bonds issued is \$73.8 million. Since Capital Appreciation Bonds only pay at maturity, they are used to avoid periodic interest payments.⁶⁴

In 1999, the Garcon Point Bridge opened to traffic. However, it never received enough toll revenues to meet its bond obligations and its bonds went into default. In 2015 and 2018, the bond trustees requested that DOT increase the toll on the bridge. DOT expressed concerns over its legal authority to increase toll and did not increase the tolls.⁶⁵

⁵⁷ Chapter 2012-128, Laws of Florida.

⁵⁸ Economic Feasibility Study, *supra* note 61 at p. 11.

⁵⁹ Chapter 2001-253, Laws of Florida. (Veto of proviso language for specific appropriation 2032).

⁶⁰ Economic Feasibility Study, *supra* note 61 at p. B-3.

⁶¹ *Id.* at B-3 - B-4.

⁶² Department of Transportation settlement agreement with UMB National Association regarding the Garcon Point Bridge (June 13, 2022), Paragraph C, <https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=550000&ContractId=S0424&Tab=4> (last visited Mar. 2, 2023).

⁶³ Economic Feasibility Study, *supra* note 61 at p. B-3.

⁶⁴ *Id.*

⁶⁵ Settlement Agreement, *supra* note 68 at paragraph L.

Lease-Purchase Agreement

In October 1996, SRBBA and DOT entered into a lease-purchase agreement,⁶⁶ granting DOT exclusive possession and use of the bridge. Under the agreement, DOT pays the costs of operating, maintaining, repairing, and insuring the bridge. The agreement requires DOT to collect the tolls on the bridge and remit the revenues to the bond trustee as lease payments. The agreement's terms extend through the date upon which all of the bonds have been repaid and all amounts due to DOT, including the Toll Facilities Revolving Trust Fund loans and all operations and maintenance costs paid by DOT, have been repaid.⁶⁷

The agreement was a mechanism for the state to provide credit support in connection with financing the bridge. With the state paying the operation and maintenance expenses, SRBBA was able to pledge its gross toll revenues as security for the bonds. The state's credit support reduced the financial risk to bondholders and was essential for the marketability of the bonds given.

Litigation and State Takeover

In December 2018, the bond trustees filed a Complaint in the Circuit Court for Leon County seeking an order requiring DOT to increase the tolls on the bridge in order to cover the SRBBA's bond obligations and a separate claim in excess of \$75 million in damages for DOT's failure to raise tolls when requested by the trustee. The complaint was subsequently amended to request damages relating to DOT's extended suspension of tolls following Hurricane Sally in September 2020.⁶⁸

In December 2019, the court entered its Final Judgement, directing DOT to increase tolls in the manner recommended by DOT's traffic engineering consultant. In February 2020, DOT established higher tolls on the Garcon Point Bridge. However, the tolls were still not sufficient to cover bond costs.⁶⁹

On July 28, 2021, Governor DeSantis announced a toll reduction for the Garcon Point Bridge and directed DOT to lower the toll rates and reach a settlement with the bond trustee and bond holders to purchase the bridge and transfer it to the Florida Turnpike Enterprise.⁷⁰

In June 2022, a settlement agreement was reached between the bond trustee and DOT, where DOT paid the bond trustees \$134 million and took over ownership of the bridge.⁷¹ The tolls on the bridge were then lowered from \$4.50 to \$2.30 for SunPass customers and from \$5 to \$2.75 for cash customers.⁷²

Effect of the Bill

The bill provides that since SRBBA's bridge system was transferred to DOT under the terms of the lease-purchase agreement between DOT and the SRBBA, which was effective as of the close of business on June 30, 2022,⁷³ any remaining assets, facilities, tangible and intangible property, and any rights in such property, and other legal rights of the SRBBA are transferred to DOT. DOT succeeds to all powers of the SRBBA. DOT may review other contracts, financial obligations, and contractual obligations and liabilities of the SRBBA and may assume legal liability for such obligations that are determined by DOT to be necessary for the continued operation of the bridge system.

⁶⁶ DOT's authority to enter into lease-purchase agreements with SRBBA and similar authorities was repealed in 2014.

⁶⁷ Economic Feasibility Study, *supra* note 56 at p. 14

⁶⁸ Settlement Agreement, *supra* note 68 at paragraph M. Due to damage from Hurricane Sally to the Pensacola Bay Bridge that bridge was closed. Shortly after that bridge's closure, Governor DeSantis waived tolls on the Garcon Point Bridge through July 6, 2021. <https://www.flgov.com/2021/07/28/governor-desantis-reduces-tolls-for-garcon-point-bridge/> (last visited Mar. 19, 2023)

⁶⁹ Settlement Agreement, *supra* note 68 at paragraph N.

⁷⁰ Governor Ron DeSantis, Press Release, *Governor DeSantis Reduces toll for Garcon Point Bridge*, July 28, 2021.

<https://www.flgov.com/2021/07/28/governor-desantis-reduces-tolls-for-garcon-point-bridge/> (last visited Mar. 19, 2023).

⁷¹ Settlement Agreement, *supra* note 68 at paragraph 4.

⁷² Alex Miller, *Florida takes ownership of Garcon Point Bridge; cash toll is \$2.75 effective Thursday*. *Pensacola News Journal*. June 16, 2022. <https://www.pnj.com/story/news/local/santa-rosa/2022/06/15/garcon-point-bridge-purchased-state-tolls-now-2-75/7623694001/> (last visited Mar. 19, 2023).

⁷³ Per DOT, this was the date the SRBBA's bonds were discharged.

The bridge system, or any portion of the bridge system, may be transferred by DOT and become part of the turnpike system under the Florida Turnpike Enterprise Law.⁷⁴

The bill repeals chapter 348, part IV, F.S., repealing the Santa Rosa Bay Bridge Authority. The bill transfers the governance and control of SRBBA to DOT.

Effective Date

Except as otherwise provided in the bill, the bill has an effective date of July 1, 2023.

B. SECTION DIRECTORY:

- Section 1.** Amends section 288.9606, F.S., relating to the issue of revenue bonds.
- Section 2.** Amends section 316.0777, F.S., relating to automated license plate recognitions systems, installation within rights-of-way of the State Highway System; public records exemption.
- Section 3.** Amends section 330.30, F.S., relating to approval of airport sites; registration and licensure of airports.
- Section 4.** Amends section 344.044, F.S., relating to the powers and duties of the department.
- Section 5.** Amends section 337.11, F.S., relating to contracting authority of the department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements for vehicle registration.
- Section 6.** Amends section 341.052, F.S., relating to public transit block grant program; administration eligible projects; limitation.
- Section 7.** Amends section 341.071, F.S., relating to transit productivity and performance measures; reports.
- Section 8.** Transfers the Santa Rosa Bay Bridge Authority to DOT.
- Section 9.** Repeals chapter 348, part IV, F.S., repealing the Santa Rosa Bay Bridge Authority.
- Section 10.** Provides that, except as otherwise expressly provided, the bill has an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:

DOT reports that there is no fiscal impact resulting from the authorization to finance the costs of acquisition or construction of a transportation facility under a P3 agreement. This instrument will serve as another financing alternative through the use of FDFC revenue bonds.

⁷⁴ Sections 338.22-338.241, F.S.
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DATE 4/11/2023

The bill appears to hold DOT harmless from any damages caused to any person by the requesting law enforcement agency's operation of an ALPRS. The bill further provides that DOT is not responsible for the costs associated with the installation or removal of an ALPRS; those costs are solely borne by the requesting law enforcement agency.

The department will incur minimal expenditures associated with revising its rules relating to airport site approval and public transit development plans. Any costs incurred are expected to be absorbed within existing department resources.

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

The bill authorizes the department to expend funds for training, testing, and licensing for full-time DOT employees who are required to have a valid Class A or Class B commercial driving license as a condition of employment with the department. According to DOT, up to \$500,000 of existing resources will be used to fund this effort.

The fiscal impact of the increased fast-response contracting cap is indeterminate, as it is unknown how many such contracts DOT will enter into or the cost of such contracts. However, the department states that this contracting cap increase will reduce workload efforts resulting in costs savings to the state.

The bill transfers assets and liabilities for the SRBBA to the department to ensure full operation and maintenance of the bridge as a result of the terms of the lease-purchase agreement between DOT and SRBBA. DOT asserts that there are no known outstanding liabilities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Public transit providers may realize a reduction in costs associated with being able to publish productivity and performance measures and data relative to the attainment of those measures on their website instead of in the local newspaper.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOT will need to amend its rules relating to airport site approval to reflect changes made by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 29, 2023, the Transportation & Modals Subcommittee considered a proposed committee substitute with one amendment, which was adopted, and reported the bill favorably as a committee substitute. The committee substitute differs from HB 1305 in the following ways:

- Removes a provision exempting rating agency services from competitive procurement requirements.
- Provides that DOT may not, when granting airport site approval, require a written memorandum of understanding or letter of agreement with other airport sites regarding air traffic pattern separation procedures unless it is required by the Federal Aviation Administration or is deemed necessary by DOT.
- Revises DOT's authority to expend funds for training, testing, and licensing for its employees such that the expenditure only applies to Class A or Class B commercial driver licenses required as a condition of employment with DOT.
- Revises a provision relating to the Legislative Budget Commission process for the DOT work program by extending the expiration date for one year rather than making the provision permanent law.
- Adds a provision that would grant permission for DOT to allow law enforcement to install automated license plate readers on DOT property along state roads.
- Makes other clarifying changes.

On April 11, 2023, the Infrastructure & Tourism Appropriations Subcommittee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The amendment removes language that would extend for one year a provision allowing the chair and vice chair of the Legislative Budget Commission to approve DOT work program amendments, if specified conditions were met.

This analysis is drafted to the committee substitute as adopted by the Infrastructure & Tourism Appropriations Subcommittee.