

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 Fiscal Policy

BILL: CS/CS/CS/SB 1226

INTRODUCER: Fiscal Policy Committee; Appropriations Committee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator DiCeglie

SUBJECT: Department of Transportation

DATE: February 28, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Nortelus</u>	<u>Jerrett</u>	<u>ATD</u>	<u>Fav/CS</u>
3.	<u>Johnson</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1226 revises various provisions relating to the Florida Department of Transportation (FDOT). The bill:

- Updates FDOT’s statutory program areas to reflect its current organizational structure.
- Repeals obsolete language regarding the appointment of FDOT’s inspector general.
- Provides \$15 million in recurring revenue be made available for the Intermodal Logistics Center Infrastructure Support Program.
- Amends FDOT’s statutory mission, goals, and objectives.
- Requires public notice and input prior to a governmental entity repurposing one or more existing traffic lanes.
- Increases from three years to ten years the length of time before an inactive prepaid toll account becomes unclaimed property.
- Revises provisions regarding an interlocal agreement and FDOT’s funding of a fire station on Alligator Alley.
- Prohibits FDOT from spending state funds on transportation entities violating certain statutory requirements.
- Provides that specified revenues deposited into the State Transportation Trust Fund must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation to fund arterial highway projects.

- Authorizes FDOT to enter into service contracts with the Florida Department of Transportation Financing Corporation for specified projects.
- Authorizes local governments in specified areas to, subject to specific appropriation, compete for additional funding using the criteria for the Small County Outreach Program to fund projects on roads primarily used for agricultural purposes.
- Provides that lane repurposing for public transit must be approved by a supermajority vote of the transit authority's board.
- Requires any action of eminent domain for public transit facilities must be discussed at a public meeting of the transit provider's board.
- Provides that certain unallocated New Starts Transit funds must be reallocated to the Strategic Intermodal System for a two year period.
- Prohibits public transit providers from spending FDOT funds on certain marketing or advertising activities.
- Prohibits window tinting on public transit buses from being any darker than what is legally allowed for motor vehicles.
- Requires each public transit provider to annually certify that its budgeted and actual general administrative costs are no greater than 20 percent above the state average administrative costs.
- Requires public transit providers to disclose employee compensation and benefits, ridership and performance metrics, and any gifts accepted in exchange for a contract.
- Requires specified increases in administrative costs by a public transit provider must be reviewed and approved by FDOT.
- Grants the Florida Rail Enterprise the power and duty to preserve future rail corridors and rights of way.

The bill may have both negative and positive fiscal impacts on private and governmental sectors. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

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

III. Effect of Proposed Changes:

FDOT Organizational Structure (Section 1)

Present Situation

The Florida Department of Transportation (FDOT) is a decentralized agency headed by the Secretary of Transportation (secretary).¹ The secretary may appoint up to three assistant secretaries who are directly responsible to the secretary and who perform such duties as are assigned by the secretary.²

¹ Section 20.23(1)(a), F.S.

² Section 20.23(1)(d), F.S.

FDOT's secretary may appoint deputy assistant secretaries or directors which the secretary deems necessary to accomplish FDOT's mission and goals, including, but not limited to, the areas of program responsibility listed below, each of whom is appointed by and serves at the pleasure of the secretary. The secretary may combine, separate, or delete offices as needed in consultation with the Executive Office of the Governor. FDOT's areas of program responsibility include, but are not limited to:

- Administration;
- Planning;
- Public transportation;
- Design;
- Highway operations;
- Right-of-way;
- Toll operations;
- Information systems;
- Motor carrier weight inspection;
- Management and budget;
- Comptroller;
- Construction;
- Maintenance; and
- Materials.³

Effect of Proposed Changes

The bill revises FDOT's areas of program responsibility by replacing:

- Public transportation with modal development; and
- Management and budget with work program development and budget.

The bill adds the following areas of program responsibility:

- Transportation technology;
- Statewide corridors;
- Forecasting and performance;
- Emergency management; and
- Safety.

Appointment of the Florida Department of Transportation's Inspector General (Section 1)

Present Situation

Florida law establishes an office of inspector general in each state agency, providing a central point of coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. Florida law provides various duties and responsibility regarding each state agency's inspector general.⁴

³ Section 20.23(3)(b), F.S.

⁴ Section 20.055. FS.

In 2014, the Legislature transferred the appointment and removal of a Governor's agency inspector general from the agency head to the Governor's Chief Inspector General.⁵ For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the agency head appoints the agency's inspector general. For state agencies under the jurisdiction of the Governor, the Chief Inspector General appoints the agency's inspector general.⁶ FDOT is under the Governor's jurisdiction.⁷

Conflicting with the generally applicable requirements regarding the appointment of an inspector general, Florida law also requires the Secretary of Transportation to appoint FDOT's inspector general.⁸

Effect of Proposed Changes

The bill repeals obsolete language regarding the Secretary of Transportation's authority to appoint FDOT's inspector general.

Intermodal Logistics Center Infrastructure Support Program (Section 2)

Present Situation

An intermodal logistics center is a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09, F.S.⁹

FDOT's Intermodal Logistics Center Infrastructure Support Program's (program) purpose is to provide funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport, enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities. FDOT may provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.¹⁰

FDOT must consider, but is not limited to, the following criteria when evaluating projects for program assistance:

- The ability of the project to serve a strategic state interest.
- The ability of the project to facilitate the cost-effective and efficient movement of goods.

⁵ Chapter 2014-144, Laws of Fla.

⁶ Section 20.055(3)(a)1., F.S.

⁷ See s. 20.23(1)(a), F.S.

⁸ Section 20.23(3)(c), F.S.

⁹ Section 311.101(2), F.S. The ports listed in s. 311.09(1), F.S., are Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

¹⁰ Section 311.101(1), F.S.

- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues.
- The extent to which the project efficiently interacts with and supports the transportation network.
- A commitment of a funding match.
- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the owner has commitments with private sector businesses planning to locate operations at the intermodal logistics center.
- Demonstrated local financial support and commitment to the project.¹¹

FDOT must provide up to 50 percent of project costs for eligible projects, except that for eligible projects in rural areas of opportunity,¹² where the FDOT may provide up to 100 percent of project costs.¹³

When the program was created in 2012,¹⁴ up to \$5 million per year was made available from the State Transportation Trust Fund (STTF) for the program.¹⁵ This funding expired on July 1, 2020.¹⁶

Effect of Proposed Changes

The bill provides that, beginning in 2024-2025 fiscal year through the 2029-2030 fiscal year, \$15 million in recurring revenue must be made available from the STTF for the program. FDOT must include projects proposed to be funded in its tentative work program.

FDOT Mission, Goals, and Objectives (Section 3)

Present Situation

Section 334.046, F.S., contains FDOT's mission, goals, and objectives. Under Florida law, the prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility.¹⁷

FDOT's mission is to provide a safe statewide transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.¹⁸

¹¹ Section 311.101(3), F.S.

¹² Rural Areas of Opportunity are designated in accordance with s. 288.0656(7)(a), F.S.

¹³ Section 311.101(6), F.S.

¹⁴ Chapters 2012-128 and 2012-174, Laws of Fla.

¹⁵ FDOT's tentative work program is developed pursuant to s. 339.135(4), F.S.

¹⁶ See Chapter 2014-216, Laws of Fla.

¹⁷ Section 334.046(1), F.S.

¹⁸ Section 334.046(2), F.S.

FDOT must document in the Florida Transportation Plan,¹⁹ and based upon the prevailing principles of preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, and improving travel choices to ensure mobility, the goals and objectives that provide statewide policy guidance for accomplishing the department's mission.²⁰

At a minimum, FDOT's goals must address the following prevailing principles:

- *Preservation.*—Protecting the state's transportation infrastructure investment. Preservation includes:
 - Ensuring that 80 percent of the pavement on the State Highway System meets FDOT standards;
 - Ensuring that 90 percent of FDOT-maintained bridges meet FDOT standards; and
 - Ensuring that FDOT achieves 100 percent of the acceptable maintenance standard on the State Highway System.
- *Economic competitiveness.*—Ensuring that the state has a clear understanding of the economic consequences of transportation investments, and how such investments affect the state's economic competitiveness. FDOT must develop a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the district-work-program investments. Such an analysis must analyze:
 - The state's and district's economic performance relative to the competition.
 - The business environment as viewed from the perspective of companies evaluating the state as a place in which to do business.
 - The state's capacity to sustain long-term growth.
- *Mobility.*—Ensuring a cost-effective, statewide, interconnected transportation system.²¹

Effect of Proposed Changes

The bill amends FDOT's mission, goals and objectives. The bill requires FDOT to consider the following prevailing principles when planning and developing the state's multimodal transportation system: preserving Florida's transportation infrastructure; supporting its economic competitiveness; and preserving Florida's quality of life.

FDOT's mission is to provide a safe statewide transportation system that promotes the efficient movement of people and goods, supports the state's economic competitiveness, prioritizes Florida's environment and natural resources, and preserves the quality of life and connectedness of the state's communities.

The prevailing principles outlined below must be incorporated into all goals and objectives that provide statewide policy and guidance for accomplishing FDOT's mission, including the Florida Transportation Plan.

At a minimum, FDOT's goals must address the following prevailing principles:

- *Maintaining investments.* – Protecting the state's infrastructure investment, which includes:

¹⁹ The Florida Transportation Plan is provided for in s. 339.155, F.S.

²⁰ Section 334.046(3)

²¹ Section 334.046(4), F.S.

- Ensuring that 80 percent of the pavement on the State Highway System meets FDOT standards;
- Ensuring that 90 percent of FDOT-maintained bridges meet FDOT standards; and
- Ensuring that FDOT achieves 100 percent of the acceptable maintenance standard on the State Highway System.
- *Economic competitiveness.* - Ensuring that the state has a clear understanding of the return on investment and economic impacts of transportation infrastructure investments and how such investments affect the state's economic competitiveness. FDOT must develop a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the district-work-program investments. Such an analysis must analyze:
 - The state's and district's economic performance relative to the competition.
 - The business environment as viewed from the perspective of companies evaluating the state as a place in which to do business.
 - The state's capacity to sustain long-term growth.
- *Connected transportation system.* – Ensuring a cost-effective, statewide, interconnected transportation system that provides the most efficient and effective multimodality and mobility.
- *Preserving Florida's natural resources and quality of life.* – Prioritizing Florida's natural resources and the quality of life in its communities.

Traffic Lane Repurposing (Section 4)

Present Situation

To balance the needs of the statewide transportation network and local roadways, FDOT has developed a process allowing local and regional agencies to repurpose parts of FDOT-owned roadways in their jurisdiction for other purposes such as a dedicated transit lane or to make the area more pedestrian friendly. To do this, the relevant local government develops a lane repurposing application and conceptual plan that is be sent to the appropriate FDOT district's Lane Repurposing Coordinator for approval based on certain criteria.²²

FDOT's *Lane Repurposing Guidebook* provides information regarding lane repurposing, including the application process, concept report, public involvement and examples of such projects.

Effect of Proposed Changes

The bill provides that whenever a governmental entity²³ proposes any project that will repurpose one or more existing traffic lanes, the governmental entity must include a traffic study to address

²² FDOT, *Lane Repurposing Guidebook*, August 2020, Section 1.1,

https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/systems-management/document-repository/lane-repurposing/lr_guidebook-2020.pdf?sfvrsn=b4 (last visited February 20, 2024).

²³ Section 334.044(11), F.S., defines the term "governmental entity" to mean a unit of government, or any officially designated public agency or authority of a unit of government, that has the responsibility for planning, construction, operation, or maintenance or jurisdiction over transportation facilities; the term includes the Federal Government, the state government, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

any potential adverse impacts of the project, including, but not limited to, changes in traffic congestion and impacts on safety.

If, following the required study, the governmental entity elects to continue with the design of the project, it must notify all affected property owners, impacted municipalities, and the counties in which the project is located at least 180 days before the design phase of the project is completed. The notice must provide a written explanation regarding the need for the project, information on how to review the required traffic study, and indicate that all affected parties will be given an opportunity to provide comments to the proposing entity regarding potential impacts of the change.

The governmental entity must hold at least one public meeting, with at least 30 days prior notice, before completing the design phase of the project in the jurisdiction where the project is located. At the public meeting, the governmental entity must explain the purpose of the project and receive public input, including possible alternatives, to determine the manner in which the project will affect the community.

The governmental entity must review all comments from the public meeting and take the comments and any alternatives presented during the meeting into consideration in the final design of the project.

Inactive Prepaid Toll Accounts (Section 5)

Present Situation

FDOT, through the Florida Turnpike Enterprise, operates its electronic prepaid toll program (SunPass), which may be used on most of Florida's toll facilities and is operable on toll facilities in some other states.²⁴

Under the Florida Disposition of Unclaimed Property Act,²⁵ except as otherwise provided in that act, all intangible property that is held, issued, or owing in the ordinary course of the holder's business and the owner fails to claim such property for more than five years after the property becomes payable or distributable is presumed unclaimed.²⁶ Unclaimed property is reported to the Division of Unclaimed Property in the Department of Financial Services (DFS).²⁷

Unclaimed property funds are deposited into the Unclaimed Property Trust Fund. The DFS retains funds to make prompt payment of claims and to pay the cost of administering the program. All remaining funds are deposited into the State School Fund.²⁸

Florida law presumes that any prepaid toll account, which has been inactive for three years, is unclaimed property. After three years, DFS must handle the account's disposition in accordance

²⁴ SunPass, *Frequently Asked Questions*, <https://www.sunpass.com/en/support/faq.shtml> (last visited February 12, 2024).

²⁵ Chapter 717, F.S.

²⁶ Section 717.102, F.S.

²⁷ Florida Department of Financial Services, Division of Unclaimed Property, *Why Should I Search for Unclaimed Property*, <https://www.fltreasurehunt.gov/UP-Web/sitePages/About.jsp> (last visited February 12, 2024).

²⁸ Section 717.123(1), F.S.

with Florida's Disposition of Unclaimed Property Act and FDOT must close the prepaid toll account.²⁹

Effect of Proposed Changes

The bill increases from three years to ten years the length of time that a prepaid toll account must be inactive prior to it becoming unclaimed property. At the end of ten years, the inactive toll account becomes subject to the Florida Disposition of Unclaimed Property Act.

Alligator Alley Fire Station (Section 6)

Present Situation

Section 338.26, F.S., establishes Alligator Alley, a 78-mile toll road connecting Naples and Fort Lauderdale. That statute finds that because the construction of the road "contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades," the Legislature established a system of tolls for use of Alligator Alley to provide financial resources to help restore the natural resource values lost by constructing the highway. Collier County provides fire, rescue, and emergency management services along Alligator Alley through a fire station located at mile marker 63 (MM 63).

Current law sets forth the required uses of the revenues generated from tolls for the use of Alligator Alley, which are deposited into the STTF. Revenues must be used to reimburse outstanding contractual obligations and to operate and maintain the highway and toll facilities, including reconstruction and restoration. With regard to the fire station on Alligator Alley, the revenues must be used:

- To design and construct the fire station at MM 63, which may be used by a county or other local governmental entity to provide services to the public on Alligator Alley; and
- To reimburse a county or other local governmental entity for the direct actual costs of operating the fire station. Reimbursement occurs through an interlocal agreement effective July 1, 2019, through no later than June 30, 2027.³⁰

Revenues generated annually in excess of those required to pay the above-described expenses may be transferred to the Everglades Trust Fund and used for certain environmental projects.³¹

According to FDOT's 2022 Annual Report for its Enterprise Toll Operations, for Fiscal Year 2021-2022, Alligator Alley had \$31.8 million in gross toll revenue, with operating and maintenance expenses of \$10.9 million and annual debt service payments of \$2.8 million. The maintenance expenses include funding for rest area improvements, fire station operations, and interchange lighting projects.³²

²⁹ Section 338.231(3)(c), F.S.

³⁰ Section 338.26(3)(a), F.S.

³¹ Section 338.26(3)(b), F.S.

³² The 2022 report is the latest posted to DOT's Turnpike Enterprise webpage and is available at <https://floridasturnpike.com/wp-content/uploads/2023/02/2022-Department-owned-Facilities.pdf>. (last visited February 21, 2023).

Effect of Proposed Changes

The bill provides that the interlocal agreement effective July 1, 2019, through June 20, 2027, controls until such time that the local governmental entity and FDOT enter into a new agreement or agree to extend the existing agreement. For the 2024-2025 fiscal year, the amount of reimbursement is \$2 million.

By December 31, 2024, and every five years thereafter, the local governmental entity must provide to the FDOT a maintenance and operations comprehensive plan. The plan must include a current inventory of assets, including their projected service life, and area service needs; the call and response history for emergency services provided in the preceding five years on Alligator Alley, including costs; and future projects for assets and equipment, including replacement or purchase needs, and operating costs.

The local governmental entity and FDOT must review and adopt the comprehensive plan as part of the interlocal agreement.

In concurrence with projected incoming toll revenues for Alligator Alley, FDOT must include the corresponding funding needs of the comprehensive plan into FDOT's work program.

The bill also removes the current \$1.4 million annual reimbursement from FDOT and provides that equipment purchased with state funds and used at the fires station, the ownership of such equipment transfers to the state at the end of the term of the interlocal agreement.

Expenditure of State Funds (Section 7)

Present Situation

State Transportation Trust Fund

Florida law establishes the State Transportation Trust Fund (STTF), which is used for transportation purposes, at FDOT's direction.³³ Such transportation purposes include maintaining and developing the state highway system and supporting various transportation related projects.³⁴ STTF's primary revenue sources are from state fuel taxes and fees related to motor vehicle licensing.³⁵ FDOT must expend moneys in the STTF in accordance with its annual budget.³⁶

Prohibition on Discrimination Based on Health Care Choices

Section 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the

³³ Section 206.46(1), F.S.

³⁴ FDOT, Office of Work Program and Budget, *Florida's Transportation Tax Sources*, (2023), p. 2, <https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/pra/Primer.pdf#:~:text=STTF%E2%80%99s%20primary%20revenue%20sources%20from%20state%20taxes%20and,fuel%20taxes%20and%20motor%20vehicle%20license%20related%20fees.> (last visited February 20, 2024).

³⁵ *Id.*

³⁶ Section 339.08(1), F.S.

business, governmental operations or school attendance or enrollment, or to access the institution and its services.

Effect of Proposed Changes

The bill provides that the FDOT may not expend any state funds to support a project or program of a public transit provider,³⁷ authority,³⁸ public-use airport,³⁹ or a port⁴⁰ that violates s. 381.00316, F.S.

The bill provides that the FDOT must withhold state funds until a public transit provider, authority, public-use airport, or port are found to be in compliance with s. 381.00316, F.S.

Use of Moneys in the State Transportation Trust Fund (Sections 8 and 9)

Present Situation

Under Florida law, after the revenue derived from the registration of motor vehicles is distributed as specified and allocated as provided by law, then the remainder of such revenues are deposited into the STTF.⁴¹ This amount deposited to the STTF must be used to fund arterial highway⁴² projects identified by FDOT and may be used for projects for upgrading arterial highways with controlled access facilities⁴³ and constructing controlled access facilities on U.S. 19, north of the Suncoast Parkway.^{44 45}

Florida Department of Transportation Financing Corporation and Service Contract

The Florida Department of Transportation Financing Corporation (corporation) is as a nonprofit corporation established for the purpose of financing or refinancing FDOT projects.⁴⁶

The corporation may enter into one or more service contracts with FDOT to provide services to FDOT in connection with projects approved in the work program. FDOT may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature.⁴⁷ FDOT may enter into a service contract in

³⁷ Section 341.031(1), F.S., defines the term “public transit provider” to mean a public agency providing public transit service, including rail authorities.

³⁸ Authorities created under chapters 348, 348 and 349, F.S., include the South Florida Regional Transportation Authority, Central Florida Regional Transportation Authority, Greater Miami Expressway Agency, Tampa-Hillsborough County Expressway Authority, Central Florida Expressway Authority, and Jacksonville Transportation Authority.

³⁹ Section 332.004(14), F.S., defines the term “public-use airport” to mean any publicly owned airport which is used or to be used for public purposes.

⁴⁰ Section 311.09(1), F.S., enumerates the following ports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

⁴¹ Section 320.20(5)(a), F.S.

⁴² Section 334.03(1), F.S., defines the term “arterial road” to mean a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

⁴³ See s. 339.66, F.S.

⁴⁴ See s. 339.67, F.S.

⁴⁵ Section 339.0803, F.S.

⁴⁶ Section 339.0809, F.S.

⁴⁷ Section 339.0809(4), F.S.

conjunction with the issuance of debt obligations which provide for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of corporation.⁴⁸

Moving Florida Forward

As part of its Moving Florida Forward initiative, FDOT identified a selection of critical needs on state-owned roadways. Additionally, FDOT identified previously approved projects with broad community support that only lacked funding to begin construction. The goal of this initiative is to advance construction on these projects around the state that will address congestion, improve safety, ensure the resiliency of our transportation network, and enhance Florida's supply chain and economic growth.⁴⁹

In the 2023 General Appropriations Act, the Legislature appropriated the nonrecurring sum of \$4 billion from the General Revenue Fund to FDOT for Fiscal Year 2022-2023 for the Moving Florida Forward Plan to accelerate the completion of selected road projects and provide traffic congestion relief. FDOT was required to submit a budget amendment for Legislative Budget Commission approval.⁵⁰ The unexpended balance of funds appropriated remaining on June 30, 2023, reverts and is appropriated for the same purposes in the 2023-2024 fiscal year.⁵¹

Effect of Proposed Changes

The bill provides that the remainder of the motor vehicle fee revenues deposited into the STTF, must first be available for appropriation for payments under a service contract entered into with the corporation to fund arterial highway projects. For the corporation's bonding purposes, two or more of such projects in FDOT's adopted work program may be treated as a single project.

The bill provides that funds appropriated for payment under a service contract are available after funds pledge for payment on bonds, but before other statutorily required distributions.

The bill authorizes FDOT to enter into a service contract to finance the projects authorized for Moving Florida Forward, and subsequently adopted into FDOT's 5-year work program. Service contract payments may not exceed 7 percent of the funds deposited into the STTF in each fiscal year. The annual payments under such service contracts must be included in FDOT's work program and legislative budget request. FDOT must ensure that annual payments are programmed for the life of the service contract before execution of the service contract and must remain programmed until fully paid.

⁴⁸ Section 339.0809(13), F.S.

⁴⁹ FDOT, *Moving Florida Forward*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited February 26, 2024).

⁵⁰ This was done in budget amendment EOG # 2024-0112 at the September 8, 2023, meeting of the Legislative Budget Commission. <http://www.leg.state.fl.us/Data/Committees/Joint/JLBC/Meetings/Packets/090823.pdf> (last visited February 26, 2024).

⁵¹ Chapter 2023-239, section 215

Small County Outreach Program (Section 10)

Present Situation

Section 339.2818, F.S., creates the Small County Outreach Program (SCOP) within FDOT. SCOP's purpose of is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads.⁵²

For the purposes of the SCOP, the term “small county” means any county that has a population of 200,000 or less as determined by the most recent official estimate pursuant to s. 186.901, F.S.⁵³ Currently, 39 counties are eligible for the SCOP funding.⁵⁴

Small counties are eligible to compete for the SCOP funds for projects on county roads. The FDOT must fund 75 percent of the cost of projects on county roads funded under the SCOP.⁵⁵

The following criteria are used to prioritize road projects for the SCOP funding:

- The primary criterion is the physical condition of the road.
- As secondary criteria the FDOT may include:
 - Whether a road is used as an evacuation route;
 - Whether a road has high levels of agricultural travel;
 - Whether a road is considered a major arterial route;
 - Whether a road is considered a feeder road;
 - Information as evidenced to FDOT through an established pavement management plan; and
 - Other criteria related to the impact of a project on the public road system or on the state or local economy.⁵⁶

FDOT is authorized to administer contracts on behalf of a county selected to receive funding for a project. All funded projects must be included in FDOT's work program.⁵⁷

Everglades Agricultural Area

The Everglades Agricultural Area is an approximately 1,160 square-mile area of highly productive agricultural land located south of Lake Okeechobee.⁵⁸ While most of the Everglades Agricultural Area is in Palm Beach County, this area extends to Martin, Hendry, and Glades counties.⁵⁹

⁵² Section 339.2818(1), F.S.

⁵³ Section 339.2818(2), F.S.

⁵⁴ FDOT, *Small County Outreach Program*, <https://www.fdot.gov/programmanagement/lp/scop/default.shtm> (Last visited February 12, 2024).

⁵⁵ Section 339.2818(4)(a), F.S.

⁵⁶ Section 339.175(4)(c), F.S.

⁵⁷ Section 339.175(5), F.S.

⁵⁸ Lake Okeechobee Business Alliance, *The Everglades Agricultural Area*, <https://www.lakeoalliance.org/everglades-agricultural-area>, (last visited February 12, 2024). The Everglades Agricultural Area is defined in s. 373.4592(15), F.S.

⁵⁹ University of Florida, IFAS Extension, *Explore the Everglades Agricultural Area*, <https://nwdistrict.ifas.ufl.edu/ampic2022/2022/07/20/explore-the-everglades-agricultural-area/> (last visited February 12, 2024).

Peace River Basin

The Peace River Basin encompasses more than 2,300 square miles. Its western boundary includes portions of Hillsborough, Manatee and Sarasota counties and portions of Highlands and Glades counties on the east. The basin includes major portions of Polk, Hardee, DeSoto and Charlotte counties.⁶⁰

Suwannee River Basin

The Suwannee River Basin, drains over 11,000 square miles of land in Georgia and Florida.⁶¹ Florida's portion of basin includes all or a portion of Madison, Suwannee, Columbia, Union, Alachua, Gilchrist, Levy, Dixie, and Lafayette counties.⁶²

Effect of Proposed Changes

The bill provides that subject to specific appropriation, in addition to funds appropriated for the SCOP, a local government located either wholly or partially within the Everglades Agricultural Area, the Peace River Basin, or the Suwannee River Basin may compete for additional funding using the SCOP criteria, at up to 100 percent of the project costs for state or county roads used primarily as farm-to-market connections between rural agricultural areas and market distribution centers, excluding capacity improvement projects.

Public Transit Lane Repurposing (Section 11)

Present Situation

Currently, there are no provisions in Florida law regarding lane elimination or lane repurposing for public transit projects.

Effect of Proposed Changes

The bill provides that any lane elimination or lane repurposing, recommendation, relating to public transit projects must be approved by a two-thirds vote of the transit authority board and a public meeting to be held after a 30-day public notice.

Public Transit Eminent Domain (Section 11)

Present Situation

Eminent domain refers to the power of the government to take private property and convert it into public use, referred to as a taking. The Fifth Amendment of the United States Constitution

⁶⁰ Southwest Florida Water Management District, *Peace River Watershed Excursion*, <https://www.swfwmd.state.fl.us/watersheds/peace-river/where-the-river-begins> (last visited February 12, 2024).

⁶¹ University of Georgia, River Basin Center, *Suwannee*, <https://rivercenter.uga.edu/resources/river-basins-of-georgia/suwannee/#:~:text=Location%3A%20Suwannee%20River%2C%20Big%20Shoals,land%20in%20Georgia%20and%20Florida>. (last visited February 12, 2024).

⁶² Springs of the Lower Suwannee River Basin, 1999, <https://fcit.usf.edu/florida/maps/pages/9000/f9072/f9072.htm> (last visited February 12, 2024).

provides that the government may only exercise this power if they provide just compensation to the property owners.⁶³

Chapter 73, F.S., establishes Florida's eminent domain law. However, it does not appear that there are specific provisions for public transit providers wishing to exercise eminent domain.

Effect of Proposed Changes

The bill provides that any action of eminent domain for acquisition of public transit facilities carried out by a public transit provider must be discussed by the public transit provider at a public meeting to be held after a 30-day public notice.

New Starts Transit Program - Reallocation of Funds (Section 11)

Present Situation

New Starts Transit Program

FDOT's New Starts Transit Program assists local governments in the development of fixed guideway and bus rapid transit projects. Ten percent of FDOT's portion of the documentary stamp tax is allocated to New Starts,⁶⁴ along with 3.4 percent of the initial registration fee for motor vehicles.⁶⁵

This program is a matching program to leverage local or federal funds.⁶⁶ However, according to FDOT, due to local governments' inability at times to meet state and federal eligibility requirements or provide a funding commitment for the required matching funds, projects identified for the New Starts Transit Program may not always be programmed into FDOT's work program, which results in the annually appropriated funds not being obligated and carried forward to the next fiscal year.

Strategic Intermodal System

The Strategic Intermodal System (SIS) is Florida's high priority network of transportation facilities important to its economy and mobility. Established in 2003, to focus Florida's limited transportation resources on the facilities most significant for interregional, interstate, and international travel. The SIS is the state's highest priority for transportation capacity investments and a primary focus for implementing the Florida Transportation Plan.⁶⁷

⁶³ Cornell Law School, Legal Information Institute, *Eminent Domain*, https://www.law.cornell.edu/wex/eminent_domain#:~:text=Eminent%20domain%20refers%20to%20the,compensation%20to%20the%20property%20owners. (last visited February 26, 2024).

⁶⁴ Section 201.15(4)(a)1., F.S.

⁶⁵ Section 320.072(4)(b), F.S.

⁶⁶ Florida Transportation Commission, *New Starts Transit Program*, [http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_\(5-23-06\).pdf](http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_(5-23-06).pdf) (last visited Feb. 7, 2024).

⁶⁷ FDOT, *Florida's Strategic Intermodal System*, <https://www.fdot.gov/planning/systems/sis> (last visited February 20, 2024)

Effect of Proposed Changes

The bill provides that the unallocated New Starts Transit Program funds remaining after June 30, 2024, must be reallocated for the purpose of the SIS within the STTF. This provision expires June 30, 2026.

Public Transit Marketing and Advertising Standards (Section 11)***Present Situation***

Under Florida law, each fiscal year, a minimum of 15 percent of all state revenues deposited into the STTF are committed annually by the FDOT for public transportation projects, including public transit projects.⁶⁸

Effect of Proposed Changes

The bill provides that as a condition of receiving funds from FDOT, a public transit provider may not expend FDOT's funds for marketing or advertising activities, including any wrap, tinting, or paint on a bus, commercial motor vehicle, or motor vehicle that is owned, leased, or operated by a public transit provider and is limited to displaying a brand or logo of the public transit provider, the official seal of the jurisdictional government entity, or a state agency public service announcement.

FDOT must incorporate the above marketing and advertising guidelines in the public transit grant agreement entered into with each public transit provider.

Public Transit Window Tinting (Section 11)***Present Situation***

Section 316.2954, F.S., provides that a person may not operate any motor vehicle with any sun screening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance. Specific requirements are provided in that statute.

Effect of Proposed Changes

The bill provides that any new wrap, tinting, paint, medium, or advertisement on the passenger windows of a vehicle used by a public transit provider may not be darker than the legally allowed window tinting requirements for motor vehicles.

Public Transit Performance and Productivity Measures (Section 12)***Present Situation***

A public transit provider is statutorily defined as a public agency providing public transit service, including rail authorities.⁶⁹ The term "public transit" is defined to mean the transporting of

⁶⁸ Section 206.46(3), F.S. The funding minimum is for public transportation projects that are in accordance with ch. 311, ss. 332.003-332.007, ch. 341, and ch. 343 of F.S.

⁶⁹ Section 341.031(3), F.S.

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. Public transit specifically includes those forms of transportation commonly known as “paratransit.”⁷⁰ Each public transit provider must establish productivity and performance measures, which must be approved by the FDOT and which must be selected from measures developed pursuant to s. 341.041(3), F.S.^{71 72}

Effect of Proposed Changes

The bill defines the term “general administrative costs” to include, but are not limited costs related to transit service development, injuries and damages, safety, personnel administration, legal services, data processing, finance and accounting, purchasing and stores, engineering, real estate management, office management and services, customer service, promotion, market research and planning. The term does not include insurance costs.

The bill defines the term “public transit provider” to mean a public agency providing public transit service, including the Central Florida Regional Transportation Authority and the Jacksonville Transportation Authority. The bill exempts rail transit providers such as the South Florida Regional Transportation Authority and the Central Florida Commuter Rail Commission.

Tier I provider means a recipient that owns, operates, or manages either 101 or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode, or rail transit.⁷³

Tier II provider means a recipient that owns, operates, or manages 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed route modes or in any one non-fixed route mode, a subrecipient under the 5311 Rural Area Formula Program, or any American Indian tribe.⁷⁴

Beginning November 1, 2024, and annually thereafter, each public transit provider must, during a publicly noticed meeting:

- Certify that its budgeted and actual administrative costs are not greater than 20 percent above the annual state average of administrative costs for its tier.
- Present a line-item budget report of its budgeted and actual general administrative costs.

⁷⁰ Section 341.031(6), F.S. Section 341.031(5), F.S., defines the term “paratransit” to mean those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride” buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

⁷¹ Section 341.071(2), F.S.

⁷² Section 341.041(3), F.S., provides that FDOT must develop, publish, and administer state measures concerning system management, performance, productivity, cost distribution, and safety of governmentally owned public transit systems and privately owned or operated systems financed wholly or in part by state funding. Such measures must be developed jointly with representatives of affected publicly owned transit systems and in coordination with affected privately owned systems, with full consideration given to nationwide industry norms.

⁷³ This is as defined in 49 C.F.R. part 625.

⁷⁴ *Id.*

- Disclose all salaried executive-management-level employee’s total compensation packages, ridership performance and metrics, and any gifts accepted in exchange for contracts. This disclosure must be posted annually on the public transit provider’s website.

To support compliance, the bill requires FDOT to determine the state average of administrative costs by calculating the annual administrative costs for all the public transit providers in this state annually by March 31 to inform the provider’s following fiscal year budget. Upon review and certification by FDOT, costs budgeted and expended in association with nontransit-related engineering and construction may be excluded.

The bill provides that a year-over-year cumulative increase of 5 percent or more in general administrative costs must be reviewed before the start of the next fiscal year and must be reviewed and approved by FDOT before approval by the public transportation provider’s governing board.

Florida Rail Enterprise (Section 13)

Present Situation

Sections 341.8201 through 341.842, F.S., contain the Florida Rail Enterprise Act.⁷⁵ The Florida Rail Enterprise (enterprise) within FDOT must locate, plan, design, finance, construct, maintain, own, operate, administer, and manage Florida’s high-speed rail system.^{76 77}

In addition to the powers granted to FDOT, the enterprise has full authority to exercise all powers granted to it under ch. 341, F.S. Authorized powers include, but are not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems in the state.⁷⁸

Effect of Proposed Changes

The bill adds to the enterprise’s powers and duties by giving it the authority to preserve future rail corridors⁷⁹ and rights of way in coordination with FDOT’s planning of the State Highway System.

⁷⁵ Section 341.8201, F.S.

⁷⁶ Section 341.822(1), F.S.

⁷⁷ Section 341.8203(4), F.S., defines the term “high-speed rail system” to mean any high-speed fixed guideway system for transporting people or goods, which system is, by definition of the United States Department of Transportation, reasonably expected to reach speeds of at least 110 miles per hour, including, but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic levitation system, pneumatic repulsion system, or other system approved by the enterprise. The term includes a corridor, associated intermodal connectors, and structures essential to the operation of the line, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, and rail stations and also includes facilities or equipment used exclusively for the purposes of design, construction, operation, maintenance, or the financing of the high-speed rail system.

⁷⁸ Section 341.822(2)(a), F.S.

⁷⁹ Section 341.301(8), F.S., defines the term “rail corridor” to mean a linear contiguous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power

Effective Date (Section 14)

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill provides for \$15 million in recurring funds from the STTF to be made available annually for the Intermodal Logistics Center Infrastructure Support Program. This will result in a positive fiscal impact to intermodal logistics centers and related businesses.

C. Government Sector Impact:

The bill increases the amount of state funds FDOT pays Collier County to support a fire station on Alligator Alley.

The bill may have a positive fiscal impact on the Florida Department of Transportation Financing Corporation as it provides that specified revenues deposited into the STTF must first be available for appropriation for payments under a service contract entered

relays, switching houses, rail stations, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

into with the corporation to fund arterial highway projects. This provision may also reduce bond financing costs.

Subject to specific appropriation, the bill authorizes local governments in specified areas to seek financial assistance in paying for projects on state and county roads primarily used for agricultural purposes.

The bill may have a negative fiscal impact on any public transit provider, authority, public-use airport, or a port that is found to be in violation of s. 381.00316, F.S.

Public transit providers may experience changes in their cost structures associated with complying with provisions in the bill limiting their administrative costs and certifying that their administrative costs are within the limits provided for in the bill.

FDOT may incur costs associated with reviewing public transit provider general administrative costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 311.101, 334.046, 338.231, 338.26, 339.08, 339.0803, 339.0809, 339.2818, 341.051, 341.071 and 341.822.

The bill creates the following section of the Florida Statutes: 334.61.

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 Fiscal Policy on February 27, 2024:

The committee substitute:

- Updates FDOT's mission, goals, and objectives.
- Authorizes FDOT to enter into service contracts with the FDOT Financing Corporation for specified projects and requires payments under such contracts to be included in FDOT's work program and legislative budget request.
- Requires lane elimination or lane repurposing for a public transit project to be approved by a two-thirds vote of the transit authority's board.
- Requires eminent domain actions for the acquisition of public transit facilities to be discussed by the public transit provider at a public meeting.

- Revises provisions regarding public transit administrative costs, including revising the definition of “general administrative costs”, revises employee compensation disclosure to specified employees, provides for the exclusion of specified non-transit related services upon FDOT’s review and certification.
- Requires FDOT to review and approve a 5 percent or more year-over-year cumulative increase in a public transit provider’s administrative costs.

CS by Appropriations Committee on Transportation, Tourism, and Economic Development on February 20, 2024:

The committee substitute:

- Removes a landscaping expenditure provision from the bill.
- Updates FDOT’s statutory program areas to reflect its current organizational structure.
- Requires public notice and input prior to a governmental entity repurposing one or more existing traffic lanes.
- Prohibits FDOT from spending state funds on transportation entities violating certain statutory requirements.
- Reallocates specified New Starts Transit funds to the SIS for a two year period.
- Revises provisions relating to public transit provider administrative costs to compare providers by fleet size and to exempt rail transit providers.
- Prohibits public transit providers from spending FDOT funds on certain marketing or advertising activities.
- Prohibits window tinting on public transit buses from being any darker than what is legally allowed for motor vehicles.

CS by Transportation on February 6, 2023:

The committee substitute:

- Requires, beginning in the 2024-2025 fiscal year, \$15 million in recurring revenue from the STTF must be made available for the Intermodal Logistics Center Infrastructure Support Program.
- Provides that specified funds deposited into the State Transportation Trust Fund must first be used for the payment of service contracts with the Florida Department of Transportation Financing Corporation.
- Provides that, subject to appropriation, a local government within specified areas may compete for additional funding using the Small County Outreach Program criteria for state or county roads used primarily for agricultural purposes.
- Revises provisions in the bill regarding the administrative costs of public transit providers to limit administrative costs to 20 percent above the statewide average.
- Requires public transit providers to disclose employee compensation, ridership performance and metrics, and any gifts accepted in exchange for contracts.
- Clarifies the rail corridor provision by providing that the Florida Rail Enterprise is authorized to preserve future rail corridors and rights of way.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
