

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 462

INTRODUCER: Senator DiCeglie

SUBJECT: Department of Transportation

DATE: March 18, 2025 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	Pre-meeting
2.			RI	
3.			FP	

I. Summary:

SB 462 addresses various provisions relating to the Florida Department of Transportation (FDOT). The bill:

- Distributes to the State Transportation Trust Fund certain revenues from sales tax collected from the sale of electricity used at public electric vehicle charging stations.
- Requires each county to annually submit specified transportation project data to FDOT.
- Authorizes FDOT to use eminent domain to preserve a corridor for future proposed improvements.
- Authorizes FDOT to provide grants to state colleges and high schools to fund elective courses in heavy civil construction.
- Requires certain studies regarding capacity improvements on limited access facilities to evaluate the use of elevated roadways.
- Requires certain project development and environmental studies to be completed within 18 months.
- Specifies that contractors who enter into construction and maintenance contracts with FDOT are providing a service to FDOT.
- Provides requirements for FDOT to obtain best and final officers from bidders, and for rebidding certain contracts.
- Revises provisions related to phased design-build contracts.
- Provides additional insurance requirements for bridge-related contracts over navigable waters.
- Prohibits FDOT, through the settlement of a bid protest, from creating a new contract unless the new contract is competitively procured.
- Authorizes FDOT to waive prequalification for certain contracts of \$1 million or less.
- Requires contractors seeking to bid on certain FDOT maintenance contracts to possess the qualifications and equipment needed to perform such work.
- Increases threshold amounts for contract disputes resolved by the State Arbitration Board.

- Requires lawsuits related to warranty and construction defect claims made after final acceptance, must be made within 360 days after notification of the claim.
- Requires certain underground utility facilities to be electronically detectable.
- Requires utility owners to pay authorities (FDOT and local jurisdictions) reasonable damages for failure to or refusal to timely remove or relocate a utility.
- Provides requirements for the use of as-built plans as it relates to utility work in the right-of-way.
- Authorizes FDOT, if certain conditions are met, to reimburse a utility owner for a portion of its relocation costs.
- Provides procedures for FDOT and the utility owner to follow related to notice requirements, the submission of relocation plans, and the need for additional work.
- Requires FDOT to establish mediation boards to resolve utility-related disputes and provides requirements for such boards.
- Requires FDOT to develop and submit a report regarding the widening of Interstate 4.

The bill has a potential fiscal impact on state and local governmental entities. *See* section V, “Fiscal Impact Statement” for details.

The bill takes effect July 1, 2025.

II. Present Situation:

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

III. Effect of Proposed Changes:

Distribution of Sales Tax Revenues (Section 1)

Present Situation

Florida levies a six percent tax on the retail sale of most tangible personal property, admissions, transient lodgings and motor vehicles.¹ However, the sales tax rate for non-residential electric services is 4.35 percent.² The Department of Revenue (DOR) distributes state sales tax proceeds to various state trust funds and local governments, with any remaining sales tax proceeds distributed to the General Revenue Fund.³

Under Florida law, utility companies charge sales tax on sales of electricity to non-utility companies, including those providing electric vehicle (EV) charging. Entities selling EV charging are not considered to be selling electricity but are considered to be licensing the use of real property,⁴ and taxed as such.⁵

¹ Office of Economic and Demographic Research, *2024 Florida Tax Handbook*, p. 166.

<https://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2024.pdf> (last visited January 28, 2025).

² *Id.* at 171. Section 212.05(1)(e).l.c., F.S.

³ *Id.* at 173. Section 212.20(6), F.S.

⁴ E-mail from Alex Yarger, Legislative Affairs Director, Florida Department of Revenue, RE: SB 462 – Transfer of EV charging sales tax revenues. (March 11, 2025). (On file with Senate Committee on Transportation).

⁵ Section 212.031, F.S., provides the statutes on the tax on rental or license fees for the use of real property.

Effect of Proposed Changes

The bill requires DOR to, beginning October 2024, distribute to the State Transportation Trust Fund (STTF), from the proceeds from the sales tax imposed on the sale of electricity, six cents per kWh of electricity used at public electric vehicle charging stations. This distribution must take place on or before the 25th day of each month. This provision is repealed on June 30, 2030.

County Transportation Project Data (Section 2)

Present Situation

Annually, each county and municipality must provide FDOT with uniform program data. Uniform program data must include, but is not limited to, details on transportation receipts and expenditures, and on the number of miles of road under the local governmental entity's jurisdiction. FDOT must compile this data and, upon request, furnish its compilation to any interested person.⁶

Effect of Proposed Changes

The bill requires each county to annually provide FDOT with uniform project data. Such data must conform to the county's fiscal year and include details on transportation revenues by source of taxes or fees, expenditure of such revenues for projects that were funded, and any unexpended balance for the fiscal year. The data must also include project details, including the project cost, location, and scope. The scope of the project must be categorized broadly using a category such as widening, repair and rehabilitation, or sidewalks. The data must specify which projects the revenues not dedicated to specific projects are supporting. FDOT must inform each county of the method and format for submitting its data. FDOT must compile this data and publish its compilation on its website.

FDOT - Eminent Domain Authority (Section 3)

Present Situation

Eminent domain refers to the government's power to take private property and convert it into public use. The Fifth Amendment of the United States Constitution provides that the government may only exercise the power of eminent domain if it provides just compensation to the property owners.⁷

Similarly, Article X, section 6(a) of the Florida Constitution provides that "[n]o private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner."⁸

⁶ Section 218.322, F.S.

⁷ 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 3, 2025).

⁸ Florida's eminent domain laws are codified in chs. 73 and 74, F.S.

FDOT may acquire, by eminent domain, all property or property rights, whether public or private, which it determines necessary to perform its duties or execute its powers.⁹

FDOT has the statutory authority to condemn all necessary lands and property, whether public or private, for the purpose of securing and utilizing transportation rights-of-way, including a FDOT-designated transportation corridor.¹⁰ Florida’s statutory definition of the term “transportation corridor” includes all property or property interests necessary for future transportation facilities for the purpose of securing and utilizing future transportation rights-of-way.¹¹

Effect of Proposed Changes

The bill authorizes FDOT to use its eminent domain authority in advance to preserve a transportation corridor for future proposed improvements.

FDOT - Workforce Development (Section 3)

Present Situation

Florida law authorizes FDOT to provide a construction workforce development program, in consultation with affected stakeholders, to deliver projects in FDOT's work program.¹² FDOT must annually allocate \$5 million to this program.¹³

Effect of Proposed Changes

The bill authorizes FDOT to annually expend, in fiscal years 2025-2026 through 2029-2030, up to \$5 million for grants to state colleges and high schools, prioritizing colleges and high school located in counties in rural communities.¹⁴ These grants may be used to purchase equipment simulators and a companion curriculum, and to support offering an elective course in heavy civil construction. The course must, at a minimum, provide the student with OSHA certification and fill equipment simulator certification.

FDOT - Project Studies (Section 4)

Present Situation

The term “project concept study” is not defined in federal or state law.

⁹ Section 334.044(6), F.S.

¹⁰ Section 337.27(1), F.S.

¹¹ Section 334.03(29)(b), F.S.

¹² Section 334.044(35), F.S. FDOT’s work program is developed pursuant to s. 339.135, F.S.

¹³ Section 339.84, F.S. This is beginning in the 2023-2024 fiscal year and for five years thereafter. These funds are from the STTF.

¹⁴ Section 288.0656(2)(e), F.S., defines the term “rural community” to mean a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; a municipality within a county above ;or an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors and verified by the Department of Commerce.

FDOT conducts Project Development and Environment (PD&E) studies to meet federal National Environmental Policy Act¹⁵ requirements. During these studies, FDOT determines the location and conceptual design of feasible build alternatives for roadway improvements and the social, economic, and environmental effects of such improvements. Throughout the study, a no-build alternative, where roads are left in their present state with routine maintenance, remains a viable alternative. A PD&E study is finalized when the Federal Highway Administration reviews the study's documentation and recommendations and provides a Location and Design Concept Acceptance.¹⁶

Effect of Proposed Changes

The bill requires project concept studies and PD&E studies for capacity improvement projects on limited access facilities¹⁷ to evaluate alternatives providing transportation capacity using elevated roadways above existing lanes.

The bill also requires PD&E studies for new alignment projects and capacity improvement projects to be completed within 18 months after the date of commencement.

FDOT Contracting Authority (Section 5)

Present Situation

FDOT may enter into contracts for the construction and maintenance of all roads on the State Highway System, the State Park Road System, or any other road under its supervision. FDOT may also enter into contracts for the construction and maintenance of rest areas, weigh stations, and other structures used in connection with such facilities. However, these contracts do not create third-party beneficiary rights in any person that is not a party to the contract.¹⁸

Effect of Proposed Changes

The bill stipulates a contractor entering into a construction and maintenance contract with FDOT provides a service to FDOT.

Awarding of FDOT Contracts (Section 5)

Present Situation

FDOT may award a contract for proposed construction and maintenance work to the lowest responsible bidder, or with a time-plus-money contract, the lowest evaluated responsible bidder, or it may reject all bids and rebid the work or otherwise perform the work.¹⁹

¹⁵ Pub. L. 91-190; 83 State. 852

¹⁶ FDOT District 7, *What is a PD&E Study*, <https://www.fdot7studies.com/projects/what-is-a-pde-study/>. (last visited February 7, 2025).

¹⁷ Section 334.044(12), F.S., defines the term "limited access facility" to mean a street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be facilities from which trucks, buses, and other commercial vehicles are excluded; or they may be facilities open to use by all customary forms of street and highway traffic.

¹⁸ Section 337.11(1), F.S.

¹⁹ Section 337.11(4), F.S.

Effect of Proposed Changes

The bill requires FDOT to award its proposed construction and maintenance work to the lowest responsible bidder, when its estimate is \$100 million or less and it receives:

- Three or more bids and the lowest bid is within 20 percent of FDOT's estimate;
- Two or more bids and the lowest bid is within 15 percent of FDOT's estimate; or
- One bid within 10 percent of FDOT's estimate.

If FDOT receives bids, but is not required to automatically award the contract, the bill requires FDOT to:

- Arrange an in-person meeting with the lowest responsive, responsible bidder to determine why the bids are over FDOT's estimate. FDOT may, at its discretion, subsequently award the contract to the lowest responsive, responsible bidder;
- Reject all bids and rebid the work; or
- Invite all responsive, responsible bidders to provide their best and final offers without filing a protest or posting a bond. Thereafter, if FDOT awards the contract, it must be awarded to the bidder that presents the lowest best and final offer.

If FDOT intends to reject all bids on any project after announcing, but before posting official notice of its intent, the bill requires FDOT to provide to the lowest responsive, responsible bidder the opportunity to negotiate the scope of work with a corresponding reduction in price, as provided in the bid, to provide its best and final offer without filing a protest or posting a bond. Upon reaching a decision regarding the lowest bidder's best and final offer, FDOT must post notice of final agency action to either reject all bids or accept the best and final offer.

This does not prohibit any bidder from filing of a protest or altering the statutory deadlines related to bid protests.²⁰

The bill provides that notwithstanding ss. 120.57(3)(c), F.S., relating to bid protests and 287.057(25), F.S., relating to a disclosure on the procurement of solicitations, upon receipt of a timely-filed formal written protest, FDOT may continue this process, but it may not take final agency action as to the lowest bidder except as part its final agency action in the protest or upon the protesting party's dismissal of the protest.

FDOT Phased Design-Build Contracts (Section 5)

Present Situation

FDOT may enter into phased-design build contracts, where contract selection and award is done with a two-phase process. For phase one, FDOT competitively awards the contract, based upon qualifications, to a design-build firm. For phase two, the design-build firm competitively bids construction trade subcontractor packages and based upon these bids, negotiates with FDOT a price that meets the project's budget and scope.²¹

²⁰ The statutory deadlines relating to bid protests are in s. 120.57(3), F.S.

²¹ Section 337.11(7)(b), F.S. The project's budget and scope are as advertised in the request for qualifications.

Effect of Proposed Changes

The bill requires FDOT, for phased design-build projects, to competitively award the contract to a qualified firm, provided that FDOT receives at least three statements of qualification from qualified firms. If during phase one, FDOT elects, based upon qualifications, to enter into contracts with more than one design-build firm, FDOT must competitively award the phase-two contract to a single design-build firm.

The bill authorizes the design-build firm to self-perform portions of the project's work and use estimates related to this self-performance to negotiate with FDOT.

FDOT Marine General Liability Insurance (Section 5)

Present Situation

DOT requires each contractor to indemnify and hold harmless DOT and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the construction contract.²²

DOT also requires each contractor to carry commercial general liability insurance that provides continuous coverage for all work and operations provided under the contract. Additional requirements exist for construction adjacent to railroad tracks and certain utility facilities.²³

Since commercial general liability insurance policies exclude marine work, marine general liability insurance is designed to protect against claims of liability for bodily injury, property damage, and personal injury for those who work on or near the water. These classes include ship repairers, marina operators, charterers, stevedores, and terminal operators.²⁴

Each contract let by FDOT to perform bridge construction or maintenance over navigable waters must require marine general liability insurance, in an amount determined by FDOT, to cover third-party personal injury and property damage caused by vessels used by the contractor in the performance of the work.²⁵

Effect of Proposed Changes

The bill requires a contract let by FDOT on or after July 1, 2025, for work requiring a contractor to have marine general liability insurance, that such insurance include protection and indemnity coverage. The contractor may receive this additional coverage by an endorsement on its marine general liability insurance policy or from a separate insurance policy.

²² DOT Specs Book (January 2017) at Section 7-12.1, <https://www.fdot.gov/docs/default-source/programmanagement/implemented/specbooks/january2017/files/007-117.pdf> (last visited February 12, 2025).

²³ *Id.* at Sections 7-13.2, 7-13.3, and 7-13.4.

²⁴ Kelly White and Associates Insurance, LLC, *Marine General Liability Insurance*, <https://kwhiteinsurance.com/marine-insurance/#:~:text=Marine%20General%20Liability%20protects%20against,%2C%20stevedores%2C%20and%20terminal%20operators> (last visited February 12, 2025).

²⁵ Section 337.11(15), F.S.

FDOT Settlement Agreements (Section 6)

Present Situation

Agencies subject to the Administrative Procedures Act,²⁶ including FDOT, must resolve protests arising from the contract solicitation or award process using uniform rules of procedure.²⁷

FDOT's contracting statute provides additional information regarding its settlement of bid protests. When FDOT determines that it is in the public's best interest to resolve a bid protest through a settlement agreement, and the agreement requires FDOT to pay a nonselected responsive bidder \$1 million or more, any stipend paid to a non-selected design-build firm, which is not included in FDOT's work program, or any amount paid pursuant to any other law, FDOT must:

- Document the specific reasons that such settlement and payment is in the best interest of the state. Such documentation must include a description of any rights or designs that FDOT will acquire or retain with such settlement, and the specific appropriation that FDOT intends to use to provide such payment.
- Provide prior written notification to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General before FDOT makes the settlement agreement final.
- Provide written notification of settlement discussions to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General.²⁸

Effect of Proposed Changes

The bill provides that FDOT may not, through the settlement of a protest of the award of a contract being procured or related to the purchase of commodities or contractual services, create a new contract unless it competitively procures the new contract.

FDOT - Application for Qualification (Section 7)

Present Situation

Under Florida law any contractor desiring to bid on a construction contract in excess of \$250,000 must be certified as qualified by FDOT.²⁹ FDOT's contractor certification rules address these qualifications and provide requirements regarding a contractor's equipment, past record, experience, financial resources, and organizational personnel.³⁰

²⁶ Chapter 120, F.S.

²⁷ Section 120.57(3), F.S. The Uniform Rules of Procedure relating to bid protests are contained in Rule 28-110, F.A.C.

²⁸ Section 337.1101(1), F.S.

²⁹ Certification for qualification is pursuant to s. 337.14, F.S., and FDOT rules.

³⁰ Section 337.14(1), F.S.

FDOT may waive prequalification for projects of \$500,000 or less if FDOT determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.³¹

Effect of Proposed Changes

The bill authorizes FDOT to waive its prequalification requirements for contracts of \$1 million or less which have a diverse scope of work that may or may not be performed. These contracts are typically known as push-button or task work order contracts.

FDOT Contractor Certification (Section 7)

Present Situation

Certification by FDOT is required in order for a contractor to bid on a road, bridge, or public transportation construction contract of more than \$250,000. However, prior to the award of the contract, the successful bidder must furnish a contract bond. FDOT may waive all or a portion of the bonding requirement for contracts of \$150,000 or less.³²

Effect of Proposed Changes

The bill increases the maximum contract amount for which FDOT may waive bond requirements from \$150,000 to \$250,000.

FDOT Maintenance Contracts (Section 7)

Present Situation

Section 337.14(8), F.S., provides that that section, which relates to the applications for qualification and certificates of qualification for FDOT contractors does not apply to maintenance contracts.

Effect of Proposed Changes

The bill amends s. 337.14(8), F.S., requiring a contractor seeking to bid on a maintenance contract that predominately includes repair and replacement of safety appurtenances, including, but not limited to, guardrails, attenuators, traffic signals, and striping, to possess the prescribed qualifications equipment, record, and experience to perform such repair and replacement.

State Arbitration Board (Section 8)

Present Situation

The State Arbitration Board (Board), within FDOT, facilitates the prompt resolution of claims arising out of or in connection with FDOT's construction or maintenance contract.³³

³¹ Section 337.14(1), F.S.

³² Section 337.14(2), F.S.

³³ Section 337.185(1), F.S.

The contractor³⁴ may submit a claim³⁵ of greater than \$250,000 up to \$1 million per contract or, upon agreement of the parties, up to \$2 million per contract for arbitration by the board. A board-issued award is final, unless a request for a trial de novo is filed within certain time frames.³⁶

Parties may not make an arbitration request prior to FDOT's final acceptance of the project;³⁷ but such requests must be made within 820 days after final acceptance.³⁸

Effect of Proposed Changes

The bill authorizes the State Arbitration Board to arbitrate a claim of up to \$2 million, instead of the current \$1 million or, upon agreement, claims greater than \$2 million.

The bill provides that an arbitration request related to a written warranty or defect claim must be made within 360 days after FDOT provides written notice of such claim. This applies when the claim is made after FDOT's final acceptance of the project.

Suits By and Against FDOT (Section 9)

Present Situation

Under Florida law, suits may be brought by and against FDOT for certain contract-related claims, which must commence within 820 days of FDOT's final acceptance of the work.³⁹

Effect of Proposed Changes

The bill provides that for contracts entered into on or after July 1, 2025, suits regarding claims related to a written warranty or defect and must commence within 360 days after FDOT's written notice of such claim. This applies to claims made after FDOT's final acceptance of the work.

Utility Relocation (Sections 10-11)

Present Situation

Florida law authorizes an authority, defined as FDOT and local governmental entities,⁴⁰ with jurisdiction and control of public roads or publicly-owned rail corridors to prescribe and enforce

³⁴ Section 337.185(2)(b), F.S., defines the term "contractor" means a person or firm having a contract for rendering services to the department relating to the construction or maintenance of a transportation facility.

³⁵ Section 337.185(2)(a), F.S., defines the term "claim" to mean the aggregate of all outstanding written requests for additional monetary compensation, time, or other adjustments to the contract, the entitlement or impact of which is disputed by the department and could not be resolved by negotiation between the department and the contractor.

³⁶ Section 337.185(4), F.S.

³⁷ Section 337.185(2)(c), F.S., defines the term "final acceptance" to mean that the contractor has completely performed the work provided for under the contract, the department or its agent has determined that the contractor has satisfactorily completed the work provided for under the contract, and the department or its agent has submitted written notice of final acceptance to the contractor.

³⁸ Section 337.185(5), F.S.

³⁹ Section 337.19(1) and (2), F.S.

⁴⁰ Section 334.03(13), F.S., defines the term "local governmental entity" to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term

reasonable rules or regulations regarding the placement and maintenance of utilities within their rights-of-way.⁴¹

For this purpose, the term “utility” is defined to mean electric transmission, voice, telegraph, data, or other communications services lines or wireless facilities; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures.⁴²

An authority may grant a utility the use of its right-of-way in accordance with its rules or regulations. A utility may not be installed, located, or relocated unless authorized by an authority-issued permit. However, for roads or rail corridors under FDOT’s jurisdiction, in lieu of a written permit, a utility relocation schedule and relocation agreement may be executed. A utility permit must require that the permitholder is responsible for any damage resulting from the issuance of such permit.⁴³

In most cases, if the authority finds that a utility in its right-of-way is unreasonably interfering with the public road or publicly owned rail corridor, the utility must, upon 30 days' written notice, initiate the work necessary, at its own expense, to alleviate the interference. The work must be completed within such reasonable time as stated in the notice or at such time as agreed to by the authority and the utility owner.⁴⁴

Section 337.403, F.S., relates to interference caused by a utility. Under that statute, if the authority finds that a utility within the right-of-way limits of any public road or publicly owned rail corridor to be unreasonably interfering in any way with such public road or publicly owned rail corridor, the utility owner must, upon 30 days' written notice, initiate the work necessary to alleviate the interference at its own expense except as provided in various scenarios. The work must be completed within such a reasonable time as stated in the notice, or at such time as agreed to by the authority and the utility owner.⁴⁵

Among these scenarios, Florida law provides that if the relocation is needed due to a construction project on the federal-aid interstate system, and the project’s costs are eligible and approved for federal reimbursement of 90 percent or more under the Federal-Aid Highway Act,⁴⁶ the utility owning or operating such facilities must perform any necessary work upon receiving notice from FDOT. The amount the state pays for such work is after deducting any increase in the value of a new facility and any salvage value derived from an old facility.⁴⁷

When FDOT and the utility execute a joint agreement for utility work as part of a contract to construct a transportation facility, FDOT may participate in the cost of utility work exceeding 10

includes, but is not limited to, 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.

⁴¹ Section 337.401(1)(a), F.S.

⁴² *Id.*

⁴³ Section 337.401(2), F.S.

⁴⁴ Section 337.403(1), F.S.

⁴⁵ Section 337.403(1), F.S. Paragraphs (a)-(j) provide various scenarios regarding utility relocation.

⁴⁶ Pub. L. No. 84-627.

⁴⁷ Section 337.403(1)(a), F.S.

percent of FDOT's official estimated cost of the utility work. FDOT's cost participation is limited to the difference between its official estimate plus 10 percent and the amount awarded for this work in the construction contract. FDOT may not participate in any utility work costs that occur due to changes or additions during the course of the contract.⁴⁸

Effect of Proposed Changes

Electronically Detectable

The bill requires an entity that places, replaces, or relocates underground utilities within a right-of-way to make such underground utilities electronically detectable using FDOT-approved techniques.

Damage Responsibility

The bill requires a utility permit or relocation agreement require that the permitholder or party to the agreement is responsible for any damage resulting from the required work. The utility owner must pay the authority reasonable damages resulting from its failure or refusal to timely remove or relocate a utility. An authority's issuance of permits for new utility placements within its right-of-way may be subject to payment of any of the authority's costs: due to the utility owner's failure to timely relocate utilities, pursuant to an approved utility work schedule; for damage done to existing infrastructure by the utility owner; and roadway failures caused by work performed by the utility owner.

As-Built Plans

The bill defines the term "as-built plans" to mean plans that include all changes and modifications that incur during the construction phase of a project. The bill requires the authority and the utility owner to agree in writing to an approved depth of as-built plans in accordance with the project's scope.

The bill requires the utility owner to submit its as built plans within 20 business days after completing the utility work. The as-built plans must show actual final surface and subsurface utilities, including location alignment profile, depth, and geodetic datum⁴⁹ of each structure. The utility owner must provide as-built plans in an electronic format that is compatible with FDOT's software and meets FDOT-provided technical specifications or in an electronic format determined by the utility industry to meet industry standards. FDOT may, by written agreement, make exceptions to the electronic format requirement.

The bill requires that before any costs are reimbursed, the utility must submit to the authority its as-built plans.

Federal Aid Highway Reimbursement

For utility relocations on the federal-aid interstate system, the bill authorizes FDOT to reimburse:

- Up to 50 percent of the costs for publicly regulated utility facilities and municipally owned or county owned utility facilities, and

⁴⁸ Section 337.403(1)(b), F.S.

⁴⁹ A geodetic datum or reference frame is an abstract coordinate system with a reference surface (such as sea level) that serves to provide known locations to begin surveys and create maps. <https://geodesy.noaa.gov/datums/index.shtml> (last visited March 13, 2025)

- One hundred percent of the costs of relocation of municipally or county owned utility facilities located in a rural area of opportunity on the State Highway System.⁵⁰

This reimbursement is after deducting any increase in the value of a new facility and any salvage value derived from the old facility. The reimbursement is upon a determination that it is in the public's best interest and necessary to expedite the construction. The utility owner may decline such reimbursement.

Procedures

The bill provides that before FDOT provides notice to the utility to initiate utility work, FDOT and the utility owner must follow the following procedure:

- FDOT must provide the utility owner with its preliminary plans for a proposed highway project and notice of a period of between 30 and 120 days after the utility owner receives the notice, within which the utility owner must submit the required plans to FDOT. The utility owner must provide FDOT with written acknowledgement of its receipt of FDOT's preliminary plans.
- The utility owner must submit to FDOT, within the FDOT-provided time period, plans showing the existing and proposed locations of its utility facilities. If the utility owner fails to submit the plans within FDOT's specified time period, FDOT is not required to participate in the work, may withhold any amount due to the utility owner on other projects, and may withhold the issuance of any other permits for work within the state's right-of-way.
- The utility owner's submitted plans must include, for FDOT's approval, a utility relocation schedule, which meets FDOT's rules regarding form and timeframes.
- If the Governor declares a state of emergency,⁵¹ the utility is entitled to receive an extension to its utility relocation schedule which must be at least equal to any extension FDOT granted to its contractor. The utility owner must notify FDOT of additional delays associated with causes beyond the utility owner's control, including, but not limited to, participation in recovery work under a mutual aid agreement. This notification to FDOT must occur within 10 calendar days after the commencement of the delay and provide a reasonably complete description of the cause and nature of the delay and the possible impacts to the utility relocation schedule. Within 10 calendar days after the cause of the delay ends, the utility owner must submit, for FDOT's approval, a revised utility relocation schedule. FDOT may not unreasonably withhold, delay, or condition its approval of the revised utility relocation schedule.
- If the utility owner does not initiate work in accordance with utility relocation schedule, FDOT must provide the utility owner with a final notice directing the utility owner to initiate the work within 10 calendar days after it receives the final notice or, the utility owner having begun such work, fails to complete the work in accordance with the utility relocation schedule, FDOT is not required to participate in the work, may withhold any amount due to the utility owner, and may exercise its right to obtain injunctive relief.⁵²

⁵⁰ Section 337.403(1)(h), F.S., authorizes FDOT to pay, all or a part of any utility work necessitated by a FDOT project on the state highway system for a municipally owned utility or county-owned utility in a rural area of opportunity if FDOT determines that the utility is unable, and will not be able within the next 10 years, to pay the cost of such work.

⁵¹ The Governor may declare states of emergency pursuant to s. 252.36, F.S.

⁵² Injunctive relief is pursuant to s. 120.69, F.S.

- If, after the letting date of a highway improvement project, it is found that additional utility work is necessary, the utility must provide a revised utility relocation schedule within 30 calendar days after becoming aware of the need for such additional utility work or upon receiving FDOT's written notification advising the utility of the need additional utility work. FDOT must review the revised utility relocation schedule and, if form and timeframes are met, FDOT must approve the revised utility relocation schedule.
- The utility owner is liable to FDOT for documented damages resulting from the utility's failure to comply with the utility relocation schedule, including any FDOT-approved delay costs incurred by the contractor. Within 45 days after receiving FDOT's written notification that the utility is liable for damages, the utility owner must pay FDOT the amount for which the utility owner is liable or request mediation.

Mediation Boards

The bill requires FDOT to establish mediation boards to resolve disputes between FDOT and utilities concerning:

- A utility relocation schedule or revised utility relocation schedule that the utility has submitted, but FDOT has not approved;
- A contractor's claim for delay costs or other damages related to the utility's work; or
- Any matter related to the removal, relocation, or adjustment of the utility's facilities.

The bill requires FDOT to establish mediation board procedures, which must provide that:

- Each mediation board is composed of one FDOT-designated mediator, one utility owner-designated mediator, and a third mediator mutually accepted by the other two mediators, who serves as the board's presiding officer.
- The mediation board must hold a hearing for each dispute submitted to it. The board must provide notice of the hearing to each party involved in the dispute and afford each involved party an opportunity to present evidence at the hearing.
- Decisions on issues presented to the mediation board are made by a majority vote of the mediators.
- The mediation board must issue a written final decision for each submitted dispute and serve a copy of its final decision on each party to the dispute.
- The mediation board's final decisions are subject to de novo review in the Second Judicial Circuit in and for Leon County by way of a petition for judicial review, which FDOT or the utility owner may file within 30 days after service of notice of the final decision.

The bill authorizes FDOT to establish a list of qualified mediators and adopt rules to administer its mediation boards, including procedures for mediating contested cases.

The bill also adds the word "owner" after the word "utility" in several locations in provisions relating to utility relocation.

Strategic Intermodal System Highway Corridors (Section 12)

Present Situation

Florida's Strategic Intermodal System (SIS) is its high priority network of transportation facilities important to the state's economy and mobility.⁵³ FDOT must plan and develop SIS highway corridors to allow for high-speed and high-volume.⁵⁴ SIS highway corridors include facilities on State Highway System that meet FDOT-adopted criteria, including Interstate highways, the Florida Turnpike System, interregional and intercity limited access facilities. existing interregional and intercity arterial highways meeting certain standards, and new limited access facilities necessary to complete a balanced statewide system.⁵⁵

FDOT must develop and maintain a plan of SIS highway corridor projects that it anticipates, to contract for construction within at least 20 the next years. This plan must also identify when SIS Highway Corridor segments will SIS standards and criteria.⁵⁶

Effect of Proposed Changes

The bill requires FDOT, in its SIS highway corridors plan of projects, to prioritize projects affecting gaps in a corridor so that the corridor becomes contiguous in its functional characteristics.

Interstate 4 Widening (Section 16)

Present Situation

Included in FDOT's Moving Florida Forward Initiative, is the acceleration of the addition of two new express lanes in each direction along Interstate 4 (I-4) from west of U.S. 27 in Polk County to east of World Center Drive (S.R. 536) in Orange County. FDOT is also accelerating the construction of two new congestion relief lanes, one in each direction, between U.S. 27 and east of World Drive.⁵⁷

Effect of Proposed Changes

The bill provides legislative findings that widening I-4 from U.S. 27 in Polk County to I-75 in Hillsborough County is in the state's public interest and the region's strategic interest to improve the movement of people and goods.

The bill requires FDOT to develop a report on the efficient widening I-4. The report must include, but is not limited to, detailed cost projections and schedules for project development and environmental studies, design, acquisition of rights-of-way, and construction. The report must identify funding shortfalls and provide strategies to address such shortfalls, including, but not limited to, the use of express lanes toll revenues⁵⁸ generated on the I-4 corridor and FDOT funds

⁵³ FDOT, *Strategic Intermodal System*, <https://www.fdot.gov/planning/systems/sis> (last visited February 7, 2025).

⁵⁴ Section 339.65(1), F.S.

⁵⁵ Section 339.65(2), F.S.

⁵⁶ Section 339.65(4), F.S.

⁵⁷ FDOT, *Moving I-4 Forward*, <https://movingi4forward.com/> (last visited February 14, 2025).

⁵⁸ Tolls on express lanes are authorized in s. 338.166, F.S.

available for public-private partnerships.⁵⁹ By December 31, 2025, FDOT must submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Conforming Changes (Sections 13-15)

The bill amends ss. 443.191, 571.26, and 571.265, F.S., conforming cross-references.

Effective Date (Section 17)

The bill takes effect July 1, 2025.

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:

The bill (section 1) allocates to the STTF six cents per kWh of sales tax collected from the sale of electricity used at commercial electric vehicle charging stations. This revenue is currently allocated to the General Revenue Fund.

B. Private Sector Impact:

The bill will collectively have an indeterminate negative fiscal impact on the private sector as follows:

- Increased insurance costs for FDOT contactors performing certain work over navigable waters (section 5).

⁵⁹ Public-private partnerships are authorized in s. 334.30, F.S.

- Costs for making underground utilities electronically detectable (section 10).
- Costs for utility owners to pay reasonable damages for failure or refusal to timely relocate a utility (section 10)

However, utility owners may see a reduction in costs if FDOT pays a portion of their utility relocation costs (section 10).

C. Government Sector Impact:

The bill (section 1) allocates a portion of the sales tax revenue currently allocated to General Revenue to the STTF. This will provide additional revenues to FDOT which may have been used for other government purposes. Since the transfer is based on the amount of electricity used for commercial EV charging, the amount of this transfer is not known.

The bill (section 2) requires each county to annually submit transportation project data to FDOT. Counties will incur costs to compile and provide this data. FDOT will also incur costs associated with compiling this data and publishing it on its website.

The bill (section 3) authorizes FDOT to expend up to \$5 million per fiscal year in grants to state colleges and high schools to support offering elective courses in heavy civil construction. This provision authorizes transfer of state transportation funds to state colleges and high schools.

The bill (section 10) requires certain underground utilities to be electronically detectable. Government entities may incur costs to comply with this provision.

The bill (section 10) requires utility owners to pay an authority reasonable damages for failure or refusal to timely relocate a utility. Since the authority is a public entity, it may receive damages from utility owners. However, some utility owners are government entities and may be required to pay another government entity such damages.

The bill (section 11) authorizes FDOT to pay utility owners a portion of utility relocation costs related to transportation projects on the State Highway System. FDOT may see an indeterminate, but likely significant, negative fiscal impact associated with paying these costs.

The bill (section 11) requires FDOT to establish mediation boards to resolve certain disputes related to utility relocation disputes. FDOT may incur costs to operate these boards.

The bill (section 16) requires FDOT to develop a report regarding the widening of I-4. FDOT will incur costs to develop this report.

VI. Technical Deficiencies:

The bill (section 2) requires each county to annually provide FDOT with transportation project data. That provision is inconsistent in its use of the terms “county” and “local governmental entity.”

The bill (section 3) authorizes FDOT to expend up to \$5 million annually on grants to state colleges and high schools to support elective courses in heavy civil construction. The bill may need to be clarified to provide these funds are from the State Transportation Trust Fund.

The bill (section 11) uses to the term “publicly regulated utility facilities.” However, that that term is not defined in either the bill or existing law and it is unclear what that term is meant to include.

The bill (section 16) provides legislative findings regarding the widening of I-4 in Hillsborough and Polk counties; however, the bill’s provision regarding FDOT’s report on the widening I-4 is unclear as to whether or not it is supposed to only address that segment.

VII. Related Issues:

The bill (section 1) allocates 6 cents per kWh from sales tax revenues collected from the sale of electricity at commercial EV charging stations to the STTF. The Department of Revenue is unable to perform this distribution since it does not possess data regarding the electricity used at public EV charging stations.⁶⁰

The bill (section 11) requires FDOT to establish mediation boards to resolve disputes related to certain utility relocation issues; however, the bill describes an arbitration process.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20, 334.044, 337.11, 337.1101, 337.14, 337.185, 337.19, 337.401, 337.403, 339.65, 443.191, 571.26, and 571.265.

This bill creates the following sections of the Florida Statutes: 218.3215 and 334.63.

This bill creates one undesignated section of Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

⁶⁰ E-mail from Alex Yarger, Legislative Affairs Director, Florida Department of Revenue, RE: SB 462 – Transfer of EV charging sales tax revenues. (March 11, 2025). (On file with Senate Committee on Transportation).

B. Amendments:

None.

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