

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**BUDGET SUBCOMMITTEE ON TRANSPORTATION,
TOURISM, AND ECONOMIC DEVELOPMENT
APPROPRIATIONS
Senator Gaetz, Chair
Senator Margolis, Vice Chair**

MEETING DATE: Wednesday, April 13, 2011
TIME: 11:00 a.m.—12:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Gaetz, Chair; Senator Margolis, Vice Chair; Senators Alexander, Benacquisto, Bennett, Bogdanoff, Bullard, Dean, Diaz de la Portilla, Evers, Fasano, Hill, Latvala, Norman, Sachs, Smith, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1180 Transportation / Latvala (Similar CS/CS/H 1363, Compare CS/H 149, CS/CS/H 991, H 1371, H 1389, CS/S 524, CS/CS/S 768, S 1404, CS/S 1570, S 1934, S 1966, S 2152)	Transportation; Provides that the Florida Statewide Passenger Rail Commission has the primary and exclusive authority to monitor certain designated functions related to passenger rail systems. Removes from the Florida Transportation Commission the responsibility and duty to monitor the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, etc.	
		TR 03/22/2011 Temporarily Postponed TR 03/29/2011 Fav/CS BTA 04/13/2011 BC	
2	SB 1792 Diaz de la Portilla (Identical H 4001)	Growth Policy; Repeals provisions relating to the Urban Infill and Redevelopment Assistance Grant Program, to terminate the program. Conforms cross-references to changes made by the act.	
		CA 03/28/2011 Favorable BTA 04/13/2011 BC	
3	SB 510 Latvala (Identical H 535, Compare S 2156)	Hurricane Loss Mitigation Program; Extends the repeal date of the program. Deletes an obsolete provision relating to the use of funds for programs to retrofit certain existing facilities.	
		CA 03/14/2011 Favorable BTA 04/13/2011 BC RC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Wednesday, April 13, 2011, 11:00 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1318 Commerce and Tourism / Benacquisto (Compare CS/H 879)	Tax Refund Program/Target Industry Businesses; Revises the criteria for the determination of target industry businesses by the Office of Tourism, Trade, and Economic Development. Provides for notification by a municipal governing board of private-sector wage calculation. CM 03/29/2011 Fav/CS BTA 04/13/2011 BC RC	



629586

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 294 and 295
insert:

Section 2. Paragraph (d) of subsection (1) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the



629586

12 levy. Each enactment shall specify the types of counties
13 authorized to levy; the rate or rates which may be imposed; the
14 maximum length of time the surtax may be imposed, if any; the
15 procedure which must be followed to secure voter approval, if
16 required; the purpose for which the proceeds may be expended;
17 and such other requirements as the Legislature may provide.
18 Taxable transactions and administrative procedures shall be as
19 provided in s. 212.054.

20 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
21 SURTAX.—

22 (d) Proceeds from the surtax shall be applied to as many or
23 as few of the uses enumerated below in whatever combination the
24 county commission deems appropriate:

25 1. Deposited by the county in the trust fund and shall be
26 used for the purposes of development, construction, equipment,
27 maintenance, operation, supportive services, including a
28 countywide bus system, on-demand transportation services, and
29 related costs of a fixed guideway rapid transit system;

30 2. Remitted by the governing body of the county to an
31 expressway, transit, or transportation authority created by law
32 to be used, at the discretion of such authority, for the
33 development, construction, operation, or maintenance of roads or
34 bridges in the county, for the operation and maintenance of a
35 bus system, for the operation and maintenance of on-demand
36 transportation services, for the payment of principal and
37 interest on existing bonds issued for the construction of such
38 roads or bridges, and, upon approval by the county commission,
39 such proceeds may be pledged for bonds issued to refinance
40 existing bonds or new bonds issued for the construction of such



629586

41 roads or bridges;

42 3. Used by the county for the development, construction,
43 operation, and maintenance of roads and bridges in the county;
44 for the expansion, operation, and maintenance of bus and fixed
45 guideway systems; for the expansion, operation, and maintenance
46 of on-demand transportation services; and for the payment of
47 principal and interest on bonds issued for the construction of
48 fixed guideway rapid transit systems, bus systems, roads, or
49 bridges; and such proceeds may be pledged by the governing body
50 of the county for bonds issued to refinance existing bonds or
51 new bonds issued for the construction of such fixed guideway
52 rapid transit systems, bus systems, roads, or bridges and no
53 more than 25 percent used for nontransit uses; and

54 4. Used by the county for the planning, development,
55 construction, operation, and maintenance of roads and bridges in
56 the county; for the planning, development, expansion, operation,
57 and maintenance of bus and fixed guideway systems; for the
58 planning, development, construction, operation, and maintenance
59 of on-demand transportation services; and for the payment of
60 principal and interest on bonds issued for the construction of
61 fixed guideway rapid transit systems, bus systems, roads, or
62 bridges; and such proceeds may be pledged by the governing body
63 of the county for bonds issued to refinance existing bonds or
64 new bonds issued for the construction of such fixed guideway
65 rapid transit systems, bus systems, roads, or bridges. Pursuant
66 to an interlocal agreement entered into pursuant to chapter 163,
67 the governing body of the county may distribute proceeds from
68 the tax to a municipality, or an expressway or transportation
69 authority created by law to be expended for the purpose



629586

70 authorized by this paragraph. Any county that has entered into
71 interlocal agreements for distribution of proceeds to one or
72 more municipalities in the county shall revise such interlocal
73 agreements as necessary for the sole purpose of including ~~no~~
74 ~~less than every 5 years in order to include~~ any municipalities
75 that have been created during the immediately preceding year,
76 provided that any funds distributed to a new municipality must
77 come from funds otherwise retained and used by the charter
78 county, must be on a pro rata basis with the allocation of funds
79 to the previously existing municipalities, and must not reduce
80 the percentage allocation to the previously existing
81 municipalities since the prior interlocal agreements were
82 executed. Notwithstanding the foregoing, the first revision of
83 interlocal agreements pursuant to this subparagraph shall
84 include any municipality that has been created since the surtax
85 was adopted by the charter county. Any charter county that seeks
86 to terminate or substantially modify the distribution of funds
87 to municipalities may do so only pursuant to approval by a
88 majority vote of the electorate of the county.

89
90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Delete line 10

93 and insert:

94 systems in the state; amending s. 212.055, F.S.;

95 requiring counties to revise, as necessary, any

96 interlocal agreements entered into with municipalities

97 for the distribution of proceeds of the discretionary

98 sales surcharge in order that newly participating



629586

99 municipalities may receive a share of the
100 distribution; specifying conditions by which a
101 municipality may receive a distribution of the sales
102 surcharge; amending s. 286.011, F.S.;



237118

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment

Between lines 633 and 634
insert:

(33) "Launch support facilities" mean facilities that are located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing, as defined in 15 U.S.C. chapter 84, s. 5802, Commercial Space Competitiveness.



733970

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1825 - 1829
and insert:

Section 34. Subsections (4), (26), and (27) of section 479.01, Florida Statutes, are amended to read:

479.01 Definitions.—As used in this chapter, the term:

(4) "Commercial or industrial zone" means a parcel of land designated predominately for commercial or industrial uses under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter



733970

12 163. If a parcel is located in an area designated for multiple
13 uses on the future land use map of a comprehensive plan and the
14 zoning category of the land development regulations does not
15 clearly designate that parcel for a specific use, the area will
16 be considered an unzoned commercial or industrial area if it
17 meets the criteria of subsection (26).

18 (26) "Unzoned commercial or industrial area" means an area
19 ~~a parcel~~ of land designated by the future land use map of the
20 comprehensive plan for multiple uses that include commercial or
21 industrial uses but are not specifically designated for
22 commercial or industrial uses under the land development
23 regulations, in which three or more separate and distinct
24 conforming industrial or commercial activities are located.

25 (a) These activities must satisfy the following criteria:

26 1. At least one of the commercial or industrial activities
27 must be located on the same side of the highway and within 800
28 feet of the sign location;

29 2. The commercial or industrial activities must be within
30 660 feet from the nearest edge of the right-of-way; and

31 3. The commercial industrial activities must be within
32 1,600 feet of each other.

33

34 Distances specified in this paragraph must be measured from the
35 nearest outer edge of the primary building or primary building
36 complex when the individual units of the complex are connected
37 by covered walkways.

38 (b) ~~Certain activities, including, but not limited to,~~ The
39 following are, ~~may not be so recognized as~~ commercial or
40 industrial activities:



- 41 1. Signs.
- 42 2. Agricultural, forestry, ranching, grazing, farming, and
- 43 related activities, including, but not limited to, wayside fresh
- 44 produce stands.
- 45 3. Transient or temporary activities.
- 46 4. Activities not visible from the main-traveled way.
- 47 5. Activities conducted more than 660 feet from the nearest
- 48 edge of the right-of-way.
- 49 6. Activities conducted in a building principally used as a
- 50 residence.
- 51 7. Railroad tracks and minor sidings.
- 52 8. Communication towers.

53 (27) "Urban area" has the same meaning as defined in s.
54 334.03(28) ~~s. 334.03(29)~~.

55 Section 35. Subsection (7) of section 479.02, Florida
56 Statutes, is amended to read:

57 479.02 Duties of the department.—It shall be the duty of
58 the department to:

59 (7) Adopt such rules as ~~it deems~~ necessary to administer or
60 ~~proper for the administration of~~ this chapter, ~~including rules~~
61 ~~which identify activities that may not be recognized as~~
62 ~~industrial or commercial activities for purposes of~~
63 ~~determination of an area as an unzoned commercial or industrial~~
64 ~~area.~~

65
66 ===== T I T L E A M E N D M E N T =====

67 And the title is amended as follows:

68
69 Delete lines 86 - 88



733970

70 and insert:
71 316.515, 336.01, 338.222, 341.8225, 479.07, and
72 479.261, F.S.; conforming cross-references to changes
73 made by the act; amending s. 479.01, F.S.; redefining
74 the terms "commercial or industrial zone" and "unzoned
75 commercial or industrial area"; correcting a cross-
76 reference; amending s. 479.02, F.S.; deleting obsolete
77 provisions; amending s. 310.002, F.S.;



119684

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1914 - 1921
and insert:

(3) A certificate indicating compliance with s. 316.075(3) must accompany the notice of violation and a traffic citation. Such certificate is admissable in any proceeding to enforce this section and raises a rebuttable presumption that the traffic control signal device meets the requirements of s. 316.075(3).

1
2
3
4
5
6
7
8
9
10
11



119684

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 Delete lines 95 - 97

15 and insert:

16 devices; amending s. 316.0083, F.S.; requiring a
17 certificate of compliance to accompany a traffic
18 citation which meets specified



328518

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Substitute for Amendment (119684) (with title amendment)

Delete lines 1914 - 1921
and insert:

(3) An affirmation indicating compliance with s. 316.075(3) must accompany the notice of violation and a traffic citation. Such certificate is admissible in any proceeding to enforce this section and raises a rebuttable presumption that the traffic control signal device meets the requirements of s. 316.075(3).



328518

12
13
14
15
16
17
18
19
20

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 95 - 97

and insert:

devices; amending s. 316.0083, F.S.; requiring an
affirmation of compliance to accompany a traffic citation which
meets specified



273090

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment

Delete lines 2773 - 2774
and insert:

condition of such vegetation, and, where appropriate, may
require a vegetation management plan to consider conservation
and mitigation, or contribution to a plan of mitigation, for the
cutting or removal of such vegetation. The department may
approve ~~shall include~~ plantings that ~~which~~ will allow reasonable



769968

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Between lines 2959 and 2960
insert:

Section 58. Subsection (7) of section 336.025, Florida Statutes, is amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(7) For the purposes of this section, "transportation expenditures" means expenditures by the local government from local or state shared revenue sources, excluding expenditures of



769968

12 bond proceeds, for the following programs:

13 (a) Public transportation operations and maintenance.

14 (b) Roadway and right-of-way maintenance and equipment and
15 structures used primarily for the storage and maintenance of
16 such equipment.

17 (c) Roadway and right-of-way drainage.

18 (d) Street lighting installation, operation, maintenance,
19 and repair.

20 (e) Traffic signs, traffic engineering, signalization, and
21 pavement markings, installation, operation, maintenance, and
22 repair.

23 (f) Bridge maintenance and operation.

24 (g) Debt service and current expenditures for
25 transportation capital projects in the foregoing program areas,
26 including construction or reconstruction of roads and sidewalks.

27

28

29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 Delete line 224

32 and insert:

33 future expiration of the pilot programs; amending s.

34 336.025, F.S.; revising the definition of

35 "transportation expenditures" for purposes of

36 specified provisions that restrict the use of local

37 option fuel tax funds by counties and municipalities;



272824

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 2959 and 2960
insert:

Section 58. (1) Any governmental unit that is authorized to regulate the operation of vehicles for public hire within its geographic boundaries may adopt ordinances, rules, regulations, orders, or other acts that create a private property right or interest in a license to operate a vehicle for public hire within the geographic boundaries of the governmental unit.

(2) Upon the creation of such private property right, the



272824

12 owner of a vehicle for public hire operation may pledge, sell,
13 assign, sublease, or otherwise transfer the license to another
14 person. However, the owner must apply to the governmental unit
15 before making such transfer and obtain its approval for the
16 proposed action, except that a license may be transferred by
17 operation of intestate succession or devise.

18 (3) As used in this section, the term:

19 (a) "License" includes any certificate, permit, medallion,
20 or other evidence that authorizes a person to operate a vehicle
21 for public hire within the geographic boundaries of a
22 governmental unit.

23 (b) "Governmental unit" includes a county, municipality,
24 special district, commission, or other unit of state or local
25 government.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29
30 Delete line 224

31 and insert:

32
33 future expiration of the pilot program; authorizing
34 governmental units that regulate the operation of
35 vehicles for public hire to create a private property
36 right in the license to operate a vehicle for public
37 hire; providing for the transfer of such property
38 right; providing definitions; providing an



784582

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

1 **Senate Substitute for Amendment (272824) (with title**
2 **amendment)**

3
4 Between lines 2959 and 2960
5 insert:

6 Section 58. (1) As used in this section, the term:

7 (a) "License" includes any certificate, permit, medallion,
8 or other evidence that authorizes a person to operate a public
9 vehicle for hire within the geographic boundaries of a
10 governmental unit.

11 (b) "Governmental unit" includes a county, municipality,



784582

12 special district, commission, or other unit of state or local
13 government.

14 (2) Any governmental unit that is authorized to regulate
15 the operation of public vehicles for hire within its geographic
16 boundaries may adopt ordinances, rules, regulations, orders, or
17 other acts that create a private property right or interest in a
18 license to operate a public vehicle for hire within the
19 geographic boundaries of the governmental unit.

20 (3) Upon creation of a private property right or interest
21 in a license to operate, a public vehicle for hire license
22 holder shall have the right to pledge, assign, sublease, sell,
23 or otherwise transfer the license, except as provided otherwise
24 by ordinances, rules, regulations, orders, or other acts of the
25 local governmental unit. A private property right or interest in
26 a license to operate a public vehicle for hire may be
27 transferred by operation of intestate succession or devise,
28 except as provided otherwise by ordinances, rules, regulations,
29 orders, or other acts of the local governmental unit. The
30 ownership, transfer and operation of a public vehicle for hire
31 license shall be in compliance with the governmental unit's
32 local ordinances, rules, regulations, and orders regarding
33 ownership, transfer, and operation of public vehicle for hires.

34 (4) Any governmental unit that is authorized to regulate
35 the operation of public vehicle for hire and other for-hire
36 transportation within its geographic boundaries may request and
37 receive criminal history record information for the purpose of
38 screening applicants for licenses and for-hire vehicle driver's
39 licenses and pay a fee for any such record. Such record
40 information may include a national criminal history records



784582

41 check with the Federal Bureau of Investigation. The fingerprints
42 may be submitted by the governmental unit to the Department of
43 Law Enforcement for state processing, and the department shall
44 forward them to the Federal Bureau of Investigation for a
45 national criminal history records check. All costs associated
46 with transmittal and processing shall be borne by the
47 governmental unit, the employer, or the person subject to the
48 background check. The department shall invoice the governmental
49 unit for the fingerprints submitted each month. The governmental
50 unit shall screen background results to determine if an
51 applicant meets its licensure requirements.

52 (5) This section does not preempt or modify any ordinance
53 creating a property right or interest in a vehicle for public
54 hire license created by a governmental unit before July 1, 2011,
55 or any amendment to an ordinance creating a property right or
56 interest after July 1, 2011.

57
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete line 224

61 and insert:

62 future expiration of the pilot program; providing
63 definitions; authorizing governmental units that
64 regulate the operation of vehicles for public hire to
65 create a private property right in the license to
66 operate a vehicle for public hire; providing for the
67 transfer of such property right; authorizing
68 governmental units that regulate the operation of
69 vehicles for public hire to request and receive



784582

70 criminal history record information for the purpose of
71 screening applicants; providing applicability;
72 providing an



367484

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 2959 and 2960
insert:

Section 58. Subsection (5) of section 316.2068, Florida Statutes, is amended to read:

316.2068 Electric personal assistive mobility devices; regulations.—

(5) A county or municipality may prohibit the operation of electric personal assistive mobility devices on any road, street, sidewalk, or bicycle path under its jurisdiction if the



367484

12 governing body of the county or municipality determines that
13 such a prohibition is necessary in the interest of safety.

14
15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 224

18 and insert:

19 future expiration of the pilot program; authorizing
20 local governments to prohibit the operation of
21 electric personal assistive mobility devices on
22 sidewalks; providing an



720910

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 962 and 963
insert:

Section 19. Paragraph (a) of subsection (4) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

(4) APPORTIONMENT.—

(a) The Governor shall, with the agreement of the affected units of general-purpose local government as required by federal rules and regulations, apportion the membership on the



720910

12 applicable M.P.O. among the various governmental entities within
13 the area. At the request of a majority of the affected units of
14 general-purpose local government comprising an M.P.O., the
15 Governor and a majority of units of general-purpose local
16 government serving on an M.P.O. shall cooperatively agree upon
17 and prescribe who may serve as an alternate member and a method
18 for appointing alternate members who may vote at any M.P.O.
19 meeting that an alternate member attends in place of a regular
20 member. The method shall be set forth as a part of the
21 interlocal agreement describing the M.P.O.'s membership or in
22 the M.P.O.'s operating procedures and bylaws. The governmental
23 entity so designated shall appoint the appropriate number of
24 members to the M.P.O. from eligible officials. Representatives
25 of the department shall serve as nonvoting advisers to ~~members~~
26 ~~of~~ the M.P.O. governing board. Additional nonvoting advisers may
27 be appointed by the M.P.O. as deemed necessary; however, to the
28 maximum extent feasible, each M.P.O. shall seek to appoint
29 nonvoting representatives of various multimodal forms of
30 transportation not otherwise represented by voting members of
31 the M.P.O. An M.P.O. shall appoint nonvoting advisers
32 representing major military installations located within the
33 jurisdictional boundaries of the M.P.O. upon the request of the
34 aforesaid major military installations and subject to the
35 agreement of the M.P.O. All nonvoting advisers may attend and
36 participate fully in governing board meetings but shall not have
37 a vote and shall not be members of the governing board. The
38 Governor shall review the composition of the M.P.O. membership
39 in conjunction with the decennial census as prepared by the
40 United States Department of Commerce, Bureau of the Census, and



720910

41 reapportion it as necessary to comply with subsection (3).

42

43 ===== T I T L E A M E N D M E N T =====

44 And the title is amended as follows:

45

46 Delete line 57

47 and insert:

48

49 payment of commercial rental tax; amending s. 339.175,
50 F.S.; providing that representatives of the Department
51 of Transportation shall serve as nonvoting advisers to
52 a Metropolitan Planning Organization; authorizing the
53 appointment of additional nonvoting advisers; amending
54 s. 339.62,



710782

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 2379 and 2380
insert:

(7) The governing board or department shall encourage the use of new, innovative, and alternative technologies to achieve water quality or flood protection objectives. Such efforts shall include the establishment of a program to expedite the evaluation of the effectiveness of new, innovative, and alternative technologies and the department shall maintain a list of qualified products, processes, and technologies that may



710782

12 be used statewide to achieve water quality or flood protection
13 objectives. The program shall, to the extent practicable, use
14 new, innovative, and alternative technologies to achieve a
15 balance between the expenditure of public funds for stormwater
16 treatment for state transportation projects and facilities and
17 the treatment objectives to be achieved.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21
22 Delete line 177
23 and insert:
24 department to adopt rules; requiring the water
25 management districts or department to encourage state
26 entities to use new, innovative, and alternative
27 technologies to achieve water quality or flood
28 protection objectives; requiring a program to expedite
29 the evaluation of the effectiveness of new,
30 innovative, and alternative technologies; requiring
31 the department to maintain a certain list to be used
32 statewide to achieve water quality or flood protection
33 objectives; directing that the program, to the extent
34 practicable, balance the expenditure of public funds
35 for stormwater treatment for state transportation
36 projects and facilities and the treatment objectives
37 to be achieved; amending s. 373.4137, F.S.;



853702

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 2959 and 2960
insert:

Section 58. (1) A rental car company, third party vendor, or other entity may not impose any fee, fine, surcharge, cost, penalty, or other charge in addition to the actual cost of an electronic toll, unless required by law and except as provided in this section. However, a rental car company, third party vendor, or other entity may:

(a) Charge a reasonable daily or weekly amount in addition



853702

12 to the cost of tolls if the fee automatically begins to apply
13 when a driver goes through the first electronic toll; or

14 (b) Offer a reasonable, all-inclusive daily or weekly fee
15 plan that includes the cost of all tolls and all administrative
16 fees, fines, surcharges, costs, penalties, or other charges.

17 (2) If a rental car company, third party vendor, or other
18 entity offers an all-inclusive fee plan and the renter does not
19 choose that plan, such entity may charge an additional fee that
20 does not exceed \$2.50 per day or \$10 per week, in addition to
21 the electronic toll charges.

22 (3) This section does not apply to the collection of
23 additional fees by toll agencies, expressway authorities, or the
24 Florida Turnpike or the collection of additional fees related to
25 delinquent toll accounts by toll agencies or collection
26 agencies.

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Delete line 224

31 and insert:

32 future expiration of the pilot program; regulating the
33 fees that rental car companies may charge relating to
34 the collection of electronic tolls; providing limits
35 and exceptions; providing an



556530

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 889 and 890
insert:

Section 15. Subsection (1) of section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions.—

(1) No persons are permitted to use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on



556530

12 official state business, state military personnel while on
13 official military business, handicapped persons as provided in
14 this section, persons exempt from toll payment by the
15 authorizing resolution for bonds issued to finance the facility,
16 ~~and~~ persons exempt on a temporary basis where use of such toll
17 facility is required as a detour route, and persons operating
18 public transit vehicles owned or operated by a county,
19 municipality, political subdivision, or other public district or
20 authority. Any law enforcement officer operating a marked
21 official vehicle is exempt from toll payment when on official
22 law enforcement business. Any person operating a fire vehicle
23 when on official business or a rescue vehicle when on official
24 business is exempt from toll payment. Any person participating
25 in the funeral procession of a law enforcement officer or
26 firefighter killed in the line of duty is exempt from toll
27 payment. The secretary, or the secretary's designee, may suspend
28 the payment of tolls on a toll facility when necessary to assist
29 in emergency evacuation. The failure to pay a prescribed toll
30 constitutes a noncriminal traffic infraction, punishable as a
31 moving violation pursuant to s. 318.18. The department is
32 authorized to adopt rules relating to the payment, collection,
33 and enforcement of tolls, as authorized in chapters 316, 318,
34 320, 322, and 338, including, but not limited to, rules for the
35 implementation of video or other image billing and variable
36 pricing.

37
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:
40



556530

41 Delete line 46
42 and insert:
43 access facilities; amending s. 338.155, F.S.;
44 providing that persons operating public transit
45 vehicles owned or operated by a county, municipality,
46 political subdivision, or other public district or
47 authority are exempt from the payment of tolls;
48 amending s. 338.227, F.S.;



266068

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 357 - 369.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 18 - 22

and insert:

s. 334.03, F.S.; revising and



383160

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Diaz de la Portilla) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 2924 and 2925

insert:

(18) Signs that promote the official sponsor of an event, sports team, exhibition, or facility in connection with the operation of a publicly owned and privately operated professional sport and entertainment venue fronting on a federal aid primary highway shall be exempt from the requirement that a permit be obtained under the provisions of this chapter. Application of the provisions of this subsection shall be suspended if the



383160

12 Federal Government notifies the department that such application
13 will adversely affect the allocation of federal funds to the
14 department.

15
16 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

17 And the directory clause is amended as follows:

18 Delete line 2908

19 and insert:

20 Section 56. Subsections (16), (17), and (18) are added to
21 section

22
23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete line 220

27 and insert:

28 permit requirements; exempting certain signs promoting
29 sponsors of events at certain professional sport and
30 entertainment venues from permit requirements;
31 creating s. 479.263, F.S.;

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: CS./SB 1180

INTRODUCER: Transportation Committee and Senator Latvala

SUBJECT: Transportation

DATE: April 8, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Spalla</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Carey</u>	<u>Meyer, R.</u>	<u>BTA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

SB 1180 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT, or department) and various transportation issues. Specifically, the bill:

- clarifies that the Florida Statewide Passenger Rail Commission has the exclusive authority to monitor all publicly funded passenger rail system in the state;
- allows certain transportation authorities to hold public meetings using communications media technology;
- authorizes a pilot-program to allow bicycles on selected limited-access bridges;
- provides a reduced penalty for operators of commercial motor vehicles who fail to possess a current medical examiner’s certificate as required by federal law;
- revises definitions and FDOT duties relating to road jurisdiction and transfer of public roads between governmental entities;
- delays the date of a new levy or rate change of a local option fuel tax from July 1 to October 1;
- authorizes use of additional forms of financial securities required prior to the installation of military monuments or memorials in rest areas;

- repeals the Florida Intrastate Highway System as a separate statewide highway network and relocates provisions for the designation and function of limited access facilities to provide for Strategic Intermodal System Highway Corridors;
- repeals the Statewide Intermodal Transportation Advisory Council (SITAC);
- repeals federally required planning factors listed in state statute and replaces the factors with a reference to the United States Code containing the factors;
- repeals duplicative reporting requirements;
- establishes Strategic Intermodal System Highway corridors;
- repeals s. 316.2045, F.S., which addresses panhandling on public streets but has been struck down as unconstitutional on First Amendment grounds;
- creates a narrowly tailored, content neutral permitting scheme for pedestrian activities that might obstruct the free flow of traffic;
- prohibits aggressive panhandling and establishes local governmental authority to issue permits for roadside solicitations;
- requires traffic signals to have a minimum yellow interval time;
- exempts operators of farm labor vehicles from hours-of-service requirements during declared agricultural emergencies, such as hard-freezes when fruit needs to be harvested as quickly as possible;
- places a maximum percentage cap on funds to be used by FDOT in landscaping projects;
- establishes legislative intent relating to stormwater management systems associated with state transportation projects, allowing FDOT to use regional systems and removing the department's responsibility for abating pollution entering their system from neighboring properties;
- requires bus stop benches and other street furniture to comply with federal Americans with Disabilities Act requirements;
- establishes legislative intent to allow flexibility in the permitting of stormwater treatment facilities for transportation facilities;
- makes the requirement for FDOT and other authorities to submit environmental impact inventories a voluntary act and allows the release of environmental mitigation funds when the associated transportation project is excluded from the mitigation plan;
- designates Port Citrus in Citrus County as a deepwater port and assign it the same benefits and responsibilities as the other 14 ports;
- conforms various provisions to changes made by the act; and
- provides an effective date.

This bill substantially amends the following sections of the Florida Statutes: 20.23, 163.3180, 286.011, 288.063, 310.002, 311.07, 311.09, 316.075, 316.0083, 316.091, , 316.2122, 316.302, 316.3025, 316.515, 334.03, 334.044, 334.047, 336.021, 336.025, 336.01, 336.021, 336.025, 337.111, 337.403, 337.404, 337.406, 337.408, 338.01, 338.222, 338.227, 338.2275, 338.228, 338.234, 339.155, 339.62, 339.63, 339.64, 339.65, 341.8225, 341.840, 373.413, 373.4137, 374.976, 403.021, 403.061, 403.813, 403.816, 479.01, 479.07, 479.106, 479.16, 479.261, and 479.263.

This bill creates the following sections of the Florida Statutes: 339.65, 316.2046 and 316.2047.

This bill repeals the following section of the Florida Statutes: 316.2045, 338.001

II. Present Situation:

Overlapping responsibility for Passenger Rail Systems

Section 20.23(2)(b)8., F.S., currently directs the Florida Transportation Commission (FTC) to:

Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, including any authority formed using the provisions of part I of chapter 348 and any authority formed under chapter 343 which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

Similarly, s. 20.23(3)(b)1., F.S., currently charges the Florida Statewide Passenger Rail Commission (FSPRC) with the function of:

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapter 343, chapter 349, or chapter 163 if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

Public Meetings

Article I, section 24(b) of the Florida Constitution and s. 286.011, F.S., the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.¹

Article I, section 24 of the Florida Constitution, chapter 119, F.S., and chapter 286, F.S., all provide different definitions as to who is subject to the open meeting and public records laws. Under article I, Section 24(a) of the Florida Constitution, "any public body, officer, or employee of the state, or persons acting on their behalf" is subject to the public records law. Under article I, Section 24(b), all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be

¹ Section 286.011, F.S.

transacted or discussed, is subject to the open meetings law. Under chapter 119, F.S., any agency² is subject to the public records laws. Under s. 286.011, F.S., all meetings of any board or commission of any state agency or authority of any agency or authority of any county, municipal corporation, or political subdivision are subject to the open meeting laws.

Section 120.54(5)(b)2., F.S., provides requirements for the Administration Commission's rules for state agencies regarding meetings using "communications media technology" which means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

If a public meeting or hearing is to be conducted by means of communications media technology, or if attendance may be provided by such means, this information must be included in the meeting notice. The notice for public meetings and hearings using communications media technology must also state how persons interested in attending may do so and must name locations, if any, where communications media technology facilities will be available.

Operation of Bicycles on Limited Access Highways

A limited access facility is "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, or only a limited right or easement, of access" Subsection 316.091(4), F.S., prohibits persons from operating a bicycle on a limited access facility and along the shoulder of a limited access highway, except as provided in statute. Currently, the only exception is the Jacksonville Expressway System, as provided for under s. 349.04(1), F.S. Highways identified with state highway route signs that include the word TOLL are limited access facilities.

Commercial Motor Vehicle Medical Certificate

Federal law (49 CFR 391.41 and 391.43) prohibits a person from operating a commercial motor vehicle (CMV) unless he or she is medically certified as physically qualified to drive a CMV. Federal law also prescribes the form of the medical certificate. Currently, law enforcement officers issue uniform traffic citations for no or improper medical certificate under either s. 316.215(1), F.S., or s. 316.302(1), F.S.

If written under s. 316.215(1), F.S., Florida law specifies that such violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318. Under s. 318.18(2), F.S., the penalty is \$30. The violator pays a total of approximately \$108 after the addition of court costs.

However, if written under s. 316.302(1), F.S., Florida law is not specific as to the penalty. Courts are either dismissing the citations, citing the absence of a specific penalty, or are imposing fines ranging anywhere from \$100 to \$500, plus court costs. If deemed a nonmoving violation, a violator pays \$108 in court costs and, if deemed a moving violation, \$158 for court costs.

² "Agency" is defined as "any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." Section 119.011(2), F.S.

Road System Definitions/Functional Classification/Jurisdiction

Prior to 1995, the department assigned road jurisdiction over a roadway based on a functional classification system. In 1995, the law was revised to recognize existing road jurisdiction and establish a system whereby any future transfer of public roads would be effectuated by mutual agreement between affected governmental entities. This change was accomplished by revisions to ch. 335, F.S., (State Highway System), in which section s. 335.04, F.S., was repealed and s. 335.0415, F.S., was enacted.

Certain definitions and duties contained in ch. 334, F.S., (Transportation Administration) related to the functional classification/road jurisdiction process formerly contained in ch. 335, F.S., should have been revised or repealed consistent with the 1995 changes, but were not.

Ninth Cent Fuel Tax

The Ninth-Cent Fuel Tax is a tax of 1 cent on every gallon of motor and diesel fuel sold within a county. The tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Pursuant to ss. 206.41(1)(d), 206.87(1)(b), and 336.021 F.S., any county in the state may levy a 1 cent per gallon tax on motor and diesel fuels sold in the county by extraordinary vote of the membership of its governing body or voter approval in a county-wide referendum. However, this tax shall be imposed on diesel fuel in each county as the result of statewide equalization. The tax must be imposed before July 1 in any given year to be effective January 1st of the following year.

1 to 6 Cents Local Option Fuel Tax

Local governments are authorized to levy a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold in a county. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a county-wide referendum. Generally, the proceeds may be used to fund transportation expenditures.

Pursuant to ss. 206.41(1)(e), 206.87(1)(c), and 336.025, F.S., this tax may be levied by an ordinance adopted (under one of two sets of circumstances, whichever is applicable) by a majority vote of the county's governing body or upon approval by referendum. If no interlocal agreement or resolution is adopted pursuant to the procedures setting out the two sets of specified circumstances, then municipalities representing more than 50 percent of the county population may, prior to June 20th, adopt uniform resolutions approving the tax, establishing the duration of the levy and the rate, and setting the date for a county-wide referendum on whether or not to levy the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs of such referendum. The tax shall be levied and collected countywide on January 1st, following 30 days after voter approval.

This tax shall be imposed on diesel fuel in each county at the maximum rate of 6 cents per gallon as the result of statewide equalization.

1 to 5 cents Local Option Fuel Tax

County governments are authorized to levy a tax of 1 to 5 cents upon every net gallon of motor fuel sold within a county. Diesel fuel is not subject to this tax. Pursuant to ss. 206.41(1)(e) and 336.025, F.S., the tax may be levied by an ordinance adopted (under one of two sets of circumstances) by a majority plus one vote of the county's governing body or upon approval by referendum. The tax proceeds may be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan. With certain exception, this tax shall be levied before July 1st to be effective January 1st of the following year.

Removal or Relocation of Monuments from Rest Areas

The 2005 Legislature created the “Ellwood Robinson ‘Bob’ Pipping, Jr., Memorial Act” (act), codified in s. 337.111, F.S. The stated purpose of the act was creating “an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today.” The act authorizes FDOT to enter into contracts, as approved by a reviewing committee, with not-for-profit groups or organizations, for the installation of monuments and memorials honoring Florida’s military veterans at highway rest areas around the state.

The act requires the group or organization making the proposal to be responsible for all costs of the monument and its installation. The act also requires the group or organization to provide a 10-year bond securing the cost of removal or relocation or necessary modifications of the monument in the event the department determines such actions are necessary.

Following passage of the act, an interested group sought installation of a monument (a replica of the Iwo Jima Memorial) in a department rest area but was unable to obtain a 10-year bond from the bonding industry. It appears that the bonding industry has reservations about issuing such bonds, and the monument has not been installed. As a result, no installations have occurred under the act.

Utility Relocations

Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities, authorizing FDOT and local government entities to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

Section 337.403, F.S., requires utility owners to remove or relocate utilities at their own expense when the utility interferes with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The utility, upon 30 days written notice, is required to remove or relocate the utility at its own expense subject to the following exceptions:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, the FDOT pays for the removal or relocation with federal funds;
- Where the cost of the utility improvement, installation, or removal exceeds the FDOT’s official cost estimates for such work by 10 percent, FDOT participation is limited to the

- difference between the official estimate of all the work in the agreement plus 10 percent and the amount awarded for the work in the construction contract;
- When the relocation of the utility takes place before construction commences, FDOT may participate in the cost of clearing and grubbing (i.e., the removal of stumps and roots) necessary for the relocation;
 - When necessary for the construction of a transportation project, the responsibility for relocating a utility falls on the authority having jurisdiction over the transportation facility if the utility was initially installed to serve only the authority, its tenants, or both. (For example, if a power line originally installed to supply electricity to a toll plaza must be relocated due to widening the toll road, the toll authority, not the power company, must pay the cost of moving the line.);
 - If the utility has conveyed, subordinated, or relinquished a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation of the utility, the authority bears the cost of such removal or relocation; and
 - If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears all costs of the relocation.

Generally, the 30-day relocation provision has been construed as a notice provision, and the utility does not need to be removed or relocated within 30 days. Often, an authority and a utility owner negotiate a period of time to reasonably accommodate the relocation and removal of the utility.

Florida Intrastate Highway System and the Strategic Intermodal System

The 1990 Legislature created s. 338.001, F.S. requiring the department to develop a Florida Intrastate Highway System (FIHS) Plan. The department identified candidate routes after reviewing local transportation plans, Metropolitan Planning Organization (MPO) plans, and the results of statewide planning studies. In January 1991, the department submitted the Florida Transportation Plan to the Legislature, including an initial FIHS network map and preliminary standards and formally adopted the standards in 1992. The section also requires a status report on the FIHS Plan be provided annually to the Legislature's transportation committees.

The Strategic Intermodal System Plan (SIS) was established by the Florida Legislature in 2003 to enhance Florida's economic prosperity and competitiveness. FDOT works with its partners to determine investment needs based on the performance of the transportation system relative to the goals and objectives of the SIS. Chapter 339, F.S., includes provisions for developing and updating the SIS. The system encompasses transportation facilities of statewide and interregional significance and is focused on the efficient movement of passengers and freight. The SIS Highway Component was designated using the SIS/Emerging SIS criteria and thresholds and comprises:

- Interstate Highways;
- Florida's Turnpike;

- Selected urban expressways;
- Major arterial highways;
- Intermodal connectors between SIS; and
- Emerging SIS hubs and SIS corridors.

The SIS Highway Component consists of 3,531 miles of SIS Highways and 761 miles of Emerging SIS Highways. In total, the SIS Highway Component is less than 4% of Florida's roads, yet carries almost 30% of all traffic. It carries more than two-thirds of all truck traffic using the State Highway System.

All but a few highway miles in the FIHS are also in the SIS, which is why the 2010 SIS Strategic Plan, developed by the department and its partners, includes a recommendation to sunset the FIHS as a separate statewide highway network to simplify the planning process. Currently, s. 338.001, F.S., only deals with the FIHS, a portion of the SIS highway component. Chapter 339, F.S., defines the entire SIS, including the highway component. The continued planning for and reporting on the FIHS and the SIS highway components as separate systems is redundant.

Statewide Intermodal Transportation Advisory Council

Chapter 339, F.S., also created the Statewide Intermodal Transportation Advisory Council (SITAC) and provided for initial membership appointment in January 2005. This council assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 16, 2005, no further appointments to the SITAC have occurred and the council no longer officially convenes; however, all of the members' organizations have been included in the ongoing planning and updating of the SIS plan.

Transportation Planning

Federal law requires states to adhere to certain requirements in the transportation planning process. On occasion, these federal requirements have been amended, and the State of Florida has revised its statutes from time to time in accordance with federal revisions as they have occurred. As to more recent changes, the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. Subsequently, the Transportation Equity Act for the 21st Century (TEA-21) was passed by Congress in June of 1998, which consolidated the statewide and metropolitan planning factors into seven broad areas to be considered. Florida law was amended by the 1999 Legislature (HB 591) to accommodate the TEA-21 revisions, and s. 339.155, F.S., currently reflects the seven broad factors to be considered in the planning process. However, the 2005 federal legislation, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. Once again, Florida's statutes do not accurately reflect the most recent federal requirements that must be adhered to in statewide transportation planning.

Further, the federal requirement that each state have a "Long-Range Transportation Plan" was amended in the SAFETEA-LU legislation to be a "Long-Range Statewide Transportation Plan." Federal legislation has not required a short-range component of the long-range plan or an annual performance report. The department has, in the past, issued a separate Short Range Component of the Florida Transportation Plan and an Annual Performance Report, but most recently

combined those reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan but rather documents FDOT's efforts to implement the Florida Transportation Plan. The department and the Florida Transportation Commission conduct extensive performance measurement of Florida's transportation system and FDOT's activities. An annual Long Range Program Plan is also submitted by the department to the Governor and Legislature reflecting state goals, agency program objectives, and service outcomes.

Florida Transportation Plan

The Florida Transportation Plan (FTP) establishes long range goals to provide a policy framework for expenditure of federal and state transportation funds in Florida. Development of the FTP includes local, regional, and state partners who make decisions about future transportation investments. Every five years, FDOT updates this plan to respond to new trends and challenges to meet the future mobility needs of Florida's residents, visitors and businesses. In 2010, FDOT and its partners worked to update the FTP. After six meetings of a 29 member Steering Committee, twenty four web meetings of four advisory groups, one statewide summit, two statewide webinars, twelve regional workshops, nearly three hundred briefings at regularly scheduled meetings of transportation partners, and an interactive website helping to gather input and feedback from more than ten thousand Floridians, the update process is completed. The 2060 FTP establishes Florida's transportation vision and identifies goals, objectives, and strategies to guide transportation decisions and investments over the next 50 years.

Florida High Speed Rail Authority/Florida Rail Enterprise

Chapter 2009-271, L.O.F., repealed the Florida High-Speed Rail Authority Act and related provisions and converted much of the act to establish the Florida Rail Enterprise within the department. However, s. 341.830, F.S., still contains references to the repealed "authority" that should have been changed to the "enterprise" at the time of the repeal/creation. "Enterprise" is now defined in s. 341.8203(2), F.S., to mean the Florida Rail Enterprise.

Pedestrian Safety

Florida was the deadliest state in the nation for pedestrians and bicyclists according to a US News and World Report article for 2010.³ Similarly, a Transportation for America study stated that four out of the five most dangerous cities in the United States for pedestrians are in Florida.⁴ A preliminary study by the Governors Highway Safety Association indicates that Florida is currently the second highest state for pedestrian fatalities.⁵

Statutory Restrictions on Solicitations

Under s. 316.2045, F.S., it is a pedestrian violation punishable under ch. 318, F.S. to willfully obstruct any public street by impeding or restraining traffic by standing or approaching motor vehicles, or endanger the safe movement of vehicles or pedestrians.

³ Larry Copeland, Fla. *Deadliest State for Walkers, Cyclists*, U.S. NEWS AND WORLD REPORT (March 1, 2010) available at http://www.usatoday.com/news/nation/2010-02-28-florida-pedestrians-cyclists-deaths_N.htm.

⁴ TRANSPORTATION FOR AMERICA, DANGEROUS BY DESIGN, available at http://t4america.org/docs/dangerousbydesign/dangerous_by_design.pdf.

⁵ GOVERNORS HIGHWAYS SAFETY ASSOCIATION, PEDESTRIAN TRAFFIC FATALITIES BY STATE 2010 PRELIMINARY DATA, available at http://www.ghsa.org/html/publications/spotlight/pdf/spotlight_ped.pdf.

However, the local government that has jurisdiction over the road may issue permits, including permits to solicit, for the use of any street, road, or right-of-way not maintained by the state. The statute has exceptions for charitable and political organizations as well as for certain service vehicles. The court in *Bischoff v. Florida* held that this statute was content-based and vague, and therefore violated First Amendment free speech rights.⁶ Additionally, the court held that the statute facially preferred the viewpoints expressed by registered charities and political campaigners by allowing ubiquitous and free dissemination of their views, but restricted discussion of all other issues and subjects.⁷ As a result, s. 316.2045, F.S., is no longer enforceable in the middle district of Florida.

Similarly, s. 337.406, F.S., makes it unlawful to make any use of the right-of-way of any state transportation facility, including appendages thereto, outside of an incorporated municipality in any manner that interferes with the safe and efficient movement of people and property from place to place on the transportation facility. An earlier version of this statute was struck down as unconstitutional. *News & Sun-Sentinel Co. v. Cox*⁸ stated that public streets and sidewalks are the “archetype of a traditional public forum,”⁹ because of their usage for public assembly and debate. The court recognized that the city had significant interests in regulating the conduct of pedestrians in its streets while motor vehicles are present. However, the court determined that it was not “narrowly tailored” to serve the City’s significant governmental interest. The statute was found to be unreasonably restrictive because it “ban[s] newspaper sales by persons of all ages to occupants of all motor vehicles located on public property ... regardless of the time of day or night and regardless of whether the cars are moving, standing, parked or even not in the traffic lanes.”¹⁰ The court noted that it failed to take into account the fact that actual traffic hazards may vary with the level of traffic flow which exists at each of the state roads. The City of Fort Lauderdale argued that safety is its primary concern and that street solicitation is unsafe under any condition, but the court stated that the argument was undermined by the fact that the statute prohibited only “commercial” activity on state-maintained roads.

Traffic Signal Yellow Intervals

Drivers approaching a traffic signal displaying a yellow light face at least four conditions:

1. The vehicle is traveling at a speed where the driver can stop comfortably;
2. The vehicle is too close to the intersection to stop comfortably, and must thus continue at the same speed or accelerate to travel through the intersection before conflicting traffic movements begin;
3. The driver can neither stop comfortably nor continue without encountering a conflicting traffic movement (prevalent with short yellow intervals and/or high approach speeds); or
4. The driver can either stop or proceed safely through the intersection.

The ideal yellow interval accommodates conditions 1 and 2, eliminates condition 3, and minimizes condition 4. To accomplish this, traffic engineers nationwide typically employ the

⁶ 242 F.Supp.2d 1226 (M.D. Fla. 2003).

⁷ *Id.*

⁸ 702 F.Supp. 891(S.D. Fla. 1988)

⁹ *Id.* (quoting *Frisby v. Schultz*, 487 U.S. 474 (1988)).

¹⁰ *Id.*

following formula, which is heavily influenced by vehicle approach speed, and was developed by the Institute of Transportation Engineers (ITE):

$$Y = t + \frac{1.47v}{2(a + Gg)}$$

Where:

Y = length of yellow interval, sec.

t = perception-reaction time, (Use 1 sec.).

v = speed of approaching vehicles, in mph.

a = deceleration rate in response to the onset of a yellow indication. (Use 10 ft/sec²)

g = acceleration due to gravity. (Use 32.2 ft/sec²)

G = grade, with uphill positive and downhill negative. (percent grade /100)

For Florida traffic signal timing, the FDOT Traffic Engineering Manual (Topic No. 750-000-005) provides required minimum durations for the yellow change interval in the following table which was computed using the ITE formula:

APPROACH SPEED (MPH)	YELLOW INTERVAL (SECONDS)
25	3.0
30	3.2
35	3.6
40	4.0
45	4.3
50	4.7
55	5.0
60	5.4
65	5.8
* For approach grades other than 0%, Use ITE Formula.	

Panhandling

Panhandling has been labeled as a symptom of deeper societal problems. However, it is generally considered a nuisance and can undermine the positive character of a community. State and local governments have struggled with how to minimize the secondary effects of panhandling on a community. Regulation in this area is complicated by the fact that begging can carry with it constitutional protections. *Smith v. Fort Lauderdale*¹¹ upheld an ordinance that proscribed begging on a five-mile strip of beach and two attendant sidewalks. The court determined that, like other charitable solicitations, begging is speech entitled to First Amendment protection. The court noted that even in a public forum, the government may enforce regulations of the time, place, and manner of expression which: (1) are content-neutral; (2) are narrowly tailored to serve

¹¹ 177 F.3d 954 (11th Cir. 1999). See also *Chad v. Ft. Lauderdale*, 66 F.Supp.2d 1242 (N.D. Fla. 1998). For a general discussion about the legal challenges of regulating panhandling, see William L. Mitchell, “*Secondary Effects*” Analysis: A Balanced Approach to the Problem of Prohibitions on Aggressive Panhandling, UNIV. OF BALTIMORE LAW REV., 1995.

a significant government interest; and (3) leave open ample alternative channels of communication. The court held that the ordinance was narrowly tailored to serve the city's significant government interest in providing a safe, pleasant environment and eliminating nuisance activity on the beach. The city had determined that begging in such areas adversely impacted tourism. The court stated that the ordinance did not need to be the least restrictive or least intrusive means of serving the city's interest in order to qualify as narrowly tailored.

Hours of Service for Operators of Commercial Motor Vehicles

Section 316.302(2)(b), F.S., provides that except as provided in federal regulations,¹² a person operating a commercial motor vehicle (CMV) solely in intrastate commerce and not transporting hazardous material may not drive:

- More than 12 hours following 10 consecutive hours of duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

FDOT Landscaping and Highway Beautification Projects

By policy, FDOT strives to conserve, protect, restore, and enhance Florida's natural resources and scenic beauty. Consistent with s. 334.044(26), F.S., the department allocates no less than 1.5% of the amount contracted for construction projects in each fiscal year to beautification programs. In implementing the policy and the statute, FDOT:

- Integrates highway beautification into the processes that are used to plan, design, construct and maintain roadways;
- Uses color, texture, pattern, and form to develop naturally beautiful and enjoyable transportation facilities that are context sensitive, and conserve scenic, aesthetic, historic, and environmental resources while maintaining safety and mobility;
- Makes use of innovative design strategies to minimize costs of high quality vegetation management; and
- Uses innovative vegetation management practices and measures to maintain safety, improve aesthetics and environmental quality, while reducing life cycle costs.

In 2009, FDOT allocated \$41,819,034 comprising 2.44% of the amount contracted for construction projects.

Americans with Disabilities Act (ADA)

The ADA is a federal civil rights law that requires pedestrian facilities to be accessible to and usable by all people, including those with disabilities. Local jurisdictions, and other entities covered by the ADA, must ensure that the facilities they build or alter comply with ADA requirements.

The ADA accessibility guidelines specify the minimum level of accessibility in new construction and alteration projects and serve as the basis for enforceable standards maintained by other agencies. The guidelines focus mainly on facilities and certain features common to public sidewalks, such as curb ramps, signs, street furniture (including bus stops and shelters), and

¹² 49.C.F.R. s. 395.1

landscaping that may obstruct the walking path or become protruding objects if located within, adjacent to, or above a sidewalk.

Bus Stops and Transit Shelters on State Roads

Local governments are authorized to install bus benches and transit shelters at designated stops on official bus routes including within the right-of-way of state roads (except limited-access facilities.) FDOT is currently authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property are endangered or deemed a roadway safety hazard. FDOT currently does not have the authority to deny installation of bus stops, bus benches, or transit shelters within the right-of-way for failure to comply with the ADA. However, FDOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the State Highway System. FDOT has been named in an ADA suit in Pinellas County because the local government has permitted the installation of bus stops in inaccessible locations, with non-compliant benches and shelters, on state roads.

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System;
- States have the discretion to remove legal nonconforming signs¹³ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads;
- States and localities may enact stricter laws than stipulated in the HBA; and
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

¹³ A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, FDOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices". Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

Vegetation Management and View Zones for Outdoor Advertising

Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on the interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. The intent of the section is to create partnering relationships which will have the effect of improving the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.¹⁴

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility or future visibility of a sign or future sign, to obtain written permission from FDOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-40.030, F.A.C., requires mitigation where:

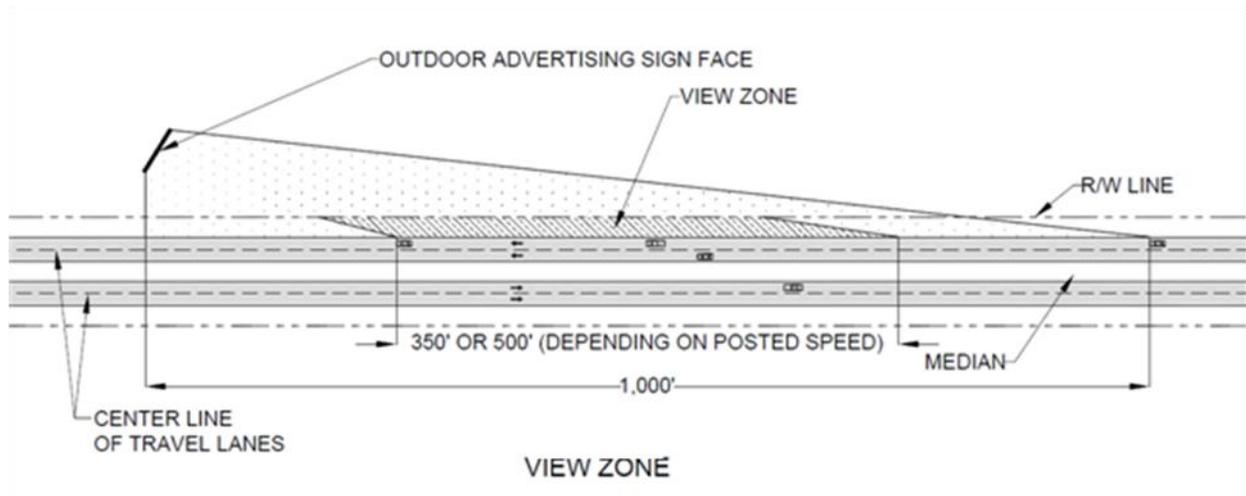
- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or destroyed;
- Trees that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When the installation of a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, FDOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits.

The measurements of a view zone are 350 feet, in areas where the posted speed limit is 35 m.p.h. or less, and 500 feet, where the speed limit is over 35 m.p.h. These view zones are to be within

¹⁴ Section 479.106(8), F.S.

the first 1,000 feet as measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the sign's edge facing the highway unless interrupted by naturally occurring vegetation. The following illustration taken from agency rule (Rule 14-40.030, F.A.C.) depicts a view zone for signs on one side of a roadway.



Section 479.106, F.S., allows FDOT and sign owners to enter into agreements identifying the specific location of an outdoor advertising sign's view zone, and if no agreement is reached, then the view zone shall be measured as described above. For some signs viewed across the median (cross readers), part of the view zone may include the highway median.

Rural Areas of Critical Economic Concern

Rural Areas of Critical Economic Concern (RACEC) are defined in s. 288.0656, F.S., as rural communities, or a region composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. The Governor may designate up to three RACECs, which allows the Governor to waive criteria of any economic development incentive. Florida's three designated RACECs include:

- Northwest Rural Area of Critical Economic Concern: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Washington counties, and the City of Freeport in Walton County;
- South Central Rural Area of Critical Economic Concern: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County); and
- North Central Rural Area of Critical Economic Concern: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Florida's Public Seaports

Florida has 14 public seaports:

Port of Fernandina

Port of Fort Pierce

Jacksonville (JaxPort)
Port of Key West
Port of Miami
Port of Palm Beach
Port Panama City
Port of Pensacola
Port Canaveral
Port Everglades
Port Manatee
Port St. Joe
Port of St. Petersburg
Port of Tampa

These seaports¹⁵ are considered significant economic drivers and compete for a minimum of \$8 million a year¹⁶ in grants from the State Transportation Trust Fund under s. 311.07, F.S. The grants are used for projects to improve the “movement and intermodal transportation” of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation. Most years, the Legislature appropriates more than \$8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend \$21.9 million on seaport grants and \$25.6 million in FY 10-11.¹⁷ The ports also benefit from an additional \$25 million in debt service paid with motor vehicle license fees¹⁸ from the State Transportation Trust Fund.

The Citrus County Board of County Commissioners recently voted to move toward developing Port Citrus, a publicly run port to be developed on the Cross Florida Barge Canal, putting the county in line for state funding for a port study. Although no port currently exists, Citrus County has had a private port authority since 1984. One concept being considered is the development of accommodations for a new type of vessel, a trans-sea lifter (TSL), which would deploy container-laden barges offshore, which are then floated to docking facilities. The shallow-draft barges eliminate the need for deep draft berthing used by conventional container ships.

III. Effect of Proposed Changes:

Section 1: Amends s. 20.23(3)(b)1., F.S., to provide that the FSPRC has the primary and exclusive function of monitoring all publicly funded passenger rail systems in the state. Further, the bill removes current law providing that the FTC is not precluded from conducting its performance and work program monitoring activities. As a result, the FSPRC would be the only entity statutorily authorized to monitor all publicly funded passenger rail systems in the state.

Section 2: Amends s. 286.011, F.S., to allow transportation authorities created under chs. 343, 348, and 349, F.S., to conduct public meetings and workshops by means of communications

¹⁵ Listed in s. 403.021(9)(b), F.S. Interactive locator map is available at: http://flaports.org/Sub_Content2.aspx?id=3. Last visited Feb. 28, 2011.

¹⁶ Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least \$15 million for FSTED projects.

¹⁷ In 2007, the Legislature appropriated an additional \$50 million for port projects as a line-item.

¹⁸ Section 320.20(3) and (4), F.S.

media technology, i.e., the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video. the authorities affected are:

Ch. 343, F.S.

- South Florida Regional Transportation Authority (SFRTA/Tri-Rail)
- Central Florida Regional Transportation Authority (CFRTA/LYNX)
- Northwest Florida Transportation Corridor Authority (NWFTCA)
- Tampa Bay Area Regional Transportation Authority (TBARTA)

Ch. 348, F.S.

- Miami-Dade Expressway Authority (MDX)
- Tampa-Hillsborough Expressway Authority (THEA)
- Orlando-Orange County Expressway Authority (O-OCEA)
- Santa Rosa Bay Bridge Authority (SRBBA)

Ch. 349, F.S.

- Jacksonville Transportation Authority (JTA)

Section 3: Amends s. 316.091, F.S., to create a 2-year Limited Access Facilities Pilot Program under FDOT. The program would provide access to bicycles and other human-powered vehicles to select limited access bridges when no other non-limited access alternative is located within two miles. The department will select three such bridges or approaches in conjunction with the Federal Highway Administration under specified criteria. Upon completion, the department will present the results of the pilot program to the Governor and Legislature.

Section 4: Amends s. 316.3025(3)(b), F.S., to specify a reduced, uniform civil penalty of \$100 for a violation of the requirement to possess a proper medical certificate when operating a CMV as required by 49 CFR 391.41 and 391.43.

Section 5: Amends s. 334.03, F.S., deleting definitions for the following terms:

- arterial road;
- collector road;
- local road;
- urban minor arterial road;
- urban principal arterial road; and
- Florida Intrastate Highway System.

At one time, these terms were used to determine the functional classification of roads under s. 335.04, F.S., which was instrumental in determining a road's jurisdiction, i.e., whether the state, a county, or a municipality was responsible for the facility. However, the repeal of s. 335.04, F.S., and the adoption of s. 335.0415, F.S., rendered the use of these terms for functional classification obsolete. These terms are not used in chs. 334 or 335, F.S., except in s. 335.04(11), and in s. 334.047, F.S., which this bill also amends.

The bill also revises the following definitions contained in s. 334.03, F.S.:

- City street system;

- county road system;
- functional classification; and
- State Highway System.

The definitions are revised to remove conflict with s. 334.0415, F.S. and s. 335.188(3)(c)1, F.S., clarifying these definitions to be:

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction; and
- Roads subsequently transferred to that jurisdiction, but not roads transferred from the appropriate jurisdiction.

The bill amends the definition of “functional classification” to link the usage of “functional classification” in state statute to the functional classification that is done according to federal procedures, rather than what FDOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access management classification system.

Section 6: Amends ss. 344.044(11) and (13), F.S., relating to department powers and duties, removing references to assigning jurisdictional responsibility and designating facilities as part of the State Highway System.

Section 7: Amends s. 334.047, F.S., to remove a prohibition against FDOT establishing a maximum number of miles of urban principal arterial roads, as defined in s. 334.03, F.S. Since the definition of the term “urban principal arterial road” is being deleted, the prohibition will become obsolete.

Section 8: Amends s. 336.021, F.S., to revise from July 1 to October 1 the date on which the ninth-cent fuel tax will be levied, to be effective January 1 of the following year. This aligns the levy or rate change with the local government’s fiscal year.

Section 9: Amends s. 336.025(1)(a) and (b), F.S., to revise from July 1 to October 1 the date on which impositions or rate changes of the local option fuel tax will be levied, to be effective January 1 of the following year. This aligns the levy or rate change with the local government’s fiscal year.

Section 10: Amends s. 337.111(4), F.S., to provide for other forms of security (besides a 10-year bond) an annual bond, irrevocable letter of credit, or other form of security approved by the FDOT comptroller which could be provided by groups installing monuments and memorials in rest areas. The bill also removes language requiring the automatic renewal of the 10-year bond upon its expiration.

Sections 11 and 12: Amend ss. 337.403 and 337.404, F.S., to provide that upon 30 days written notice, the utility is required to initiate the work to alleviate the interference with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The bill requires the work to be completed within the time stated in the notice or in the time agreed to by the authority and the utility owner. The bill amends various subsections to s. 337.403, F.S., and s. 337.404, F.S., to conform to changes made to the notice provision and to change the terms “improvements, relocation, and removal” to “utility work.”

Section 13: Repeals s. 338.001, F.S., which directed the department to plan and develop the “Florida Intrastate Highway System Plan.” The proposed changes eliminate the FIHS designation and extract the FIHS Plan components from ch. 338, F.S. The provisions are re-established in ch. 339, F.S., (see Section 22 of the bill), thereby grouping FDOT’s highway planning provisions with the majority of SIS provisions.

Section 14: Amends s. 338.01(1), F.S., relocating language relating to FDOT’s authority to establish limited access facilities from the repealed s. 338.001, F.S.

Sections 15 through 19 correct various cross-references:

- *Section 15* amends s. 338.227(4), F.S., relating to Turnpike Revenue Bonds, to replace a reference to the “Florida Intrastate Highway System Plan” with a reference to the “Strategic Intermodal System Plan developed pursuant to s. 339.64, F.S.”;
- *Section 16* amends s. 338.2275, F.S., relating to approved Turnpike projects, to replace a reference to the repealed s. 338.001, F.S., with the new s. 339.65, F.S.;
- *Section 17* amends s. 338.228, relating to Turnpike bonds, to replace a reference to the repealed s. 338.001, F.S., with the new s. 339.65, F.S.;
- *Section 18* amends s. 338.234(2), F.S., relating to concessions on the Turnpike, to replace a reference to the FIHS with a reference to the SIS; and
- *Section 19* amends s. 339.62, F.S., to replace a reference to the FIHS with a reference to “highway corridors,” which are required to be established under newly created s. 339.65, F.S.

Section 20 Amends s. 339.63(2), F.S., to add military access facilities to the types of facilities included in the SIS and Emerging SIS.

Section 21: Amends s. 339.64, F.S., to repeal the obsolete SITAC and related provisions.

Section 22: Creates s. 339.65, F.S., to establish SIS “highway corridors” provisions, including planning and policy language, and to continue necessary functions previously included in the FIHS Plan. Essentially, this newly-created section maintains the substantive provisions applicable to FIHS facilities but applies them to SIS highway corridors instead. Both limited and controlled access facilities established as components of the FIHS are designated as components within the SIS. All facility descriptions, designations, and other definitions provided within the FIHS have been included within the SIS highway component. However, while the FIHS plan required consistency with the FTP, this requirement was omitted from the provisions of this bill.

Section 23: Amends s. 339.155, F.S., to provide a reference to that portion of the United States Code in which the planning factors are contained and avoid the need to modify state law to match the federal requirements each time the planning factors are changed. This proposal would also delete the short-range component of the long-range plan and the annual performance report

requirements from state law, as these reports duplicate information provided in other required reports and are not required by federal law.

Sections 24 through 36 correct various cross-references:

- *Section 24* amends s. 341.840, F.S., to replace references to the now repealed High Speed Rail Authority to the new Florida Rail Enterprise;
- *Section 25* amends a cross-reference in s. 163.3180, F.S., relating to concurrency, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 26* amends a cross-reference in s. 288.063(3), F.S., relating to contracts for transportation projects, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 27* amends a cross-reference in s. 311.07(3)(b), F.S., relating to Florida Seaport Transportation and Economic Development funding, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 28* amends a cross-reference in s. 311.09(7), F.S., relating to the Florida Seaport Transportation and Economic Development Council, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 29* repeals cross-references to s. 334.03, F.S., in s. 316.2122, F.S., made obsolete by the road system definitions revisions.
- *Section 30* amends a cross-reference in s. 316.515(5)(c), F.S., relating to implements of husbandry, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 31* amends a cross-reference in s. 336.01, F.S., relating to designation of a county road system, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 32* amends a cross-reference in s. 338.222(2), F.S., relating to Turnpike projects, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 33* amends a cross-reference in s. 341.8225(2), F.S., relating to high-speed rail projects, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 34* amends a cross-reference in s. 479.01(27), F.S., relating to urban areas, resulting from the road system definitions revisions in s. 334.03, F.S.;
- *Section 35* amends a cross-reference in s. 479.07(1), F.S., relating to sign permits, resulting from the road system definitions revisions in s. 334.03, F.S.; and

- *Section 36* amends a cross-reference in s. 479.261(5), F.S., relating to the logo sign program, resulting from the road system definitions revisions in s. 334.03, F.S.

Sections 37, 38, and 50 – 54: Amend various sections of statute which collectively identify the state's deepwater ports to include Port Citrus in those sections' provisions.

Specifically, the bill amends:

- Section 310.002, F.S., to add Port Citrus to the definition of the term "port";
- Section 311.09, F.S., to include a representative of Port Citrus as a member of the Florida Seaport Transportation and Economic Development Council;
- Section 374.976, F.S., to conform provisions relating to include Port Citrus in provisions relating to the authority of inland navigation districts;
- Section 403.021, F.S., to conform provisions to include Port Citrus in legislative declarations relating to environmental control;
- Section 403.061, F.S., to conform provisions to include Port Citrus in provisions relating to powers of the Department of Environmental Protection;
- Section 403.813, F.S., to conform provisions to include Port Citrus in provisions relating to permits issued at Department of Environmental Protection district centers; and
- Section 403.816, F.S., to conform provisions to include Port Citrus in provisions relating to certain maintenance projects at deepwater ports and beach restoration projects.

Section 39: Amends s. 316.0083, F.S., to require the department to establish a minimum yellow light change interval time for use in traffic signals. The minimum time is set in accordance with nationally-recognized engineering standards.

Section 40: Amends s. 316.0083, F.S., relating to red light camera enforcement. The bill prohibits the issuance of a violation notice and traffic citation for violations committed at intersections where the traffic signals does not meet the requirements of s. 316.0083, F.S., including yellow light change interval minimum time. Any notice or citation issued is rendered unenforceable and must be dismissed by the court.

Panhandling Sections (Sections 41, 42, 43, and 46)

The bill contains a number of "whereas" clauses addressing the public safety concerns associated with certain pedestrian activities on or adjacent to roadways. Additionally, the bill describes problematic forms of panhandling that the bill attempts to regulate. Sections 41, 42, 43, and 46 address panhandling and the obstruction of public streets.

Section 41: Repeals s. 316.2045, F.S., which has been struck down as unconstitutional on First Amendment grounds.

Section 42: Creates s. 316.2046, F.S., to create a narrowly tailored, content-neutral permitting scheme for pedestrian activities that might obstruct the free flow of traffic. Specifically, the bill makes it a pedestrian violation of ch. 318, F.S., for any person or persons to willfully and without a permit obstruct the free, convenient, and normal use of any public street, highway, or road by standing or approaching motor vehicles while on or immediately adjacent to the street, highway, or road in a manner that could endanger

the safe movement of vehicles or pedestrians traveling thereon. The bill specifies that soliciting funds or engaging in a commercial exchange with a person who is in a vehicle that is not stopped in a driveway or a designated parking area endangers the safe movement of vehicles. To solicit means to request employment, business, contributions, donations, sales or exchanges of any kind. In addition to the fine for the pedestrian fine, ten dollars will be levied and allotted to the Department of Children and Family Services' Office on Homelessness to support programs designed to assist in housing the homeless.

Cities and counties shall have in place the requisite permitting schemes unless they opt out by a majority vote of the members of the local governing authority. Local governments may also make the permit program more restrictive so long as it is narrowly tailored to serve an important public purpose.

The bill specifies a number of the required characteristics of the permit program. The bill contains a number of exceptions including festivals, fairs, etc. where the streets are blocked off and where emergency or service vehicles are road adjacent.

The bill explicitly authorizes and directs the Department of Highway Safety and Motor Vehicles and other law enforcement agencies to enforce the statute.

Section 43: Creates s. 316.2047, F.S., which would make it illegal to engage in unlawful panhandling, fraudulent panhandling, or panhandling in certain specified locations. Under the provisions of the bill:

Aggressive panhandling occurs when a person knowingly requests money, gifts, or donations:

- by unwanted touching, detaining, impeding, or intimidation;
- under circumstances that warrant justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity;
- when the panhandler follows the solicited person after that person has made a negative response; or
- by using obscene or abusive language or gestures that are reasonably likely to intimidate or cause fear of bodily harm.

It is unlawful to panhandle:

- At a bus stop;
- Within 20 feet of an automated teller machine or the entrance to a bank;
- While blocking the entrance to a building or motor vehicle; or
- In a parking garage owned or operated by a county, a municipality, the state government, or the federal government.

Fraudulent panhandling occurs when a person knowingly makes any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:

- Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;

- Stating that the solicitor is from out of town and stranded, when such is not true;
- Wearing a military uniform or other indication of military service when the solicitor is neither a present nor former member of the service indicated;
- Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
- Use of any makeup or device to simulate any deformity; or
- Stating that the solicitor is homeless, when he or she is not.

Panhandling is defined to mean:

- Solicit, request, or beg for an immediate donation of money or something else of value; or
- Offer an individual an item of little or no monetary value in exchange for money or another gratuity under circumstances that would cause a reasonable individual to understand that the transaction is only a donation.

Counties and municipalities may increase the restrictions on panhandling so long as those restrictions are content neutral and narrowly tailored to serve an important public purpose. A county or municipality may opt out of the provisions of this section by a majority vote of the members of the county or municipal governing authority. This section does not preempt any existing ordinances that are consistent with this section.

Any person or persons who violate the provisions of this section, upon conviction, shall be cited for a pedestrian violation, punishable as provided in ch. 318. An additional ten dollars shall be added to the fine and deposited into the Grants and Donations Trust Fund of the Department of Children and Family Services to be used by the State Office on Homelessness

The bill explicitly authorizes and directs the Department of Highway Safety and Motor Vehicles and other law enforcement agencies to enforce the statute.

Section 46: Deletes provisions in current law which authorize FDOT to regulate activities that interfere with the safe and efficient movement of people and property on state transportation facilities, instead directing local governments to regulate the use of facilities within their jurisdiction. However, the bill explicitly retains FDOT's authority to regulate limited access highways, rest areas, and welcome centers.

Section 44: Amends s. 316.302, F.S., to exempt the operators of Farm Labor Vehicles from hour-of-service limits during declared agricultural emergencies (such as hard freezes when fruit needs to be harvested as quickly as possible.)

Section 45: Amends s. 334.044, F.S., to limit the amount of funds allocated for the purchase of plant materials used in landscaping and highway beautification projects statewide. The bill replaces the current floor of not less than 1.5% of the amount contracted for construction

projects, with a cap of not more than 1.5% of the amount contracted for capacity-adding construction projects, up to \$1 million per project.

Section 47: Amends s. 337.408, F.S., to provide that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities or counties are required to indemnify, defend, and hold FDOT harmless from any suits, damages, liabilities, attorney fees, and court costs relating to the installation, removal, or relocation of these installations. The bill gives FDOT the authority to direct the immediate relocation of any bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack that either endangers life or property, or that is otherwise not in compliance with applicable laws and rules.¹⁹

If a municipality or county fails to comply with the department's direction, FDOT is required to remove the noncompliant installation, charge the cost of removal to the municipality or county, and may deduct or offset such cost from any other funding available to the municipality or county from FDOT.

Section 48: Amends s. 373.413, F.S., establishing legislative intent to allow flexibility in the permitting of stormwater treatment facilities for transportation facilities due to their linear nature. The bill also releases the department from the responsibility of abating pollutants that enter transportation stormwater facilities.

Section 49: Amends s. 373.4137, F.S., clarifying that environmental mitigation options available to the department allow the use of any mitigation options that satisfy state and federal law. The revisions make the requirement for FDOT and other authorities to submit environmental impact inventories a voluntary act, and allow the release of environmental mitigation escrow funds when the associated transportation project is excluded from the mitigation plan.

Sections 50-54: (See Port Citrus designation above.)

Section 55: Amends multiple subsections of s. 479.106, F.S., relating to the management of vegetation affecting visibility of signs.

Subsection 479.106 (2), F.S., is amended to delete an existing provision mandating the submission of a management plan when applying for a vegetation management permit. The bill replaces the mandate with an allowance for one of the following:

- submission of a vegetation management plan consisting of a depiction of the vegetation to be removed, cut, or trimmed and a description of the existing conditions and the work to be performed;
- a mitigation contribution to the tree planting program administered by the Department of Agriculture and Consumer Services' Division of Forestry under s. 589.277, F.S.; or
- a combination of a vegetation management plan and mitigation contribution.

¹⁹Except for transit bus benches placed into service before April 1, 1992, DOT currently has the authority to direct the immediate relocation or removal of benches, transit shelters, waste disposal receptacles, public pay telephones, or modular news racks that endanger life or property.

The decision to submit a management plan, mitigation contribution, or combination of both is to be made by the applicant.

Subsection 479.106(3), F.S., is amended to require FDOT to take into consideration the existing condition of the vegetation being affected by the plan when evaluating a vegetation management plan. The current requirement for a plan to include plantings to screen a sign's structural support, where applicable, is made permissive.

The bill provides that only herbicides approved by the Department of Agriculture and Consumer Services may be used in the management of vegetation.

Permit applications for vegetation management or mitigation must be acted on by FDOT within 30 days. An approved permit is valid for five years and may be renewed for an additional five years upon payment of the application fee.

Subsection 479.106(5), F.S., is amended to reduce the number of nonconforming signs that must be removed prior to the department issuing a permit for a new sign that requires vegetation to be cleared, from at least two to one.

A new *s. 479.106(6), F.S.*, is created to revise view zone requirements. Under the bill's provisions, the current dimensions for view zones are established as minimum dimensions. The current exception for view zone disruption, *i.e.*, allowable natural vegetation, is reduced to allow only vegetation that:

- has established historical significance,
- is protected by state law, or
- has a circumference of 70% or more of the circumference of the Florida Champion of that species when both are measured at 4 and ½ feet above grade.

Renumbered *subsection 479.106(7), F.S.* is amended, allowing the specific location of a sign's view zone may be designated by the sign owner and the department must notify the owner within 90 days of any planting or beautification project that may affect a view zone. No less than 60 days are to be afforded to such affected sign owners to designate the view zone. Vegetation management plans and permits are not required due to implementation of beautification projects.

Section 56: Amends *s. 479.16, F.S.*, which establishes the conditions and criteria under which a sign does not require a permit. The revisions provide that signs installed under the tourist-oriented commerce sign pilot program do not require permitting and allow signs no larger than 32 square feet to be temporarily installed by a farm operation during harvest season denoting the distance or direction of the farm operation. The temporary harvest sign provision may not be implemented if it would result in federal penalties.

Section 57: Creates *s. 479.263, F.S.*, to establish the tourist-oriented commerce signs pilot program in rural areas of critical economic concern as defined by *ss. 288.0656(2)(d) and (e)*,

F.S.²⁰ Signs created under the section do not require permits provided the sign advertises a small business as defined in s. 288.703, F.S.²¹ and:

- is not more than 8 square feet in size or 4 feet in height;
- is located in a rural area but not along a limited-access highway;
- is located within 2 miles of the business location and not less than 500 feet from another sign advertising the same business; and
- contains only the name of the business or the merchandise or services sold or furnished at the business.

Businesses placing such signs must be not be located closer than 4 miles from another business placing such signs. Also, the business may not participate in both the tourist-oriented commerce signs pilot program created in this section and the logo sign program created in s. 479.261, F.S. Businesses conducted in building primarily used for residential purposes are ineligible. Any business participating in the program must notify the department prior to installing signs. The department is directed to maintain statistics related to the program. If the Federal Highway Administration notifies FDOT in writing that the program constitutes a loss of effective control of outdoor advertising (thereby jeopardizing the receipt of federal funds), the program will not be implemented.

Section 58: Provides an effective date of July 1, 2011.

Other Potential Implications:

Section 2 makes revisions to s. 286.011, F.S., the Sunshine Law, to allow certain transportation authorities to conduct public meetings and workshops by means of communications media technology. This change will subject those transportation authorities to different standards than the standards governing other similarly situated public bodies that are subject to the provisions of the Sunshine Law. Generally, public bodies may only meet electronically for workshops and meetings at which no formal action will be taken.²² For meetings at which formal decisions will be made, a quorum of the public body's members must be present at a physical location, and

²⁰ "Rural area of critical economic concern" means a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

"Rural community" means:

1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. 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 identified in paragraph (c) and verified by the Office of Tourism, Trade, and Economic Development.

²¹ "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

²² *see* 2005 WL 3262434 (Fla.A.G.)

electronic participation of an absent member should be permitted only in extraordinary circumstances.²³

Section 19 proposes to reference federal law as it relates to planning factors would eliminate the need for repeated statutory revisions to accommodate changes in federal planning factors. Florida is required to follow the federal requirements, even if state law is not amended to reflect the new planning factors. The department acknowledges the responsibility to seek reenactment of the reference any time the federal requirements change but suggests re-enactment of the reference is more efficient than revising the current list of factors in state statute with each round of federal changes.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 4: The provisions effecting a reduced penalty for certain CMV violations will result in unquantifiable but positive fiscal impact to the trucking industry.

Section 8: The provisions expanding the type of financial instruments securing the removal or relocation of monuments at rest areas will result in unquantifiable fiscal assistance to interested participants by facilitating use of other appropriate forms of security for the protection of the public.

C. Government Sector Impact:

Section 1: Currently, the only state funded passenger rail system in the state (Tri-Rail) is operated by the South Florida Regional Transportation Authority. Any administrative expense to the department associated with conducting the required monitoring activities is expected to be absorbed within existing department resources.

²³ *see* AGO 2003-41

Section 2: The provisions effecting a reduced penalty for certain CMV violations will result in insignificant but negative fiscal impacts. Approximately 2,000 citations were issued statewide for the subject violations in the last fiscal year. The clerks of court, using the highest possible assessment of \$158 in court costs in each of the 2,000 cases, would receive \$316,000 less than under the current situation -- spread over the state's 67 counties, a reduction of approximately \$4,716.42 per county -- offset by the reduced burden on the clerks and the court system, as uniform traffic citations would no longer be issued for such violations.

Sections 39 and 40. The provisions requiring FDOT to establish minimum yellow light change interval times for traffic control devices and nullifying notices of violation or traffic citations issued at intersections where the traffic signal device does not meet the requirements, may result in a revenue loss to local governments and the state General Revenue Fund (up to \$70 million) due to a reduction in the number of citations issued.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation Committee on March 29, 2011:

The committee adopted five amendments at its meeting and incorporated them into the original bill as a committee substitute. The amendments:

- allow expressway authorities to use electronic media to fulfill open meeting requirement in ch. 120, F.S;
- allow flexibility in the time allotted for the relocation of utilities due to transportation construction projects;
- incorporate the provisions of SB 1966;
- authorize a pilot program allowing bicyclists to use certain limited-access bridges when no other bridge is located nearby; and
- make several changes to outdoor advertising regulations.

- B. **Amendments:**

None.

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: SB 1792

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Growth Policy

DATE: April 10, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wood	Yeatman	CA	Favorable
2.	Martin	Meyer, R.	BTA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill eliminates the Urban Infill and Redevelopment Assistance Grant Program. This program was created by the Legislature in 1999 and has not been funded since fiscal year 2000-2001.

This bill repeals section 163.2523 of the Florida Statutes. This bill amends sections 163.065, 163.2511 and 163.2514 of the Florida Statutes to reflect the above-mentioned repeal.

II. Present Situation:

The Legislature passed the “Growth Policy Act”¹ in 1999, establishing a definition for urban infill and redevelopment areas (UIRAs), authorizing local governments to designate UIRAs and provide economic incentives for them, and setting standards for local governments to follow in designating them. The Act, currently found in ss. 163.2511-163.2523, F.S., has the goal of promoting and sustaining urban cores.²

Section 163.2523, F.S., establishes a grant program to be administered by the Division of Housing and Community Development of the Department of Community Affairs. This program includes three types of grants. The largest percentage, sixty percent, is allocated towards fifty-fifty matching grants for implanting urban infill and redevelopment projects. Thirty percent is allocated for planning grants to be used in the development of an urban infill and redevelopment plan. The remaining ten percent is to be used for grants to implement projects which require an

¹ Chapter 99-378, s. 1, Laws of Fla.

² Section 163.2511, F.S.

expenditure of under \$50,000. The local government which receives the grants is specifically allowed to allocate them to special districts and nonprofits.

The program has not been funded since fiscal year 2000-2001 when it was appropriated \$2.5 million which the Department of Community Affairs then awarded to 22 local governments.³

III. Effect of Proposed Changes:

Section 1 repeals s. 163.2523, F.S. This terminates the Urban Infill and Redevelopment Assistance Grant Program. The repeal of s. 163.2523, F.S., will not affect either the authority of local governments to designate UIRAs or use the economic incentives, such as revenue bonds and tax increment financing, currently available for local governments to use in implementing UIRA plans and projects.⁴

Section 2 amends s. 163.065, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 3 amends s. 163.2511, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 4 amends s. 163.2514, F.S., to reflect the repeal of s. 163.2523, F.S., by removing a reference to that statute.

Section 5 sets an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³ Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Status Report: Urban Infill and Redevelopment Areas Have Uncertain Impact But Perceived as Useful*, Report No. 04-14, 1 (Feb. 2004), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0414rpt.pdf> (last visited Mar. 22, 2011).

⁴ Section 163.2520, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

None.

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

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: SB 510

INTRODUCER: Senator Latvala

SUBJECT: Hurricane Loss Mitigation Program

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Martin	Meyer, R.	BTA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill extends the repeal date of the Hurricane Loss Mitigation Program to June 30, 2021, and deletes obsolete provisions.

This bill substantially amends section 215.559, of the Florida Statutes.

II. Present Situation:

Hurricane Loss Mitigation Program

The Florida Legislature passed the Bill Williams Residential Safety and Preparedness Act, creating the Hurricane Loss Mitigation Program in 1999. Located in s. 215.559, F.S., the Hurricane Loss Mitigation Program receives an annual appropriation of \$10 million from the Florida Hurricane Catastrophe Fund which is submitted to the Division of Emergency Management within the Department of Community Affairs for administration of purposes specified in this section. “Section 215.559, F.S., provides minimum funding levels for specific areas and creates an Advisory Council to make recommendations on developing programs”.¹

Of the \$10 million dollars that are allocated by the Legislature, \$7 million must be used to improve wind resistance of residences and mobile homes, through loans, subsidies, grants, demonstration projects and direct assistance, educate individuals on Florida Building Code cooperative programs, and provide other efforts to prevent or reduce losses or the cost of

¹ Florida Division of Emergency Management, *Florida Hurricane Loss Mitigation Program, 2010 Annual Report*, at 5 (Dec. 27, 2010) (on file with the Senate Committee on Community Affairs).

rebuilding after a disaster. The remaining \$3 million must be used to retrofit existing facilities used as public hurricane shelters.²

Of the \$7 million that is allocated to improve wind resistance and prevent or reduce losses after a disaster:

- 40% must be used to inspect and improve tie-downs for mobile homes, through grants under the Manufactured Housing and Mobile Home Mitigation Enhancement Program at Tallahassee Community College;³
- 10% must be allocated to the Florida International University Type I Center that is dedicated to hurricane research⁴; and
- 50% is allocated to directed programs developed by the Division of Emergency Management within the Department of Community Affairs with the advice from the statutorily created Residential Construction Mitigation Program (RCMP) Advisory Council.⁵

The statutorily created RCMP Advisory Council provides project recommendations, selection criteria and guiding principles to administer the Hurricane Loss Mitigation Program. The RCMP Advisory Council meets at least once during the state fiscal year to review current year projects and prepare recommendations for projects that may be eligible for funding during the next fiscal year.⁶ Subsection (5) of s. 215.559, F.S., provides that the advisory council shall consist of:

- A representative designated by the Chief Financial Officer;
- A representative designated by the Florida Home Builders Association;
- A representative designated by the Florida Insurance Council;
- A representative designated by the Federal of Manufactured Home Owners;
- A representative designated by the Florida Association of Counties; and
- A representative designated by the Florida Manufactured Housing Association.

Subsection (7), of s. 215.559, F.S., requires the Department of Community Affairs to provide a full report along with an accounting and evaluation of activities conducted under this section to the Speaker of the House of Representatives, the President of the Senate, and the majority and Minority Leaders of the House of Representatives and the Senate on January 1 of each year.⁷

The 2010 Annual Report indicated that a total of \$2,467,389 was advertised in the Notice of Funding Availability (NOFA) for RCMP competitive funding for the 2010-2011 State Fiscal Year, of which 17 projects were recommended for funding.⁸ According to the 2010 report, the following amounts were awarded for the 2010-2011 fiscal year at this point in time:

² Section 215.559(2)(a)-(b), F.S. For more information on the shelter retrofit program, visit the following website <http://www.floridadisaster.org/Response/engineers/index.htm> (last visited on Feb. 25, 2011).

³ Section 215.559(3), F.S.

⁴ Section 215.559(4), F.S.

⁵ Florida Division of Emergency Management, *supra* note 1, at 2. *See also* s. 215.559(5), F.S.

⁶ *Id.* at 23.

⁷ A copy of the 2010 Annual Report is on file with the Senate Committee on Community Affairs.

⁸ *Id.* at 16.

Amount Awarded: State Fiscal Year 2010-2011	
Shelter Retrofit Program	\$3,000,000.00
Residential Construction Program Retrofits	\$822,176.00
Mitigation Planning	\$318,719.00
Public Outreach	\$297,972.00
Manufactured Homes (tie-down retrofit)	\$2,800,000.00
Hurricane Mitigation Research	\$700,000.00
TOTAL AWARD AMOUNT	\$7,938,867.00

9

Subsection (8) of s. 215.559, F.S., currently allows the \$3 million appropriated to retrofit existing facilities used as public hurricane shelters to be used for hurricane shelters as identified in the General Appropriations Act during the 2010-2011 fiscal year only. In the absence of this subsection (8), the department must prioritize the use of these funds for projects included in the September 1, 2000, version of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), and each annual report thereafter, and must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize use of state funds.

Under current law, the Hurricane Loss Mitigation Program is set to be repealed on June 30, 2011.

III. Effect of Proposed Changes:

Section 1 extends the repeal date of the Hurricane Loss Mitigation Program to June 30, 2021. Under current law this program was set to expire and be repealed on June 30, 2011. This section also deletes obsolete provisions in current subsection (8) which allowed the \$3 million appropriated to retrofit existing facilities used as public hurricane shelters to be used for hurricane shelters as identified in the General Appropriations Act during the 2010-2011 fiscal year only.

Section 2 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ *Id.* at 28-29. The report indicated that additional projects will be awarded for the 2010-2011 fiscal year through the RFP process and has yet to be allocated.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As a result of this bill, projects and individuals will be eligible to apply for assistance under the Hurricane Loss Mitigation Program until it is repealed on June 30, 2021.

C. Government Sector Impact:

The \$10 million appropriated from the Florida Hurricane Catastrophe Fund to the Hurricane Loss Mitigation Program every year, helps maintain the tax exempt status of the Florida Hurricane Catastrophe Fund. The value of the federal tax exemption is approximately \$455 million, should the Hurricane Loss Mitigation Program be repealed on June 30, 2011, *and* the \$10 million is no longer spent on mitigation projects, then the tax exemption may be in jeopardy.¹⁰

As a result of this bill, the Hurricane Loss Mitigation Program, under the Department of Community Affairs, and any concurrent benefits thereof, will continue to exist until it is repealed on June 30, 2021.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

¹⁰ Conversation with Leonard Schulte, Director of Legal Analysis & Risk Evaluation at Florida Hurricane Catastrophe Fund (March 10, 2011). *See also* Fla. H.R. Comm. on Insurance, HB 719 (1995) Staff Analysis (one file with the Senate Committee on Community Affairs).

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



548374

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Budget Subcommittee on Transportation, Tourism,
and Economic Development Appropriations (Benacquisto)
recommended the following:

Senate Amendment (with title amendment)

Delete line 95
and insert:
governing board of the local governmental entity providing local
financial support ~~county~~ where the

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 7 - 8
and insert:



548374

12
13
14

providing for notification by the local governmental
entity providing financial support of a private-sector
wage calculation; providing an



495308

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Benacquisto) recommended the following:

Senate Substitute for Amendment (548374) (with title amendment)

Delete line 95

and insert:

local governing body recommending the qualified target industry project governing board of the county where the qualified target industry business is to be located shall notify

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



495308

12 Delete lines 7 - 8
13 and insert:
14 providing for notification by the local governing body
15 recommending the project of the private-sector wage
16 calculation; providing an



671466

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations (Bennett) recommended the following:

Senate Amendment (with title amendment)

Between lines 143 and 144
insert:

Section 2. Subsection (4) of section 377.809, Florida Statutes, is amended, and subsections (5) through (8) are added to that section, to read:

377.809 Energy Economic Zone Pilot Program.—

(4) ~~If the pilot project is ongoing,~~ The Department of Community Affairs, with the assistance of the Office of Tourism, Trade, and Economic Development, shall submit a report to the



671466

12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives by February 15, 2015 ~~2012~~, evaluating
14 whether the pilot program has demonstrated success. The report
15 shall contain recommendations with regard to whether the program
16 should be expanded for use by other local governments and
17 whether state policies should be revised to encourage the goals
18 of the program.

19 (5) Beginning July 1, 2012, all the incentives and benefits
20 provided to enterprise zones pursuant to state law shall be
21 available to the energy economic zones designated by July 1,
22 2010, pursuant to s. 377.809. In order to provide incentives, no
23 later than March 1, 2012, each local governing body having
24 jurisdiction over an energy economic zone shall, by local
25 ordinance, establish boundaries of the energy economic zone,
26 specify applicable energy efficiency standards, and determine
27 eligibility criteria for application of state and local
28 incentives and benefits in the energy economic zone. However, in
29 order to receive benefits provided under s. 288.106, a business
30 must be a qualified target industry business under s. 288.106
31 for state purposes. Boundaries may be revised by local
32 ordinance. Such incentives and benefits include those in ss.
33 220.181, 220.182, 212.08, 220.183, 624.5105, 212.096, and
34 288.106 and the public utility discounts provided in s.
35 290.007(8). The exemption provided in s. 212.08(5)(c) shall be
36 for renewable energy as defined in s. 377.803(4). For purposes
37 of this section, any applicable requirements for employee
38 residency for higher refund or credit thresholds shall be based
39 on employee residency in the energy economic zone or an
40 enterprise zone. A business in an energy economic zone may also



671466

41 be eligible for funding under ss. 288.047 and 445.003, and a
42 transportation project in an energy economic zone shall be
43 provided priority in funding under s. 288.063. Other projects
44 shall be given priority ranking to the extent practicable for
45 grants administered under state energy programs.

46 (6) Effective July 1, 2012, the total amount of state
47 credits, refunds, and exemptions that may be provided by the
48 governing body of each energy economic zone to eligible
49 businesses for energy-economic-zone incentives pursuant to
50 subsection (5) is \$300,000 per designated energy economic zone
51 in any state fiscal year. A credit or refund that is applied for
52 after each \$300,000 limit is reached shall be disallowed by the
53 governing body of the energy economic zone. If the \$300,000
54 incentive cap is not fully used in any one state fiscal year by
55 an energy economic zone, the unused amount under the cap may be
56 carried forward for not more than 5 years. The local governing
57 body having jurisdiction over the energy economic zone is
58 responsible for allocating the incentives, for verifying that
59 businesses receiving such incentives are eligible for the
60 incentives provided, and for ensuring that the incentives
61 provided do not exceed the cap for the state fiscal year.

62 (7) Upon approving an incentive for an eligible business,
63 the governing body having jurisdiction over the energy economic
64 zone shall provide the taxpayer with a certificate indicating
65 the eligible business's name, federal identification number,
66 date the incentive is provided, name of the energy economic
67 zone, incentive type, and the incentive amount. The local
68 governing body shall certify to the Department of Revenue or the
69 Office of Tourism, Trade, and Economic Development, whichever is



671466

70 applicable, which businesses or properties are eligible to
71 receive any or all of the state incentives according to their
72 statutory requirements. The governing body having jurisdiction
73 over the energy economic zone shall provide a copy of the
74 certificate to the Department of Revenue and the Office of
75 Tourism, Trade, and Economic Development as notification that
76 such incentives were approved for the specific eligible business
77 or property. For incentives to be claimed against the sales and
78 use tax under chapter 212, the Department of Revenue shall send,
79 within 14 days after receipt, written instructions to an
80 eligible business on how to claim the credit on a sales and use
81 tax return initiated through an electronic data interchange. Any
82 credit against the sales and use tax shall be deducted from any
83 sales and use tax remitted by the dealer to the Department of
84 Revenue by electronic funds transfer and may be deducted only on
85 a sales and use tax return initiated through an electronic data
86 interchange. The dealer shall separately state the credit on the
87 electronic return. The net amount of tax due and payable must be
88 remitted by electronic funds transfer. If the credit is larger
89 than the amount owed on the sales and use tax return, such
90 excess amounts may be carried forward for a period not to exceed
91 12 months following the date the credit is initially claimed.

92 (8) If all conditions are deemed met, the Office of
93 Tourism, Trade, and Economic Development and the Department of
94 Revenue may adopt emergency rules pursuant to ss. 120.536(1) and
95 120.54 to administer the provisions of subsections (5)-(7). The
96 emergency rules shall remain in effect for 6 months after the
97 rules are adopted, and the rules may be renewed during the
98 pendency of procedures to adopt permanent rules addressing the



671466

99 subject of the emergency rules.

100 Section 3. Paragraph (u) is added to subsection (24) of
101 section 380.06, Florida Statutes, to read:

102 380.06 Developments of regional impact.—

103 (24) STATUTORY EXEMPTIONS.—

104 (u) Any development in an energy economic zone designated
105 pursuant to s. 377.809, shall be exempt from this section upon
106 approval of its local governing body.

107

108 If a use is exempt from review as a development of regional
109 impact under paragraphs (a)-(s), but will be part of a larger
110 project that is subject to review as a development of regional
111 impact, the impact of the exempt use must be included in the
112 review of the larger project, unless such exempt use involves a
113 development of regional impact that includes a landowner,
114 tenant, or user that has entered into a funding agreement with
115 the Office of Tourism, Trade, and Economic Development under the
116 Innovation Incentive Program and the agreement contemplates a
117 state award of at least \$50 million.

118

119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete lines 2 - 9

122 and insert:

123 An act relating to economic development; amending s.
124 288.106, F.S.; revising the criteria for the
125 determination of target industry businesses by the
126 Office of Tourism, Trade, and Economic Development;
127 providing for notification by a municipal governing



671466

128 board of private-sector wage calculation; amending s.
129 377.809, F.S.; deleting an obsolete provision;
130 revising the date by which the Department of Community
131 Affairs, with the assistance of the Office of Tourism,
132 Trade, and Economic Development, must submit a report
133 to the Governor and Legislature evaluating whether the
134 Energy Economic Zone Pilot Program has demonstrated
135 success; requiring that all incentives and benefits
136 provided to enterprise zones be made available to
137 energy economic zones by a specified date; requiring
138 each local governing body having jurisdiction over an
139 energy economic zone to establish boundaries of the
140 energy economic zone, specify applicable energy-
141 efficiency standards, and determine eligibility
142 criteria for application of state and local incentives
143 and benefits; requiring that a business be a qualified
144 target industry business for state purposes; providing
145 that boundaries may be revised by local ordinance;
146 specifying the incentives and benefits; requiring that
147 applicable requirements for employee residency for
148 higher refund or credit thresholds be based on
149 employee residency in the energy economic zone or an
150 enterprise zone; providing that certain businesses are
151 eligible for funding and other businesses have
152 priority for funding; providing a cap on the total
153 amount of state credits, refunds, and exemptions that
154 may be provided to eligible businesses for energy-
155 economic-zone incentives; authorizing the unused
156 amount of a credit to be carried forward for a limited



671466

157 period; providing that the local governing body having
158 jurisdiction over the energy economic zone is
159 responsible for allocating the incentives and
160 verifying eligibility of businesses to receive
161 incentives; requiring the governing body to provide
162 the taxpayer with a certificate indicating
163 eligibility; requiring the local governing body to
164 certify to the Department of Revenue or the Office of
165 Tourism, Trade, and Economic Development which
166 businesses or properties are eligible to receive state
167 incentives; requiring the Department of Revenue to
168 send written instructions to the eligible businesses
169 on claiming the credit on a sales and use tax return
170 initiated through an electronic data interchange;
171 authorizing the Office of Tourism, Trade, and Economic
172 Development and the Department of Revenue to adopt
173 emergency rules; providing for renewal of the rules;
174 amending s. 380.06, F.S.; providing that certain
175 developments in an energy economic zone are exempt
176 from review as a development of regional impact;
177 providing an effective date.

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 Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations

BILL: CS/SB 1318

INTRODUCER: Committee on Commerce and Tourism and Senator Benacquisto

SUBJECT: Tax Refund for Qualified Target Industry Businesses

DATE: April 10, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pugh</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Martin</u>	<u>Meyer, R.</u>	<u>BTA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

One of the Florida’s most popular economic development incentives is the Qualified Target Industry (QTI) Tax Refund Program. By law, QTI provides several criteria for the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc., (EFI) to review when establishing the list of target industries for the incentive.

CS/SB 1318 modifies the criteria by renaming one of the criteria and giving special preference to businesses that enhance trade opportunities and global logistics, one of the new additions to the 2011 Target Industry Sector List.

The bill also adds input from municipal governing boards about which private-sector wage calculation OTTED and the QTI business should use as the baseline for calculating the required 115-percent annual average wage for the business’ new employees. Currently only county governing boards are required to notify OTTED and EFI of which calculation must be used.

CS/SB 1318 amends s. 288.106, F.S.

II. Present Situation:

The Qualified Target Industry (QTI) Tax Refund Program¹

Overview

The QTI program was created by the Florida Legislature in 1994 to attract businesses in “targeted” industry sectors that offer high-wage jobs, high-skilled jobs to relocate in Florida. This incentive provides annual refunds of seven state taxes and local-government ad valorem taxes to businesses that meet job-creation and wage requirements for the new employees, per an agreement with OTTED.

Businesses that locate or expand in Florida are eligible for tax refunds of \$3,000 per new job created. The tax refund increases to \$6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for per-job bonuses if certain criteria are met.

A business’ application must be reviewed and certified pursuant to the standard 52-day timeline outlined in s. 288.061, F.S., which includes initial review by Enterprise Florida, Inc., and recommendations to OTTED. The executive director of OTTED makes the final decision to award the QTI incentive to a business.

The QTI program is considered by EFI to be the most popular of the state’s incentives. According to EFI’s 2010 incentives report, of the 110 businesses that applied for the incentive last fiscal year, 78 were approved by OTTED and 63 have entered into agreements with OTTED.²

There are 69 active QTI projects. According to the incentives report, the owners of these projects have invested \$778 million in Florida, and created 7,427 jobs paying an annual average wage of \$46,345.³ The average statewide private-sector annual wage in 2010 was \$39,621, according to data compiled by the Florida Agency for Workforce Innovation.⁴

Key definition

A “target industry business” is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by OTTED and EFI as meeting all of the statutory criteria in s. 288.106(2)(t), F.S. Those criteria are:

- **Future Growth.**— Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services;

¹ Much of the background information on QTI in this section was taken from “Interim Report 2010-211: Sunset Review of the Qualified Target Industry Tax Refund Incentive Program, Section 288.106, F.S.” The report is available at: http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-211cm.pdf

² Available at http://eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf Page 13. Site last visited March 24, 2011.

³ Ibid.

⁴ On file with the Senate Commerce and Tourism Committee.

- **Stability.**—The industry should be stable, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn;
- **High Wage.**—The industry should pay relatively high wages compared to statewide or area salary averages;
- **Market and Resource Independent.**—The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources;
- **Industrial Base Diversification and Strengthening.**—The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products, building regional industrial clusters, or developing strong industrial clusters that include defense and homeland security businesses; and
- **Economic Benefits.**— The industry should have strong positive impacts on or benefits to the state and regional economies.

The “target industry list” actually is a list of six industry sectors, with several business types listed under each. It is published in EFI’s annual Incentives Report and is attached to OTTED’s annual legislative budget request.⁵ Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI and other stakeholders. The Legislature in 2010 required that the list be reviewed, and if appropriate, revised every third year.

Based on that legislatively required review, the list was modified. The 2011 targeted industry list was approved by OTTED in January and includes the seven newly renamed categories of:

- Clean Tech;
- Life Sciences;
- Information Technology;
- Aviation/Aerospace;
- Homeland Security/Defense;
- Financial/Professional Services; and
- Emerging Technologies.

Corporate headquarters, manufacturing, and research and development activities are underneath each category.⁶ Included in the “Emerging Technologies” column are: global logistics, marine sciences, materials science, and nanotechnology.

Specifically excluded by statute as “target” industries are: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance,

⁵ 2010 Incentives Report, prepared by EFI. Information on page 57. Available at http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf. Site last visited March 18, 2011.

⁶ On file with the Senate Commerce and Tourism Committee.

mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.

Also, call centers and other customer-support businesses⁷ may be considered a target industry business only after EFI and the local governing board in the community where the business plans to locate determines that the community is suffering from high unemployment, low per-capita income, or other detrimental job-related problems.

Other Eligibility Criteria

Meeting the definition of “target industry business” is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county;
- Agree to pay each new employee an annual salary that is at least 115 percent of either the average annual private-sector wage in the area where the business plans to locate or expand, or the statewide average annual private-sector wage. Currently, the governing board of the county where the business plans to locate or expand informs OTTED which of the private-sector annual average wage thresholds will serve as the basis on which the 115 percent calculation is based⁸; and
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

Refunds

As mentioned previously, the basic refund is \$3,000 per new job created, to be paid out over the term of the business’ agreement with OTTED. Eligible businesses can receive double the amount of refunds for new jobs created if they are located in rural counties or in enterprise zones.

Also, bonuses of \$1,000 to \$2,000 per new job created are available, based on the following criteria:

⁷ Identified by NAICS codes 5611 and 5614. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. The U.S. Office of Management and Budget devised the system.

⁸ OTTED also is allowed in statute to waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI. A manufacturing project at any location in the state may qualify for the waiver if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located.

- A \$1,000 per-job bonus if the annual average wage is 150 percent of the statewide or area average annual private-sector wage;
- A \$1,000 per-job bonus if the local match is equal to the state's incentive award;
- A \$2,000 per-job bonus if the annual average wage is 200 percent of the statewide or area average annual private-sector wage;
- A \$2,000 per new job bonus for businesses that increase by 10 percent the tonnage or value of their exports through a Florida airport or publicly owned seaport; and
- A \$2,000 per new job bonus if the business is in one of the "high-impact industry sectors" of clean energy, corporate headquarters, financial services, biomedical technology, information technology, and transportation equipment manufacturing.

No business may receive more than \$1.5 million in QTI refunds in a single fiscal year, or more than \$5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the annual cap is \$2 million and the overall cap is \$7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year; consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.

No business may receive more in tax refunds than taxes paid.

Taxes eligible for refund under the QTI program are the:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3)(a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business (commonly referred to as QDSC) tax refunds is capped at \$35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2010-2011, the Legislature appropriated a lump sum of \$16.57 million for the QTI and QDSC tax refund incentive programs.

Global Logistics

Businesses that specialize in global logistics manage the flow of goods and services in the international market. Global logistics begins from the point a product leaves its manufacturer business to its transport within or out of the country, which means the domestic logistics infrastructure also must be efficient. A managed supply chain includes the following: inventory management, coordination of resources, and the transportation, warehousing, and packaging of manufactured goods.

In December 2010, the Florida Chamber Foundation published the Florida Trade and Logistics Report.⁹ Among the report's findings:

- In Florida, trucking is the primary method of moving goods, providing transport for more than 73 percent of all tonnage. Movement over water accounts for approximately 15 percent of all freight flows, followed by rail at 12 percent. Air accounts for less than 1 percent by volume, but holds a significant share of high-value goods;
- Domestic and international trade flows to, from, and within Florida were estimated at 623 million tons, or 33 tons per Floridian;
- Of that total, more than half originated and terminated in Florida. About 188 million tons were imports from other nations or states, and the remaining 107 million tons were exports produced in Florida and transported to other nations or states; and
- Trade, logistics, and distribution industries employed 570,000 Floridians in 2008, with an average wage nearly 30 percent higher than the average for all industries in the state. Including spinoff jobs in related industries, trade and logistics industries support about 1.7 million jobs in Florida, nearly 22 percent of employment in the state.

The report made a number of recommendations on how Florida should take advantage of the continuing globalization of the economy, with particular emphasis on attracting a share of the increased waterborne trade when the widened Panama Canal opens in 2014:

- Capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers, about half of which enter the nation through seaports in other states today;
- Expand export markets for Florida businesses by filling these import containers with Florida goods and using more efficient logistics patterns to attract advanced manufacturing and other export related industries to Florida;
- Emerge as a global hub for trade and investment, leveraging its location on north-south and east-west trade lanes to become a critical point for processing, assembly, and shipping of goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America;
- Provide sufficient and reliable funding for transportation infrastructure projects; and
- Designate global trade and logistics as a statewide targeted industry.

Also, one of EFI's strategic priorities from its 2010-2015 Road Map¹⁰ to Florida's Future/Strategic Plan for Economic Development is for the state to improve its transportation systems for global and domestic commerce. The report makes two recommendations related to this effort:

- Maintain and expand Florida's leadership in international trade; and
- Enhance the competitiveness of Florida's infrastructure for international commerce.

⁹ Florida Trade and Logistics Study, page 17. Available at: https://www.communicationsmgr.com/projects/1378/docs/FloridaTradeandLogisticsStudy_December2010.pdf. Last visited March 6, 2011.

¹⁰ Available at <http://eflorida.com/IntelligenceCenter/Reports/flip/roadmap/index.html>.

III. Effect of Proposed Changes:

Section 1: Amends s. 288.106, F.S., to rename the sixth criterion, “Economic Benefits,” the more descriptive “Positive Economic Impact,” and to revise the explanation of that criterion to include special consideration for industries that facilitate:

“...the development of Florida as a hub for domestic and global trade and logistics, because such activities generate economic opportunities for multiple target industry sectors.”

Also, municipal governing boards are given the opportunity to tell OTTED whether the area or statewide private-sector average wage must be used as the basis for calculating the 115-percent wage figure to be paid by QTI businesses to its new employees.

Section 2: Provides an effective date of July 1, 2011.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Indeterminate. Certain businesses may be given preference over others for economic incentive awards based on the new statutory provision.

C. Government Sector Impact:

Indeterminate, but not likely to have any impact on state or local expenditures for economic development incentives.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on March 29, 2011:

The committee adopted two amendments to the bill, which:

- Renamed the “Economic Benefits” criterion “Positive Economic Impacts” and added language giving special consideration to industries that promote enhanced trade and logistics; and
- Added the input from municipal governing boards about which private-sector wage calculation OTTED and the QTI business should use as the baseline for calculating the required 115-percent annual average wage for the business’ new employees.

- B. **Amendments:**

None.