

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**TRANSPORTATION**  
**Senator Latvala, Chair**  
**Senator Evers, Vice Chair**

**MEETING DATE:** Tuesday, March 22, 2011  
**TIME:** 1:15 —3:15 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Latvala, Chair; Senator Evers, Vice Chair; Senators Benacquisto, Bullard, Garcia, Joyner, and Storms

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 792</b> Diaz de la Portilla (Similar H 181, Compare H 295, S 824)	Driving Without a Valid Driver's License; Provides an additional fine for a violation of specified provisions relating to driving with a canceled, suspended, or revoked driver's license or driving privilege. Provides increased fine amounts for second or subsequent violations. Provides for distribution of such fines collected. Revises penalties for knowingly driving while the driver's license or driving privilege is canceled, suspended, or revoked, etc.	TR 03/16/2011 Temporarily Postponed TR 03/22/2011 BC
2	<b>SB 716</b> Fasano (Similar H 473)	Corporate License Plates; Authorizes the Department of Highway Safety and Motor Vehicles to create a corporate license plate program and enter into certain agreements with certain entities. Requires that corporate license plates meet specified criteria and that certain aspects of such license plates be approved by the department. Authorizes owners of specified vehicles to apply for such license plates. Requires that specified minimum fees be paid by applicants and corporate sponsors for such applications, etc.	TR 03/16/2011 Temporarily Postponed TR 03/22/2011 BC
3	<b>SB 1180</b> Latvala (Compare H 1363)	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 BC

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1008</b> Simmons (Identical H 717)	Recovering, Towing, or Storing Vehicles or Vessels; Revises procedures for notification concerning liens for the recovery of certain costs for recovering, towing, or storing a vehicle or vessel. Removes the authority of the Department of Highway Safety and Motor Vehicles to release information concerning the insurance company. Revises requirements for locating and notifying persons about the impending sale of an unclaimed vehicle or vessel or its contents. Revises requirements concerning public notice of the impending sale, etc.	TR 03/22/2011 CM BC
5	<b>SB 560</b> Wise (Identical H 313)	Sale of Advertising; Cites act as the "State Revenue Enhancement Act of 2011." Provides for the Office of Tourism, Trade, and Economic Development to sell naming rights and lease space for commercial advertising to be displayed on state transportation property. Revises duties of the office to include such sales and administration of contracts for the sales, etc.	TR 03/09/2011 Temporarily Postponed TR 03/22/2011 CM BC
6	<b>SB 1716</b> Ring (Identical H 1155, Compare H 1153, Link S 1718)	Transportation Project Funding; Redirects funds in the State Transportation Trust Fund and portions of amounts contracted for construction projects of the Department of Transportation to be used for prioritized projects. Amends provisions relating to a rental car surcharge. Revises the use of allocated proceeds. Amends provisions relating to powers and duties of the department. Revises the allocation of a certain percentage amount of contracted funds. Directs unused portions of such funds be reallocated, etc.	TR 03/22/2011 BC

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1718</b> Ring (Similar H 1153, Compare H 399, H 1155, S 768, S 1404, Link S 1716)	Infrastructure Investment; Directs the Secretary of Transportation to designate an assistant secretary with certain duties relating to economic development, investment opportunities, and transportation projects. Provides a limited exemption from Strategic Intermodal System adopted level-of-service standards for certain new development or redevelopment projects. Requires that funding priority be given to improving certain Strategic Intermodal System segments, etc.	
		TR 03/22/2011 CM EP BC	
8	<b>SB 1630</b> Lynn (Identical H 4019)	Traffic Offenses; Repeals provisions which prohibits a motor vehicle coasting on a downgrade.	
		TR 03/22/2011	
9	<b>SB 1774</b> Bogdanoff (Identical H 4077)	Transportation Corridors; Repeals provisions relating to statewide transportation corridors. Removes the definition of "statewide transportation corridors." Removes provisions that specify certain transportation facilities as statewide transportation corridors.	
		TR 03/22/2011 BC	
10	<b>SB 1788</b> Bogdanoff (Identical H 4113)	Bicycle Regulations; Removes a requirement to keep one hand on the handlebars while operating a bicycle. Conforms a cross-reference to changes made by the act.	
		TR 03/22/2011 CA HR	

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	<b>SB 1434</b> Latvala	Office of Motor Carrier Compliance; Transfers the Office of Motor Carrier Compliance from the Department of Transportation to the Division of the Florida Highway Patrol in the Department of Highway Safety and Motor Vehicles. Conforms provisions to changes made by the act. Creates the Law Enforcement Consolidation Task Force. Provides for membership. Requires the task force to make recommendations and submit a report to the Legislature by a certain date. Provides for future expiration.	
		TR 03/16/2011 TR 03/22/2011 GO BC	
12	Discussion on Consolidation Options for Department of Highway Safety and Motor Vehicles and Department of Transportation		
13	<b>SB 1790</b> Storms	Driving Under the Influence; Prohibits a state or local law enforcement agency from operating a "no refusal" DUI checkpoint.	
		TR 03/22/2011 CJ JU	

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (22) is added to section 318.18, Florida Statutes, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(22) For a person driving any motor vehicle upon the highways of this state while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s.



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13 322.34(2), in addition to the fine under paragraph (3)(a), upon:

14 (a) A first offense, \$250 before release of the vehicle  
15 from impoundment.

16 (b) A second offense, \$500 before release of the vehicle  
17 from impoundment.

18 (c) A third or subsequent offense, \$1,000 before release of  
19 the vehicle from impoundment.

20 Section 2. Subsection (22) is added to section 318.21,  
21 Florida Statutes, to read:

22 318.21 Disposition of civil penalties by county courts.—All  
23 civil penalties received by a county court pursuant to the  
24 provisions of this chapter shall be distributed and paid monthly  
25 as follows:

26 (22) Notwithstanding subsections (1) and (2), the proceeds  
27 from the penalties imposed pursuant to s. 318.18(22) shall be  
28 distributed as follows:

29 (a) For violations committed within a municipality, 40  
30 percent shall be distributed to the municipality, 40 percent  
31 shall be distributed to the county, and 20 percent shall be  
32 distributed to the agency or company that towed and stored the  
33 vehicle.

34 (b) For violations committed outside a municipality, 80  
35 percent shall be distributed to the county and 20 percent shall  
36 be distributed to the enforcement agency impounding the vehicle.

37 Section 3. Section 322.34, Florida Statutes, is amended to  
38 read:

39 322.34 Driving while license suspended, revoked, canceled,  
40 or disqualified.—

41 (1) ~~Except as provided in subsection (2),~~ Any person whose



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42 driver's license or driving privilege has been canceled,  
43 suspended, or revoked, except a "habitual traffic offender" as  
44 defined in s. 322.264, who drives a vehicle upon the highways of  
45 this state while such license or privilege is canceled,  
46 suspended, or revoked commits ~~is guilty of~~ a moving violation,  
47 punishable as provided in chapter 318.

48 (2) Any person whose driver's license or driving privilege  
49 has been canceled, suspended, or revoked as provided by law,  
50 except a habitual traffic offender as persons defined in s.  
51 322.264, who, ~~knowing of such cancellation, suspension, or~~  
52 ~~revocation,~~ drives any motor vehicle upon the highways of this  
53 state while such license or privilege is canceled, suspended, or  
54 revoked commits a moving violation, punishable as provided in  
55 chapter 318, and the motor vehicle being driven at the time of  
56 the offense shall be immediately impounded. ~~upon:~~

57 (a) ~~A first conviction is guilty of a misdemeanor of the~~  
58 ~~second degree, punishable as provided in s. 775.082 or s.~~  
59 ~~775.083.~~

60 (b) ~~A second conviction is guilty of a misdemeanor of the~~  
61 ~~first degree, punishable as provided in s. 775.082 or s.~~  
62 ~~775.083.~~

63 (c) ~~A third or subsequent conviction is guilty of a felony~~  
64 ~~of the third degree, punishable as provided in s. 775.082, s.~~  
65 ~~775.083, or s. 775.084.~~

66  
67 ~~The element of knowledge is satisfied if the person has been~~  
68 ~~previously cited as provided in subsection (1); or the person~~  
69 ~~admits to knowledge of the cancellation, suspension, or~~  
70 ~~revocation; or the person received notice as provided in~~



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71 ~~subsection (4). There shall be a rebuttable presumption that the~~  
72 ~~knowledge requirement is satisfied if a judgment or order as~~  
73 ~~provided in subsection (4) appears in the department's records~~  
74 ~~for any case except for one involving a suspension by the~~  
75 ~~department for failure to pay a traffic fine or for a financial~~  
76 ~~responsibility violation.~~

77 ~~(3) In any proceeding for a violation of this section, a~~  
78 ~~court may consider evidence, other than that specified in~~  
79 ~~subsection (2), that the person knowingly violated this section.~~

80 ~~(4) Any judgment or order rendered by a court or~~  
81 ~~adjudicatory body or any uniform traffic citation that cancels,~~  
82 ~~suspends, or revokes a person's driver's license must contain a~~  
83 ~~provision notifying the person that his or her driver's license~~  
84 ~~has been canceled, suspended, or revoked.~~

85 ~~(3)(5)~~ Any person whose driver's license has been revoked  
86 pursuant to s. 322.264 as a ~~(habitual traffic offender)~~ and who  
87 drives any motor vehicle upon the highways of this state while  
88 such license is revoked commits ~~is guilty of~~ a felony of the  
89 third degree, punishable as provided in s. 775.082, s. 775.083,  
90 or s. 775.084.

91 ~~(4)(6)~~ Any person who operates a motor vehicle:

92 (a) Without having a driver's license as required under s.  
93 322.03; or

94 (b) While his or her driver's license or driving privilege  
95 is canceled, suspended, or revoked pursuant to s. 316.655, s.  
96 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

97  
98 and who by careless or negligent operation of the motor vehicle  
99 causes the death of or serious bodily injury to another human



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100 being commits ~~is guilty of~~ a felony of the third degree,  
101 punishable as provided in s. 775.082 or s. 775.083.

102 ~~(5)-(7)~~ Any person whose driver's license or driving  
103 privilege has been canceled, suspended, revoked, or disqualified  
104 and who drives a commercial motor vehicle on the highways of  
105 this state while such license or privilege is canceled,  
106 suspended, revoked, or disqualified, upon:

107 (a) A first conviction is guilty of a misdemeanor of the  
108 first degree, punishable as provided in s. 775.082 or s.  
109 775.083.

110 (b) A second or subsequent conviction is guilty of a felony  
111 of the third degree, punishable as provided in s. 775.082, s.  
112 775.083, or s. 775.084.

113 ~~(6)-(8)~~(a) Upon issuing a citation to the arrest of a person  
114 for a violation of subsection (2), ~~the offense of~~ driving while  
115 the person's driver's license or driving privilege is suspended  
116 or revoked, the law enforcement arresting officer shall  
117 immediately impound the vehicle. ~~determine:~~

118 ~~1. Whether the person's driver's license is suspended or~~  
119 ~~revoked.~~

120 ~~2. Whether the person's driver's license has remained~~  
121 ~~suspended or revoked since a conviction for the offense of~~  
122 ~~driving with a suspended or revoked license.~~

123 ~~3. Whether the suspension or revocation was made under s.~~  
124 ~~316.646 or s. 627.733, relating to failure to maintain required~~  
125 ~~security, or under s. 322.264, relating to habitual traffic~~  
126 ~~offenders.~~

127 ~~4. Whether the driver is the registered owner or coowner of~~  
128 ~~the vehicle.~~



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129           ~~(b) If the arresting officer finds in the affirmative as to~~  
130 ~~all of the criteria in paragraph (a), the officer shall~~  
131 ~~immediately impound or immobilize the vehicle.~~

132           (b)(e) Within 7 business days after the date the vehicle is  
133 impounded ~~arresting agency impounds or immobilizes the vehicle,~~  
134 either the law enforcement ~~arresting~~ agency or the towing  
135 service, whichever is in possession of the vehicle, shall send  
136 notice pursuant to s. 713.78 ~~by certified mail~~ to any  
137 ~~registered~~ owners of the vehicle other than the person who was  
138 cited, to the traffic violations bureau, arrested and to each  
139 person of record claiming a lien against the vehicle. All costs  
140 and fees for the impoundment ~~or immobilization~~, including the  
141 cost of notification, must be paid by the owner of the vehicle  
142 or, if the vehicle is leased, by the person leasing the vehicle.

143           (c)(d) Either the law enforcement ~~arresting~~ agency or the  
144 towing service, whichever is in possession of the vehicle, shall  
145 determine whether any vehicle impounded ~~or immobilized~~ under  
146 this section has been leased or rented or if there are any  
147 persons of record with a lien upon the vehicle. Either the law  
148 enforcement ~~arresting~~ agency or the towing service, whichever is  
149 in possession of the vehicle, shall send notice pursuant to s.  
150 713.78 ~~notify by express courier service with receipt or~~  
151 ~~certified mail~~ within 7 business days after the date of the  
152 ~~immobilization or~~ impoundment of the vehicle, to the registered  
153 owner and all persons having a recorded lien against the vehicle  
154 that the vehicle has been impounded ~~or immobilized~~. A lessor,  
155 rental car company, or lienholder may then obtain the vehicle,  
156 upon payment of any lawful towing or storage charges. If the  
157 vehicle is a rental vehicle subject to a written contract, the



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158 charges may be separately charged to the renter, in addition to  
159 the rental rate, along with other separate fees, charges, and  
160 recoupments disclosed on the rental agreement. If the storage  
161 facility fails to provide timely notice to a lessor, rental car  
162 company, or lienholder as required by this paragraph, the  
163 storage facility shall be responsible for payment of any towing  
164 or storage charges necessary to release the vehicle to a lessor,  
165 rental car company, or lienholder that accrue after the notice  
166 period, which charges may then be assessed against the driver of  
167 the vehicle if the vehicle was lawfully impounded ~~or~~  
168 ~~immobilized~~.

169 ~~(d)(e)~~ Except as provided in paragraph (c) ~~(d)~~, the vehicle  
170 shall remain impounded ~~or immobilized for any period imposed by~~  
171 ~~the court~~ until payment of the applicable amount required under  
172 s. 318.18 and:

173 1. The person retrieving the vehicle ~~owner~~ presents to the  
174 law enforcement agency proof of a valid driver's license, proof  
175 of ownership of the vehicle or written consent by the owner  
176 authorizing release to the person, and proof of insurance to the  
177 ~~arresting agency; or~~

178 2. The owner presents to the law enforcement agency proof  
179 of sale of the vehicle ~~to the arresting agency~~ and the buyer  
180 presents proof of insurance to the ~~arresting~~ agency.

181  
182 If proof is not presented within 35 days after the impoundment  
183 ~~or immobilization~~, a lien shall be placed upon such vehicle  
184 pursuant to s. 713.78.

185 ~~(e)(f)~~ The owner of a vehicle that is impounded ~~or~~  
186 ~~immobilized~~ under this subsection may, within 10 days after the



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187 date the owner has knowledge of the location of the vehicle,  
188 file a complaint in the county in which the owner resides to  
189 determine whether the vehicle was wrongfully taken or withheld.  
190 Upon the filing of a complaint, the owner or lienholder may have  
191 the vehicle released by posting with the court a bond or other  
192 adequate security equal to the amount of the costs and fees for  
193 impoundment ~~or immobilization~~, including towing or storage, to  
194 ensure the payment of such costs and fees if the owner or  
195 lienholder does not prevail. When the vehicle owner or  
196 lienholder does not prevail on a complaint that the vehicle was  
197 wrongfully taken or withheld, he or she must pay the accrued  
198 charges for the ~~immobilization~~ or impoundment, including any  
199 towing and storage charges assessed against the vehicle. When  
200 the bond is posted and the fee is paid as set forth in s. 28.24,  
201 the clerk of the court shall issue a certificate releasing the  
202 vehicle. At the time of release, after reasonable inspection,  
203 the owner must give a receipt to the towing or storage company  
204 indicating any loss or damage to the vehicle or to the contents  
205 of the vehicle.

206 (7)~~(9)~~(a) A motor vehicle that is driven by a person under  
207 the influence of alcohol or drugs in violation of s. 316.193 is  
208 subject to seizure and forfeiture under ss. 932.701-932.706 and  
209 is subject to liens for recovering, towing, or storing vehicles  
210 under s. 713.78 if, at the time of the offense, the person's  
211 driver's license is suspended, revoked, or canceled as a result  
212 of a prior conviction for driving under the influence.

213 (b) The law enforcement officer shall notify the Department  
214 of Highway Safety and Motor Vehicles of any impoundment or  
215 seizure for violation of paragraph (a) in accordance with



216 procedures established by the department.

217 (c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when  
218 the seizing agency obtains a final judgment granting forfeiture  
219 of the motor vehicle under this section, 30 percent of the net  
220 proceeds from the sale of the motor vehicle shall be retained by  
221 the seizing law enforcement agency and 70 percent shall be  
222 deposited in the General Revenue Fund for use by regional  
223 workforce boards in providing transportation services for  
224 participants of the welfare transition program. In a forfeiture  
225 proceeding under this section, the court may consider the extent  
226 that the family of the owner has other public or private means  
227 of transportation.

228 ~~(8)-(10)~~(a) Notwithstanding any other provision of this  
229 section, if a person does not have a prior forcible felony  
230 conviction as defined in s. 776.08, the procedures ~~penalties~~  
231 provided in paragraph (b) apply if a person's driver's license  
232 or driving privilege is canceled, suspended, or revoked for:

233 1. Failing to pay child support as provided in s. 322.245  
234 or s. 61.13016;

235 2. Failing to pay any other financial obligation as  
236 provided in s. 322.245 other than those specified in s.  
237 322.245(1);

238 3. Failing to comply with a civil penalty required in s.  
239 318.15;

240 4. Failing to maintain vehicular financial responsibility  
241 as required by chapter 324;

242 5. Failing to comply with attendance or other requirements  
243 for minors as set forth in s. 322.091; or

244 6. Having been designated a habitual traffic offender under



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245 s. 322.264(1)(d) as a result of suspensions of his or her  
246 driver's license or driver privilege for any underlying  
247 violation listed in subparagraphs 1.-5.

248 ~~(b)1. Upon a first conviction for knowingly driving while~~  
249 ~~his or her license is suspended, revoked, or canceled for any of~~  
250 ~~the underlying violations listed in subparagraphs (a)1.-6., a~~  
251 ~~person commits a misdemeanor of the second degree, punishable as~~  
252 ~~provided in s. 775.082 or s. 775.083.~~

253 ~~2. Upon a second or subsequent conviction for the same~~  
254 ~~offense of knowingly driving while his or her license is~~  
255 ~~suspended, revoked, or canceled for any of the underlying~~  
256 ~~violations listed in subparagraphs (a)1.-6., a person commits a~~  
257 ~~misdemeanor of the first degree, punishable as provided in s.~~  
258 ~~775.082 or s. 775.083.~~

259 ~~(b)(11)(a)~~ A person who does not hold a commercial driver's  
260 license and who is cited for an offense of knowingly driving  
261 while his or her license is suspended, revoked, or canceled for  
262 any of the underlying violations listed in paragraph ~~(10)~~(a)  
263 may, in lieu of payment of fine or court appearance, elect to  
264 enter a plea of nolo contendere and provide proof of compliance  
265 to the clerk of the court, designated official, or authorized  
266 operator of a traffic violations bureau. In such case,  
267 adjudication shall be withheld and the clerk of the court,  
268 designated official, or authorized operator of a traffic  
269 violations bureau shall issue a certificate releasing the  
270 vehicle upon payment of the cost of towing and storing the  
271 vehicle. However, no election shall be made under this  
272 subsection if such person has made an election under this  
273 subsection during the preceding 12 months. A person may not make



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274 more than three elections under this subsection.

275 ~~(c)~~ ~~(b)~~ If adjudication is withheld under paragraph (b) ~~(a)~~,  
276 such action is not a conviction.

277 Section 4. This act shall take effect July 1, 2011.

278

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

280 And the title is amended as follows:

281 Delete everything before the enacting clause  
282 and insert:

283 A bill to be entitled  
284 An act relating to driving without a valid driver's  
285 license; amending s. 318.18, F.S.; providing an  
286 additional fine for a violation of specified  
287 provisions relating to driving with a canceled,  
288 suspended, or revoked driver's license or driving  
289 privilege; providing increased fine amounts for second  
290 or subsequent violations; amending s. 318.21, F.S.;  
291 providing for distribution of such fines collected;  
292 amending s. 322.34, F.S.; deleting a knowledge element  
293 for conviction of the offense of driving while a  
294 person's driver's license or driving privilege is  
295 canceled, suspended, or revoked; requiring immediate  
296 impoundment of the motor vehicle; conforming  
297 provisions; revising penalties for knowingly driving  
298 while the driver's license or driving privilege is  
299 canceled, suspended, or revoked; revising procedures  
300 for impoundment of the vehicle; providing an effective  
301 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 Transportation Committee

BILL: SB 792

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Driving Without a Valid Driver's License

DATE: March 11, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill removes criminal penalties for knowingly driving with a suspended, revoked, or canceled license. However, the bill provides any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except a habitual traffic offender, who, knowing of the cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while the license or privilege is canceled, suspended, or revoked commits a moving violation, punishable as provided in ch. 318, F.S., and the motor vehicle being driven at the time of the offense must be immediately immobilized or impounded.

The bill provides a person who knowingly drives any motor vehicle upon the highways while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s. 322.34(2), F.S., in addition to the fine under s. 318.18(3)(a), F.S., must pay:

- For a first offense, \$500 before release of the vehicle from immobilization or impoundment;
- For a second offense, \$1,000 before release of the vehicle from immobilization or impoundment; or
- For a third or subsequent offense, \$1,500 before release of the vehicle from immobilization or impoundment.

In addition, the bill provides for the distribution of fines collected and the apportionment between the municipality, the county, and the agency or entity towing and storing the vehicle.

This bill amends ss. 318.18, 318.21, and 322.34 of the Florida Statutes.

## II. Present Situation:

Section 318.18, F.S., specifies civil penalties for various violations.

Section 318.21, F.S., provides for the disposition of civil penalties by county courts.

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver's license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

The element of knowledge is satisfied if the person has been previously cited for driving with a suspended, revoked, or canceled license; or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in s. 322.34(4), F.S. There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in s. 322.34(4), F.S., appears in the Department of Highway Safety and Motor Vehicles' (DHSMV or department) records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

A habitual traffic offender who drives with a suspended, revoked, or canceled license commits a third degree felony under s. 322.34(5), F.S. One way to become a habitual traffic offender is to drive with a suspended or revoked license three times within five years under s. 322.264(1)(d), F.S. Prior to 2008, there was no distinction under either of these statutes regarding what underlying violation was committed to qualify a person for a driving with a suspended license conviction. For instance, underlying violations can be for failing to pay child support, failing to pay court fines or fees, or failing to comply with a court order. However, during the 2008 Session, the Legislature passed CS/SB 1988 which subjects a person convicted of knowingly driving while his or her license is suspended, revoked, or cancelled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction and a first degree misdemeanor penalty for the second or subsequent conviction.

Specifically, s. 322.34(10), F.S., provides the underlying enumerated violations (allowing a driver to be subject to a first degree misdemeanor penalty rather than the third degree felony penalty for a third or subsequent conviction) are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;

- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

The first degree misdemeanor penalty is only available to drivers who do not have a prior forcible felony conviction.

Section 322.34(11), F.S., provides a person who does not hold a commercial driver license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled and the underlying suspension, revocation, or cancellation is non-driving related may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In addition, this section allows adjudication to be withheld; however, a person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections. If adjudication is withheld, such action is not considered a conviction.

Section 322.34(8), F.S., requires law enforcement, upon the arrest of a person for the offense of driving while the person's driver's license or driving privilege is suspended or revoked, to impound or immobilize the vehicle of violators when the arresting officer determines the affirmative of all of the following criteria:

- Whether the person's driver's license is suspended or revoked;
- Whether the person's driver's license has remained suspended or revoked since a conviction for the offense of driving with a suspended or revoked license;
- Whether the suspension or revocation was made because of failure to maintain required security, or because the person is a habitual traffic offender; and
- Whether the driver is the registered owner or co-owner of the vehicle.

### III. Effect of Proposed Changes:

The following is a section-by-section analysis of the bill:

**Section 1** creates s. 318.18(22), F.S., to provide a person who knowingly drives any motor vehicle upon the highways while the person's license or privilege to drive is canceled, suspended, or revoked in violation of s. 322.34(2), F.S., in addition to the fine under s. 318.18(3)(a), F.S., must pay:

- For a first offense, \$500 before release of the vehicle from immobilization or impoundment;
- For a second offense, \$1,000 before release of the vehicle from immobilization or impoundment; or
- For a third or subsequent offense, \$1,500 before release of the vehicle from immobilization or impoundment.

**Section 2** creates s. 318.21(22), F.S., to provide for the distribution of fines collected and the apportionment between the municipality, the county, and the agency or entity that towed and stored the vehicle. Specifically for violations committed within a municipality, 40 percent of the moneys collected would go to the municipality, 40 percent to the county and 20 percent to the agency or company that stored the vehicle. For violations committed outside a municipality, 80 percent would be distributed to the county and 20 percent to the agency or company that towed and stored the vehicle.

**Section 3** amends s. 322.34(2), F.S., to remove criminal penalties for knowingly driving with a suspended, revoked, or canceled license. However, the bill provides any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except a habitual traffic offender, who, knowing of the cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while the license or privilege is canceled, suspended, or revoked commits a moving violation, punishable as provided in ch. 318, F.S., and the motor vehicle being driven at the time of the offense must be immediately immobilized or impounded.

The bill amends s. 322.34(8), F.S., to delete criteria that an arresting officer must determine prior to immediately impounding or immobilizing a vehicle of person arrested for the violation of driving while the person's driver's license or driving privilege is suspended or revoked. The section is amended to require a law enforcement officer to immediately impound or immobilize the vehicle, upon issuing a citation to a person for a violation of s. 322.34(2), F.S., (knowingly driving while the person's driver's license or driving privilege is suspended or revoked). The vehicle must remain impounded or immobilized until payment of the applicable amount required under s. 318.18, F.S., and:

- the person retrieving the vehicle presents to the law enforcement agency proof of a valid driver's license, proof of ownership of the vehicle or written consent by the owner authorizing release to the person, and proof of insurance; or
- the owner presents to the law enforcement agency proof of sale of the vehicle and the buyer presents proof of insurance to the agency.

The bill also amends s. 322.34(10), F.S., relating to financially based driver license suspensions by providing that a person who does not hold a commercial driver's license and is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled for any of the underlying violations listed in s. 322.34(10)(a), F.S., may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. In this case, adjudication shall be withheld and the clerk of the court, designated official or authorized operator of a traffic violations bureau shall issue a certificate releasing the vehicle upon payment of the cost of towing and storing the vehicle. A person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections in a lifetime. If the court withholds adjudication, this will not go on the driving record, and therefore will not count towards the habitual traffic offender status. The criminal violations previously associated with those offenses that generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle, are deleted.

**Section 4** provides an effective date of July 1, 2011.

According to DHSMV, the effect of this bill would be primarily on law enforcement agencies that will now be mandated to immobilize or impound a vehicle in all cases of knowingly driving while license canceled, suspended or revoked, whereas currently that mandate only applies in very limited situations. This will result in a dramatic increase in the number of vehicles impounded or immobilized. In 2009, there were 214,078 persons charged with knowingly driving while license canceled, suspended or revoked. This bill would require each of the vehicles being driven be impounded or immobilized, regardless of whether the operator is an owner of the vehicle or whether a properly licensed driver can be located to take control of the vehicle.<sup>1</sup>

**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:

Persons cited for knowingly driving while the person's license or driving privilege is canceled, suspended, or revoked commits a moving violation and the bill requires the immediate impoundment or immobilization of the motor vehicle being driven at the time of the offense. Violators will have to pay, in addition to the \$60 fine and court costs associated with the moving violation, a fine of \$500 for a first offense, a fine of \$1,000 for a second offense, and a fine of \$1,500 for a third or subsequent offense, before the release of the vehicle from immobilization or impoundment.

C. Government Sector Impact:

This bill may generate civil fine revenue for the state, county and local government, but the potential revenue is indeterminate.

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 792* (on file with the Senate Transportation Committee).

According to DHSMV, the bill will have an indeterminate fiscal impact to the Department. The mandatory immobilization or impoundment of the vehicle, as regarded by this bill, will result in an officer waiting for a wrecker instead of resuming normal duties. As stated in the department's bill analysis, the requirement will decrease officer availability for other duties and potentially impact law enforcement statewide. There will also be minimal fiscal impact resulting from programming requirements, but, the cost would be absorbed within existing resources.<sup>2</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The department estimates impounding a vehicle will add 30 minutes to each traffic stop due to waiting for a wrecker to arrive. Therefore, based on 2009 citations (214,078) law enforcement statewide would spend over 100,000 hours of duty time implementing this aspect of the bill resulting in a comparable decrease in officer availability for other types of calls.<sup>3</sup>

Law enforcement agencies will also be required to have a person available to review the documents required to be presented to have the vehicle released. In the case of the Florida Highway Patrol (FHP), persons presenting such documents would be required in some cases to travel to the nearest FHP facilities, which could be several counties away or the FHP would have to make available a trooper to meet the vehicle owners.<sup>4</sup>

The department recommends allowing the towing service to verify the documents necessary to have a vehicle released.

**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.

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

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*



971380

LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of that 10-year period, upon



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13 renewal, the plate shall be replaced. The department shall  
14 extend the scheduled license plate replacement date from a 6-  
15 year period to a 10-year period. The fee for such replacement  
16 for standard and Florida for-profit corporate license plates is  
17 \$28, \$2.80 of which shall be paid each year before the plate is  
18 replaced, to be credited towards the next \$28 replacement fee.  
19 The fee for such replacement for specialty license plates  
20 authorized under ss. 320.08056 and 320.08058 is \$10, \$1 of which  
21 shall be paid each year before the plate is replaced, and  
22 credited towards the next \$10 replacement fee. The fees shall be  
23 deposited into the Highway Safety Operating Trust Fund. A credit  
24 or refund may not be given for any prior years' payments of such  
25 prorated replacement fee if the plate is replaced or surrendered  
26 before the end of the 10-year period, except that a credit may  
27 be given if a registrant is required by the department to  
28 replace a license plate under s. 320.08056(8) (a). With each  
29 license plate, a validation sticker shall be issued showing the  
30 owner's birth month, license plate number, and the year of  
31 expiration or the appropriate renewal period if the owner is not  
32 a natural person. The validation sticker shall be placed on the  
33 upper right corner of the license plate. Such license plate and  
34 validation sticker shall be issued based on the applicant's  
35 appropriate renewal period. The registration period is 12  
36 months, the extended registration period is 24 months, and all  
37 expirations occur based on the applicant's appropriate  
38 registration period. A vehicle with an apportioned registration  
39 shall be issued an annual license plate and a cab card that  
40 denote the declared gross vehicle weight for each apportioned  
41 jurisdiction in which the vehicle is authorized to operate.



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42 Section 2. Section 320.08052, Florida Statutes, is created  
43 to read:

44 320.08052 The Florida For-Profit Corporate License Plate  
45 Program.—

46 (1) The Department of Highway Safety and Motor Vehicles is  
47 authorized to create the Florida For-Profit Corporate License  
48 Plate Program. The department may enter into agreements with any  
49 Florida business entity, advertising firm, or for-profit  
50 business that provides the department the required legal  
51 documentation to use a corporate logo on a Florida license  
52 plate.

53 (2) The design of a for-profit corporate license plate must  
54 be approved by the department and must have the word "Florida"  
55 at the top and is subject to the same design specifications and  
56 requirements applicable to existing nonprofit specialty license  
57 plates. A for-profit corporate license plate may be personalized  
58 as provided in s. 320.0805 but must be approved by the for-  
59 profit corporation and the department before issuance.

60 (3) A vehicle owner may apply for a for-profit corporate  
61 license plate for any motor vehicle registered in the owner's  
62 name weighing 7,999 pounds or less and registered as a vehicle  
63 for private use, except for vehicles that require a restricted,  
64 apportioned, motorcycle size, or dual truck license plates. Each  
65 application must be accompanied by an application fee that is 50  
66 percent less than the current registration fee for that vehicle,  
67 as set forth in s. 320.08, plus a processing fee of \$5 to be  
68 deposited into the Highway Safety Operating Trust Fund, plus a  
69 license plate fee as required by s. 320.06(1)(b). A request may  
70 be made at any time during a registration period. If a request



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71 is made for a for-profit corporate license plate to replace a  
72 current valid license plate, the for-profit corporate license  
73 plate shall be issued with appropriate decals attached at no tax  
74 for the plate, but all fees and service charges must be paid. If  
75 a request is made for a for-profit corporate license plate at  
76 the beginning of the registration period, the tax, together with  
77 all applicable fees and service charges, must be paid. The  
78 application by any vehicle owner for a for-profit corporate  
79 license plate authorizes the department, upon acceptance, to  
80 provide the applicant's name and address to the for-profit  
81 corporate sponsor in compliance with s. 119.0712(2). Upon  
82 approval of the application, the for-profit corporation shall  
83 immediately remit to the department a fee of not less than \$75.  
84 The department shall issue the appropriate for-profit corporate  
85 license plate to the vehicle owner, along with a registration  
86 and decal, and the registration is valid for one registration  
87 period, which may not exceed 15 months. The proceeds of the fees  
88 paid pursuant to this subsection shall be distributed as  
89 provided in this chapter. Excess revenues remaining after the  
90 distribution of all required fees shall be deposited into the  
91 Highway Safety Operating Trust Fund to fund the general  
92 operations of the department. If the number of for-profit  
93 corporate license plates for a specific for-profit corporation  
94 falls below 1,000 plates for at least 12 consecutive months, the  
95 department shall discontinue that for-profit corporate specialty  
96 license plate.

97 (4) A Florida for-profit corporation may participate in the  
98 program by submitting an initial application fee to the  
99 department of \$60,000 to defray the department's cost for



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100 reviewing the application and developing the Florida for-profit  
101 corporate license plate and defray the potential loss of  
102 nonprofit specialty license plate sales, \$10,000, of which shall  
103 be retained by the department to be applied directly to the  
104 nonprofit specialty license plate program's annual costs  
105 retained by the department pursuant to s. 320.08056 (7); a  
106 marketing strategy outlining short-term and long-term marketing  
107 plans for the proposed specialty license plate, including a  
108 financial analysis outlining the anticipated sales of the  
109 proposed specialty license plate; and a scientific sample  
110 survey, performed independently of the requesting for-profit  
111 corporation by an organization that conducts similar sample  
112 surveys as a normal course of business of Florida motor vehicle  
113 owners that indicates at least 1,000 motor vehicle owners intend  
114 to purchase the proposed for-profit corporate license plate. In  
115 order to participate in the program, a Florida for-profit  
116 corporation must provide additional evidence of the ability to  
117 pay \$75 per vehicle owner for a minimum of 5,000 vehicle owners.

118 (5) The department shall adopt rules to administer this  
119 section.

120 Section 3. This act shall take effect October 1, 2011.

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

122 And the title is amended as follows:

123 Delete everything before the enacting clause  
124 and insert:

125 A bill to be entitled

126 An act relating to the For-Profit Corporate License  
127 Plate Program; amending s. 320.06, F.S.; revising  
128 provisions relating to registration certificates,



129 license plates, and validation stickers to conform to  
130 changes made by the act; creating s. 320.08052, F.S.;  
131 authorizing the Department of Highway Safety and Motor  
132 Vehicles to create the For-Profit Corporate License  
133 Plate Program and enter into certain agreements with  
134 certain entities; requiring that for-profit corporate  
135 license plates meet specified criteria and that  
136 certain aspects of such license plates be approved by  
137 the department; authorizing owners of specified  
138 vehicles to apply for such license plates; requiring  
139 that specified minimum fees be paid by applicants and  
140 Florida for-profit corporations for such applications;  
141 requiring that the department, upon approval of an  
142 application, issue the appropriate for-profit  
143 corporate plate to the vehicle owner, along with a  
144 registration and decal valid for a specified period;  
145 providing for the distribution of fees collected;  
146 authorizing Florida for-profit corporations to  
147 participate in the program by submitting a specified  
148 minimum initial application fee; requiring that a  
149 Florida for-profit corporation meet specified  
150 eligibility requirements to participate in the  
151 program; requiring that a portion of the proceeds paid  
152 by the Florida for-profit corporation be used to  
153 defray the administrative costs of the program;  
154 requiring that the department adopt rules; providing  
155 an effective date.



880028

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Evers) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of that 10-year period, upon



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13 renewal, the plate shall be replaced. The department shall  
14 extend the scheduled license plate replacement date from a 6-  
15 year period to a 10-year period. The fee for such replacement is  
16 \$28, \$2.80 of which shall be paid each year before the plate is  
17 replaced, to be credited towards the next \$28 replacement fee.  
18 However, the fee for a corporate license plate issued pursuant  
19 to s. 320.08052 shall be \$2.80 per year. The fees shall be  
20 deposited into the Highway Safety Operating Trust Fund. A credit  
21 or refund may not be given for any prior years' payments of such  
22 prorated replacement fee if the plate is replaced or surrendered  
23 before the end of the 10-year period, except that a credit may  
24 be given if a registrant is required by the department to  
25 replace a license plate under s. 320.08052 or s.  
26 320.08056(8)(a). With each license plate, a validation sticker  
27 shall be issued showing the owner's birth month, license plate  
28 number, and the year of expiration or the appropriate renewal  
29 period if the owner is not a natural person. The validation  
30 sticker shall be placed on the upper right corner of the license  
31 plate. Such license plate and validation sticker shall be issued  
32 based on the applicant's appropriate renewal period. The  
33 registration period is 12 months, the extended registration  
34 period is 24 months, and all expirations occur based on the  
35 applicant's appropriate registration period. A vehicle with an  
36 apportioned registration shall be issued an annual license plate  
37 and a cab card that denote the declared gross vehicle weight for  
38 each apportioned jurisdiction in which the vehicle is authorized  
39 to operate.

40 Section 2. Section 320.08052, Florida Statutes, is created  
41 to read:



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42 320.08052 Corporate license plates.-

43 (1) The department may create a Corporate License Plate  
44 Program. The department may enter into agreements with any  
45 business entity, advertising firm, or for-profit business that  
46 provides the department with the required legal documentation to  
47 use corporate logos on license plates issued in this state.

48 (2) The design for a corporate license plate must be  
49 approved by the department and have the word "Florida" at the  
50 top. The department may reject any license plate design deemed  
51 by it to be objectionable, including, but not limited to, any  
52 design that displays or relates to pornography, alcohol, or  
53 tobacco. A corporate license plate may be personalized as  
54 provided in s. 320.0805 but must be approved by the corporate  
55 sponsor and the department before issuance.

56 (3) A vehicle owner may apply for a corporate license plate  
57 for any motor vehicle registered in the owner's name which  
58 weighs 7,999 pounds or less, except for a motorcycle or moped,  
59 and which is also registered as a vehicle for private use. Each  
60 application must be accompanied by an application fee that is 50  
61 percent less than the current registration fee. The application  
62 by any vehicle owner for a corporate license plate must, upon  
63 acceptance, authorize the department to provide the applicant's  
64 name and address to the corporate sponsor in compliance with s.  
65 119.0712(2). Upon approval of the application, the corporate  
66 sponsor shall immediately remit to the department a fee of no  
67 less than \$75. The department shall issue the appropriate  
68 corporate plate to the vehicle owner, along with a registration  
69 and decal, and the registration is valid for one registration  
70 period, which may not exceed 15 months. All applicable



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71 registration fees authorized by this chapter shall be paid and  
72 distributed as provided in this chapter from the proceeds of the  
73 fees paid pursuant to this subsection. Of the proceeds remaining  
74 after distribution of the registration fees, \$2 shall be  
75 distributed pro rata to the sponsors of all other specialty  
76 license plates issued under this chapter based on the  
77 proportional amount of each specialty plate's sales relative to  
78 the total sales of specialty plates. All remaining proceeds from  
79 sales of the corporate license plates and amounts collected  
80 under the agreements authorized in subsection (1) shall be  
81 deposited into the Highway Safety Operating Trust Fund to fund  
82 the general operations of the department.

83 (4) A corporate sponsor may participate in the Corporate  
84 License Plate Program by submitting an initial application fee  
85 to the department of at least \$5,000 for the purchase of initial  
86 inventory. To be eligible to participate in the program, a  
87 corporate sponsor must provide evidence of the ability to pay  
88 \$75 per vehicle owner for a minimum of 5,000 vehicle owners.

89 (5) The department shall adopt rules to administer this  
90 section.

91 Section 3. This act shall take effect October 1, 2011.

92  
93 ===== T I T L E A M E N D M E N T =====

94 And the title is amended as follows:

95 Delete everything before the enacting clause  
96 and insert:

97 A bill to be entitled  
98 An act relating to corporate license plates; amending  
99 s. 320.06, F.S.; revising provisions for collection of



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100 a license plate replacement fee; creating s.  
101 320.08052, F.S.; authorizing the Department of Highway  
102 Safety and Motor Vehicles to establish a program to  
103 create corporate license plates; authorizing the  
104 department to enter into agreements with certain  
105 entities that provide the department with the required  
106 legal documentation to use corporate logos; providing  
107 for requirements for designs used on the corporate  
108 license plates; providing for the procedure, including  
109 requirements and fees, for vehicle owners who apply  
110 for corporate license plates; providing for the  
111 distribution of the proceeds from the registration  
112 fees and from sales of the corporate license plates  
113 and amounts collected under the agreements;  
114 authorizing corporate sponsors to participate in the  
115 Corporate License Plate Program; providing eligibility  
116 requirements; requiring the department to adopt rules;  
117 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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 716

INTRODUCER: Senator Fasano

SUBJECT: Corporate License Plates

DATE: March 14, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

Senate Bill 716 creates a corporate license plate program within the Department of Highway Safety and Motor Vehicles (DHSMV, the department). The program would allow corporations to sponsor a corporate license plate displaying the corporation’s logo. Vehicle owners would be allowed to apply for a corporate license plate and if approved, register their vehicle at 50% of the normal price. The sponsoring corporation would remit no less than \$75 to the department or each approved application, which under the current registration fee structure would pay the remaining 50% of the vehicle’s registration cost and produce positive revenues to the department for deposit into the Highway Safety Operating Trust Fund for use in the general operations of the department.

This bill creates the following section of the Florida Statutes: 320.08052

**II. Present Situation:**

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of license plates as a part of the tag and registration requirements specified in ch. 320, F.S. Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, the department offers four basic types of plates to the general public:

- The standard license plate, which currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.

- Several specialty license plates which are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with the department, pay an application fee and obtain authority from the Florida Legislature.
- Personalized prestige specialty license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the DHSMV.
- Finally, certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include: the Purple Heart, Disabled Veteran, and Prisoner of War plates.

Florida license plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period. The license plate fee for both an original issuance and replacement is \$28.00. An advanced replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Both specialty and personalized prestige plates are subject to annual use fees defined in statute.<sup>1</sup>

### **Florida Specialty License Plate Program**

The Florida Legislature created the first specialty license plates in 1986, which included the Challenger license plate and one for each of the nine universities then in the state university system. Although the Legislature has the authority to create a specialty plate on its own initiative, most are the initiative of sponsor organizations who hope to market or advertise their organization's particular cause. Since the creation of the specialty license plate program in 1986, the number of specialty plates has steadily increased, and to date the Legislature has authorized 123 specialty plates; however, not all are in production and available at this time. Nine plates that were authorized during the 2010 Session are still in the implementation stages. Of the 17 million registered vehicles over 1.4 million display a specialty plate. In Fiscal Year 2009-2010, the DHSMV collected annual use fees for specialty plates in the state totaling more than \$35 million. These revenues are distributed to the sponsor organizations. State revenues collected during this same period relating to the processing fee for specialty and personalized plates totaled \$8.6 million.

Specialty license plates are uniquely designed license plates, that through the design, signify support for specific causes or organizations. The specialty license plate program provides an opportunity for Florida motorists to choose a specially-themed license plate instead of the standard Florida license plate. They are available to vehicle owners or lessees who choose to pay the annual use fee in addition to the annual vehicle registration fees authorized in statute. The annual use fees are distributed to the specialty plate organization as defined in statute, and range from \$15 to \$25. A \$5.00 processing fee is also charged for both specialty and personalized plates, which is distributed to the Highway Safety Operating Trust Fund.

The Legislature has addressed the increasing number of specialty license plates on three separate occasions. In 2004, the Legislature enacted ch. 2004-337, L.O.F., which requires the DHSMV to

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<sup>1</sup> ss. 320.0805, 08056, and 08058, F.S.

discontinue the issuance of an approved specialty plate if the plate sales fall below 1,000 for a least 12 consecutive months. This legislation also authorized the DHSMV to discontinue a specialty license plate if the sponsor organization no longer exists, if the organization no longer provides the services authorized to be funded, or if the organization requests to discontinue. Only three plates have been discontinued due to lack of sales. These plates are the Girl Scouts plate, the Orlando Predators Plate, and the Tampa Bay Storm plate.

In 2008, the Legislature enacted ch. 2008-176, L.O.F., which included a moratorium on the issuance of specialty plates by DHSMV. This moratorium was to be effective from July 1, 2008 to July 1, 2011. The moratorium, however contained an exception, “for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and for which [the requesting organization] has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F.S., prior to October 1, 2008,” or “which was included in a bill filed during the 2008 Legislative Session.”<sup>2</sup> There were 12 organizations which met the moratorium exceptions. The University of Miami – Center for Autism and Related Disabilities, was the only organization meeting the moratorium exceptions that was successful in obtaining legislative approval of the “Autism Awareness” plate in 2009.<sup>3</sup>

The Legislature addressed the specialty license program again during the 2010 Legislative Session, and enacted ch. 2010-223, L.O.F., which extended the moratorium passed by the 2008 Legislature through July 1, 2014. This bill also revised the requirements for requesting the approval of a specialty license by replacing the scientific sample survey of Florida motor vehicle owners with a presale voucher delivery method. Organizations and the DHMSV must meet the following requirements after legislative approval of a new specialty plate:

- The organization must submit the proposed art design, in a medium prescribed by the DHSMV, within 60 days after the act approving the specialty license plate becomes law;
- Within 120 days of the specialty plate becoming law, the DHSMV must establish a method to issue a specialty license plate presale voucher to allow for the pre-selling of the specialty license plate.
- Within 24 months after the license plate voucher becomes available to the public, the organization must obtain a minimum of 1,000 voucher sales before manufacturing of the license plate can begin. If the presale requirement is not met, the specialty plate is removed from statute.

In addition to extending the moratorium, the 2010 Legislature enacted nine additional plates, including seven of the twelve plates meeting the exemption requirements mentioned earlier. Pursuant to s. 320.08053(2), F.S., the department has refunded the application fee to four of the remaining five organizations thereby eliminating them from further consideration. The fifth organization is involved in ongoing litigation with the State of Florida, therefore their application and fee is being held until the litigation is resolved.<sup>4</sup>

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<sup>2</sup> See Section 45, Chapter 2008-176, Laws of Florida

<sup>3</sup> See Section. 23, Chapter 2009-71, Laws of Florida

<sup>4</sup> Sons of Confederate Veterans – “Confederate Heritage”

Finally, ch. 2010-223, L.O.F., also established a moratorium on new voluntary contributions on the motor vehicle registration application form and the driver’s license application form between July 1, 2010 and July 1, 2013, with a similar grandfathering clause as used for the specialty plate organizations.

**Texas MyPlate.com Program**

According to the Texas Department of Transportation (TxDot), Texas is the first state in the United States to outsource the marketing of specialty license plates. The Texas MyPlate.com Program, is not a “corporate program”. However, the program has generated corporate interest in using the specialty plate program as a venue for advertising.

A REMAX plate was introduced by the Texas MyPlate.com vendor in November in 2009, and over 240 plates have been ordered since the introduction. Texas has also recently approved plates for Ford, Our Energy, Vestas and Mighty Fine Burgers were made available to the public in November of 2010. The Texas Department of Motor Vehicles (TxDMV) indicates that fiscal data will be available on these corporate plates in 30 months. By the end of November 2010, Texas had 73 vendor and 195 non-vendor specialty plates, with more vendor plates likely in 2011. As the new program relates to the sales of established specialty plates in Texas, the TxDMV indicates the sale of established plates has gone down since the vendor began operations, but attributes this to a short-term decline based on variables such as the economy and slow down in vehicle population growth.

In the Texas program, the vendor pays the state a share of the plate sales proceeds. There is a contractual obligation with the vendor for a five year period. At the end of that period, the TxDMV will review the vendor’s performance and has the option of renewing for two more five-year terms. The contract requires the vendor to provide a revenue return of \$25 million to the state during the 5 year term of the initial contract.

Texas MyPlate.com Revenues (11/1/09 – 8/31/10)	
Total Revenue	\$4,761,285.00
Vendor Share*	\$2,452,767.62
Texas General Revenue Share	\$ 539,848.00
Administrative Costs Recovered by TxDMV	\$ 539,848.00
Credit Card Fees*	\$ 112,343.28
<i>*Not state revenues</i>	

Current fiscal data on the Texas MyPlate.com program is incomplete as the vendor has been operational for less than a year. The TxDMV estimates that it will be about 30 months before the various components of the program are performing. Information on revenue generated since the start of the program (November 1, 2009 through August 31, 2010) is reported as \$4,761,285 million.

**Customer Survey**

As part of an interim project<sup>5</sup>, Senate professional staff, with the assistance of the DHSMV conducted a survey to weigh the interest of Florida’s citizens with respect to creating a corporate

<sup>5</sup> Interim Report 2011-137, “Florida Corporate License Plate”. Available at:

license program. The survey polled DHSMV virtual office customer's who had voluntarily supplied email addresses when completing a transaction online. A five question survey instrument was sent to 20,000 email addresses and 1,028 responses were received which represents slightly over a 5% response rate. Of the 1,028 respondents, 74.3% currently display a standard Florida license plate, 17.3% a specialty plate, 4.5% a personalized standard plate, and 3.9% a personalized specialty plate.

The survey group was asked if they would consider purchasing a license plate with a corporate logo for a reduced registration, and what the primary consideration for the purchase would be. The responses indicated that 58.5% would consider the purchase and 42.8% indicated that the purchase decision would be based on the savings. The survey response indicates that there may be a threshold of savings required before a motorist might consider the purchase of a corporate plate, 28% indicated interest if a \$10 to \$25 savings were realized, and 18.6% replied that a \$26 to \$40 savings would be needed before considering the purchase. The complete survey questions and responses are contained within the report.

### **U.S. Patent No 6,866,191: Method and System for Generating and Administering Vehicle License Plates**

Dombia Enterprises, Inc. an Illinois based company has developed and patented a system for generating and administering motor vehicle license plates. The abstract of the patented product reads "A method and system for generating and administering vehicle license plates is disclosed. A third party entity provides a database of advertising indicia adapted to be placed on a vehicle license plate. The database is made available to vehicle owners. A vehicle owner selects an advertising indicia to be placed on a license plate. The third party entity provides registration indicia to be placed on the license plate. The third party entity provides vehicle owner information, the selected advertising indicia and registration indicia to the government. The government issues a license plate to the vehicle owner and the issued license plate includes the selected advertising indicia and the registration indicia."<sup>6</sup>

According to information provided by Dombia, Inc.:

- The purpose of inventing the system was to create a license plate that would allow government to increase revenues without financially impacting private citizens.
- This system is a voluntary program for both vehicle owners and sponsors;
- Sponsors are able to advertise on the license plates of privately owned vehicles for one year;
- A private entity acting as a service agency is established between the Secretary of State and the Vehicle Owner, such as currency exchanges or as remittance agents are used between auto dealers and the Secretary of State. At no cost to the Secretary of State, a private entity will solicit sponsors, provide a website for the purpose of selecting a participating sponsor and available numbers or letters for the vehicle owner's plate and forward sponsorship funds that pay for each applicants plates. The vehicle owner will be required to pay a nominal processing fee at the time of application.

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<http://www.flsenate.gov/Committees/InterimReports/2011/2011-137ta.pdf>

<sup>6</sup> USPTO Patent Full-Text and Image Database

According to DHMSV, the programming and design of a corporate plate would cost approximately \$7,600 for each new plate design. Additional costs include \$2,406 to purchase the first order of 1,000 plates based on the current cost of \$2.46 per plate for manufacturing of the plate by Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) who currently manufactures both standard and specialty license plates.

### III. Effect of Proposed Changes:

The bill creates s. 320.08052, F.S., to establish a corporate license plate program.

*Subsection (1)* authorizes the department to enter into agreements with any business entity, advertising firm, or for-profit business to enable the placement of a corporate logo on a Florida license plate.

*Subsection (2)* requires the design of any corporate license plate to be approved by DHSMV. The plate must have the word "Florida" at the top. Motorists may personalize the plate within the existing statutory limitations of personalization (see s. 320.0805, F.S.); however, each request for specific numbers or letters must be approved by the corporate sponsor, as well as the department.

*Subsection (3)* allows vehicle owners to apply for a corporate license plate for any motor vehicle that:

- is registered in the owner's name;
- weighs less than 8,000 pounds; and
- is registered for private use.

The subsection prescribes the process for obtaining a corporate license plate. When applying for a corporate plate, the vehicle owner submits 50% of the normal registration fee. The sponsoring corporation, upon approval of the application, immediately submits no less than \$75 to the department, and the department issues the corporate license plate, registration, and decal to the vehicle owner. The registration is valid for one annual renewal period of not more than 15 months.

The department is authorized to provide a vehicle owner's name and address to the sponsor of the corporate plate that a vehicle owner has applied for.

The proceeds of the fees paid by the vehicle owner and corporate sponsor are distributed as provided in ch. 320, F.S., with any all excess revenues deposited into the Highway Safety Operating Trust Fund for use in funding the general operations of the department.

*Subsection (4)* requires corporate sponsors who choose to participate in the corporate license plate program to submit an initial application fee of at least \$5,000 and provide evidence of the ability to pay \$75 per vehicle owner for a minimum of 5,000 vehicles.

*Subsection (5)* authorizes DHSMV to adopt rules in order to administer the corporate license plate program.

**Other Potential Implications:**

Specialty plate sponsor organizations have expressed concerns over the potential implementation of a corporate license plate program, these include:

- Potential fiscal impact a corporate license plate program might have on the sales of specialty plates already in production. If specialty plates sales dropped significantly, the various programs, supported by those revenues would be impacted, but it is not possible to determine to what degree sales would be affected;
- Certain restrictions currently apply to non-profit organizations such as limitations on administrative and marketing expenses that may not apply to corporations participating in the corporate program;
- Some organizations propose that if a corporate program is adopted, that the increased revenue should be shared with specialty plate programs to offset any revenue loss.

**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:

See the table below.

B. Private Sector Impact:

The example below shows three standard vehicle weights and the current annual registration cost for each. A corporate plate could provide a consumer savings between \$22.83 and \$35.58 per year for each vehicle registered depending on the weight class of the vehicle.

Vehicle Weight	Registration Fee	Motorist Pays	Corporation Pays	Motorist Savings	Increased State Revenue Per Registration
Under 2,500 lbs	\$45.65	\$22.83	\$75	\$22.83	\$52.18
2,500 to 3,500 lbs	\$57.65	\$28.83	\$75	\$28.83	\$46.18
Over 3,500 lbs	\$71.15	\$35.58	\$75	\$35.58	\$39.43

Since the corporate plate would be an annual plate, it is possible that it could be available to a motorist one year and not available at the next renewal cycle should the corporate sponsor end participation in the program. In this case, the motorist would be required to pay the \$28 replacement fee for an original license plate issuance in addition to other annual vehicle registration fees.

**C. Government Sector Impact:**

According to DHMSV, the programming and design of a corporate plate would cost approximately \$7,600 for each new plate design. Additional costs include \$2,406 to purchase the first order of 1,000 plates based on the current cost of \$2.46 per plate for manufacturing of the plate by Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) who currently manufactures both standard and specialty license plates. Thus, for each new corporate plate type, DHSMV would experience a negative fiscal impact of over \$10,000. However, the bill requires corporate sponsors to submit an application fee of \$5,000 for the purchase of the initial inventory and to provide evidence of the ability to pay \$75 for no less than 5,000 vehicle owners (\$375,000).

It is not possible to accurately estimate the total value of increased state revenues that could be generated by the program. However, based on the results of a survey ascertaining interest based on the amount of potential savings to the customer, the 28% of respondents that indicated interest if a \$10 to \$25 savings were realized could be forecast into significant positive fiscal impact.

**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.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 112 and 113  
insert:

Section 2. Subsection (9) is added to section 286.011, Florida Statutes, to read:

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(9) Transportation and expressway authorities created under chapter 343, chapter 348, or chapter 349 which are subject to this section may conduct public meetings and workshops by means of communications media technology, as provided in s. 120.54(5).



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

And the title is amended as follows:

Delete line 10

and insert:

systems in the state; amending s. 286.011, F.S.;  
providing for the conduct of transportation agency  
public meetings through the use of communications  
media technology; amending s. 316.3025, F.S.;



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1506 and 1507  
insert:

Section 33. Subsection (4) of section 310.002, Florida Statutes, is amended to read:

310.002 Definitions.—As used in this chapter, except where the context clearly indicates otherwise:

(4) "Port" means any place in the state into which vessels enter or depart and includes, without limitation, Fernandina, Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key



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13 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port  
14 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,  
15 Carrabelle, Panama City, Port St. Joe, and Pensacola.

16 Section 34. Subsection (1) of section 311.09, Florida  
17 Statutes, is amended to read:

18 311.09 Florida Seaport Transportation and Economic  
19 Development Council.—

20 (1) The Florida Seaport Transportation and Economic  
21 Development Council is created within the Department of  
22 Transportation. The council consists of the following 18 ~~17~~  
23 members: the port director, or the port director's designee, of  
24 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
25 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
26 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
27 West, and Fernandina; the secretary of the Department of  
28 Transportation or his or her designee; the director of the  
29 Office of Tourism, Trade, and Economic Development or his or her  
30 designee; and the secretary of the Department of Community  
31 Affairs or his or her designee.

32 Section 35. Subsection (3) of section 316.075, Florida  
33 Statutes, is amended to read:

34 316.075 Traffic control signal devices.—

35 (3) (a) No traffic control signal device shall be used which  
36 does not exhibit a yellow or "caution" light between the green  
37 or "go" signal and the red or "stop" signal.

38 (b) No traffic control signal device shall display other  
39 than the color red at the top of the vertical signal, nor shall  
40 it display other than the color red at the extreme left of the  
41 horizontal signal.



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42           (c) The Department of Transportation shall establish  
43 minimum yellow light change interval times for traffic control  
44 devices. The minimum yellow light change interval time shall be  
45 established in accordance with nationally recognized engineering  
46 standards set forth in the Institute of Transportation Engineers  
47 Traffic Engineering Handbook, and any such established time may  
48 not be less than the recognized national standard.

49           Section 36. Present subsections (3) and (4) of section  
50 316.0083, Florida Statutes, are renumbered as subsections (4)  
51 and (5), respectively, and a new subsection (3) is added to that  
52 section, to read:

53           316.0083 Mark Wandall Traffic Safety Program;  
54 administration; report.—

55           (3) A notice of violation and a traffic citation may not be  
56 issued pursuant to this section for a violation committed at an  
57 intersection where the traffic signal device does not meet all  
58 requirements under s. 316.075(3). Any such notice of violation  
59 or citation is unenforceable and the court, clerk of court,  
60 designated official, or authorized operator of a traffic  
61 violations bureau shall dismiss the citation without penalty or  
62 assessment of points against the license of the person cited.

63           Section 37. Section 316.2045, Florida Statutes, is  
64 repealed.

65           Section 38. Section 316.2046, Florida Statutes, is created  
66 to read:

67           316.2046 Obstruction of public streets, highways, and  
68 roads.—

69           (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

70           (a) Ensuring public safety on public streets, highways, and



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71 roads is an important and substantial state interest.

72 (b) Obstruction of the free flow of traffic on public  
73 streets, highways, and roads endangers the public safety.

74 (c) Obtrusive and distracting activities that impede  
75 pedestrian traffic adjacent to streets, highways, and roads can  
76 also disrupt the free flow of traffic and endanger public  
77 safety.

78 (d) Soliciting funds or engaging in a commercial exchange  
79 with a person who is in a vehicle that is not stopped in a  
80 driveway or designated parking area endangers the safe movement  
81 of vehicles.

82 (2) DEFINITIONS.—As used in this section, the term  
83 “solicit” means to request employment, business, contributions,  
84 donations, sales, or exchanges of any kind.

85 (3) PERMIT REQUIRED.—It is unlawful for any person,  
86 willfully and without a permit, to solicit or obstruct the free,  
87 convenient, and normal use of any public street, highway, or  
88 road by standing or approaching motor vehicles while on or  
89 immediately adjacent to the street, highway, or road in a manner  
90 that could endanger the safe movement of vehicles or pedestrians  
91 traveling thereon.

92 (a) Each county and municipality shall adopt a permitting  
93 process that protects public safety but does not impair the  
94 rights of free speech, except to the extent necessary to protect  
95 public safety. The permitting process must authorize or deny a  
96 permit within 24 hours. Permits may be issued if the county or  
97 municipality determines that the permit applicant will not:

- 98 1. Increase the likelihood of traffic accidents;  
99 2. Violate traffic laws, rules, or ordinances;



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100           3. Make the sidewalk impassable for pedestrians; or  
101           4. Significantly increase the likelihood of harm to  
102 motorists and passersby.

103           (b) If the county or municipality approves the permit, it  
104 must issue to the applicant a document specifying:

105           1. The name and address of the person to whom the permit is  
106 granted;

107           2. The name of the company the person represents, if any;  
108 and

109           3. The expiration date of the permit.

110           (c) The permitholder must keep the permit on his or her  
111 person at all times when engaging in activity authorized by the  
112 permit.

113           (d) The cost of the permit may not exceed an amount that is  
114 reasonably necessary to administer the permitting process.  
115 However, a permit may not be denied to any applicant for lack of  
116 financial means, as attested to by a signed affidavit.

117           (4) LOCAL GOVERNMENT JURISDICTION.—For purposes of this  
118 section, counties and municipalities have original jurisdiction  
119 over non-limited access state roads, and local roads, streets,  
120 and highways within their physical jurisdiction. Counties and  
121 municipalities may increase the restrictions of the permit  
122 program if those restrictions are narrowly tailored to serve an  
123 important public purpose. A county or municipality may opt out  
124 of the permit program by a majority vote of the members of the  
125 county or municipal governing body. This section does not  
126 preempt any existing ordinances.

127           (5) EXCEPTIONS.—This section does not:

128           (a) Restrict a person from passively standing or sitting on



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129 a public sidewalk and holding a sign if that person does not  
130 obstruct the flow of vehicle or pedestrian traffic.

131 (b) Apply to any art festival, parade, fair, or other  
132 special event permitted by the appropriate county or  
133 municipality where the streets are blocked off from the normal  
134 flow of traffic.

135 (c) Apply to:

136 1. Law enforcement officers carrying out their duties;

137 2. Emergency vehicles responding to an emergency or  
138 possible emergency;

139 3. Mail-delivery vehicles;

140 4. Service vehicles performing work adjacent to the  
141 roadway; and

142 5. Any commercial vehicle that is used solely for the  
143 purpose of collecting solid waste or recyclable or recovered  
144 materials and that is stopped for the sole purpose of collecting  
145 solid waste or recyclable or recovered materials.

146 (6) VIOLATIONS.—Any person who violates the provisions of  
147 this section, upon conviction, shall be cited for a pedestrian  
148 violation, punishable as provided in chapter 318. An additional  
149 \$10 shall be added to the fine levied under chapter 318. Moneys  
150 collected from this additional \$10 fine shall be deposited into  
151 the Grants and Donations Trust Fund of the Department of  
152 Children and Family Services and used by the State Office on  
153 Homelessness to supplement grants made under s. 420.622(4) and  
154 (5).

155 (7) ENFORCEMENT.—The Department of Highway Safety and Motor  
156 Vehicles and other law enforcement agencies are authorized and  
157 directed to enforce this section.



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158 Section 39. Section 316.2047, Florida Statutes, is created  
159 to read:

160 316.2047 Panhandling.—

161 (1) LEGISLATIVE FINDINGS.—The Legislature finds that  
162 panhandling, soliciting, or demanding money, gifts, or donations  
163 may interfere with the safe ingress and egress of human and  
164 vehicular traffic into public buildings, public areas, and  
165 public transportation areas, thereby constituting a threat to  
166 the public health, welfare, and safety of the citizenry. The  
167 Legislature also finds that aggressive and fraudulent  
168 panhandling are threats to public safety and personal security.

169 (2) DEFINITIONS.—As used in this section, the term:

170 (a) "Aggressive panhandling" means to knowingly request  
171 money, gifts, or donations:

172 1. By unwanted touching, detaining, impeding, or  
173 intimidation;

174 2. Under circumstances that warrant justifiable and  
175 reasonable alarm or immediate concern for the safety of persons  
176 or property in the vicinity;

177 3. By following the solicited person after that person has  
178 made a negative response; or

179 4. By using obscene or abusive language or gestures that  
180 are reasonably likely to intimidate or cause fear of bodily  
181 harm.

182 (b) "False or misleading representation" means, without  
183 limitation:

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



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187           2. Stating that the solicitor is from out of town and  
188 stranded, when such is not true;

189           3. Wearing a military uniform or other indication of  
190 military service when the solicitor is not a present or former  
191 member of the service indicated;

192           4. Wearing or displaying an indication of physical  
193 disability, when the solicitor does not suffer the disability  
194 indicated;

195           5. Using any makeup or device to simulate any deformity; or

196           6. Stating that the solicitor is homeless, when he or she  
197 is not.

198           (c) "Fraudulent panhandling" means to knowingly make any  
199 false or misleading representation in the course of soliciting a  
200 donation.

201           (d) "Panhandling" means to:

202           1. Solicit, request, or beg for an immediate donation of  
203 money or something else of value; or

204           2. Offer an individual an item of little or no monetary  
205 value in exchange for money or another gratuity under  
206 circumstances that would cause a reasonable individual to  
207 understand that the transaction is only a donation.

208           (3) PROHIBITED ACTIVITY.—It is unlawful to:

209           (a) Engage in aggressive panhandling.

210           (b) Engage in panhandling:

211           1. Within 20 feet of a bus stop;

212           2. Within 20 feet of an automated teller machine or the  
213 entrance to a bank;

214           3. While blocking the entrance to a building or motor  
215 vehicle; or



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216 4. In a parking garage owned or operated by a county, a  
217 municipality, or an agency of the state or the Federal  
218 Government.

219 (c) Engage in fraudulent panhandling.

220 (4) LOCAL GOVERNMENT JURISDICTION.—Counties and  
221 municipalities may increase the restrictions on panhandling if  
222 those restrictions are nondiscriminatory and narrowly tailored  
223 to serve an important public purpose. A county or municipality  
224 may opt out of the provisions of this section by a majority vote  
225 of the members of the county or municipal governing body. This  
226 section does not preempt any existing ordinances that are  
227 consistent with this section.

228 (5) VIOLATIONS; PENALTIES.—Any person who violates the  
229 provisions of this section, upon conviction, shall be cited for  
230 a pedestrian violation, punishable as provided in chapter 318.  
231 An additional \$10 shall be added to the fine levied under  
232 chapter 318. Moneys collected from this additional \$10 fine  
233 shall be deposited into the Grants and Donations Trust Fund of  
234 the Department of Children and Family Services and used by the  
235 State Office on Homelessness to supplement grants made under s.  
236 420.622(4) and (5).

237 (6) ENFORCEMENT.—The Department of Highway Safety and Motor  
238 Vehicles and other law enforcement agencies are authorized and  
239 directed to enforce this section.

240 Section 40. Paragraph (c) of subsection (2) of section  
241 316.302, Florida Statutes, is amended to read:

242 316.302 Commercial motor vehicles; safety regulations;  
243 transporters and shippers of hazardous materials; enforcement.—

244 (2)



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245 (c) Except as provided in 49 C.F.R. s. 395.1, a person who  
246 operates a commercial motor vehicle solely in intrastate  
247 commerce not transporting any hazardous material in amounts that  
248 require placarding pursuant to 49 C.F.R. part 172 may not drive  
249 after having been on duty more than 70 hours in any period of 7  
250 consecutive days or more than 80 hours in any period of 8  
251 consecutive days if the motor carrier operates every day of the  
252 week. Thirty-four consecutive hours off duty shall constitute  
253 the end of any such period of 7 or 8 consecutive days. This  
254 weekly limit does not apply to a person who operates a  
255 commercial motor vehicle solely within this state while  
256 transporting, during harvest periods, any unprocessed  
257 agricultural products or unprocessed food or fiber that is  
258 subject to seasonal harvesting from place of harvest to the  
259 first place of processing or storage or from place of harvest  
260 directly to market or while transporting livestock, livestock  
261 feed, or farm supplies directly related to growing or harvesting  
262 agricultural products. Upon request of the Department of  
263 Transportation, motor carriers shall furnish time records or  
264 other written verification to that department so that the  
265 Department of Transportation can determine compliance with this  
266 subsection. These time records must be furnished to the  
267 Department of Transportation within 2 days after receipt of that  
268 department's request. Falsification of such information is  
269 subject to a civil penalty not to exceed \$100. The provisions of  
270 this paragraph do not apply to operators of farm labor vehicles  
271 operated during a state of emergency declared by the Governor or  
272 operated pursuant to s. 570.07(21), and do not apply to drivers  
273 of utility service vehicles as defined in 49 C.F.R. s. 395.2.



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274 Section 41. Subsection (26) of section 334.044, Florida  
275 Statutes, is amended to read:

276 334.044 Department; powers and duties.—The department shall  
277 have the following general powers and duties:

278 (26) To provide for the enhancement of environmental  
279 benefits, including air and water quality; to prevent roadside  
280 erosion; to conserve the natural roadside growth and scenery;  
281 and to provide for the implementation and maintenance of  
282 roadside conservation, enhancement, and stabilization programs.  
283 No less than 1.5 percent of the amount contracted for  
284 construction projects that add capacity to the existing system  
285 shall be allocated by the department for the purchase of plant  
286 materials, if such amount does not exceed \$1 million per  
287 project. ~~with,~~ To the greatest extent practical, a minimum of 50  
288 percent of these funds shall be allocated for large plant  
289 materials and the remaining funds for other plant materials. All  
290 such plant materials shall be purchased from Florida commercial  
291 nursery stock in this state on a uniform competitive bid basis.  
292 The department will develop grades and standards for landscaping  
293 materials purchased through this process. To accomplish these  
294 activities, the department may contract with nonprofit  
295 organizations having the primary purpose of developing youth  
296 employment opportunities.

297 Section 42. Section 337.406, Florida Statutes, is amended  
298 to read:

299 337.406 Unlawful use of state transportation facility  
300 right-of-way; penalties.—

301 (1) Except when leased as provided in s. 337.25(5) ~~or~~  
302 ~~otherwise authorized by the rules of the department,~~ it is



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303 unlawful to make any use of any limited access highway ~~the~~  
304 ~~right-of-way of any state transportation facility~~, including  
305 appendages thereto, ~~outside of an incorporated municipality~~ in  
306 any manner that interferes with the safe and efficient movement  
307 of people and property from place to place on the transportation  
308 facility. Failure to prohibit the use of right-of-way in this  
309 manner will endanger the health, safety, and general welfare of  
310 the public by causing distractions to motorists, unsafe  
311 pedestrian movement within travel lanes, sudden stoppage or  
312 slowdown of traffic, rapid lane changing and other dangerous  
313 traffic movement, increased vehicular accidents, and motorist  
314 injuries and fatalities. Such prohibited uses include, but are  
315 not limited to, the free distribution or sale, or display or  
316 solicitation for free distribution or sale, of any merchandise,  
317 goods, property or services; the solicitation for charitable  
318 purposes; the servicing or repairing of any vehicle, except the  
319 rendering of emergency service; the storage of vehicles being  
320 serviced or repaired on abutting property or elsewhere; and the  
321 display of advertising of any sort, ~~except that any portion of a~~  
322 ~~state transportation facility may be used for an art festival,~~  
323 ~~parade, fair, or other special event if permitted by the~~  
324 ~~appropriate local governmental entity.~~ Counties and  
325 municipalities shall regulate the use of transportation  
326 facilities within their jurisdiction, except limited access  
327 highways, pursuant to s. 316.2046. The Department of  
328 Transportation shall regulate the use of rest areas and welcome  
329 centers as limited public forums that are provided to the public  
330 for safety rest stops. Accordingly, the uses within these rest  
331 areas and welcome centers may be limited. ~~Local government~~



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332 ~~entities may issue permits of limited duration for the temporary~~  
333 ~~use of the right-of-way of a state transportation facility for~~  
334 ~~any of these prohibited uses if it is determined that the use~~  
335 ~~will not interfere with the safe and efficient movement of~~  
336 ~~traffic and the use will cause no danger to the public. The~~  
337 ~~permitting authority granted in this subsection shall be~~  
338 ~~exercised by the municipality within incorporated municipalities~~  
339 ~~and by the county outside an incorporated municipality. Before a~~  
340 ~~road on the State Highway System may be temporarily closed for a~~  
341 ~~special event, the local governmental entity which permits the~~  
342 ~~special event to take place must determine that the temporary~~  
343 ~~closure of the road is necessary and must obtain the prior~~  
344 ~~written approval for the temporary road closure from the~~  
345 ~~department. Nothing in this subsection shall be construed to~~  
346 ~~authorize such activities on any limited access highway. Local~~  
347 ~~governmental entities may, within their respective~~  
348 ~~jurisdictions, initiate enforcement action by the appropriate~~  
349 ~~code enforcement authority or law enforcement authority for a~~  
350 ~~violation of this section.~~

351 ~~(2) Persons holding valid peddlers' licenses issued by~~  
352 ~~appropriate governmental entities may make sales from vehicles~~  
353 ~~standing on the right-of-way to occupants of abutting property~~  
354 ~~only.~~

355 ~~(2)(3)~~ The Department of Highway Safety and Motor Vehicles  
356 and other law enforcement agencies are authorized and directed  
357 to enforce this statute.

358 ~~(3)(4)~~ Camping is prohibited on any portion of the right-  
359 of-way of the State Highway System that is within 100 feet of a  
360 bridge, causeway, overpass, or ramp.



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361           ~~(4)-(5)~~ The violation of any provision of this section or  
362 any rule promulgated by the department pursuant to this section  
363 constitutes a misdemeanor of the second degree, punishable as  
364 provided in s. 775.082 or s. 775.083, and each day a violation  
365 continues to exist constitutes a separate offense.

366           Section 43. Section 373.413, Florida Statutes, is amended  
367 to read:

368           373.413 Permits for construction or alteration.—

369           (1) Except for the exemptions set forth herein, the  
370 governing board or the department may require such permits and  
371 impose such reasonable conditions as are necessary to assure  
372 that the construction or alteration of any stormwater management  
373 system, dam, impoundment, reservoir, appurtenant work, or works  
374 will comply with the provisions of this part and applicable  
375 rules promulgated thereto and will not be harmful to the water  
376 resources of the district. The department or the governing board  
377 may delineate areas within the district wherein permits may be  
378 required.

379           (2) A person proposing to construct or alter a stormwater  
380 management system, dam, impoundment, reservoir, appurtenant  
381 work, or works subject to such permit shall apply to the  
382 governing board or department for a permit authorizing such  
383 construction or alteration. The application shall contain the  
384 following:

385           (a) Name and address of the applicant.

386           (b) Name and address of the owner or owners of the land  
387 upon which the works are to be constructed and a legal  
388 description of such land.

389           (c) Location of the work.



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390 (d) Sketches of construction pending tentative approval.  
391 (e) Name and address of the person who prepared the plans  
392 and specifications of construction.  
393 (f) Name and address of the person who will construct the  
394 proposed work.  
395 (g) General purpose of the proposed work.  
396 (h) Such other information as the governing board or  
397 department may require.  
398 (3) After receipt of an application for a permit, the  
399 governing board or department shall publish notice of the  
400 application by sending a notice to any persons who have filed a  
401 written request for notification of any pending applications  
402 affecting the particular designated area. Such notice may be  
403 sent by regular mail. The notice shall contain the name and  
404 address of the applicant; a brief description of the proposed  
405 activity, including any mitigation; the location of the proposed  
406 activity, including whether it is located within an Outstanding  
407 Florida Water or aquatic preserve; a map identifying the  
408 location of the proposed activity subject to the application; a  
409 depiction of the proposed activity subject to the application; a  
410 name or number identifying the application and the office where  
411 the application can be inspected; and any other information  
412 required by rule.  
413 (4) In addition to the notice required by subsection (3),  
414 the governing board or department may publish, or require an  
415 applicant to publish at the applicant's expense, in a newspaper  
416 of general circulation within the affected area, a notice of  
417 receipt of the application and a notice of intended agency  
418 action. This subsection does not limit the discretionary



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419 authority of the department or the governing board of a water  
420 management district to publish, or to require an applicant to  
421 publish at the applicant's expense, any notice under this  
422 chapter. The governing board or department shall also provide  
423 notice of this intended agency action to the applicant and to  
424 persons who have requested a copy of the intended agency action  
425 for that specific application.

426 (5) The governing board or department may charge a  
427 subscription fee to any person who has filed a written request  
428 for notification of any pending applications to cover the cost  
429 of duplication and mailing charges.

430 (6) It is the intent of the Legislature that the governing  
431 board or department exercise flexibility in the permitting of  
432 stormwater management systems associated with the construction  
433 or alteration of systems serving state transportation projects  
434 and facilities. Because of the unique limitations of linear  
435 facilities, the governing board or department shall take the  
436 expenditure of public funds for stormwater treatment for state  
437 transportation projects and facilities into account and balance  
438 the costs and benefits to the public. If it is found to be cost-  
439 effective and prudent, the regionalization of stormwater  
440 treatment shall be considered. In addition, the Department of  
441 Transportation is not responsible for the abatement of  
442 pollutants and flows entering its stormwater management systems  
443 from offsite sources or for updating stormwater permits for  
444 adjacent lands impacted by right-of-way acquisition from public  
445 transportation projects; however, this subsection does not  
446 prohibit the Department of Transportation from receiving and  
447 managing such pollutants and flows when it is found to be cost-



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448 effective and prudent. To accomplish this, the governing board  
449 or department may establish rules for these activities.

450 Section 44. Subsections (1), (2), (3), (4), and (5) of  
451 section 373.4137, Florida Statutes, are amended to read:

452 373.4137 Mitigation requirements for specified  
453 transportation projects.—

454 (1) The Legislature finds that environmental mitigation for  
455 the impact of transportation projects proposed by the Department  
456 of Transportation or a transportation authority established  
457 pursuant to chapter 348 or chapter 349 can be more effectively  
458 achieved by regional, long-range mitigation planning rather than  
459 on a project-by-project basis. It is the intent of the  
460 Legislature that mitigation to offset the adverse effects of  
461 these transportation projects be funded by the Department of  
462 Transportation and be carried out by the water management  
463 districts, including the use of mitigation banks and any other  
464 mitigation options that satisfy state and federal requirements  
465 ~~established pursuant to this part.~~

466 (2) Environmental impact inventories for transportation  
467 projects proposed by the Department of Transportation or a  
468 transportation authority established pursuant to chapter 348 or  
469 chapter 349 shall be developed as follows:

470 (a) By July 1 of each year, the Department of  
471 Transportation or a transportation authority established  
472 pursuant to chapter 348 or chapter 349 which chooses to  
473 participate in this program shall submit to the water management  
474 districts a list ~~copy~~ of its projects in the adopted work  
475 program and an environmental impact inventory of habitats  
476 addressed in the rules adopted pursuant to this part and s. 404



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477 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted  
478 by its plan of construction for transportation projects in the  
479 next 3 years of the tentative work program. The Department of  
480 Transportation or a transportation authority established  
481 pursuant to chapter 348 or chapter 349 may also include in its  
482 environmental impact inventory the habitat impacts of any future  
483 transportation project. The Department of Transportation and  
484 each transportation authority established pursuant to chapter  
485 348 or chapter 349 may fund any mitigation activities for future  
486 projects using current year funds.

487 (b) The environmental impact inventory shall include a  
488 description of these habitat impacts, including their location,  
489 acreage, and type; state water quality classification of  
490 impacted wetlands and other surface waters; any other state or  
491 regional designations for these habitats; and a list ~~survey~~ of  
492 threatened species, endangered species, and species of special  
493 concern affected by the proposed project.

494 (3) (a) To fund development and implementation of the  
495 mitigation plan for the projected impacts identified in the  
496 environmental impact inventory described in subsection (2), the  
497 Department of Transportation shall identify funds quarterly in  
498 an escrow account within the State Transportation Trust Fund for  
499 the environmental mitigation phase of projects budgeted by the  
500 Department of Transportation for the current fiscal year. The  
501 escrow account shall be maintained by the Department of  
502 Transportation for the benefit of the water management  
503 districts. Any interest earnings from the escrow account shall  
504 remain with the Department of Transportation.

505 (b) Each transportation authority established pursuant to



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506 chapter 348 or chapter 349 that chooses to participate in this  
507 program shall create an escrow account within its financial  
508 structure and deposit funds in the account to pay for the  
509 environmental mitigation phase of projects budgeted for the  
510 current fiscal year. The escrow account shall be maintained by  
511 the authority for the benefit of the water management districts.  
512 Any interest earnings from the escrow account shall remain with  
513 the authority.

514 (c) Except for current mitigation projects in the  
515 monitoring and maintenance phase and except as allowed by  
516 paragraph (d), the water management districts may request a  
517 transfer of funds from an escrow account no sooner than 30 days  
518 prior to the date the funds are needed to pay for activities  
519 associated with development or implementation of the approved  
520 mitigation plan described in subsection (4) for the current  
521 fiscal year, including, but not limited to, design, engineering,  
522 production, and staff support. Actual conceptual plan  
523 preparation costs incurred before plan approval may be submitted  
524 to the Department of Transportation or the appropriate  
525 transportation authority each year with the plan. The conceptual  
526 plan preparation costs of each water management district will be  
527 paid from mitigation funds associated with the environmental  
528 impact inventory for the current year. The amount transferred to  
529 the escrow accounts each year by the Department of  
530 Transportation and participating transportation authorities  
531 established pursuant to chapter 348 or chapter 349 shall  
532 correspond to a cost per acre of \$75,000 multiplied by the  
533 projected acres of impact identified in the environmental impact  
534 inventory described in subsection (2). However, the \$75,000 cost



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535 per acre does not constitute an admission against interest by  
536 the state or its subdivisions nor is the cost admissible as  
537 evidence of full compensation for any property acquired by  
538 eminent domain or through inverse condemnation. Each July 1, the  
539 cost per acre shall be adjusted by the percentage change in the  
540 average of the Consumer Price Index issued by the United States  
541 Department of Labor for the most recent 12-month period ending  
542 September 30, compared to the base year average, which is the  
543 average for the 12-month period ending September 30, 1996. Each  
544 quarter, the projected acreage of impact shall be reconciled  
545 with the acreage of impact of projects as permitted, including  
546 permit modifications, pursuant to this part and s. 404 of the  
547 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer  
548 of funds shall be adjusted accordingly to reflect the acreage of  
549 impacts as permitted. The Department of Transportation and  
550 participating transportation authorities established pursuant to  
551 chapter 348 or chapter 349 are authorized to transfer such funds  
552 from the escrow accounts to the water management districts to  
553 carry out the mitigation programs. Environmental mitigation  
554 funds that are identified or maintained in an escrow account for  
555 the benefit of a water management district may be released if  
556 the associated transportation project is excluded in whole or  
557 part from the mitigation plan. For a mitigation project that is  
558 in the maintenance and monitoring phase, the water management  
559 district may request and receive a one-time payment based on the  
560 project's expected future maintenance and monitoring costs. Upon  
561 disbursement of the final maintenance and monitoring payment,  
562 the obligation of the department or the participating  
563 transportation authority is satisfied, the water management



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564 district has the continuing responsibility for the mitigation  
565 project, and the escrow account for the project established by  
566 the Department of Transportation or the participating  
567 transportation authority may be closed. Any interest earned on  
568 these disbursed funds shall remain with the water management  
569 district and must be used as authorized under this section.

570 (d) Beginning in the 2005-2006 fiscal year, each water  
571 management district shall be paid a lump-sum amount of \$75,000  
572 per acre, adjusted as provided under paragraph (c), for  
573 federally funded transportation projects that are included on  
574 the environmental impact inventory and that have an approved  
575 mitigation plan. Beginning in the 2009-2010 fiscal year, each  
576 water management district shall be paid a lump-sum amount of  
577 \$75,000 per acre, adjusted as provided under paragraph (c), for  
578 federally funded and nonfederally funded transportation projects  
579 that have an approved mitigation plan. All mitigation costs,  
580 including, but not limited to, the costs of preparing conceptual  
581 plans and the costs of design, construction, staff support,  
582 future maintenance, and monitoring the mitigated acres shall be  
583 funded through these lump-sum amounts.

584 (4) Prior to March 1 of each year, each water management  
585 district, in consultation with the Department of Environmental  
586 Protection, the United States Army Corps of Engineers, the  
587 Department of Transportation, participating transportation  
588 authorities established pursuant to chapter 348 or chapter 349,  
589 and other appropriate federal, state, and local governments, and  
590 other interested parties, including entities operating  
591 mitigation banks, shall develop a plan for the primary purpose  
592 of complying with the mitigation requirements adopted pursuant



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593 to this part and 33 U.S.C. s. 1344. In developing such plans,  
594 the districts shall utilize sound ecosystem management practices  
595 to address significant water resource needs and shall focus on  
596 activities of the Department of Environmental Protection and the  
597 water management districts, such as surface water improvement  
598 and management (SWIM) projects and lands identified for  
599 potential acquisition for preservation, restoration or  
600 enhancement, and the control of invasive and exotic plants in  
601 wetlands and other surface waters, to the extent that such  
602 activities comply with the mitigation requirements adopted under  
603 this part and 33 U.S.C. s. 1344. In determining the activities  
604 to be included in such plans, the districts shall also consider  
605 the purchase of credits from public or private mitigation banks  
606 permitted under s. 373.4136 and associated federal authorization  
607 and shall include such purchase as a part of the mitigation plan  
608 when such purchase would offset the impact of the transportation  
609 project, provide equal benefits to the water resources than  
610 other mitigation options being considered, and provide the most  
611 cost-effective mitigation option. The mitigation plan shall be  
612 submitted to the water management district governing board, or  
613 its designee, for review and approval. At least 14 days prior to  
614 approval, the water management district shall provide a copy of  
615 the draft mitigation plan to any person who has requested a  
616 copy.

617 (a) For each transportation project with a funding request  
618 for the next fiscal year, the mitigation plan must include a  
619 brief explanation of why a mitigation bank was or was not chosen  
620 as a mitigation option, including an estimation of identifiable  
621 costs of the mitigation bank and nonbank options to the extent



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622 practicable.

623 (b) Specific projects may be excluded from the mitigation  
624 plan, in whole or in part, and are ~~shall not be~~ subject to this  
625 section upon the election agreement of the Department of  
626 Transportation, ~~or a transportation authority,~~ if applicable, or  
627 ~~and the appropriate water management district that the inclusion~~  
628 ~~of such projects would hamper the efficiency or timeliness of~~  
629 ~~the mitigation planning and permitting process. The water~~  
630 ~~management district may choose to exclude a project in whole or~~  
631 ~~in part if the district is unable to identify mitigation that~~  
632 ~~would offset impacts of the project.~~

633 (5) The water management district shall ensure ~~be~~  
634 ~~responsible for ensuring~~ that mitigation requirements pursuant  
635 to 33 U.S.C. s. 1344 are met for the impacts identified in the  
636 environmental impact inventory described in subsection (2), by  
637 implementation of the approved plan described in subsection (4)  
638 to the extent funding is provided by the Department of  
639 Transportation, or a transportation authority established  
640 pursuant to chapter 348 or chapter 349, if applicable. During  
641 the federal permitting process, the water management district  
642 may deviate from the approved mitigation plan in order to comply  
643 with federal permitting requirements.

644 Section 45. Paragraph (c) of subsection (1) of section  
645 374.976, Florida Statutes, is amended to read:

646 374.976 Authority to address impacts of waterway  
647 development projects.—

648 (1) Each inland navigation district is empowered and  
649 authorized to undertake programs intended to alleviate the  
650 problems associated with its waterway or waterways, including,



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651 but not limited to, the following:

652 (c) The district is authorized to aid and cooperate with  
653 the Federal Government; state; member counties; nonmember  
654 counties that contain any part of the intracoastal waterway  
655 within their boundaries; navigation districts; the seaports of  
656 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm  
657 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,  
658 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and  
659 Fernandina; and local governments within the district in  
660 planning and carrying out public navigation, local and regional  
661 anchorage management, beach renourishment, public recreation,  
662 inlet management, environmental education, and boating safety  
663 projects, directly related to the waterways. The district is  
664 also authorized to enter into cooperative agreements with the  
665 United States Army Corps of Engineers, state, and member  
666 counties, and to covenant in any such cooperative agreement to  
667 pay part of the costs of acquisition, planning, development,  
668 construction, reconstruction, extension, improvement, operation,  
669 and maintenance of such projects.

670 Section 46. Subsection (9) of section 403.021, Florida  
671 Statutes, is amended to read:

672 403.021 Legislative declaration; public policy.—

673 (9) (a) The Legislature finds and declares that it is  
674 essential to preserve and maintain authorized water depth in the  
675 existing navigation channels, port harbors, turning basins, and  
676 harbor berths of this state in order to provide for the  
677 continued safe navigation of deepwater shipping commerce. The  
678 department shall recognize that maintenance of authorized water  
679 depths consistent with port master plans developed pursuant to



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680 s. 163.3178(2)(k) is an ongoing, continuous, beneficial, and  
681 necessary activity that is in the public interest; and it shall  
682 develop a regulatory process that shall enable the ports of this  
683 state to conduct such activities in an environmentally sound,  
684 safe, expeditious, and cost-efficient manner. It is the further  
685 intent of the Legislature that the permitting and enforcement of  
686 dredging, dredged-material management, and other related  
687 activities for Florida's deepwater ports pursuant to this  
688 chapter and chapters 161, 253, and 373 shall be consolidated  
689 within the department's Division of Water Resource Management  
690 and, with the concurrence of the affected deepwater port or  
691 ports, may be administered by a district office of the  
692 department or delegated to an approved local environmental  
693 program.

694 (b) The provisions of paragraph (a) apply only to the port  
695 waters, dredged-material management sites, port harbors,  
696 navigation channels, turning basins, and harbor berths used for  
697 deepwater commercial navigation in the ports of Jacksonville,  
698 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
699 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
700 Petersburg, Pensacola, Fernandina, and Key West.

701 Section 47. Subsection (26) of section 403.061, Florida  
702 Statutes, is amended to read:

703 403.061 Department; powers and duties.—The department shall  
704 have the power and the duty to control and prohibit pollution of  
705 air and water in accordance with the law and rules adopted and  
706 promulgated by it and, for this purpose, to:

707 (26) (a) Develop standards and criteria for waters used for  
708 deepwater shipping which standards and criteria consider



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709 existing water quality; appropriate mixing zones and other  
710 requirements for maintenance dredging in previously constructed  
711 deepwater navigation channels, port harbors, turning basins, or  
712 harbor berths; and appropriate mixing zones for disposal of  
713 spoil material from dredging and, where necessary, develop a  
714 separate classification for such waters. Such classification,  
715 standards, and criteria shall recognize that the present  
716 dedicated use of these waters is for deepwater commercial  
717 navigation.

718 (b) The provisions of paragraph (a) apply only to the port  
719 waters, spoil disposal sites, port harbors, navigation channels,  
720 turning basins, and harbor berths used for deepwater commercial  
721 navigation in the ports of Jacksonville, Tampa, Port Everglades,  
722 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port  
723 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,  
724 Florida Power Corporation's Crystal River Canal, Boca Grande,  
725 Green Cove Springs, and Pensacola.

726  
727 The department shall implement such programs in conjunction with  
728 its other powers and duties and shall place special emphasis on  
729 reducing and eliminating contamination that presents a threat to  
730 humans, animals or plants, or to the environment.

731 Section 48. Subsection (3) of section 403.813, Florida  
732 Statutes, is amended to read:

733 403.813 Permits issued at district centers; exceptions.—

734 (3) For maintenance dredging conducted under this section  
735 by the seaports of Jacksonville, Port Canaveral, Port Citrus,  
736 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
737 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key



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738 West, and Fernandina or by inland navigation districts:

739 (a) A mixing zone for turbidity is granted within a 150-  
740 meter radius from the point of dredging while dredging is  
741 ongoing, except that the mixing zone may not extend into areas  
742 supporting wetland communities, submerged aquatic vegetation, or  
743 hardbottom communities.

744 (b) The discharge of the return water from the site used  
745 for the disposal of dredged material shall be allowed only if  
746 such discharge does not result in a violation of water quality  
747 standards in the receiving waters. The return-water discharge  
748 into receiving waters shall be granted a mixing zone for  
749 turbidity within a 150-meter radius from the point of discharge  
750 during and immediately after the dredging, except that the  
751 mixing zone may not extend into areas supporting wetland  
752 communities, submerged aquatic vegetation, or hardbottom  
753 communities.

754 (c) The state may not exact a charge for material that this  
755 subsection allows a public port or an inland navigation district  
756 to remove.

757 (d) The use of flocculants at the site used for disposal of  
758 the dredged material is allowed if the use, including supporting  
759 documentation, is coordinated in advance with the department and  
760 the department has determined that the use is not harmful to  
761 water resources.

762 (e) This subsection does not prohibit maintenance dredging  
763 of areas where the loss of original design function and  
764 constructed configuration has been caused by a storm event,  
765 provided that the dredging is performed as soon as practical  
766 after the storm event. Maintenance dredging that commences



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767 within 3 years after the storm event shall be presumed to  
768 satisfy this provision. If more than 3 years are needed to  
769 commence the maintenance dredging after the storm event, a  
770 request for a specific time extension to perform the maintenance  
771 dredging shall be submitted to the department, prior to the end  
772 of the 3-year period, accompanied by a statement, including  
773 supporting documentation, demonstrating that contractors are not  
774 available or that additional time is needed to obtain  
775 authorization for the maintenance dredging from the United  
776 States Army Corps of Engineers.

777 Section 49. Section 403.816, Florida Statutes, is amended  
778 to read:

779 403.816 Permits for maintenance dredging of deepwater ports  
780 and beach restoration projects.—

781 (1) The department shall establish a permit system under  
782 this chapter and chapter 253 which provides for the performance,  
783 for up to 25 years from the issuance of the original permit, of  
784 maintenance dredging of permitted navigation channels, port  
785 harbors, turning basins, harbor berths, and beach restoration  
786 projects approved pursuant to chapter 161. However, permits  
787 issued for dredging river channels which are not a part of a  
788 deepwater port shall be valid for no more than five years. No  
789 charge shall be exacted by the state for material removed during  
790 such maintenance dredging by a public port authority.

791 (2) The provisions of s. 253.77 do not apply to a permit  
792 for maintenance dredging and spoil site approval when there is  
793 no change in the size or location of the spoil disposal site and  
794 when the applicant provides documentation to the department that  
795 the appropriate lease, easement, or consent of use for the



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796 project site issued pursuant to chapter 253 is recorded in the  
797 county where the project is located.

798 (3) The provisions of this section relating to ports apply  
799 only to the port waters, spoil disposal sites, port harbors,  
800 navigation channels, turning basins, and harbor berths used for  
801 deepwater commercial navigation in the ports of Jacksonville,  
802 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
803 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
804 Petersburg, Port Bartow, Florida Power Corporation's Crystal  
805 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

806  
807

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

809 And the title is amended as follows:

810 Delete line 76

811 and insert:

812 changes made by the act; amending s. 310.002, F.S.;

813 redefining the term "port" to include Port Citrus;

814 amending s. 311.09, F.S.; including a representative

815 of Port Citrus as a member of the Florida Seaport

816 Transportation and Economic Development Council;

817 amending s. 316.075, F.S.; providing for minimum

818 yellow light change interval times for traffic control

819 devices; amending s. 316.0083, F.S.; prohibiting the

820 issuance of a traffic citation for certain traffic

821 light violations unless the light meets specified

822 requirements; repealing s. 316.2045, F.S., relating to

823 obstruction of public streets, highways, and roads;

824 creating s. 316.2046, F.S., relating to obstruction of



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825 public streets, highways, and roads; providing  
826 legislative findings; defining the term "solicit";  
827 requiring a permit in order to obstruct the use of any  
828 public street, highway, or road when that obstruction  
829 may endanger the safe movement of vehicles or  
830 pedestrians; requiring each county or municipality to  
831 adopt a permitting process that protects public safety  
832 but does not impair the rights of free speech;  
833 providing criteria for the permitting process;  
834 limiting the cost of the permit to the amount required  
835 to administer the permitting process; prohibiting the  
836 denial of a permit due to lack of funds, as attested  
837 to by a signed affidavit; providing for jurisdiction  
838 over non-limited access state roads, and local roads,  
839 streets, and highways for counties and municipalities;  
840 providing exceptions; providing that a violation of  
841 the act is a pedestrian violation, punishable under  
842 ch. 318, F.S.; providing for an additional fine;  
843 providing for the disposition of moneys collected;  
844 providing for enforcement by the Department of Highway  
845 Safety and Motor Vehicles and other law enforcement  
846 agencies; creating s. 316.2047, F.S., relating to  
847 panhandling; providing legislative findings; defining  
848 terms; prohibiting aggressive panhandling, panhandling  
849 under certain circumstances, and fraudulent  
850 panhandling; authorizing counties and municipalities  
851 to increase the restrictions on panhandling under  
852 certain conditions; providing that a violation of the  
853 act is a pedestrian violation, punishable under ch.



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854 318, F.S.; providing for an additional fine; providing  
855 for the disposition of moneys collected; providing for  
856 enforcement by the Department of Highway Safety and  
857 Motor Vehicles and other law enforcement agencies;  
858 amending s. 316.302, F.S.; providing that certain  
859 restrictions on the number of consecutive hours that a  
860 commercial motor vehicle may operate do not apply to a  
861 farm labor vehicle operated during a state of  
862 emergency or during an emergency pertaining to  
863 agriculture; amending s. 334.044, F.S.; revising the  
864 types of transportation projects for which landscaping  
865 materials must be purchased; limiting the amount of  
866 funds that may be allocated for such purchases;  
867 amending s. 337.406, F.S.; removing the Department of  
868 Transportation's authority to provide exceptions to  
869 the unlawful use of the right-of-way of any state  
870 transportation facility; broadening provisions to  
871 prohibit the unlawful use of any limited access  
872 highway; removing an exception to prohibited uses  
873 provided for art festivals, parades, fairs, or other  
874 special events; removing a local government's  
875 authority to issue certain permits; authorizing  
876 counties and municipalities to regulate the use of  
877 transportation facilities within their respective  
878 jurisdictions, with the exception of limited access  
879 highways; authorizing the Department of Transportation  
880 to regulate the use of welcome centers and rest stops;  
881 removing provisions authorizing valid peddler  
882 licensees to make sales from vehicles standing on the



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883 rights-of-way of welcome centers and rest stops;  
884 amending s. 373.413, F.S.; providing legislative  
885 intent regarding flexibility in the permitting of  
886 stormwater management systems; requiring the cost of  
887 stormwater treatment for a transportation project to  
888 be balanced with benefits to the public; absolving the  
889 Department of Transportation of responsibility for the  
890 abatement of pollutants entering its stormwater  
891 facilities from offsite sources and from updating  
892 permits for adjacent lands impacted by right-of-way  
893 acquisition; authorizing the water management  
894 districts and the department to adopt rules; amending  
895 s. 373.4137, F.S.; revising mitigation requirements  
896 for transportation projects to include other  
897 nonspecified mitigation options; providing for the  
898 release of escrowed mitigation funds under certain  
899 circumstances; providing for the exclusion of projects  
900 from a mitigation plan upon the election of one or  
901 more agencies rather than the agreement of all  
902 parties; amending s. 374.976, F.S.; conforming  
903 provisions to include Port Citrus in provisions  
904 relating to the authority of inland navigation  
905 districts; amending s. 403.021, F.S.; conforming  
906 provisions to include Port Citrus in legislative  
907 declarations relating to environmental control;  
908 amending s. 403.061, F.S.; conforming provisions to  
909 include Port Citrus in provisions relating to powers  
910 of the Department of Environmental Protection;  
911 amending s. 403.813, F.S.; conforming provisions to



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912 include Port Citrus in provisions relating to permits  
913 issued at Department of Environmental Protection  
914 district centers; amending s. 403.816, F.S.;  
915 conforming provisions to include Port Citrus in  
916 provisions relating to certain maintenance projects at  
917 deepwater ports and beach restoration projects;  
918 providing an effective date.

919  
920 WHEREAS, the state has a significant and substantial  
921 interest in vehicular and pedestrian safety and the free flow of  
922 traffic, and

923 WHEREAS, studies have shown that Florida is one of the most  
924 dangerous states in the country for pedestrians, and

925 WHEREAS, while the streets may have been the natural and  
926 proper places for the public dissemination of information prior  
927 to the advent of the automobile, the streets, highways, and  
928 roads of this state are now used primarily for transportation,  
929 and

930 WHEREAS, obstructing the flow of pedestrian traffic on a  
931 sidewalk can cause pedestrians to enter into the roadway and is  
932 a serious threat to public safety, and

933 WHEREAS, the current permitting provisions curtail behavior  
934 only on sidewalks and streets, which is a danger to public  
935 safety, and

936 WHEREAS, the provisions of this act directed toward  
937 ordinary panhandling are designed to promote public safety,  
938 including minimizing panhandling in transit systems or in areas  
939 where panhandling is likely to intimidate persons who are  
940 solicited, and



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941           WHEREAS, aggressive panhandling may obstruct the free flow  
942 of traffic when carried out in or adjacent to a roadway, may  
943 intimidate citizens who may choose to avoid certain public areas  
944 or give money to panhandlers in order to avoid an escalation of  
945 aggressive behavior, and generally threatens public safety and  
946 diminishes the quality of life for residents and tourists alike,  
947 and

948           WHEREAS, an important public purpose is served when the  
949 public safety is protected in keeping with rights granted by the  
950 First Amendment to the United States Constitution, NOW,  
951 THEREFORE,



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LEGISLATIVE ACTION

Senate	.	House
	.	
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The Committee on Transportation (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 519 and 520

insert:

Section 9. Section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) When a ~~Any utility heretofore or hereafter~~ placed upon, under, over, or along any public road or publicly owned rail corridor ~~that~~ is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion,



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13 of such public road or publicly owned rail corridor, the utility  
14 owner shall, upon 30 days' written notice to the utility or its  
15 agent by the authority, initiate the work necessary to alleviate  
16 the interference ~~be removed or relocated by such utility~~ at its  
17 own expense except as provided in paragraphs (a)-(f). The work  
18 shall be completed within such time as stated in the notice or  
19 such time as is agreed to by the authority and the utility  
20 owner.

21 (a) If the relocation of utility facilities, as referred to  
22 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.  
23 627 of the 84th Congress, is necessitated by the construction of  
24 a project on the federal-aid interstate system, including  
25 extensions thereof within urban areas, and the cost of the  
26 project is eligible and approved for reimbursement by the  
27 Federal Government to the extent of 90 percent or more under the  
28 Federal Aid Highway Act, or any amendment thereof, then in that  
29 event the utility owning or operating such facilities shall  
30 perform any necessary work ~~relocate the facilities~~ upon notice  
31 from ~~order of~~ the department, and the state shall pay the entire  
32 expense properly attributable to such work ~~relocation~~ after  
33 deducting therefrom any increase in the value of any ~~the~~ new  
34 facility and any salvage value derived from any ~~the~~ old  
35 facility.

36 (b) When a joint agreement between the department and the  
37 utility is executed for utility ~~improvement, relocation, or~~  
38 ~~removal~~ work to be accomplished as part of a contract for  
39 construction of a transportation facility, the department may  
40 participate in those utility work ~~improvement, relocation, or~~  
41 ~~removal~~ costs that exceed the department's official estimate of



42 the cost of the work by more than 10 percent. The amount of such  
43 participation shall be limited to the difference between the  
44 official estimate of all the work in the joint agreement plus 10  
45 percent and the amount awarded for this work in the construction  
46 contract for such work. The department may not participate in  
47 any utility work ~~improvement, relocation, or removal~~ costs that  
48 occur as a result of changes or additions during the course of  
49 the contract.

50 (c) When an agreement between the department and utility is  
51 executed for utility ~~improvement, relocation, or removal~~ work to  
52 be accomplished in advance of a contract for construction of a  
53 transportation facility, the department may participate in the  
54 cost of clearing and grubbing necessary to perform such work.

55 (d) If the utility facility involved ~~being removed or~~  
56 ~~relocated~~ was initially installed to exclusively serve the  
57 department, its tenants, or both, the department shall bear the  
58 costs of the utility work ~~removing or relocating that utility~~  
59 ~~facility~~. However, the department is not responsible for bearing  
60 the cost of utility work related to ~~removing or relocating~~ any  
61 subsequent additions to that facility for the purpose of serving  
62 others.

63 (e) If, under an agreement between a utility and the  
64 authority entered into after July 1, 2009, the utility conveys,  
65 subordinates, or relinquishes a compensable property right to  
66 the authority for the purpose of accommodating the acquisition  
67 or use of the right-of-way by the authority, without the  
68 agreement expressly addressing future responsibility for the  
69 cost of necessary utility work ~~removing or relocating the~~  
70 ~~utility~~, the authority shall bear the cost of removal or



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71 relocation. This paragraph does not impair or restrict, and may  
72 not be used to interpret, the terms of any such agreement  
73 entered into before July 1, 2009.

74 (f) If the utility is an electric facility being relocated  
75 underground in order to enhance vehicular, bicycle, and  
76 pedestrian safety and in which ownership of the electric  
77 facility to be placed underground has been transferred from a  
78 private to a public utility within the past 5 years, the  
79 department shall incur all costs of the necessary utility work  
80 relocation.

81 (2) If such utility work ~~removal or relocation~~ is  
82 incidental to work to be done on such road or publicly owned  
83 rail corridor, the notice shall be given at the same time the  
84 contract for the work is advertised for bids, or no less than 30  
85 days prior to the commencement of such work by the authority  
86 whichever is greater.

87 (3) Whenever the notice from ~~an order of~~ the authority  
88 requires such utility work ~~removal or change in the location of~~  
89 ~~any utility from the right-of-way of a public road or publicly~~  
90 ~~owned rail corridor~~, and the owner thereof fails to perform the  
91 work ~~remove or change the same~~ at his or her own expense ~~to~~  
92 ~~conform to the order~~ within the time stated in the notice or  
93 such other time as agreed to by the authority and the utility  
94 owner, the authority shall proceed to cause the utility work to  
95 be performed ~~to be removed~~. The expense thereby incurred shall  
96 be paid out of any money available therefor, and such expense  
97 shall, except as provided in subsection (1), be charged against  
98 the owner and levied and collected and paid into the fund from  
99 which the expense of such relocation was paid.



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100 Section 10. Subsection (1) of section 337.404, Florida  
101 Statutes, is amended to read:

102 337.404 Removal or relocation of utility facilities; notice  
103 and order; court review.—

104 (1) Whenever it shall become necessary for the authority to  
105 perform utility work ~~remove or relocate any utility~~ as provided  
106 in the preceding section, the owner of the utility, or the  
107 owner's chief agent, shall be given notice that the authority  
108 will perform ~~of such work removal or relocation~~ and, after the  
109 work is complete, shall be given an order requiring the payment  
110 of the cost thereof, and a ~~shall be given~~ reasonable time, which  
111 shall not be less than 20 nor more than 30 days, in which to  
112 appear before the authority to contest the reasonableness of the  
113 order. Should the owner or the owner's representative not  
114 appear, the determination of the cost to the owner shall be  
115 final. Authorities considered agencies for the purposes of  
116 chapter 120 shall adjudicate removal or relocation of utilities  
117 pursuant to chapter 120.

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 line 30

122 and insert:

123 an installation site at the highway rest areas;  
124 amending s. 337.403, F.S.; specifying a utility owner  
125 must initiate work necessary to alleviate unreasonable  
126 interference under certain circumstances; amending s.  
127 337.404, F.S.; revising notice and order requirements  
128 relating to utility work; repealing

**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 Transportation Committee

BILL: SB 1180

INTRODUCER: Senator Latvala

SUBJECT: Transportation

DATE: March 17, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

**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;
- 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;
- authorizes use of additional forms of financial securities required prior to the installation of military monuments or memorials in rest areas;
- restores title of ch. 338, F.S., to pre-Florida Intrastate Highway System title; i.e., Limited Access and Toll Facilities;
- repeals the Florida Intrastate Highway System as a separate statewide highway network;
- repeals s. 338.001, F.S., the Florida Intrastate Highway System Plan;
- moves provision for the designation and function of limited access facilities to s. 338.01, F.S.;
- moves the current Florida Intrastate Highway System Plan language to chapter 339, F.S., 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;
- 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, 288.063, 311.07, 311.09, 316.2122, 316.3025, 316.515, 334.03, 334.044, 334.047, 336.01, 336.021, 336.025, 337.111, 338.01, 338.222, 338.227, 338.2275, 338.228, 338.234, 339.155, 339.62, 339.63, 339.64, 341.8225, 341.840, 479.01, 479.07, and 479.261.

This bill creates the following sections of the Florida Statutes: 339.65

This bill repeals the following section of the Florida Statutes: 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.

### **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.

### **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.

### **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.

**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. 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 3: Amends s. 334.03, F.S., deleting definitions for the following terms:

- |                                                                                                                                          |                                                                                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• arterial road</li> <li>• collector road</li> <li>• local road</li> <li>• urban minor</li> </ul> | <ul style="list-style-type: none"> <li>• arterial road</li> <li>• urban principal arterial road</li> <li>• Florida Intrastate Highway System</li> </ul> |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|

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.:

- |                                                                                                      |                                                                                                               |
|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• City street system</li> <li>• county road system</li> </ul> | <ul style="list-style-type: none"> <li>• functional classification</li> <li>• State Highway System</li> </ul> |
|------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|

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;
- 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 4: 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 5: 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 6: 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.

Section 7: 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.

Section 8: 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.

Section 9: 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 18 of the bill), thereby grouping FDOT’s highway planning provisions with the majority of SIS provisions.

Section 10: 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 11 through 15 correct various cross-references:

- *Section 11* 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 12* 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. 339.64, F.S.
- *Section 13* 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 14* 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.

- *Section 15* 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 16: 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 17: Amends s. 339.64, F.S., to repeal the obsolete SITAC and related provisions.

Section 18: 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 19: 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 20 through 32 correct various cross-references:

- *Section 20* amends s. 341.840, F.S., to replace references to the now repealed High Speed Rail Authority to the new Florida Rail Enterprise.
- *Section 21* 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 22* 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 23* 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 24* 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 25* repeals cross-references to s. 334.03, F.S., in s. 316.2122, F.S., made obsolete by the road system definitions revisions.
- *Section 26* 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 27* 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 28* 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 29* 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 30* 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 31* 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.
- *Section 32* 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.

Section 33: Provides an effective date of 7/1/11.

**Other Potential Implications:**

This proposal 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 2: 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 publicly 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.

Section 2: The provisions 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.

**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.

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

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780432

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Storms) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (4) and paragraph (c) of subsection (12) of section 713.78, Florida Statutes, are amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(4)

(c) Notice by certified mail shall be sent within 7 business days after the date of storage of the vehicle or vessel



780432

13 to the registered owner, the insurance company insuring the  
14 vehicle notwithstanding the provisions of s. 627.736, and all  
15 persons of record claiming a lien against the vehicle or vessel.  
16 It shall state the fact of possession of the vehicle or vessel,  
17 that a lien as provided in subsection (2) is claimed, that  
18 charges have accrued and the amount thereof, that the lien is  
19 subject to enforcement pursuant to law, and that the owner or  
20 lienholder, if any, has the right to a hearing as set forth in  
21 subsection (5), and that any vehicle or vessel which remains  
22 unclaimed, or for which the charges for recovery, towing, or  
23 storage services remain unpaid, may be sold free of all prior  
24 liens after 35 days if the vehicle or vessel is more than 3  
25 years of age or after 50 days if the vehicle or vessel is 3  
26 years of age or less. The envelope containing the notice must  
27 prominently state the name, address, and telephone number of the  
28 person claiming a lien and state "NOTICE OF TOWING LIEN" and, if  
29 a vehicle, the vehicle identification number.

30 (12)

31 (c) Any person who uses a false or fictitious name, gives a  
32 false or fictitious address, ~~or~~ makes any false statement, or  
33 knowingly makes a material omission in any document application  
34 or affidavit required by under the provisions of this section  
35 commits is guilty of a felony of the third degree, punishable as  
36 provided in s. 775.082, s. 775.083, or s. 775.084.

37 Section 2. This act shall take effect July 1, 2011.

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

40 And the title is amended as follows:

41 Delete everything before the enacting clause



780432

42 and insert:

43                                   A bill to be entitled  
44           An act relating to liens for recovering, towing, or  
45           storing vehicles or vessels; amending s. 713.78, F.S.;  
46           requiring certain lien notices to contain specific  
47           information on the envelope; providing penalties for a  
48           material omission of required information on a  
49           document; providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation (Storms) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete line 195  
and insert:

(11) (a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall apply to the county tax collector



940586

13 for a certificate of destruction. A certificate of destruction,  
14 which authorizes the dismantling or destruction of the vehicle  
15 or vessel described therein, shall be reassignable only to a  
16 licensed salvage motor vehicle dealer a maximum of two times  
17 before dismantling or destruction of the vehicle shall be  
18 required, and shall accompany the vehicle or vessel for which it  
19 is issued, when such vehicle or vessel is sold for such  
20 purposes, as required in s. 319.30, in lieu of a certificate of  
21 title. The application for a certificate of destruction must  
22 include an affidavit from the applicant that it has complied  
23 with all applicable requirements of this section and, if the  
24 vehicle or vessel is not registered in this state, by a  
25 statement from a law enforcement officer that the vehicle or  
26 vessel is not reported stolen, and shall be accompanied by such  
27 documentation as may be required by the department.

28  
29 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

30 And the directory clause is amended as follows:

31 Delete lines 23 - 24

32 and insert:

33 Section 1. Subsections (1), (4), (6), and (11), paragraph  
34 (d) of subsection (12),

35  
36 ===== T I T L E A M E N D M E N T =====

37 And the title is amended as follows:

38 Delete line 16

39 and insert:

40 sale; providing that a certificate of destruction may  
41 be reassigned only to a licensed salvage motor vehicle



940586

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dealer; removing duplicative provisions concerning

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1008

INTRODUCER: Senator Simmons

SUBJECT: Recovering, Towing, or Storing Vehicles or Vessels

DATE: March 16, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	CM	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Current law allows a company that recovers, tows, or stores a vehicle or vessel to have a lien against the vehicle or vessel for the costs of recovery, towing, and storage. If the charges remain unpaid, the company can sell the vehicle or vessel at a public sale. The company is responsible for sending notice of the pending sale to the owner and lienholders. This bill transfers responsibility for sending this notice from the company to the Department of Highway Safety and Motor Vehicles (DHSMV or department). Specifically, the bill requires DHSMV to send notices of liens to persons with an interest in a vehicle or vessel that is in the possession of a wrecker operator.

This bill amends ss. 713.78 and 715.07 of the Florida Statutes.

**II. Present Situation:**

**Liens for Recovering, Towing, or Storing Vehicles and Vessels**

Under s. 713.78(2), F.S., a wrecker operator has “a lien on the vehicle or vessel for a reasonable towing fee and for a reasonable storage fee.” The owner of the vehicle or vessel, however, may not be charged storage fees if the vehicle has been stored for less than 6 hours. When a wrecker operator tows and stores a vehicle or vessel, the wrecker operator must send notice to the registered owner, the insurance company insuring the vehicle, and all lienholders, as disclosed by state agency records.<sup>1</sup> When a wrecker operator removes a vehicle upon authorization of a law enforcement agency or from private property under the provisions of s. 715.07(2)(a)2., F.S., the

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<sup>1</sup> Section 713.78(4)(a), F.S.

wrecker operator must notify the “applicable” law enforcement agency which, in turn, contacts the Department of Highway Safety and Motor Vehicles (DHSMV) within 24 hours for the purpose of identifying the vehicle or vessel’s owner. The wrecker operator must obtain owner information from the law enforcement agency and send notice to the registered owner, insurance company, and all listed lienholders by certified mail within seven business days after the date of storage of the vehicle.<sup>2</sup> The notice must state that:

- the wrecker operator has taken possession of the vehicle or vessel;
- a lien is claimed by the towing-storage operator;
- the amount of the towing and storage charges accrued;
- the lien claimed is enforceable by law;
- the owner or other lienholder is entitled to a hearing to determine whether her or his property was wrongfully taken from her or him; and
- a vehicle or vessel which remains unclaimed, or for which recovery, towing, or storage charges remain unpaid, may be sold free of all prior liens after 35 days if the vehicle or vessel is more than three years old, or after 50 days if the vehicle or vessel is three years of age or less.

If unable to locate the name and address of the owner or lienholder, the wrecker operator must notify the local public agency of jurisdiction where the vehicle or vessel is stored by certified mail indicating the lack of ownership information.<sup>3</sup>

Vehicles or vessels remaining unclaimed may be sold by public auction by the wrecker operator for towing and storage charges.<sup>4</sup> For vehicles or vessels more than three years old, the sale may take place no sooner than 35 days from the time the vehicle or vessel was stored. For vehicles or vessels three years old or less, the sale may not take place sooner than 50 days from the time of storage.<sup>5</sup> If the date of the sale was not included in the initial notification to the owner and any lienholder, notice must be given by certified mail to the owner and any lienholder with the information no later than 15 days before the sale. Additionally, the sale must be advertised once in a general circulation newspaper, at least 10 days before the sale. Proceeds of the sale, less the towing and storage costs, and the cost of the sale, are deposited with the clerk of the circuit court if the owner is absent.<sup>6</sup> If the vehicle to be sold is to be dismantled, destroyed, or altered significantly, a wrecker operator must apply to the county tax collector for a certificate of destruction.<sup>7</sup> The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of s. 713.78, F.S., and, if the vehicle or vessel is not registered in Florida, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen. The application must also be accompanied by any such documentation as may be required by DHSMV.

A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, may be reassigned no more than twice before dismantling or destruction

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<sup>2</sup> Section 713.78(4)(c), F.S.

<sup>3</sup> Section 713.78(4)(d), F.S.

<sup>4</sup> Section 713.78(6), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Section 713.78(11), F.S.

of the vehicle shall be required. The certificate of destruction must accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title.

According to the U.S. Postal Service website, certified mail service provides the person or entity mailing the letter a receipt stamped with the date of mailing, a unique bar-code number allowing the mailer to verify delivery online, and assurances that the recipient's signature is obtained at the time of delivery and subsequently maintained by the local post office. This service costs \$2.80 in addition to the regular 44 cents postage.<sup>8</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 713.78, F.S., to delete the requirement for the towing-storing operator to provide notice, transferring the duty to DHSMV. Specifically, the bill requires DHSMV to send notices of liens to persons with an interest in a vehicle or vessel that is in the possession of a wrecker operator. The DHSMV will locate these individuals based on information supplied in an application from a wrecker operator. Existing law requires wrecker operators to send out these notices by certified mail.

The bill provides that the department must notify the towing-storage operator if the department is unable to locate the name and address of the owner or lienholder. Upon receipt of such notice, the towing-storing operator must make a "good faith effort" to determine ownership information. The towing-storage operator must send notice by certified mail to any potential owner, lienor, or insurance company discovered through the physical search and "good faith effort".

The DHSMV is authorized to charge wrecker operators \$4 per application, plus the service fees in s. 320.04, F.S. The service charges in s. 320.04, F.S., however, apply to the issuance of license plates, mobile home stickers, or validation stickers. As such, the service charges in s. 320.04, F.S., appear to be inapplicable to the applications described in the bill. Accordingly, the Legislature may wish to revise the bill to establish the application fee without a reference to s. 320.04, F.S.

In addition, the bill requires the towing, storage, or recovery operator that provided the services to maintain an invoice with the operator's signature or the signature of an employee attesting to the accuracy of the information on the invoice.

The bill also requires specific information to be included in the public notice published in a newspaper of the sale of a vehicle or vessel that will be sold for liens. That information must include: the vehicle or vessel identification number or hull number; and a description of the vehicle or vessel, including make, model, and year of manufacture. Existing law does not require any specific information to be included in the notice.

**Section 2** amends s. 715.07, F.S., to make technical changes and to conform a statutory cross-reference relating to s. 713.78(1), F.S., which will change as a result of the bill.

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<sup>8</sup> <http://www.usps.com/send/waystosendmail/extraservices/certifiedmailservice.htm>. (Last visited March 20, 2011)

**Section 3** provides an effective date of October 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:

The DHSMV is authorized to charge wrecker operators \$4 plus the service fees in s. 320.04, F.S., to send notices to persons with an interest in a vehicle or vessel. The service charges in s. 320.04, F.S., however, apply to the issuance of license plates, mobile home stickers, or validation stickers. As such, the service charges in s. 320.04, F.S., appear to be inapplicable to the applications described in the bill. Accordingly, the Legislature may wish to revise the bill to establish the application fee without a reference to s. 320.04, F.S.

B. Private Sector Impact:

The duty to mail notices is imposed by the bill on the DHSMV and removed from wrecker operators. Wrecker operators have to pay an application fee of \$4 plus a service charge to the DHSMV for mailing the notices.

The bill requires specific information to be printed in public notices in newspapers advertising the sale of vehicles to be sold for liens. No particular information is required under current law. If more information must be placed in the notices than is provided under current practices, costs for publishing the notices may increase.

C. Government Sector Impact:

The DHSMV will incur costs to process applications to send notices of liens. The DHSMV will also incur costs to mail the notices. The average vehicle may need to have 2-3 notices sent with some requiring more.

According to DSHMV, during FY 2009-10, there were 20,698 public tows that permitted a wrecker operator to place a lien on a vehicle or vessel. The DHSMV would receive an application fee of \$4 for each of these tows; however, the new duties to carry out the

notification process will require one additional position, programming costs, and postage costs. Based upon the number of public tows in FY 2009-10, it is projected that just the research and verification of insurance duties will take approximately 5 minutes per vehicle for a total of 1,725 man-hours. This equates to 1 additional FTE at the level of a Highway Safety Specialist. The assumptions stated above do not include private tows and the DHSMV has no way to estimate the number of such tows.<sup>9</sup>

The DHSMV estimates the following fiscal impact:<sup>10</sup>

<b><u>REVENUES:</u></b>	<b><u>FY 11-12</u></b>	<b><u>FY 12-13</u></b>	<b><u>FY 13-14</u></b>
General Revenue:			
Application Fees	\$ 62,094	\$ 82,792	\$ 82,792
Service Fees	<u>\$ 38,808</u>	<u>\$ 51,745</u>	<u>\$ 51,745</u>
Total General Revenue	<u>\$100,902</u>	<u>\$134,537</u>	<u>\$134,537</u>
Highway Safety Operating TF:			
Service Fees	\$ 38,808	\$ 51,745	\$ 51,745
Total Highway Safety Oper. TF	<u>\$ 38,808</u>	<u>\$ 51,745</u>	<u>\$ 51,745</u>
 Grand Total Revenue	 <u>\$139,710</u>	 <u>\$186,282</u>	 <u>\$186,282</u>

The revenue reflected above is the required application fee of \$4 and the \$5 service fee required by s. 320.04, F.S., based on 20,698 applications. Of the \$5 service fee, \$2.50 is to be deposited into the General Revenue Fund and \$2.50 is to be deposited into the Highway Safety Operating Trust Fund of the DHSMV. The bill does not specify into which fund the \$4 application fee is to be deposited, but this analysis reflects the General Revenue Fund. Since the effective date is October 1, 2011, FY 11-12 revenues represent nine months.

<b><u>EXPENDITURES:</u></b>			
Highway Safety Operating TF:			
Salaries	\$ 26,541	\$ 26,541	\$ 26,541
Expenses	18,991	17,939	17,939
Human Resources Services	<u>356</u>	<u>356</u>	<u>356</u>
 Total Expenditures	 <u>\$ 45,888</u>	 <u>\$ 44,836</u>	 <u>\$ 44,836</u>

The above amounts reflect the expenditure allocation for one Highway Safety Specialist based on an estimate of 1,725 man hours to process 20,698 applications and mailing costs of \$8,538 for year one and \$11,384 annually for years two and three. Since the effective date is October 1, 2011, FY 11-12 mailing costs represent nine months.

<sup>9</sup> Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 1008*, (on file with the Senate Transportation Committee).

<sup>10</sup> *Id.*

**VI. Technical Deficiencies:**

The DHSMV is authorized to charge wrecker operators \$4 plus the service fees in s. 320.04, F.S., to send notices to persons with an interest in a vehicle or vessel. The service charges in s. 320.04, F.S., however, apply to the issuance of license plates, mobile home stickers, or validation stickers. As such, the service charges in s. 320.04, F.S., appear to be inapplicable to the applications described in the bill. Accordingly, the Legislature may wish to revise the bill to establish the application fee without a reference to s. 320.04, F.S.

The bill is silent as to where the \$4 application fee is to be deposited. The DHSMV recommends an amendment specifying such fee shall be deposited into the Highway Safety Operating Trust Fund.

**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.



488732

LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation (Benacquisto) recommended the following:

**Senate Amendment**

Between lines 65 and 66  
insert:

(6) Signs or displays established under the provisions of this section shall comply with county or municipal outdoor advertising, sign, or land use ordinances.



466516

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation (Benacquisto) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "John Anthony Wilson Bicycle Safety Act of 2011."

Section 2. Section 260.0144, Florida Statutes, is created to read:

260.0144 Naming rights or space for advertising.—The department may enter into a concession agreement with a not-for-profit entity or private sector business or entity for naming rights of state greenway and trail facilities or property or for



466516

13 commercial advertising to be displayed on state greenway and  
14 trail facilities or property.

15 (1) A concession agreement under this section shall be  
16 administered by the department and must include the requirements  
17 of subsections (3) and (4).

18 (2) (a) Naming rights or space for a commercial advertising  
19 display may be provided through a concession agreement on  
20 certain state-owned greenway or trail facility or property.

21 (b) Signage or displays erected under this section shall be  
22 limited to trailheads, trail intersections, directional or  
23 distance markers, interpretive exhibits, and parking areas.

24 (c) The size of any sign or display shall be limited as  
25 follows:

26 1. A sign or display located at a trailhead or parking area  
27 may not exceed 16 square feet.

28 2. All other signs or displays may not exceed 4 square  
29 feet.

30 (d) Naming rights of a facility or commercial advertising  
31 pursuant to a concession agreement under this section are for  
32 public relations or advertising purposes of a not-for-profit  
33 entity or private sector business or entity, and shall not be  
34 construed by that not-for-profit entity or business or entity as  
35 having relationship to any other actions of the department.

36 (3) A concession agreement under this section shall be for  
37 a minimum of one year but may be for a longer period under a  
38 multiyear agreement, and may be terminated at any time by the  
39 department, at its discretion.

40 (4) (a) Before installation, each name or advertising  
41 display must be approved by the department, as appropriate.



466516

42           (b) The department shall set materials and construction  
43 standards for all signage displayed.

44           (c) All costs of a display, including its development,  
45 construction, installation, operation, maintenance, and removal  
46 shall be paid by the concessionaire.

47           (5) Proceeds from concession agreements under this section  
48 shall be distributed as follows:

49           (a) Ninety percent shall be deposited in the appropriate  
50 department trust fund that is the source of funding for  
51 management and operation of state greenway or trail facilities  
52 and properties.

53           (b) Ten percent shall be distributed, prorated by  
54 population, to district school boards and must be used to  
55 enhance funds for the school district's bicycle education  
56 program or Safe Route to Schools program. The prorated share of  
57 such funds for a district that does not provide one of these  
58 education programs may not be distributed to that district and  
59 shall be deposited into the appropriate department trust fund.

60           (6) The department may adopt appropriate rules to implement  
61 or interpret this section.

62           Section 3. This act shall take effect July, 1, 2011.

63  
64 ===== T I T L E   A M E N D M E N T =====

65 And the title is amended as follows:

66           Delete everything before the enacting clause  
67 and insert:

68                                   A bill to be entitled  
69           An act relating to the sale of advertising; creating  
70           the "John Anthony Wilson Bicycle Safety Act of 2011";



466516

71           creating s. 260.0144, F.S.; providing for the  
72           Department of Environmental Protection to enter into  
73           concession agreements for naming rights of state  
74           greenway, trail facilities, and property or commercial  
75           advertising to be displayed on state greenway and  
76           trail facilities or property; providing for  
77           distribution of proceeds from such concession  
78           agreements; 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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 560

INTRODUCER: Senator Wise

SUBJECT: Sale of Advertising

DATE: March 4, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	CM	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill, the “State Revenue Enhancement Act of 2011,” authorizes the sale of advertising by private sector entities on state-owned property in the form of naming rights for state transportation facilities. The bill authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to enter contracts for the sale or lease of naming rights to, or space for commercial displays on, any state-owned transportation facility or property. The name or display requires the approval of the Florida Department of Transportation (FDOT, department) or the Florida Turnpike Enterprise (Turnpike) as appropriate. Any such sale or lease is to be for one year but may be extended. Proceeds from the sale are to be distributed to the State Transportation Trust Fund (80%), OTTED (10%), and District School Boards (10%).

This bill creates s. 288.082, F.S.

This bill substantially amends s. 14.2015, F.S.

**II. Present Situation:**

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 first section of the law sets forth the basic program objectives: "The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty."

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. Expedious removal of illegal signs is required by federal regulations. While the states are not forced directly 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.

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 Federal-Aid Primaries (FAP's) as of June 1, 1991, Interstates and other highways that are part of the National Highway System (NHS). The FAP routes were highways noted by state DOTs to be of significant service value and importance.
- States have the discretion to remove legal nonconforming signs 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.
- 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.

Under the provisions of a 1972 federal-state agreement incorporating the HBA, the 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.

FDOT's outdoor advertising regulatory program is based on federal law and regulations as well as state law and administrative rules. Florida's outdoor advertising laws are found in ch. 479, F.S. In addition to state statutes, the department has developed administrative rules to implement statutory intent for the general public. Chapter 14-10, F.A.C., is FDOT's rule chapter governing outdoor advertising.

#### Honorary or Memorial Designations of Transportation Facilities

Section 334.071, F.S., specifies the purpose and effect of the designation of roads, bridges, and other transportation facilities for honorary or memorial purposes by the Florida Legislature. These designations are for honorary purposes only, and do not require changing of street signs,

mailing addresses, or 911 listings. The section further specifies that the installation of markers indicating the designation is contingent upon the passage of a resolution of support by all affected local governments. Similarly, s. 267.062, F.S., provides for the naming of state buildings, roads, bridges, parks, recreational complexes, or other similar facilities by the Florida Historical Commission after deceased individuals who contributed to the state.

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

The bill creates s. 288.082, F.S., to authorize the sale of advertising on state-owned property to private sector businesses or entities. The bill authorizes OTTED to enter contracts for the sale or lease of naming rights to, or space for commercial displays on, any state-owned transportation facility or property, including, but not limited to the Florida Turnpike, other roads and highways, highway lanes, on-ramps, off-ramps, road rights-of-way, toll facilities, buildings, barriers, parks, rest areas, and railways. Other state-owned transportation facilities include bridges and airports. The bill appears to also allow for the selling or leasing of advertising on other state-owned transportation property such as FDOT vehicles and buildings.

The bill specifies that the sale or lease of naming rights is for public relations or advertising purposes, and as such, are not to be construed to require any action by a local government or private party regarding the changing of any street signs, mailing addresses, or 911-emergency system.

Before it can be installed, the name or display requires the approval of FDOT or the Turnpike as appropriate. The department or Turnpike is directed to establish material and construction standards for all signage and is further directed to “provide for” the installation of such displays on its property. However, all costs, including development, construction, installation, operation, maintenance, and removal, are to be borne by the private sector.

Any such sale or lease is to be for one year but may be extended by a multiyear contract.

Proceeds from the sale are to be distributed as follows:

- 80% to the State Transportation Trust Fund (STTF);
- 10% to OTTED; and
- 10% to district school boards.

The proceeds distributed to district school boards are to be prorated by population and must be used to enhance the district’s driver education program. If the district does not provide a driver education program, that district’s funds are to be deposited into the STTF.

The bill revises s. 14.2015, F.S., to amend the responsibilities of OTTED to include entering contracts for the sale or lease of naming rights and advertising as described in newly-created s. 288.082, F.S.

#### **Other Potential Implications:**

The bill introduces a number of potential conflicts with existing state and federal law.

***Lease of Real or Personal Property***

Section 337.25(5), F.S., charges the department with the acquisition, lease, and disposal of real or personal property held by the department in the name of the state. Lease of such property by OTTED appears to conflict with that charge. Further, the department's authority to lease real or personal property pursuant to that section contains specific requirements which would appear to conflict with the bill's provisions.

***Signs Prohibited on Right-of-Way***

Federal regulations (see 23 CFR 710.403) provide that all real property within the boundaries of a federally-aided facility must be devoted exclusively to the transportation facility and be free of all other public or private alternative uses, unless permitted by federal regulation or the FHWA. Alternative uses must be consistent with the continued operation, maintenance, and safety of the facility, and not result in the exposure of the facility's users or others to hazards. Alternative uses include: public utilities, railroads, bike paths, walkways, and transportation projects. Exceptions must be requested in writing to FHWA.

Sections 337.407 and 479.11(8), F.S., prohibit advertising signs from being placed in the right-of-way of any road on the interstate highway system, the federal-aid primary highway system, the State Highway System, or the State Park Road System.

The bill's intent appear to conflict with these provisions.

***Uniform Traffic Control Devices***

Rule 14-15.010, F.A.C., incorporates by reference FHWA's "Manual on Uniform Traffic Control Devices" (MUTCD). Quoting FHWA's Policy Memorandums - Manual on Uniform Traffic Control Devices, dated August 10, 2005, "Use of highway right-of-way for advertising purposes is not allowed." This policy position is consistent with the principles and intent of several laws including 23 U.S.C. §1.23(b), 23 U.S.C. §109(d), and 23 U.S.C. §131. The MUTCD Section 1A.01 states:

Traffic control devices or their supports shall not bear any advertising message or any other message that is not related to traffic control. This position is founded on safety and operational concerns, particularly as related to driver distraction. Highway signs and other traffic control devices convey crucial information. In order for road users to perceive and respond appropriately to critical information, we must make sure that its conspicuity is preserved so that the safe and orderly movement of traffic is not compromised.

Pursuant to Section 2H.08 of the MUTCD, acknowledgement signs are allowed.

Acknowledgment signs are a way of recognizing a company or business, or a volunteer group that provides a highway-related service. Acknowledgment signs include sponsorship signs for adopt-a-highway litter removal programs, maintenance of a parkway or interchange, and other highway maintenance or beautification sponsorship programs. There must be a direct correlation between the business and its contribution to a particular highway service. The bill's provisions for dispersion of revenue as 80% to the Transportation Trust Fund, 10 % to OTTED and 10% to School Boards for driver safety instruction, conflict with this requirement.

***Florida Turnpike Enterprise***

Section 338.229, F.S., pledges to bondholders that the state will provide for restrictions on the sale, transfer, lease, or other disposition or operation of any portion of the Turnpike system which reduces the revenue available for payment to bondholders. Section 338.234, F.S., provides for the Turnpike's granting of concessions or selling along the Turnpike system, including advertising and other promotional opportunities. This bill's provisions may usurp the Turnpike's authority under statute to generate revenue and have that revenue available to the bondholders. With limited exception, opportunities for commercial advertising on the Turnpike are already under contract under a long-term agreement having more than 25 years remaining on the term.

Further, s. 338.227, F.S., mandates that revenues from the Turnpike system received by the department shall be used only for the cost of Turnpike projects and Turnpike improvements and for the administration, operation, maintenance, and financing of the Turnpike system. The bill's specified distribution of revenue conflicts with this provision.

***Rest Areas***

Federal regulations (see 23 CFR 752.5, 23 CFR 752.7, 23 CFR 752.8) address Safety Rest Areas. In summary, states can allow the leasing of advertising space in the Interstate rest areas provided the advertisements are relevant to the traveling public, equal access for space is assured, the space is leased at reasonable rates and the public is not charged for any goods or services with the exception of vending machine items. Advertisements cannot be legible from the roadway or must be inside the building. All revenues generated by this activity would have to be applied to Title 23 eligible activities (with supporting documentation provided to FHWA). The bill appears to conflict with these provisions.

There are no specific laws or regulations that address rest areas on non interstate, federally-funded highways. However, 23 CFR 1.23 states that any right of way purchased with federal Title 23 participation must be used exclusively for a highway purpose. Therefore, if Federal-aid highway funds were used to acquire the right-of-way for the roadway and/or adjoining rest area on any public road, that facility must be used for a highway purpose only.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill requires the approval of the Turnpike or FDOT, as appropriate, prior to the installation of a naming or advertising display. It is not clear whether the intent of this language is to provide authority to regulate the content of a message communicated by a display or simply whether the signage meets material and construction standards. Regardless, the provision may give rise to claims based on alleged interference with constitutionally protected free speech. Further, the language could be argued to vest absolute discretion in FDOT to decide appropriate content, the exercise of which can be expected to result in litigation challenging the constitutionality of the law either on the face of the law or as it is applied by FDOT.

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

None.

**B. Private Sector Impact:**

Indeterminate.

**C. Government Sector Impact:**

According to FDOT:

The potential fiscal impact to the department resulting from the bill's conflicts with federal law could subject the department to an annual penalty of 10% of its federal highway funding, which is approximately \$145 million, and would present a substantial impact to the department's work program. Additionally, the state could be required to reimburse the federal government in unknown amounts.

Even if the conflicting legal issues above could be resolved, the revenue generating potential for this proposal may be limited. The number of permitted outdoor advertising signs in the state has been steadily declining over the past 5 years. Much of the current inventory sits vacant and the department frequently hears from sign owners about the difficulty of selling their advertising space. Adding inventory to what is possibly an overbuilt sector may not be an effective revenue generator.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The proposed bill is silent as to restrictions put in place by the HBA, but commercial signs within the controlled area would have to meet the following permitting requirements:

1. Size -maximum of 950 feet by Section 479.07(9)(b), F.S. (reduced from fed-state agreement maximum of 1200 feet)
2. Spacing -1500 feet minimum spacing between signs along the interstate pursuant to Section 479.07(9)(a), F.S. (increased from 1000 feet minimum spacing subscribed by fed-state agreement); 1000 feet between signs on primary federal-aid primary highways pursuant to Section 479.07(9)(a), F.S., (increased from 500 feet maximum subscribed in fed-state agreement); outside cities, no outdoor advertising structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.
3. Lighting - Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. No signs shall be illuminated that interferes with the effectiveness of an official traffic sign, device, or signal.

Under 23 CFR 750.704, the federal-state agreement; and Section 479.111, F.S., commercial signs could only be permitted within a controlled area if the land use is zoned for commercial use, industrial use, is an unzoned commercial or unzoned industrial area. Many state buildings and state facilities are zoned civic/governmental or some similar designation and, therefore, would not meet the permitting requirements for commercial advertising if located within a controlled area.

**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.

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1716

INTRODUCER: Senator Ring

SUBJECT: Transportation Project Funding

DATE: March 17, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

SB 1716 provides additional funding sources for the Trade Infrastructure Investment Steering Committee created by SB 1718. The bill:

- revises the distribution of revenues collected through the rental car surcharge program. Beginning in fiscal year (FY) 2016/2017, the bill redirects all of the revenues collected from the surcharge that are deposited into the State Transportation Trust Fund (80% of total collections) to a prioritized list of projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.
- redirects two-thirds of the 1.5% (i.e., 1%) of the funds currently allocated for the purchase of vegetation used in highway beautification and landscaping projects, to help fund priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.
- redirects 60% of any unencumbered funds made available when project costs are contracted in an amount less than what the projected had been estimated to cost, to priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.
- transfers at least \$20 million annually from the State Transportation Trust Fund (STTF) into the State Infrastructure Bank (SIB) beginning in FY 2013/2014. The bill directs the transfer to occur in FY2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

This bill substantially amends the following sections of the Florida Statutes: 212.0606, 334.044, 339.135, and 339.55.

**II. Present Situation:**

**Rental Car Surcharge**

Section 212.0606, F.S., authorizes a surcharge of \$2.00 per day or any part of a day on the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental. However, the surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle. After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80% of the surcharge to the State Transportation Trust Fund;
- 15.75% of the surcharge to the Tourism Promotion Trust Fund; and
- 4.25% of the surcharge to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Florida Department of Transportation (FDOT, or department) district for projects, based on the amount of proceeds collected in the counties within each respective district. There are seven transportation districts ranging in size from two counties up to eighteen counties. All counties, with the exception of Glades and Lafayette, collect some rental car surcharges that are deposited into the STTF. Statewide, total rental car surcharge revenues for the next ten fiscal years are forecast as follows:

<u>Fiscal Year</u>	<u>\$(millions)</u>
2010/2011	98.8
2011/2012	101.8
2012/2013	105.2
2013/2014	109.4
2014/2015	113.4
2015/2016	117.1
2016/2017	120.4
2017/2018	123.5
2018/2019	126.8
2019/2020	129.8

**Highway Beautification and Other Landscaping Programs**

Section 334.044(26), F.S., assigns the department the duty to:

- provide for the enhancement of environmental benefits, including air and water quality;
- prevent roadside erosions to conserve the natural roadside growth and scenery; and

- implement and maintain roadside conservation, enhancement, and stabilization programs.

To accomplish, this no less than 1.5% of the amount contracted for construction statewide is allocated for the purchase of plant materials. To the greatest extent practical, 50% of the funds must be for large plant materials and 50% for other plant materials and the plants must be purchased from Florida commercial nursery stock in this state, except as prohibited by federal law. The purchase must be by competitive bid.

### **The Transportation Work Program**

Section 339.135, F.S., authorizes and establishes guidelines for the FDOT to develop a State Transportation Five-Year Work Program. The Work Program, which comprises a list of transportation projects scheduled for implementation during the ensuing five year period, is based on a complete financial plan for the STTF and other funds managed by FDOT. In developing the Work Program, FDOT coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations (MPOs), and local governments. Essentially, the FDOT Work Program reflects the priorities of MPOs, counties, and FDOT in one program of scheduled activities and improvements.

The Work Program includes all proposed project commitments and is classified by major program and appropriation category. To prevent large amounts of dollars from being tied up unnecessarily for long periods of time, large transportation development projects are typically scheduled in five phases:

1. Planning,
2. Project Development and Environmental review (PD&E),
3. Design,
4. Right-of-way acquisition (ROW), and
5. Construction.

Programming by phase allows greater flexibility and liquidity of funds. A project's life cycle of phases can run seven or more years from "concept to concrete," thus, a given project's lifespan can extend beyond the timeframe of the Work Program.

The allocation of funds for new construction to the districts is based on a statutory formula using equal parts of population and motor fuel tax collections. However, the funding for programs with quantitative needs assessment (e.g., resurfacing, bridge repair, the Strategic Intermodal System [SIS], etc.) is allocated to the districts based on the results of those assessments. Thus, for example, the funding of SIS projects and projects from other centrally-managed programs are not subject to population/fuel tax collection distribution formula.

### **Developing and Adopting the Work Program**

Development of the Work Program is guided by the Florida Transportation Plan (FTP) and the Program and Resource Plan (PRP). The FTP (part of the State Comprehensive Plan) is a statewide transportation plan that documents FDOT's long and short range goals and objectives. The FTP long range component identifies goals and objectives to be achieved with available resources for the next 20-25 years. The annual short range component identifies objectives and

strategies to be implemented over the next five to ten years in moving toward the long range goals and objectives. At the local level, the program must be consistent to the maximum extent feasible with the capital improvement elements of the local government comprehensive plans.

Although the Work Program contains a five-year schedule of programmed transportation improvements, it is updated annually by revising the previous year's Work Program. This "Tentative Work Program" results from rolling the projects in the previous Work Program's last four years' forward (i.e., Years 2, 3, 4, and 5 become Years 1, 2, 3, and 4 in the Tentative Work Program), and adding a new fifth year of projects. Section 339.135(4), F.S., requires FDOT to "minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years." Any rescheduling or deletion of a project must be determined to be necessary for specific reasons by the Secretary of Transportation. All changes must be clearly identified.

The Tentative Work Program must be submitted to the Governor, legislative appropriations committees, the Florida Transportation Commission (FTC) and the Department of Community Affairs (DCA) at least 14 days prior to the convening of the regular legislative session. After DCA reviews the Tentative Work Program for consistency with local comprehensive plans, the FTC conducts a statewide public hearing to evaluate the program for compliance with laws and FDOT policies. Following the FTC's evaluation the Legislature, through the General Appropriations Act and any other appropriation, provides the budget for the Work Program which is adopted by FDOT prior to the beginning of the next fiscal year.

### **Work Program Amendments**

Section 339.135, F.S., requires FDOT to submit the following proposed Work Program amendments to the Governor for approval:

- Any amendment that deletes any project or phase
- Any amendment that adds a project estimated to cost over \$150,000 in funds appropriated by the Legislature; and
- Any amendment that advances or defers to another fiscal year a right-of-way (ROW) phase, a construction phase, or a public transportation project phase estimated to cost over \$500,000, in funds appropriated by the Legislature, except an amendment advancing or deferring a phase for a period of 90 days or less.

FDOT is required to immediately notify the chairs of the legislative appropriations committees, each member of the Legislature who represents a district affected by the proposed amendment, each Metropolitan Planning Organization (MPO) affected by the proposed amendment, and each unit of local government affected by the proposed amendment. The Governor may not approve a proposed amendment until 14 days following the notification and must disapprove the amendment if either of the chairs of the legislative appropriations committee or the President of the Senate or the Speaker of the House of Representatives objects in writing within 14 days following notification.

### **Public Transportation Funding**

Section 206.46(3), F.S., requires that a minimum of 15% of all state revenues deposited into the STTF be allocated to Public Transportation programs. Public Transportation Program areas are: Seaports, Intermodal, Rail, Aviation, and Transit.

- The Seaport program provides financial and technical assistance to the 14 public deepwater Seaports in the State of Florida per s. 311.07, F.S. Funding for the Florida Seaport Transportation and Economic Development (FSTED) state funded matching grant program are funded on a 50/50 matching basis with any of the deepwater ports as contained in s. 403.021(9)(b), F.S. An exception to the 50/50 match is projects that involve the rehabilitation of wharves, docks, berths, bulkheads, or similar structures which require a 25% non-state match. Additionally, seaport Intermodal access projects funds that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks or improvements to roadways or railroads, require a 25% match from port funds, federal funds, local funds or private funds. Section 320.20(4), F.S., requires that funding for seaport Intermodal access projects shall be on a matching basis mutually determined by the FSTED Council and the department. A minimum of 25% of total project costs shall come from local funds, private funds, or specifically earmarked federal funds.
- The Intermodal Access Program provides assistance for major capital investment in fixed guideway transportation systems; access to seaports, airports and other transportation terminals, providing for the construction of intermodal or multimodal terminals; and to otherwise facilitate the intermodal or multimodal movement of people and goods. It supports projects which provide improved access to intermodal or multimodal transportation facilities and the construction of multimodal terminals. Projects funded under this program include rail access to airports and seaports, interchanges and highways which provide access to airports, seaports and other multimodal facilities. This program is intended to facilitate the intermodal or multimodal movement of people and goods. This program is authorized by s. 341.053, F.S.
- The Rail program includes financial and technical assistance for intermodal projects, rail safety inspections; regulation of railroad operations and rail/highway crossings; identification of abandoned rail corridors; recommendations regarding acquisition and rehabilitation of rail facilities; and assistance for developing intercity rail passenger service or commuter rail service.
- The Aviation program provides financial and technical assistance to Florida's airports in the areas of development, improvement, land acquisition, airport access and economic enhancement. Matching funds assist local governments and airport authorities in planning, designing, purchasing, constructing and maintaining publicly owned public use aviation facilities.
- The Transit program provides financial and technical assistance to transit, paratransit and ridesharing systems.

**State Infrastructure Bank**

The State Infrastructure Bank (SIB) is a revolving loan and credit enhancement program consisting of two separate accounts and is used to leverage funds to improve project feasibility. The SIB can provide loans and other assistance to public or private entities carrying out or

proposing to carry out projects eligible for assistance under federal and state law. The SIB cannot provide assistance in the form of a grant.

The federally-funded account is capitalized by federal money matched with state money as required by law under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). All repayments are repaid to the federally-funded SIB account and revolved for future loans. Projects must be eligible for assistance under title 23, United States Code (USC) or capital projects as defined in Section 5302 or title 49 USC. Projects must be included in the adopted comprehensive plans of the applicable MPO and must conform to all federal and state laws, rules and standards.

The state-funded account is capitalized by state money and bond proceeds per ss. 339.55, F.S. and 215.617, F.S. All repayments are repaid to the State Board of Administration where debt service is paid on any outstanding bonds with the remainder returned to the state-funded account and revolved for future loans. Projects must be on the State Highway System or provide increased mobility on the State's transportation system, or provide intermodal connectivity with airports, seaports, rail facilities and other transportation terminals. Also eligible are projects of the Transportation Regional Incentive Program (TRIP) per Section 339.2819(4), F.S. Projects must be consistent, to the maximum extent feasible, with local MPO and local government comprehensive plans and must conform to policies and procedures within applicable Florida Statutes and other appropriate state standards for the transportation system. The state-funded account also allows for the lending of capital costs or to provide credit enhancements for emergency loans for damages incurred on public-use commercial deepwater seaports, public-use airports, and other public-use transit and intermodal facilities that are within an area that is part of an official state declaration of emergency per ch. 252, F.S. and other applicable laws.

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

Section 1 amends s. 212.0606, F.S., to revise the distribution of revenues collected through the rental car surcharge program. Beginning in FY 2016/2017, the bill redirects all of the revenues collected from the surcharge that are deposited into the STTF (80% of total collections) to a prioritized list of projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

Section 2 amends s. 334.044, F.S., to redirect two-thirds of the 1.5% (i.e., 1%) of the funds currently allocated for the purchase of vegetation used in highway beautification and landscaping projects, to help fund priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718.

Section 3 amends s. 339.135, F.S. to redirect 60% of any unencumbered funds made available when project costs are contracted in an amount less than what the projected had been estimated to cost. These funds would be redirected to priority projects identified by the Trade Infrastructure Investment Steering Committee created by SB 1718. The redirection of funds may not result in reallocation of funds from the uses identified in s. 206.46(3), F.S., i.e., Seaports, Intermodal, Rail, Aviation, and Transit programs.

Section 4 amends s. 339.55, F.S., to transfer at least \$20 million annually from the STTF into the SIB beginning in FY 2013/2014. The bill directs the transfer to occur in FY 2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

Section 5 establishes an effective date of July 1, 2011 provided SB 1718 (or substantially similar legislation) becomes law.

**Other Potential Implications:**

The diversion of rental car surcharge funds from the STTF will impact the development of transportation projects in every FDOT district.

**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:

Nurseries and landscaping contractors will experience a negative fiscal impact. (See table below.)

C. Government Sector Impact:

According to FDOT, based on the current allocations for landscaping projects, the bill would provide the following distributions over the next three fiscal years:

	<u>FY 10/11</u>	<u>FY 11/12</u>	<u>FY 12/13</u>
Landscaping allocation 0.5%	\$11.6 m	\$11.3m	\$ 8.6m
TIISC allocation 1.0%	\$23.2m	\$22.6m	\$17.3m

The bill's diversion of funds accrued from bid savings is indeterminate as savings cannot be calculated prior to a contract's letting. Also, many projects consist of multiple funds, some of which may be subject to restrictions on their use.

FDOT also reports:

To the extent that local governments had planned to fund work program projects in the second five years using the rental car surcharge, projects will be negatively impacted. The net effect is less funding for local priority projects.

To the extent that rental car surcharge funds are redirected to the Trade Infrastructure Investment Steering Committee priority projects which are outside of the county in which the surcharge is collected, the counties will experience less equitable distribution of funds for transportation infrastructure serving their area.

**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.

**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 Transportation Committee

BILL: SB 1718

INTRODUCER: Senator Ring

SUBJECT: Infrastructure Investment

DATE: March 20, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	CM	_____
3.	_____	_____	EP	_____
4.	_____	_____	BC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 1718 makes substantial changes to the way transportation projects are currently selected. The bill modifies the selection criteria and creates three new committees to select projects for the state funded State Infrastructure Bank Program, and for Strategic Intermodal System projects included in the Florida Department of Transportation’s Five-Year Work Program. The bill requires at least \$20 million to be deposited annually into the State Infrastructure Bank from the State Transportation Trust Fund (STTF) and diverts \$300,000 annually from the STTF to the newly created Trade Infrastructure Investment Steering Committee. Additionally, the bill revises certain environmental permitting provisions pertaining to seaports.

This bill substantially amends the following sections of the Florida Statutes: 20.23, 163.3180, 311.09, 339.55, 339.64, 373.406, 373.4133, and 403.813,

This bill creates ch. 340 of the Florida Statutes consisting of ss. 340.101 and 340.102, and an undesignated section.

**II. Present Situation:**

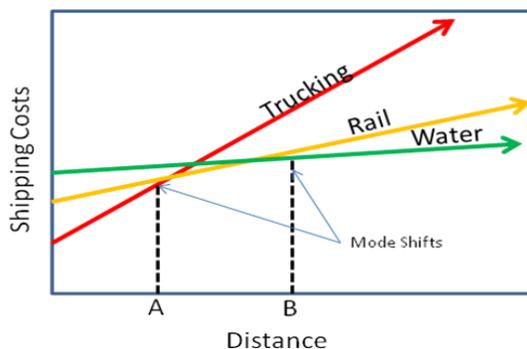
**Panama Canal Expansion: Effect on Florida Ports**

The Panama Canal Authority has begun an expansion project to increase the capacity of the canal to accommodate the increasing size of containerships. The number of shipments made using Panamax ships (the maximum size of vessels able to transit the current dimensions of the Panama Canal) are expected to decline as shippers shift to post-Panamax containerships which offer scale economies reducing shippers’ operational cost per container. Transcontinental routes where shippers may use post-Panamax vessels may hold an advantage over routes where these

ships may not be used. Recognizing the advantages offered by even larger ships, shipping lines have placed orders for mega-containerships, many of which will not be able to enter Florida ports due to physical limitations such as the existing draft (depth) of current ship channels or substandard cranes, instead berthing at deeper-draft ports such as the Hampton Roads, Virginia facilities.

The following passage taken from a Senate Interim Report<sup>1</sup> may be useful in assessing the state's position to compete among other Southeastern states for the movement of additional goods into and through the state in association with the widening of the Panama Canal.

Each mode of freight transport provides certain benefits when compared to the other; however, those benefits typically entail a trade-off for some other cost. The movement of goods by road capitalizes on geographical flexibility factors not available in other modes. Significant energy costs and impacts from non-freight traffic, (*i.e.*, roadway congestion), reduce trucking's advantage. The movement of goods by rail, which enjoys safety and energy efficiency advantages, holds a much larger modal share in the United States (U.S.) compared to the European Union or Japan where coastal (or short sea) shipping supplants rail in many freight transfers. While trucking moves more freight in the U.S. as measured in total weight, railroads win out when measured in ton-miles, (*i.e.*, the cargo weight multiplied by the mileage traveled by the shipment). Waterborne freight has the lowest energy costs, but is hamstrung by geographical restrictions and slow speed. Air freight employs the value of tremendous speed and geographical flexibility, but at great energy costs.



The different cost functions of shipping usually determine which mode is chosen for a given shipment. The graph shows trucking costs are lower than both rail and waterborne freight up to the theoretical distance of A (usually between 300 to 450 miles). Shipments in the range between A and B (B is usually around 1000 miles) would generally be more profitably served by rail. Beyond that (1000+ miles), the waterborne mode would generally be more advantageous provided waterway access is available.

Also playing into shippers' decision-making is the cost of time. An all-water route from an Asian port to an East Coast Port transiting the Panama Canal can add significant time penalties to shipments to inland markets. According to recent estimates, a haul shipped on the Pacific Ocean (to a West Coast Port) and railed to Chicago would take roughly 14-15 days, while the same haul routed through the Port of New York would take closer to 25-28 days.<sup>2</sup>

Theoretically, shippers will choose to use the least expensive mode for the longest haul possible. Thus, with the cost of time and all other costs, e.g., drayage, stevedoring, dockage, etc., being

<sup>1</sup> Senate Interim Report 2009-126 "Freight Transportation Infrastructure: Assessing the Need for Statewide Coordination"

<sup>2</sup>"Speed is Key for Railroads, Ports in 'Post-Panamax' Era", CNBC Article, February 25, 2011

[http://www.cnbc.com/id/41785168/Speed\\_Is\\_Key\\_for\\_Railroads\\_Ports\\_in\\_Post\\_Panamax\\_Era](http://www.cnbc.com/id/41785168/Speed_Is_Key_for_Railroads_Ports_in_Post_Panamax_Era)

equal, import cargo destined for inland markets in other states would likely enter the U.S. at a port nearest that destination in order to minimize the costs associated with the more expensive modes.

### **Transportation Concurrency**

The Growth Management Act (Ch. 163 Part II, F.S.) requires local government to use a systematic process to ensure new development does not occur unless adequate transportation infrastructure is in place to support the development. The requirement for public facilities and infrastructure to be available concurrent with new development is known as concurrency. To implement concurrency, local governments must define what constitutes an adequate level of service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for this period. The Florida Department of Transportation (FDOT) is responsible for establishing LOS on Strategic Intermodal System highways, which must be used by local governments except in transportation concurrency exemption areas (TCEAs).

### **Florida Seaport Transportation and Economic Development Council (FSTED)**

Section 311.09, F.S., establishes the FSTED Council within FDOT. The FSTED Council must develop a 5-Year Florida Seaport Mission Plan defining the goals and objectives concerning the development of port facilities and an intermodal transportation system. The Council also must annually submit a list of projects approved by the Council to be funded by the Florida Seaport Transportation and Economic Development Program for review by the Department of Community Affairs (DCA), FDOT, and the Office of Tourism, Trade, and Economic Development (OTTED) for consistency with local comprehensive plans and certain statewide plans. Approved, consistent projects are included in the FDOT Work Program.

### **Strategic Intermodal System (SIS)**

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.

### **The Transportation Work Program**

Section 339.135, F.S., authorizes and establishes guidelines for the FDOT to develop a State Transportation Five-Year Work Program. The Work Program, which comprises a list of transportation projects scheduled for implementation during the ensuing five year period, is based on a complete financial plan for the State Transportation Trust Fund (STTF) and other funds managed by FDOT. In developing the Work Program, FDOT coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations (MPOs), and local governments. Essentially, the FDOT Work Program reflects the priorities of MPOs, counties, and FDOT in one program of scheduled activities and improvements.

The Work Program includes all proposed project commitments and is classified by major program and appropriation category. To prevent large amounts of dollars from being tied up unnecessarily for long periods of time, large transportation development projects are typically scheduled in five phases:

1. Planning,
2. Project Development and Environmental review (PD&E),
3. Design,
4. Right-of-way acquisition (ROW), and
5. Construction.

Programming by phase allows greater flexibility and liquidity of funds. A project's life cycle of phases can run seven or more years from "concept to concrete," thus, a given project's lifespan can extend beyond the timeframe of the Work Program.

The allocation of funds for new construction to the districts is based on a statutory formula using equal parts of population and motor fuel tax collections. However, the funding for programs with quantitative needs assessment (e.g., resurfacing, bridge repair, the SIS, etc.) is allocated to the districts based on the results of those assessments. Thus, for example, the funding of SIS projects and projects from other centrally-managed programs are not subject to population/fuel tax collection distribution formula.

### **Developing and Adopting the Work Program**

Development of the Work Program is guided by the Florida Transportation Plan (FTP) and the Program and Resource Plan (PRP). The FTP (part of the State Comprehensive Plan) is a statewide transportation plan that documents FDOT's long and short range goals and objectives. The FTP long range component identifies goals and objectives to be achieved with available resources for the next 20-25 years. The annual short range component identifies objectives and strategies to be implemented over the next five to ten years in moving toward the long range goals and objectives. At the local level, the program must be consistent to the maximum extent feasible with the capital improvement elements of the local government comprehensive plans.

Although the Work Program contains a five-year schedule of programmed transportation improvements, it is updated annually by revising the previous year's Work Program. This "Tentative Work Program" results from rolling the projects in the previous Work Program's last four years' forward (i.e., Years 2, 3, 4, and 5 become Years 1, 2, 3, and 4 in the Tentative Work

Program), and adding a new fifth year of projects. Section 339.135(4), F.S., requires FDOT to “minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years.” Any rescheduling or deletion of a project must be determined to be necessary for specific reasons by the Secretary of Transportation. All changes must be clearly identified.

The Tentative Work Program must be submitted to the Governor, legislative appropriations committees, the Florida Transportation Commission (FTC) and the DCA at least 14 days prior to the convening of the regular legislative session. After DCA reviews the Tentative Work Program for consistency with local comprehensive plans, the FTC conducts a statewide public hearing to evaluate the program for compliance with laws and FDOT policies. Following the FTC’s evaluation the Legislature, through the General Appropriations Act and any other appropriation, provides the budget for the Work Program which is adopted by FDOT prior to the beginning of the next fiscal year.

### **Work Program Amendments**

Section 339.135, F.S., requires FDOT to submit the following proposed work program amendments to the Governor for approval:

- Any amendment that deletes any project or phase
- Any amendment that adds a project estimated to cost over \$150,000 in funds appropriated by the Legislature; and
- Any amendment that advances or defers to another fiscal year a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over \$500,000, in funds appropriated by the Legislature, except an amendment advancing or deferring a phase for a period of 90 days or less.

FDOT is required to immediately notify the chairs of the legislative appropriations committees, each member of the Legislature who represents a district affected by the proposed amendment, each MPO affected by the proposed amendment, and each unit of local government affected by the proposed amendment. The Governor may not approve a proposed amendment until 14 days following the notification and must disapprove the amendment if either of the chairs of the legislative appropriations committee or the President of the Senate or the Speaker of the House of Representatives objects in writing within 14 days following notification.

### **State Infrastructure Bank**

The State Infrastructure Bank (SIB) is a revolving loan and credit enhancement program consisting of two separate accounts and is used to leverage funds to improve project feasibility. The SIB can provide loans and other assistance to public or private entities carrying out or proposing to carry out projects eligible for assistance under federal and state law. The SIB cannot provide assistance in the form of a grant.

The federally-funded account is capitalized by federal money matched with state money as required by law under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU). All repayments are repaid to the federally-funded SIB account and revolved for future loans. Projects must be eligible for assistance under title 23, United States Code (USC) or capital projects as defined in Section 5302 or title 49 USC. Projects

must be included in the adopted comprehensive plans of the applicable MPO and must conform to all federal and state laws, rules and standards.

The state-funded account is capitalized by state money and bond proceeds per ss. 339.55, F.S. and 215.617, F.S. All repayments are repaid to the State Board of Administration where debt service is paid on any outstanding bonds with the remainder returned to the state-funded account and revolved for future loans. Projects must be on the State Highway System or provide increased mobility on the State's transportation system, or provide intermodal connectivity with airports, seaports, rail facilities and other transportation terminals. Also eligible are projects of the Transportation Regional Incentive Program (TRIP) per s. 339.2819(4), F.S. Projects must be consistent, to the maximum extent feasible, with local MPO and local government comprehensive plans and must conform to policies and procedures within applicable Florida Statutes and other appropriate state standards for the transportation system. The state-funded account also allows for the lending of capital costs or to provide credit enhancements for emergency loans for damages incurred on public-use commercial deepwater seaports, public-use airports, and other public-use transit and intermodal facilities that are within an area that is part of an official state declaration of emergency per ch. 252, F.S., and other applicable laws.

### III. Effect of Proposed Changes:

Section 1 amends s. 20.23, F.S., directing the Secretary of FDOT to designate, to one of three assistant secretaries, duties related to enhancing economic prosperity, including the responsibility of liaison with the Governor's head of economic development. The assistant secretary so designated will be responsible for providing the Office of the Governor with investment opportunities and projects that:

- expand the state's role as a global hub for trade and investment, and
- enhance the state's supply chain used in processing, assembling, and shipping goods to western hemisphere markets.

Section 2 amends 163.3180, F.S., providing an exemption from level-of-service standards used in measuring transportation concurrency on SIS facilities. The exemption would apply to new or redevelopment projects which are inland multimodal facilities providing:

- receiving or shipping services for the distribution of cargo;
- storage of cargo; and
- consolidation, repackaging, and transfer of goods.

To be eligible the project must be consistent with applicable local comprehensive plans. Eligible projects may include:

- other intermodal terminals;
- related transportation facilities;
- warehousing and distribution;
- associated office space; and
- light industrial, manufacturing, and assembly land uses

In order to receive the exemption the project must:

- not cause the adopted level-of-service standard on affected SIS facilities to be exceeded by more than 150% in the first five years;
- create at least 50 full time-jobs when completed;
- be compatible with existing and planned adjacent land uses;
- be consistent with local and regional economic development goals or plans; and
- be located near:
  - regionally-significant roads and rail facilities; and
  - a community with an unemployment rate at least 10% higher than the statewide average.

Section 3 creates an unnumbered section of statute establishing priority funding for SIS facility segments that are expected to fail to meet adopted LOS standards within five years due to projects developed or redeveloped under the provisions of s. 163.3180(10)(b), F.S. (Created under Section 2 of the bill.)

Section 4 amends s. 311.09, F.S., to require the FSTED Council to include the modal integration and economic competitiveness plan for applicable LGCP. The Council is also required to develop a priority list of projects and submit the list to the Trade Infrastructure Investment Steering Committee created under Section 7 of the bill.

Section 5 amends s. 339.55, F.S., relating to the SIB. The bill revises the type of projects currently eligible for funding by the SIB by removing intermodal projects from eligibility.

The bill further revises the SIB program by requiring the final selection of projects receiving loans to be made by a newly-created State Infrastructure Bank Selection Committee (SIBSC) composed of:

- the Secretary of FDOT;
- the director of OTTED; and
- a designate of the Trade Infrastructure Investment Steering Committee (TIISC) created under Section 8 of the bill.

However, both the FDOT Secretary and the OTTED Director can be replaced by appointees of the TIISC at the election of the TIISC.

FDOT's authority to select projects for funding is removed, vesting that power in the SIBSC which is directed to give top priority to projects promoting economic development and creating new permanent jobs.

The bill inserts an additional criterion to be used in the evaluation of projects. The bill directs the SIB Selection Committee to consider the extent to which a project improves the state's position to compete for the movement of additional goods into and through the state in association with the widening of the Panama Canal.

A new paragraph (11) is added to s. 339.55, F.S., requiring FDOT to transfer no less than \$20 million annually from the STTF into the SIB beginning in FY 2013/2014. The bill directs the transfer to occur in FY 2011/2012 and FY 2012/2013, if the Revenue Estimating Conference increases the estimate of revenue for the STTF in those years.

Section 6 amends s. 339.64, F.S., to revise the process employed by FDOT for prioritizing SIS development projects. The revisions would remove the prioritization process from FDOT and give it to the newly-created Strategic Intermodal System Project Selection Committee (SISPSC) by this section. The SISPSC would be composed of:

- the Secretary of FDOT;
- the director of OTTED; and
- a designate of the TIISC.

However, both the FDOT Secretary and the OTTED Director can be replaced by appointees of the TIISC at the election of the TIISC.

The SISPSC is directed to give top priority to SIS projects that promote economic development and create new permanent jobs. Other criteria the SISPSC is directed to use include the following:

- whether the project will encourage, enhance, or create economic benefits.
- the extent to which the project would foster innovative public-private partnerships and attract private debt or equity investment.
- the extent to which the project would use new technologies, including intelligent transportation systems, which would enhance the efficient operation of the project.
- the extent to which the project would maintain or protect the environment.
- whether the project includes transportation benefits for improving intermodalism, cargo and freight movement, and safety.
- the extent to which the project significantly improves the state's competitive position to compete for the movement of additional goods into and through this state in association with the widening of the Panama Canal.
- the extent to which the project can generate revenue or matching funds provided by other project partners as a percentage of the overall project costs with emphasis on local and private participation.
- the extent to which the project can relieve major congestion to promote the more efficient movement of people and goods.
- the extent to which the project provides efficient choices for the public and private sector in the movement of people and goods such as express and truck-only lanes where high-occupancy-vehicle (HOV) lanes are converted or new lanes are added that are tolled for a premium level of service.
- the extent to which the project will provide for connectivity between the State Highway System and airports, seaports, rail facilities, and other transportation terminals and intermodal options pursuant to s. 341.053, F.S., for the increased accessibility and movement of people and goods.

- the extent to which damage from a disaster that results in a declaration of emergency has impacted a Strategic Intermodal System facility's ability to maintain its previous level of service and remain accessible to the public or has had a major impact on the cash flow or revenue-generation ability of the public-use facility.

The SISPSC is required to use these criteria and policies to add, advance, and delete SIS projects beginning with FDOT's current Tentative Five-Year Work Program.

Section 7 creates a new ch. 340, F.S., "Trade Infrastructure Development" consisting of ss. 340.101 and 340.102, F.S. The "Florida Trade Infrastructure Investment Act" (act) as s. 340.101, F.S., may be cited, establishes its purpose to be stimulating substantial increases in trade activities and opportunities in the state by identifying investment opportunities and incentives for projects that:

- capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers;
- expand export markets for Florida businesses;
- create more efficient logistics patterns that attract advanced manufacturing and other export-related industries to the state;
- expand the state's role as a hub for trade and investment;
- enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America; and
- create new permanent jobs in the state.

The Trade Infrastructure Investment Steering Committee (TIISC) is created within the Office of the Governor consisting of the following five members:

- the director of OTTED (or designee);
- the Secretary of FDOT (or designee);
- a member appointed by the Governor who must have significant experience in international business, transportation, law, or logistics;
- a member appointed by the President of the Senate who is a private citizen with significant experience in international business, transportation, law, or logistics; and
- a member appointed by the Speaker of the House of Representatives who is a private citizen with significant experience in international business, transportation, law, or logistics;

The chair of the committee is chosen by the Governor. The initial term for appointed members is two years. Subsequent terms are four years and member may be reappointed. More than three absences results in the automatic removal of appointees who serve without compensation.

The TIISC, which must meet at least quarterly, may:

- receive, hold, invest, and administer funds and make expenditures consistent with the purposes and provisions of s. 340.101, F.S.;

- make purchases, sales, exchanges, investment, and reinvestments for and on behalf of the funds received pursuant to s. 340.101, F.S.; and must
- maintain all official records related to its activities.

The TIISC has the following duties and responsibilities:

1. Advise the Governor and Legislature on programs, policies, investments, and other opportunities to transform the state's economy by becoming a hub for trade, logistics, and export-oriented activities.
2. Identify strategic investments in priority seaport trade infrastructure projects. The FSTED Council, under s. 311.09(3), shall provide the committee with a list of seaport projects that respond to business opportunities and contribute to the state's job growth and economic stability.
3. Identify strategic investments in priority airport trade infrastructure projects. The FDOT and the Florida Airports Council shall provide the committee with a list of airport projects that respond to business opportunities and contribute to the state's job growth and economic stability.
4. Identify strategic investments in priority road and rail trade infrastructure projects. FDOT and the Florida Railroad Association shall provide the committee with a list of road and rail projects that respond to business opportunities and contribute to the state's job growth and economic stability.
5. Identify marketing tools, incentives, and support services to meet trade and logistics industry needs. Enterprise Florida, Inc., shall provide the committee with a list of marketing tools, incentives, and support services that respond to industry needs.
6. Review current state planning and funding programs, such as the SIS, to ensure that sufficient and reliable funding for future strategic investments in the state's trade and economic development systems is available, including, but not limited to, a review of whether these programs have the ability to respond to and leverage the maximum amount of available federal dollars and provide significant incentives for investment by private sector businesses.
7. Designate a member other than the Secretary of FDOT or the director of OTTED to serve on the State Infrastructure Bank Selection Committee as provided in s. 339.55.
8. Designate a member other than the Secretary of FDOT or the OTTED director to serve on the Strategic Intermodal System Project Selection Committee as provided in s. 339.64.
9. Select projects from the lists provided under paragraphs (b), (c), and (d), which shall be included by the Secretary of FDOT in FDOT's Work Program as part

of the work program developed and managed in accordance with s. 339.135, F.S.

The bill authorizes one full-time-equivalent (FTE) position as staff to the TIISC to be provided by OTTED and transfers \$300,000 annually from the STTF to the TIISC to employ consultants and experts, and to pay travel expenses of the committee members.

The act requires the TIISC to annually submit a report to the Governor, President of the Senate, and the Speaker of the House of Representatives completely detailing programs, policies, investments, and other opportunities identified through the performance of the committee's duties and responsibilities. The report must include methods for implementing and funding the findings of the report.

The bill creates. s. 340.102, F.S., to address port, airport, and intermodal planning. The bill authorizes each local government with comprehensive planning jurisdiction for deepwater ports, airports, railroad facilities, or intermodal transportation projects to prepare a 10-year economic development and intermodal transportation plan for inclusion as an element in their respective comprehensive plan. Each plan must include:

- An economic development element that identifies targeted business opportunities for increasing business and attracting new business for which a particular facility has a strategic advantage over its competitors, identifies financial resources and other inducements to encourage growth of existing business and acquisition of new business, and provides a projected schedule for attainment of the plan's goals.
- An infrastructure development and improvement element identifying all projected infrastructure improvements within the plan area which require improvement, expansion, or development in order for a port, airport, or railroad to attain a strategic advantage for competition with national and international competitors.
- An element that identifies all intermodal transportation facilities, including sea, air, rail, or road facilities, which are available or have potential, with improvements, to be available for necessary national and international commercial linkages and provides a plan for the integration of port, airport, and railroad activities with existing and planned transportation infrastructure.
- An element that identifies physical, environmental, and regulatory barriers to achievement of the plan goals and provides recommendations for overcoming those barriers.
- An intergovernmental coordination element that specifies modes and methods to coordinate plan goals and missions with the missions of FDOT, other state agencies, and affected local general-purpose governments.

Section 8 amends s. 373.406, F.S., to provide an exception to provisions of Part IV of ch. 373, F.S., "Management and Storage of Surface Waters". The bill declares that overwater piers, docks, and similar structures in a deepwater port, are not part of a stormwater management system and are not to be considered impervious for the purposes of chs. 373 or 403, F.S., if the port has a Stormwater Pollution Prevention Plan developed under the National Pollution Discharge Elimination Program.

Section 9 amends s. 373.4133, F.S., to require the Department of Environmental Protection (FDEP) to issue a notice of intent within 30 days of receiving an application for a port conceptual permit which would create a rebuttable presumption that the port development activities included in the permit comply with all applicable standards. The presumption may only be overcome with clear and convincing evidence. Upon finalization of a port conceptual permit, FDEP must notify the U.S. Army Corps of Engineers that the applicant is in compliance with all state water quality and regulatory requirements. FDEP must also issue any requested construction permit within 30 days of the request.

Section 10 amends s. 403.813, F.S., to exempt maintenance dredging at deepwater ports from the permitting requirements of several sections of statute and general bills, if the dredging:

- is no more than necessary to meet the original design;
- is conducted in compliance with manatee protections provided in s. 379.2431(2)(d), F.S.; and
- previously undisturbed natural areas are not significantly impacted.

The revisions address other conditions upon which dredging permits are predicated including granting consent to use any sovereignty submerged lands.

Section 11 establishes an effective date of July 1, 2011.

**Other Potential Implications:**

Statewide and metropolitan transportation planning processes are governed by Federal law (23 USC 134 and 135) and federal planning regulations are codified in 23 CFR 450. Applicable state and local laws are required if federal highway or transit funds are used for transportation investments. Several provisions of the bill appear to circumvent MPOs' required role in the prioritization of transportation projects. Thus, the bill appears to be in conflict with the federal transportation planning requirements and would likely result in significant financial penalties.

With the provisions allowing the TIISC to appoint members to both the SIBSC and SISPC in lieu of the Secretary of FDOT, the potential exists for a sizable portion of STTF resources to be prioritized without any departmental guidance or input.

**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:

According to FDOT:

The requirement for the SIS Project Selection Committee to review and change SIS projects will delay the adoption of the current Work Program currently being developed. This will delay the execution of contracts with private consulting and construction firms to implement projects in the Adopted Work Program.

Businesses located near, or using SIS highways near, segments of the SIS granted temporary exemptions from level of service standards may experience higher levels of congestion and delays for their customers and goods movement, including the inland multimodal facility granted the exemption. The level of congestion on these roadways will depend on various factors, such as the size and location of the inland multimodal facilities.

Florida Airports Council and Florida Rail Association are required to assemble and provide project lists to Trade Infrastructure Investment Steering Committee.

C. Government Sector Impact:

According to FDOT:

The bill requires the FDOT to deposit no less than \$20 million annually from the State Transportation Trust Fund into the State Infrastructure Bank beginning in FY 2013-2014, or sooner if Consensus Revenue Estimating Conference increases the estimate for the State Transportation Trust Fund. If the revenue estimate increases prior to FY 2013-2014 are less than \$20 million, then some projects in the Work Program for FYs 2011-2012 and 2102-2013 will need to be deferred. In addition, projects in the Five-year Work Program adopted by July 1, 2011 for FYs 2013-2014 through 2015-2016 may need to be deferred.

The bill also reduces funds available for transportation projects funded by the State Transportation Trust Fund by allocating \$300,000 annually to the Trade Infrastructure Investment Steering Committee.

(The bill would also increase) costs to local governments who choose to develop port, airport and railroad intermodal plans and amend their comprehensive plans to include these plans.

The addition, advancement, and deletion of SIS projects in the Five-year Work Program by the Strategic Intermodal System Project Selection Committee may conflict with the transportation priorities submitted by MPOs and counties pursuant to s. 339.135, F.S. Any changes made in the first three years of the Work Program may be inconsistent with provisions in s. 339.135, F.S. stating such projects will stand as a commitment of the state that local governments may rely upon for transportation concurrency purposes.

**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.

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1630

INTRODUCER: Senator Lynn

SUBJECT: Traffic Offenses

DATE: March 17, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill repeals a prohibition on coasting in a motor vehicle, with the gears of the vehicle in neutral or the clutch disengaged, while traveling on a downgrade.

This bill repeals section 316.2024 of the Florida Statutes.

**II. Present Situation:**

Currently, s. 316.2024, F.S., makes coasting in a motor vehicle on a downgrade, with the gears neutral or the clutch disengaged, a moving violation punishable as such under ch. 318, F.S.

**III. Effect of Proposed Changes:**

This bill will cause coasting in a motor vehicle on a downgrade, with the gears neutral or the clutch disengaged, to no longer be a noncriminal traffic infraction.

**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:

None.

C. Government Sector Impact:

None.

**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.

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1774

INTRODUCER: Senator Bogdanoff

SUBJECT: Transportation Corridors

DATE: March 17, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill repeals the designation of statewide transportation corridors. These statewide transportation corridors are defined as a “system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport” (s. 341.0532, F.S.).

This bill repeals s. 341.0532 of the Florida Statutes.

**II. Present Situation:**

Section 341.0532, F.S., defines “statewide transportation corridors” as a “system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport” and identifies the following as Florida’s statewide transportation corridors:

- The Atlantic Coast Corridor, including I-95, and linking Jacksonville to Miami.
- The Gulf Coast Corridor, from Pensacola to St. Petersburg and Tampa, including U.S. 98, U.S. 19 and S.R. 27.
- The Central Florida North-South Corridor, from the Florida-Georgia border to Naples, and Fort Lauderdale/Miami, including I-75.
- The Central Florida East-West Corridor, from St. Petersburg to Tampa and Titusville, including I-4 and the BeeLine Expressway.
- The North Florida Corridor, from Pensacola to Jacksonville, including I-10 and U.S. 231, S.R. 77, and S.R. 79.
- The Jacksonville to Tampa Corridor, including U.S. 301.

- The Jacksonville to Orlando Corridor, including U.S. 17.
- The Southeastern Everglades Corridor, linking Wildwood, Winter Garden, Orlando, West Palm Beach via the Florida Turnpike.

These statewide transportation corridors were designated separately from the components of the Strategic Intermodal System (SIS), ss. 339.61, 339.63, and 339.64, F.S. The SIS is a collection of identified high priority transportation facilities, including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways.

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

The bill repeals s. 341.0532, F.S. This section of law, and the system of statewide transportation corridors it creates is not linked to any Florida Department of Transportation (FDOT) activity. The statutory designation of the statewide transportation corridors in s. 341.0532, F.S., is not necessary for facilities within these corridors to be designated components of the SIS. Therefore, FDOT has determined that a repeal of this section will have no effect on existing designations.

This bill will take effect 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:**

None.

#### **C. Government Sector Impact:**

This bill does not appear to have any fiscal effect.

**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.

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

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**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 Transportation Committee

BILL: SB 1788

INTRODUCER: Senator Bogdanoff

SUBJECT: Bicycle Regulations

DATE: March 17, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	CA	_____
3.	_____	_____	HR	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill removes the requirement to keep at least one hand on a handlebar while operating a bicycle. In addition, this bill renumbers cross-references to conform to the amendment incorporated into ss. 316.2065 and 322.27, F.S.

This bill amends ss. 316.2065 and 322.27 of the Florida Statutes.

**II. Present Situation:**

Section 316.2065(7), F.S., specifies that operators of a bicycle must keep at least one hand upon the handlebars. Violators of this section are fined \$15 plus additional court costs and fees, and the total cost of the violation may vary between \$56.50 and \$82.50.

**III. Effect of Proposed Changes:**

This bill removes the requirement for having at least one hand on the handlebars when operating a bicycle as specified in s. 316.2065(7), F.S. In addition, this bill also renumbers subparagraph (8) through (20), F.S. As a result, this bill also amends all cross references in ss. 316.2065 and 322.27, F.S., to reflect renumbering. According to the Florida Department of Transportation (FDOT) this change may disincentivise the safe operation of bicycles by some users and could result in an increased number of injuries due to bicycle accidents.

This act will take effect 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:

According to FDOT, costs due to personal injury and the potential for litigation resulting from operation without at least one hand on the handlebars of a bicycle are unquantifiable.

## C. Government Sector Impact:

None.

**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.



641256

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/17/2011	.	
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The Committee on Transportation (Latvala) recommended the following:

**Senate Amendment**

Delete lines 188 - 192  
and insert:  
the Colonel of the Division of Law Enforcement in the Fish and Wildlife Conservation Commission, a representative from the Florida Sheriffs Association, and a representative from the Florida Police Chiefs Association.

(2) Administrative assistance to the task force shall be provided by

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1434

INTRODUCER: Senator Latvala

SUBJECT: Office of Motor Carrier Compliance

DATE: March 13, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	GO	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill transfers the Office of Motor Carrier Compliance (OMCC) of the Department of Transportation (FDOT) by a type-two transfer<sup>1</sup> to the Division of the Florida Highway Patrol (FHP) of the Department of Highway Safety & Motor Vehicles (DHSMV).

Effective July 1, 2011, the bill creates a Law Enforcement Consolidation Task Force, provides for its membership, administrative support, and duties; and requires the task force to submit a specified plan. The bill also makes conforming changes.

This bill substantially amends ss. 110.205, 311.115, 316.3026, 321.05, and 334.044 of the Florida Statutes.

This bill creates two undesignated sections of law.

**II. Present Situation:**

The OMCC was created in 1980 by merging weight and safety enforcement functions from the FHP and the Florida Public Service Commission. Staffed by both sworn law enforcement officers and regulatory weight inspectors, OMCC assists the FDOT in fulfilling its mission of providing a safe transportation system by performing commercial vehicle safety and weight enforcement.

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<sup>1</sup> In accordance with s. 20.06(2)(a), F.S. “[A]ny agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law.”

The primary purposes of the OMCC, currently housed within FDOT, are to protect the highway system's pavement and structures from excessive damage due to overweight and oversize vehicles, and to reduce the number and severity of crashes involving commercial vehicles.<sup>2</sup> The OMCC enforces state and federal laws and agency rules that regulate the weight and size of vehicles operating on the state's highways, and the safety of commercial motor vehicles and their drivers.

The program uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. These inspectors weigh trucks and check registration and fuel tax compliance at fixed-scale locations along major highways. The program's law enforcement officers patrol the state's highways and use portable scales to weigh trucks that do not pass fixed-scale stations.<sup>3</sup> There are currently 497 FTEs within the OMCC dedicated to weight enforcement, of which 267 are sworn law enforcement officers and 178 are civilian (non-sworn) weight inspectors, and an additional 52 administrative support staff.

As part of their patrol duties on state highways, the program's law enforcement officers also enforce commercial motor vehicle safety regulations by performing safety inspections and enforcing traffic laws. The program's safety enforcement responsibilities also include compliance reviews at carrier places of business, which are performed by specially-trained law enforcement staff.<sup>4</sup>

According to FDOT, in calendar year 2010, the OMCC weighed 21,786,099 trucks, resulting in 52,223 weight citations. OMCC personnel also completed 118,383 driver/vehicle inspection reports resulting in 23,317 vehicles and/or drivers placed out of service for serious vehicle safety defects and driver licensing or hours of service violations. A typical weight violation case requires approximately 30 minutes per case and a complete CMV inspection will require 45-90 minutes. Over 96 percent of all enforcement contacts made by OMCC personnel were directly related to interactions with CMVs, including inspections, weight enforcement, speed enforcement, etc.

In addition, OMCC officers:

- conduct compliance review audits on Florida-based carriers;
- conduct post-crash CMV inspections for vehicles involved in fatal and serious injury crashes at the request of the FHP and local law enforcement agencies; and
- conduct inspections of hazardous materials shipments on our roadways and deepwater ports.

The OMCC serves as Florida's primary law enforcement radiological and nuclear detection agency in partnership with local, state and federal agencies.

### **OMCC Funding**

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<sup>2</sup> Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

According to FDOT, the operational cost of the OMCC reflects less than 1% of the FDOT annual budget. Annual funding is provided by the State Transportation Trust Fund (STTF) and by the USDOT Federal Motor Carrier Safety Administration (FMCSA) grant program(s). Of the total OMCC FY 2010-11 budget (\$39,589,127), \$8,389,889 was provided by the FMCSA grant(s)<sup>5</sup> and \$647,359 was received from the Department of Homeland Security.<sup>6</sup>

**III. Effect of Proposed Changes:**

The bill directs the OMCC to be transferred via type two transfer to the FHP within the DHSMV, effective July 1, 2011. The OMCC’s non-sworn weight inspectors and sworn law enforcement officers would be moved to DHSMV as part of the transfer.

The DHSMV's FHP and DOT’s OMCC both patrol Florida's highways and enforce the criminal and traffic laws. The type of consolidation being considered is to move OMCC virtually intact into FHP, creating a statewide troop dedicated to commercial motor carrier enforcement. OMCC, wherever it may be located, must remain focused on the enforcement of motor carrier compliance in order to maintain current federal funding levels.

The bill also creates effective July 1, 2011, the Law Enforcement Consolidation Task Force, the membership of which includes the Executive Directors of DHSMV and the Department of Law Enforcement, a representative of the Office of Attorney General, a representative from the Department of Agriculture and Consumer Services, and the Colonels of the FHP and the Division of Law Enforcement in the Fish and Wildlife Commission. The task force is authorized to consult with the Florida Sheriffs Association and the Florida Police Chiefs Association. DHSMV is directed to provide administrative assistance to the task force, not including travel expenses, which are to be paid by the agency the member represents.

The task force is directed to evaluate the duplication of law enforcement functions throughout state government and identify functions that are appropriate for possible consolidation, as well as administrative functions, including, without limitation, accreditation, training, legal representation, vehicle fleets, aircraft, civilian support staffing, information technology, geographic regions, and districts or troops currently in use. The task force is also required to submit recommendations and a plan to consolidate state law enforcement functions to the President of the Senate and the Speaker of the House of Representative by February 1, 2012. The plan must include recommendations on the methodology to be used in creating a consolidated state law enforcement entity by June 30, 2013. The task force is set to expire on June 30, 2012.

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<sup>5</sup> 2010 Grants		
MCSAP/Incentive Grant -	\$8,196,889	(Core CMV Safety Grant funded since FY 95/96)
New Entrant	\$ 122,000	(Outreach and education for new intrastate carriers)
Pre-TACT	\$ <u>71,000</u>	(New grant for the development of an enforcement program directed at aggressive drivers Targeting Aggressive Cars and Trucks)
Total	\$8,389,889	

<sup>6</sup> Department of Transportation, *Agency Bill Analysis: SB 1434* (on file with the Senate Transportation Committee).

**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:

None.

## C. Government Sector Impact:

The DHSMV estimates a net savings in year one of \$1,296,186, \$1,877,089 in year two and \$1,879,371 in year three resulting from the transfer of the OMCC.

**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.

**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.)

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Prepared By: The Professional Staff of the Transportation Committee

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BILL: SB 1790

INTRODUCER: Senator Storms

SUBJECT: Driving Under the Influence

DATE: March 17, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	TR	<b>Pre-meeting</b>
2.	_____	_____	CJ	_____
3.	_____	_____	JU	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill prohibits any state or local law enforcement agency from operating a “no refusal” driving under the influence (DUI) checkpoint at which a judge is present on-site to issue a warrant for a blood test without the person’s consent.

This bill creates a new unnumbered section of the Florida Statutes:

**II. Present Situation:**

Currently, s. 316.1932, F.S., allows a law enforcement officer to request a blood test of a person who is suspected of operating a motor vehicle while under the influence of alcoholic beverages, chemical substances, or controlled substances if that person appears for treatment in a hospital, clinic, or other medical facility and a breath or urine test is impractical. These tests must conform to the rules promulgated by the Alcohol Testing Program within the Department of Law Enforcement. Refusal to take the blood test causes the driver to have their driver’s license suspended for a period of 1 year for a first refusal, or 18 months if the driver had previously had their license suspended for refusing a blood test or other such test. Also, s. 316.1933, F.S., mandates that a blood test be performed, with an authorized use of reasonable force, on a driver who is suspected of driving under the influence of alcoholic beverages, chemical substances, or controlled substances and has caused serious bodily injury or death to a human being.

According to the Department of Highway Safety and Motor Vehicles, “no refusal” DUI checkpoints, as they have been run thus far in the state of Florida, consist of a traditional DUI checkpoint with the addition of an Assistant State Attorney (ASA), blood-draw technicians possibly being on-site with the officers, and with an on-call judge who may or may not be on-

site. Once a driver is stopped at the checkpoint, the officer first must determine if probable cause exists that the driver is under the influence of drugs or alcohol to the extent his/her normal faculties are impaired. Such determinations are made by the officer on the basis of factors including but not limited to the odor of alcohol, slurred speech, blood-shot eyes, stumbling, and fumbling for his or her driver's license. At a DUI checkpoint an officer must base the probable cause determination more heavily on these factors than he would at a routine traffic stop because usually the checkpoint officer would lack any observation of erratic driving.

Once probable cause is determined, the driver is asked to submit to a breath alcohol test. Under no circumstances would every driver stopped at a "no refusal" DUI checkpoint be asked to submit to a breath test without the requisite determination of probable cause. If a driver for whom probable cause has been established refuses the breath test, the officer will complete an application for a search warrant, which includes an affidavit of probable cause, which when approved by the on-site ASA is delivered to the on-call judge either by the officer or with an electronic file transfer. After review the on-call judge may issue a warrant. Only then could the driver's blood be drawn for testing.<sup>1</sup>

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

**Section 1** would prohibit any state or local law enforcement agency from conducting a "no refusal" DUI checkpoint where a judge is present on site to issue a warrant for a blood alcohol test without the driver's consent.

**Section 2** creates 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.

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<sup>1</sup> Telephone communications with the General Counsel and staff of the Department of Highway Safety and Motor Vehicles on March 18, 2011, and March 21, 2011.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**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.