

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Latvala, Chair
Senator Evers, Vice Chair

MEETING DATE: Tuesday, March 29, 2011
TIME: 1:00 —3:00 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	SB 716 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 Not Considered TR 03/29/2011 BC
2	SB 560 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 Not Considered TR 03/29/2011 CM BC
3	SB 1180 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 Temporarily Postponed TR 03/29/2011 BC

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Transportation

Tuesday, March 29, 2011, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 768 Commerce and Tourism / Ring (Similar H 399, Compare H 1153, S 1718)	Seaports; Establishes the Florida seaport infrastructure bank within the Florida Seaport Transportation and Economic Development Program to provide loans and credit enhancements to certain deepwater seaports and private entities for specified projects. Revises provisions for the repayment of bonds relating to the Florida Seaport Transportation and Economic Development Program. Provides for certain revenue bonds and other indebtedness relating to the program to be issued by the Florida Ports Financing Commission, etc.	CM 03/16/2011 Fav/CS TR 03/29/2011 BC
5	SB 900 Bennett	Specialty License Plates; Provides for the issuance of a Combat Infantry Badge license plate. Provides qualifications and requirements for the plate. Provides for the use of proceeds from the sale of the plate.	TR 03/29/2011 BC
6	CS/SB 1140 Children, Families, and Elder Affairs / Sachs (Similar H 1131)	Child Care Facilities; Requires vehicles used by child care facilities and large family child care homes to be equipped with an alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle. Requires the Department of Children and Family Services to adopt rules and maintain a list of approved alarm systems.	CF 03/14/2011 Fav/CS TR 03/29/2011 BC
7	SB 1974 Hill (Compare H 1217)	Driver's License Examinations; Provides requirements for examination questions pertaining to traffic regulations relating to blind pedestrians.	TR 03/29/2011 BC
8	SB 274 Lynn (Compare CS/H 601)	Road Designations/Veterans Memorial Highway; Designates Veterans Memorial Highway in Putnam County.	TR 03/29/2011 BC

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Transportation

Tuesday, March 29, 2011, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 492 Wise (Compare CS/H 601)	Road and Bridge Designations; Designates the Duval County Law Enforcement Memorial Overpass in Duval County. Directs the Department of Transportation to erect suitable markers.	TR 03/29/2011 BC
10	SB 908 Dean (Identical H 489, Compare CS/H 601)	Road Designations; Designates SP4 Thomas Berry Corbin Memorial Highway and U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway in Dixie County. Designates Marine Lance Corporal Brian R. Buesing Memorial Highway, United States Army Sergeant Karl A. Campbell Memorial Highway, and U.S. Army SPC James A. Page Memorial Highway in Levy County. Directs the Department of Transportation to erect suitable markers.	TR 03/29/2011 BC
11	SB 1172 Oelrich (Compare CS/H 601)	Road and Bridge Designations; Designates Deputy Hal P. Croft and Deputy Ronald Jackson Memorial Highway in Union County and designates Deputy Jack A. Romeis Road in Alachua County. Directs the Department of Transportation to erect suitable markers.	TR 03/29/2011 BC
12	SB 1464 Sobel (Similar H 953, Compare CS/H 601)	Road and Bridge Designations; Designates Mardi Gras Way and West Park Boulevard in Broward County. Directs the Department of Transportation to erect suitable markers.	TR 03/29/2011 BC
13	SB 1912 Evers (Similar H 1263)	Trucking; Cites this act as the "Small Trucker Relief Act." Provides for the county tax collector to act as an agent of the Department of Highway Safety and Motor Vehicles for the issuance of certain commercial driver's licenses and registration tags. Exempts trucks owned by small trucking firms from laws that prohibit idling. Provides for a waiver from the Department of Environmental Protection exempting such firms from rules and regulations restricting truck washing. Provides such firms with a tax credit for the costs of idling, etc.	TR 03/29/2011 EP BC

COMMITTEE MEETING EXPANDED AGENDA

Transportation

Tuesday, March 29, 2011, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
SB 672	Garcia (Similar CS/H 4087)	Uniform Traffic Control; Repeals a provision relating to the regulation of the use of cameras to enforce traffic laws being expressly preempted to the state. Repeals a provision relating to the Mark Wandall Traffic Safety Program, a program to install and operate a system of traffic infraction detectors at red light intersections. Removes the provisions relating to the training and duties of traffic infraction enforcement officers, etc.	
		TR 03/29/2011 CA BC	



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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. 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,



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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.



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LEGISLATIVE ACTION

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

Senate Amendment to Amendment (880028) (with title amendment)

Delete lines 42 - 90

and insert:

320.08052 Corporate license plate pilot program.-

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



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13 (2) The design for a corporate license plate must be
14 approved by the department and have the word "Florida" at the
15 top. The department may reject any license plate design deemed
16 by it to be objectionable, including, but not limited to, any
17 design that displays or relates to pornography, alcohol, or
18 tobacco. A corporate license plate may be personalized as
19 provided in s. 320.0805 but must be approved by the corporate
20 sponsor and the department before issuance.

21 (3) A vehicle owner may apply for a corporate license plate
22 for any motor vehicle registered in the owner's name which
23 weighs 7,999 pounds or less, except for a motorcycle or moped,
24 and which is also registered as a vehicle for private use. Each
25 application must be accompanied by an application fee that is 50
26 percent less than the current registration fee. The application
27 by any vehicle owner for a corporate license plate must, upon
28 acceptance, authorize the department to provide the applicant's
29 name and address to the corporate sponsor in compliance with s.
30 119.0712(2). Upon approval of the application, the corporate
31 sponsor shall immediately remit to the department a fee of no
32 less than \$75. The department shall issue the appropriate
33 corporate plate to the vehicle owner, along with a registration
34 and decal, and the registration is valid for one registration
35 period, which may not exceed 15 months. All applicable
36 registration fees authorized by this chapter shall be paid and
37 distributed as provided in this chapter from the proceeds of the
38 fees paid pursuant to this subsection. Of the proceeds remaining
39 after distribution of the registration fees, \$2 shall be
40 distributed pro rata to the sponsors of all other specialty
41 license plates issued under this chapter based on the



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42 proportional amount of each specialty plate's sales relative to
43 the total sales of specialty plates. All remaining proceeds from
44 sales of the corporate license plates and amounts collected
45 under the agreements authorized in subsection (1) shall be
46 deposited into the Highway Safety Operating Trust Fund to fund
47 the general operations of the department.

48 (4) A corporate sponsor may participate in the Corporate
49 License Plate Pilot Program by submitting an initial application
50 fee to the department of at least \$5,000 for the purchase of
51 initial inventory. To be eligible to participate in the program,
52 a corporate sponsor must provide evidence of the ability to pay
53 \$75 per vehicle owner for a minimum of 5,000 vehicle owners.

54 (5) The department shall adopt rules to administer this
55 section.

56 (6) The Corporate License Plate Pilot Program shall begin
57 on October 1, 2011, and end on October 1, 2013. The department
58 shall issue a report to the Speaker of the House of
59 Representatives and the President of the Senate by October 1,
60 2012, outlining the number of corporate license plates sold and
61 the number of corporations participating in the pilot program.

62
63 ===== T I T L E A M E N D M E N T =====

64 And the title is amended as follows:

65 Delete lines 102 - 115

66 and insert:

67 Safety and Motor Vehicles to establish a pilot program
68 to create corporate license plates; authorizing the
69 department to enter into agreements with certain
70 entities that provide the department with the required



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71 legal documentation to use corporate logos; providing
72 requirements for designs used on the corporate license
73 plates; providing for the procedure, including
74 requirements and fees, for vehicle owners who apply
75 for corporate license plates; providing for the
76 distribution of the proceeds from the registration
77 fees and from sales of the corporate license plates
78 and amounts collected under the agreements;
79 authorizing corporate sponsors to participate in the
80 pilot program; providing for the future termination of
81 the program; requiring a report to the Legislature;
82 providing eligibility

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 716

INTRODUCER: Senator Fasano

SUBJECT: Corporate License Plates

DATE: March 14, 2011 REVISED: _____

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

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.¹

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

¹ 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.”² 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 2009.³

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.⁴

² See Section 45, Chapter 2008-176, Laws of Florida

³ See Section. 23, Chapter 2009-71, Laws of Florida

⁴ 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 project⁵, 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

⁵ 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."⁶

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.

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

⁶ 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 (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



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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.



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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";



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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.



488732

LEGISLATIVE ACTION

Senate

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House

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.

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 560

INTRODUCER: Senator Wise

SUBJECT: Sale of Advertising

DATE: March 4, 2011 REVISED: _____

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

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. Expedient 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.



209894

LEGISLATIVE ACTION

Senate

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House

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).



209894

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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.;



116134

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



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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



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2011	.	
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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 permit holder 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,



523884

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2011	.	
	.	
	.	
	.	

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment to Amendment (661918)

Delete line 283
and insert:
No more ~~less~~ than 1.5 percent of the amount contracted for



114538

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2011	.	
	.	
	.	
	.	

The Committee on Transportation (Latvala) recommended the following:

1 **Senate Amendment to Amendment (661918) (with title**
2 **amendment)**

3
4 Between lines 805 and 806
5 insert:

6 Section 50. Subsections (1) and (4) of section 337.408,
7 Florida Statutes, are amended to read:

8 337.408 Regulation of bus stop benches, transit shelters,
9 street light poles, waste disposal receptacles, and modular news
10 racks within rights-of-way.—

11 (1) Benches or transit shelters, including advertising
12 displayed on benches or transit shelters, may be installed



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13 within the right-of-way limits of any municipal, county, or
14 state road, except a limited access highway, provided that such
15 benches or transit shelters are for the comfort or convenience
16 of the general public or are at designated stops on official bus
17 routes and provided that written authorization has been given to
18 a qualified private supplier of such service by the municipal
19 government within whose incorporated limits such benches or
20 transit shelters are installed or by the county government
21 within whose unincorporated limits such benches or transit
22 shelters are installed. A municipality or county may authorize
23 the installation, without public bid, of benches and transit
24 shelters together with advertising displayed thereon within the
25 right-of-way limits of such roads. All installations shall be in
26 compliance with all applicable laws and rules including, without
27 limitation, the Americans with Disabilities Act. Municipalities
28 and counties shall indemnify, defend, and hold harmless the
29 department from any suits, actions, proceedings, claims, losses,
30 costs, charges, expenses, damages, liabilities, attorney fees,
31 and court costs relating to the installation, removal, or
32 relocation of such installations. Any contract for the
33 installation of benches or transit shelters or advertising on
34 benches or transit shelters which was entered into before April
35 8, 1992, without public bidding is ratified and affirmed. Such
36 benches or transit shelters may not interfere with right-of-way
37 preservation and maintenance. Any bench or transit shelter
38 located on a sidewalk within the right-of-way limits of any road
39 on the State Highway System or the county road system shall be
40 located so as to leave at least 36 inches of clearance for
41 pedestrians and persons in wheelchairs. Such clearance shall be



114538

42 measured in a direction perpendicular to the centerline of the
43 road.

44 (4) The department has the authority to direct the
45 immediate relocation or removal of any bus stop bench, transit
46 shelter, waste disposal receptacle, public pay telephone, or
47 modular news rack that endangers life or property, or that is
48 otherwise not in compliance with applicable laws and rules,
49 except that transit bus benches that were placed in service
50 before April 1, 1992, are not required to comply with bench size
51 and advertising display size requirements established by the
52 department before March 1, 1992. If a municipality or county
53 fails to comply with the department's direction, the department
54 shall remove the noncompliant installation, charge the cost of
55 the removal to the municipality or county, and may deduct or
56 offset such cost from any other funding available to the
57 municipality or county from the department. Any transit bus
58 bench that was in service before April 1, 1992, may be replaced
59 with a bus bench of the same size or smaller, if the bench is
60 damaged or destroyed or otherwise becomes unusable. The
61 department may adopt rules relating to the regulation of bench
62 size and advertising display size requirements. If a
63 municipality or county within which a bench is to be located has
64 adopted an ordinance or other applicable regulation that
65 establishes bench size or advertising display sign requirements
66 different from requirements specified in department rule, the
67 local government requirement applies within the respective
68 municipality or county. Placement of any bench or advertising
69 display on the National Highway System under a local ordinance
70 or regulation adopted under this subsection is subject to



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71 approval of the Federal Highway Administration.

72

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

74 And the title is amended as follows:

75 Between lines 917 and 918

76 insert:

77 amending s. 337.408, F.S., revising requirements for
78 the installation of bus stop benches, transit
79 shelters, street light poles, waste disposal
80 receptacles, and modular news racks within the public
81 rights-of-way; requiring compliance with the Americans
82 With Disabilities Act; providing responsibilities for
83 removal of noncompliant installations;



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2011	.	
	.	
	.	
	.	

The Committee on Transportation (Evers) recommended the following:

1 **Senate Amendment to Amendment (661918) (with title**
2 **amendment)**

3
4 Between lines 805 and 806
5 insert:

6 Section 50. Section 479.106, Florida Statutes, is amended
7 to read:

8 479.106 Vegetation management.—

9 (1) The removal, cutting, or trimming of trees or
10 vegetation on public right-of-way to make visible or to ensure
11 future visibility of the facing of a proposed sign or previously
12 permitted sign shall be performed ~~only~~ with the written



13 permission of the department in accordance with the provisions
14 of this section.

15 (2) Any person desiring to engage in the removal, cutting,
16 or trimming of trees or vegetation for the purposes herein
17 described shall apply for an appropriate permit by ~~make~~ written
18 application to the department. The application for a permit
19 shall include at the election of the applicant, one of the
20 following:

21 (a) A vegetation management plan consisting of a property
22 sketch indicating the on-site location of the vegetation or
23 individual trees to be removed, cut, or trimmed and describing
24 the existing conditions and proposed work to be accomplished.

25 (b) Mitigation contribution to the Federal Grants Trust
26 Fund pursuant to s. 589.277(2) using values of a wholesale plant
27 nursery registered with the Division of Plant Industry of the
28 Department of Agriculture and Consumer Services.

29 (c) A combination of both a vegetation management plan and
30 mitigation contribution ~~the applicant's plan for the removal,~~
31 ~~cutting, or trimming and for the management of any vegetation~~
32 ~~planted as part of a mitigation plan.~~

33 (3) In evaluating a vegetation management plan or
34 mitigation contribution, the department ~~As a condition of any~~
35 ~~removal of trees or vegetation, and where the department deems~~
36 ~~appropriate as a condition of any cutting or trimming, the~~
37 ~~department may require a vegetation management plan, approved by~~
38 ~~the department, which considers conservation and mitigation, or~~
39 ~~contribution to a plan of mitigation, for the replacement of~~
40 ~~such vegetation. Each plan or contribution shall reasonably~~
41 evaluate the application as it relates ~~relate~~ to the vegetation



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42 being affected by the application, taking into consideration the
43 condition of such vegetation, and, where appropriate, may
44 approve ~~shall include~~ plantings that ~~which~~ will allow reasonable
45 visibility of sign facings while screening sign structural
46 supports. Only herbicides approved by the Department of
47 Agriculture and Consumer Services may be used in the removal of
48 vegetation. The department shall act on the application for
49 approval of vegetation management plans, or approval of
50 mitigation contribution, within 30 days after receipt of such
51 application. A permit issued in response to such application is
52 valid for 5 years, may be renewed for an additional 5 years by
53 payment of the applicable application fee, and is binding upon
54 the department. The department may establish special mitigation
55 programs for the beautification and aesthetic improvement of
56 designated areas and permit individual applicants to contribute
57 to such programs as a part or in lieu of other mitigation
58 requirements.

59 (4) The department may establish an application fee not to
60 exceed \$25 for each individual application to defer the costs of
61 processing such application and a fee not to exceed \$200 to
62 defer the costs of processing an application for multiple sites.

63 (5) The department may only grant a permit pursuant to s.
64 479.07 for a new sign which requires the removal, cutting, or
65 trimming of existing trees or vegetation on public right-of-way
66 for the sign face to be visible from the highway when the sign
67 owner has removed one ~~at least two~~ nonconforming sign ~~signs~~ of
68 approximate comparable size and surrendered the permits for the
69 nonconforming signs to the department for cancellation. For
70 signs originally permitted after July 1, 1996, no permit for the



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71 removal, cutting, or trimming of trees or vegetation shall be
72 granted where such trees or vegetation are part of a
73 beautification project implemented prior to the date of the
74 original sign permit application, when the beautification
75 project is specifically identified in the department's
76 construction plans, permitted landscape projects, or agreements.

77 (6) As a minimum, view zones are established along the
78 public rights-of-way of interstate highways, expressways,
79 federal-aid primary highways, and the State Highway System in
80 the state, excluding privately or other publicly owned property,
81 as follows:

82 1. A view zone of 350 feet for posted speed limits of 35
83 miles per hour or less.

84 2. A view zone of 500 feet for posted speed limits of more
85 than 35 miles per hour.

86
87 The established view zone shall be within the first 1,000
88 feet measured along the edge of the pavement in the direction of
89 approaching traffic from a point on the edge of the pavement
90 perpendicular to the edge of the sign facing nearest the highway
91 and shall be continuous unless interrupted by vegetation having
92 established historical significance, protected by state law, or
93 having a circumference measured at 4 and 1/2 feet above grade,
94 equal to or greater than 70 percent of the circumference of the
95 Florida Champion of the same species as listed in the Florida
96 Register of Big Trees of the Florida Native Plant Society. The
97 sign owner may designate the specific location of the view zone
98 for each sign facing. In the absence of such designation, the
99 established view zone shall be measured from the sign along the



100 edge of the pavement in the direction of approaching traffic as
101 provided in this subsection.

102 (7)(6) Beautification projects, trees, or other vegetation
103 shall not be planted or located in the view zone of legally
104 erected and permitted outdoor advertising signs which have been
105 permitted prior to the date of the beautification project or
106 other planting, where such planting will, at the time of
107 planting or after future growth, screen such sign from view. The
108 department shall provide written notice to the owner not less
109 than 90 days before commencing a beautification project or other
110 vegetation planting that may affect a sign, allowing such owner
111 not less than 60 days to designate the specific location of the
112 view zone of such affected sign. A sign owner is not required to
113 prepare a vegetation management plan or secure a vegetation
114 management permit for the implementation of beautification
115 projects.

116 ~~(a) View zones are established along the public rights-of-~~
117 ~~way of interstate highways, expressways, federal-aid primary~~
118 ~~highways, and the State Highway System in the state, excluding~~
119 ~~privately or other publicly owned property, as follows:~~

120 ~~1. A view zone of 350 feet for posted speed limits of 35~~
121 ~~miles per hour or less.~~

122 ~~2. A view zone of 500 feet for posted speed limits of over~~
123 ~~35 miles per hour.~~

124 ~~(b) The established view zone shall be within the first~~
125 ~~1,000 feet measured along the edge of the pavement in the~~
126 ~~direction of approaching traffic from a point on the edge of the~~
127 ~~pavement perpendicular to the edge of the sign facing nearest~~
128 ~~the highway and shall be continuous unless interrupted by~~



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129 ~~existing, naturally occurring vegetation. The department and the~~
130 ~~sign owner may enter into an agreement identifying the specific~~
131 ~~location of the view zone for each sign facing. In the absence~~
132 ~~of such agreement, the established view zone shall be measured~~
133 ~~from the sign along the edge of the pavement in the direction of~~
134 ~~approaching traffic as provided in this subsection.~~

135 (a) ~~(e)~~ If a sign owner alleges any governmental entity or
136 other party has violated this subsection, the sign owner must
137 provide 90 days' written notice to the governmental entity or
138 other party allegedly violating this subsection. If the alleged
139 violation is not cured by the governmental entity or other party
140 within the 90-day period, the sign owner may file a claim in the
141 circuit court where the sign is located. A copy of such
142 complaint shall be served contemporaneously upon the
143 governmental entity or other party. If the circuit court
144 determines a violation of this subsection has occurred, the
145 court shall award a claim for compensation equal to the lesser
146 of the revenue from the sign lost during the time of screening
147 or the fair market value of the sign, and the governmental
148 entity or other party shall pay the award of compensation
149 subject to available appeal. Any modification or removal of
150 material within a beautification project or other planting by
151 the governmental entity or other party to cure an alleged
152 violation shall not require the issuance of a permit from the
153 Department of Transportation provided not less than 48 hours'
154 notice is provided to the department of the modification or
155 removal of the material. A natural person, private corporation,
156 or private partnership licensed under part II of chapter 481
157 providing design services for beautification or other projects



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158 shall not be subject to a claim of compensation under this
159 section when the initial project design meets the requirements
160 of this section.

161 (b)~~(d)~~ This subsection shall not apply to the provisions of
162 any existing written agreement executed before July 1, 2006,
163 between any local government and the owner of an outdoor
164 advertising sign.

165 (8)~~(7)~~ Any person engaging in removal, cutting, or trimming
166 of trees or vegetation in violation of this section or
167 benefiting from such actions shall be subject to an
168 administrative penalty of up to \$1,000 and required to mitigate
169 for the unauthorized removal, cutting, or trimming in such
170 manner and in such amount as may be required under the rules of
171 the department.

172 (9)~~(8)~~ The intent of this section is to create partnering
173 relationships which will have the effect of improving the
174 appearance of Florida's highways and creating a net increase in
175 the vegetative habitat along the roads. Department rules shall
176 encourage the use of plants which are low maintenance and native
177 to the general region in which they are planted.

178 Section 51. Subsections (16) and (17) are added to section
179 479.16, Florida Statutes, to read:

180 479.16 Signs for which permits are not required.—The
181 following signs are exempt from the requirement that a permit
182 for a sign be obtained under the provisions of this chapter but
183 are required to comply with the provisions of s. 479.11(4)–(8):

184 (16) Signs erected under the local tourist-oriented
185 commerce program signs pilot program under s. 479.263.

186 (17) Signs not in excess of 32 square feet placed



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187 temporarily during harvest season of a farm operation for a
188 period of no more than four months at a road junction with the
189 State Highway System denoting only the distance or direction of
190 the farm operation. The temporary farm operation harvest sign
191 provision under this subsection may not be implemented if the
192 Federal Government notifies the department that implementation
193 will adversely affect the allocation of federal funds to the
194 department.

195 Section 52. Section 479.263, Florida Statutes, is created
196 to read:

197 479.263 . Tourist-oriented commerce signs pilot program.-
198 The local tourist-oriented commerce signs pilot program is
199 created in rural areas of critical economic concern as defined
200 by s. 288.0656(2) (d) and (e). Signs erected under this program
201 do not require a permit under this chapter.

202 (1) A local tourist-oriented business that is a small
203 business as defined in s. 288.703 may erect a sign that meets
204 the following criteria:

205 (a) The signs are not more than 8 square feet in size or
206 more than 4 feet in height.

207 (b) The signs are located only in rural areas along
208 highways that are not limited access highways.

209 (c) The signs are located within 2 miles of the business
210 location and not less than 500 feet apart.

211 (d) The advertising copy on the signs consists only of the
212 name of the business or the principle or accessory merchandise
213 or services sold or furnished on the premises of the business.

214 (2) A business placing such signs under this section:

215 (a) Must be a minimum of 4 miles from any other business



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216 placing signs under this program.

217 (b) May not participate in the logo sign program authorized
218 under s. 479.261 or the tourist-oriented directional sign
219 program authorized under s. 479.262.

220 (3) Businesses which are conducted in a building
221 principally used as a residence are not eligible to participate.

222
223 Each business utilizing this program shall notify the
224 department in writing of its intent to do so prior to placing
225 signs. The department shall maintain statistics of the
226 businesses participating in the program. This program shall not
227 take effect if the Federal Highway Administration advises the
228 department in writing that implementation constitutes a loss of
229 effective control of outdoor advertising. The local tourist-
230 oriented commerce signs pilot program created herein shall
231 expire June 30, 2016.

232
233

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

235 And the title is amended as follows:

236 Between lines 917 and 918

237 insert:

238



734306

LEGISLATIVE ACTION

Senate	.	House
	.	
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	.	

The Committee on Transportation (Evers) recommended the following:

Senate Amendment (with title amendment)

Between lines 1506 and 1507

insert:

Section 50. Section 479.106, Florida Statutes, is amended to read:

479.106 Vegetation management.—

(1) The removal, cutting, or trimming of trees or vegetation on public right-of-way to make visible or to ensure future visibility of the facing of a proposed sign or previously permitted sign shall be performed only with the written permission of the department in accordance with the provisions



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13 of this section.

14 (2) Any person desiring to engage in the removal, cutting,
15 or trimming of trees or vegetation for the purposes herein
16 described shall apply for an appropriate permit by ~~make~~ written
17 application to the department. The application for a permit
18 shall include at the election of the applicant, one of the
19 following:

20 (a) A vegetation management plan consisting of a property
21 sketch indicating the on-site location of the vegetation or
22 individual trees to be removed, cut, or trimmed and describing
23 the existing conditions and proposed work to be accomplished.

24 (b) Mitigation contribution to the Federal Grants Trust
25 Fund pursuant to s. 589.277(2) using values of a wholesale plant
26 nursery registered with the Division of Plant Industry of the
27 Department of Agriculture and Consumer Services.

28 (c) A combination of both a vegetation management plan and
29 mitigation contribution ~~the applicant's plan for the removal,~~
30 ~~cutting, or trimming and for the management of any vegetation~~
31 ~~planted as part of a mitigation plan.~~

32 (3) In evaluating a vegetation management plan or
33 mitigation contribution, the department ~~As a condition of any~~
34 ~~removal of trees or vegetation, and where the department deems~~
35 ~~appropriate as a condition of any cutting or trimming, the~~
36 ~~department may require a vegetation management plan, approved by~~
37 ~~the department, which considers conservation and mitigation, or~~
38 ~~contribution to a plan of mitigation, for the replacement of~~
39 ~~such vegetation. Each plan or contribution shall reasonably~~
40 evaluate the application as it relates ~~relate~~ to the vegetation
41 being affected by the application, taking into consideration the



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42 condition of such vegetation, and, where appropriate, may
43 approve ~~shall include~~ plantings ~~that~~ ~~which~~ will allow reasonable
44 visibility of sign facings while screening sign structural
45 supports. Only herbicides approved by the Department of
46 Agriculture and Consumer Services may be used in the removal of
47 vegetation. The department shall act on the application for
48 approval of vegetation management plans, or approval of
49 mitigation contribution, within 30 days after receipt of such
50 application. A permit issued in response to such application is
51 valid for 5 years, may be renewed for an additional 5 years by
52 payment of the applicable application fee, and is binding upon
53 the department. The department may establish special mitigation
54 programs for the beautification and aesthetic improvement of
55 designated areas and permit individual applicants to contribute
56 to such programs as a part or in lieu of other mitigation
57 requirements.

58 (4) The department may establish an application fee not to
59 exceed \$25 for each individual application to defer the costs of
60 processing such application and a fee not to exceed \$200 to
61 defer the costs of processing an application for multiple sites.

62 (5) The department may only grant a permit pursuant to s.
63 479.07 for a new sign which requires the removal, cutting, or
64 trimming of existing trees or vegetation on public right-of-way
65 for the sign face to be visible from the highway when the sign
66 owner has removed one ~~at least two~~ nonconforming sign ~~signs~~ of
67 approximate comparable size and surrendered the permits for the
68 nonconforming signs to the department for cancellation. For
69 signs originally permitted after July 1, 1996, no permit for the
70 removal, cutting, or trimming of trees or vegetation shall be



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71 granted where such trees or vegetation are part of a
72 beautification project implemented prior to the date of the
73 original sign permit application, when the beautification
74 project is specifically identified in the department's
75 construction plans, permitted landscape projects, or agreements.

76 (6) As a minimum, view zones are established along the
77 public rights-of-way of interstate highways, expressways,
78 federal-aid primary highways, and the State Highway System in
79 the state, excluding privately or other publicly owned property,
80 as follows:

81 1. A view zone of 350 feet for posted speed limits of 35
82 miles per hour or less.

83 2. A view zone of 500 feet for posted speed limits of more
84 than 35 miles per hour.

85
86 The established view zone shall be within the first 1,000
87 feet measured along the edge of the pavement in the direction of
88 approaching traffic from a point on the edge of the pavement
89 perpendicular to the edge of the sign facing nearest the highway
90 and shall be continuous unless interrupted by vegetation having
91 established historical significance, protected by state law, or
92 having a circumference measured at 4 and 1/2 feet above grade,
93 equal to or greater than 70 percent of the circumference of the
94 Florida Champion of the same species as listed in the Florida
95 Register of Big Trees of the Florida Native Plant Society. The
96 sign owner may designate the specific location of the view zone
97 for each sign facing. In the absence of such designation, the
98 established view zone shall be measured from the sign along the
99 edge of the pavement in the direction of approaching traffic as



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100 provided in this subsection.

101 (7)(6) Beautification projects, trees, or other vegetation
102 shall not be planted or located in the view zone of legally
103 erected and permitted outdoor advertising signs which have been
104 permitted prior to the date of the beautification project or
105 other planting, where such planting will, at the time of
106 planting or after future growth, screen such sign from view. The
107 department shall provide written notice to the owner not less
108 than 90 days before commencing a beautification project or other
109 vegetation planting that may affect a sign, allowing such owner
110 not less than 60 days to designate the specific location of the
111 view zone of such affected sign. A sign owner is not required to
112 prepare a vegetation management plan or secure a vegetation
113 management permit for the implementation of beautification
114 projects.

115 ~~(a) View zones are established along the public rights-of-~~
116 ~~way of interstate highways, expressways, federal-aid primary~~
117 ~~highways, and the State Highway System in the state, excluding~~
118 ~~privately or other publicly owned property, as follows:~~

119 ~~1. A view zone of 350 feet for posted speed limits of 35~~
120 ~~miles per hour or less.~~

121 ~~2. A view zone of 500 feet for posted speed limits of over~~
122 ~~35 miles per hour.~~

123 ~~(b) The established view zone shall be within the first~~
124 ~~1,000 feet measured along the edge of the pavement in the~~
125 ~~direction of approaching traffic from a point on the edge of the~~
126 ~~pavement perpendicular to the edge of the sign facing nearest~~
127 ~~the highway and shall be continuous unless interrupted by~~
128 ~~existing, naturally occurring vegetation. The department and the~~



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129 ~~sign owner may enter into an agreement identifying the specific~~
130 ~~location of the view zone for each sign facing. In the absence~~
131 ~~of such agreement, the established view zone shall be measured~~
132 ~~from the sign along the edge of the pavement in the direction of~~
133 ~~approaching traffic as provided in this subsection.~~

134 (a) ~~(e)~~ If a sign owner alleges any governmental entity or
135 other party has violated this subsection, the sign owner must
136 provide 90 days' written notice to the governmental entity or
137 other party allegedly violating this subsection. If the alleged
138 violation is not cured by the governmental entity or other party
139 within the 90-day period, the sign owner may file a claim in the
140 circuit court where the sign is located. A copy of such
141 complaint shall be served contemporaneously upon the
142 governmental entity or other party. If the circuit court
143 determines a violation of this subsection has occurred, the
144 court shall award a claim for compensation equal to the lesser
145 of the revenue from the sign lost during the time of screening
146 or the fair market value of the sign, and the governmental
147 entity or other party shall pay the award of compensation
148 subject to available appeal. Any modification or removal of
149 material within a beautification project or other planting by
150 the governmental entity or other party to cure an alleged
151 violation shall not require the issuance of a permit from the
152 Department of Transportation provided not less than 48 hours'
153 notice is provided to the department of the modification or
154 removal of the material. A natural person, private corporation,
155 or private partnership licensed under part II of chapter 481
156 providing design services for beautification or other projects
157 shall not be subject to a claim of compensation under this



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158 section when the initial project design meets the requirements
159 of this section.

160 (b)~~(d)~~ This subsection shall not apply to the provisions of
161 any existing written agreement executed before July 1, 2006,
162 between any local government and the owner of an outdoor
163 advertising sign.

164 (8)~~(7)~~ Any person engaging in removal, cutting, or trimming
165 of trees or vegetation in violation of this section or
166 benefiting from such actions shall be subject to an
167 administrative penalty of up to \$1,000 and required to mitigate
168 for the unauthorized removal, cutting, or trimming in such
169 manner and in such amount as may be required under the rules of
170 the department.

171 (9)~~(8)~~ The intent of this section is to create partnering
172 relationships which will have the effect of improving the
173 appearance of Florida's highways and creating a net increase in
174 the vegetative habitat along the roads. Department rules shall
175 encourage the use of plants which are low maintenance and native
176 to the general region in which they are planted.

177 Section 51. Subsections (16) and (17) are added to section
178 479.16, Florida Statutes, to read:

179 479.16 Signs for which permits are not required.—The
180 following signs are exempt from the requirement that a permit
181 for a sign be obtained under the provisions of this chapter but
182 are required to comply with the provisions of s. 479.11(4)-(8):

183 (16) Signs erected under the local tourist-oriented
184 commerce program signs pilot program under s. 479.263.

185 (17) Signs not in excess of 32 square feet placed
186 temporarily during harvest season of a farm operation for a



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187 period of no more than four months at a road junction with the
188 State Highway System denoting only the distance or direction of
189 the farm operation. The temporary farm operation harvest sign
190 provision under this subsection may not be implemented if the
191 Federal Government notifies the department that implementation
192 will adversely affect the allocation of federal funds to the
193 department.

194 Section 52. Section 479.263, Florida Statutes, is created
195 to read:

196 479.263 . Tourist-oriented commerce signs pilot program.-
197 The local tourist-oriented commerce signs pilot program is
198 created in rural areas of critical economic concern as defined
199 by s. 288.0656(2) (d) and (e). Signs erected under this program
200 do not require a permit under this chapter.

201 (1) A local tourist-oriented business that is a small
202 business as defined in s. 288.703 may erect a sign that meets
203 the following criteria:

204 (a) The signs are not more than 8 square feet in size or
205 more than 4 feet in height.

206 (b) The signs are located only in rural areas along
207 highways that are not limited access highways.

208 (c) The signs are located within 2 miles of the business
209 location and not less than 500 feet apart.

210 (d) The advertising copy on the signs consists only of the
211 name of the business or the principal or accessory merchandise
212 or services sold or furnished on the premises of the business.

213 (2) A business placing such signs under this section:

214 (a) Must be a minimum of 4 miles from any other business
215 placing signs under this program.



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216 (b) May not participate in the logo sign program authorized
217 under s. 479.261 or the tourist-oriented directional sign
218 program authorized under s. 479.262.

219 (3) Businesses which are conducted in a building
220 principally used as a residence are not eligible to participate.

221
222 Each business utilizing this program shall notify the department
223 in writing of its intent to do so prior to placing signs. The
224 department shall maintain statistics of the businesses
225 participating in the program. This program shall not take effect
226 if the Federal Highway Administration advises the department in
227 writing that implementation constitutes a loss of effective
228 control of outdoor advertising. The local tourist-oriented
229 commerce signs pilot program created herein shall expire June
230 30, 2016.

231
232
233 ===== T I T L E A M E N D M E N T =====

234 And the title is amended as follows:

235 Delete line 76

236 and insert:

237 changes to the bill; amending s. 479.106, F.S.; revising
238 requirements for an application for a permit to remove, cut, or
239 trim trees or vegetation around a sign; requiring that the
240 application include a vegetation management plan, a mitigation
241 contribution to a trust fund, or a combination of both;
242 providing certain evaluation criteria; providing criteria for
243 the use of herbicides; providing a time limit within which the
244 Department of Transportation must act; providing that the permit



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245 is valid for 5 years; providing for an extension of the permit;
246 reducing th number of nonconforming signs that must be removed
247 before a permit may be issued for certain signs; providing
248 criteria for view zones; requiring the department to provide
249 notice to the sign owner of beautification projects or
250 vegetation planting; amending s. 479.16, F.S.; exempting signs
251 erected under the local tourist-oriented commerce signs pilot
252 program from certain permit requirements; exempting certain
253 temporary signs for farm operations from permit requirements;
254 creating s. 479.263, F.S.; creating the tourist-oriented
255 commerce signs pilot program; exempting commercial signs that
256 meet certain criteria from permit requirements; providing an
257 effective date.

258



269278

LEGISLATIVE ACTION

Senate

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House

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



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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.

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



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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
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



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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 2 business days. A permit application denial by a
97 county or municipality shall be in writing and be based on a
98 finding that the proposed activity:

- 99 1. Increases the likelihood of traffic accidents;
100 2. Violates traffic laws, rules, or ordinances;
101 3. Makes the sidewalk impassable for pedestrians; or
102 4. Significantly increases the likelihood of harm to
103 motorists and passersby.

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

- 106 1. The name and address of the person to whom the permit is
107 granted;
108 2. The name of the company the person represents, if any;
109 and
110 3. The expiration date of the permit.

111 (c) The permitholder must keep the permit on his or her



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112 person at all times when engaging in activity authorized by the
113 permit.

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

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

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

129 (a) Restrict a person from passively standing or sitting on
130 a public sidewalk and holding a sign if that person does not
131 obstruct the flow of vehicle or pedestrian traffic.

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

136 (c) Apply to:

137 1. Law enforcement officers carrying out their duties;

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

140 3. Mail-delivery vehicles;

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

143 5. Any commercial vehicle that is used solely for the



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144 purpose of collecting solid waste or recyclable or recovered
145 materials and that is stopped for the sole purpose of collecting
146 solid waste or recyclable or recovered materials.

147 (6) VIOLATIONS.—Any person who violates the provisions of
148 this section, upon conviction, shall be cited for a pedestrian
149 violation, punishable as provided in chapter 318. An additional
150 \$10 shall be added to the fine levied under chapter 318. Moneys
151 collected from this additional \$10 fine shall be deposited into
152 the Grants and Donations Trust Fund of the Department of
153 Children and Family Services and used by the State Office on
154 Homelessness to supplement grants made under s. 420.622(4) and
155 (5).

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

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

161 316.2047 Panhandling.—

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

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

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

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

175 2. Under circumstances that warrant justifiable and



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176 reasonable alarm or immediate concern for the safety of persons
177 or property in the vicinity;

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

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

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

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

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

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

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

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

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

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

202 (d) "Panhandling" means to:

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

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



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208 understand that the transaction is only a donation.

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

210 (a) Engage in aggressive panhandling.

211 (b) Engage in panhandling:

212 1. Within 20 feet of a bus stop;

213 2. Within 20 feet of an automated teller machine or the

214 entrance to a bank;

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

216 vehicle; or

217 4. In a parking garage owned or operated by a county, a

218 municipality, or an agency of the state or the Federal

219 Government.

220 (c) Engage in fraudulent panhandling.

221 (4) LOCAL GOVERNMENT JURISDICTION.—Counties and

222 municipalities may increase the restrictions on panhandling if

223 those restrictions are nondiscriminatory and narrowly tailored

224 to serve an important public purpose. A county or municipality

225 may opt out of the provisions of this section by a majority vote

226 of the members of the county or municipal governing body. This

227 section does not preempt any existing ordinances that are

228 consistent with this section.

229 (5) VIOLATIONS; PENALTIES.—Any person who violates the

230 provisions of this section, upon conviction, shall be cited for

231 a pedestrian violation, punishable as provided in chapter 318.

232 An additional \$10 shall be added to the fine levied under

233 chapter 318. Moneys collected from this additional \$10 fine

234 shall be deposited into the Grants and Donations Trust Fund of

235 the Department of Children and Family Services and used by the

236 State Office on Homelessness to supplement grants made under s.

237 420.622(4) and (5).

238 (6) ENFORCEMENT.—The Department of Highway Safety and Motor

239 Vehicles and other law enforcement agencies are authorized and



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240 directed to enforce this section.

241 Section 40. Paragraph (c) of subsection (2) of section
242 316.302, Florida Statutes, is amended to read:

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

245 (2)

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



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272 operated during a state of emergency declared by the Governor or
273 operated pursuant to s. 570.07(21), and do not apply to drivers
274 of utility service vehicles as defined in 49 C.F.R. s. 395.2.

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

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

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

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

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

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



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



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

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

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

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

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

367 Section 43. Subsections (1) and (4) of section 337.408,



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368 Florida Statutes, are amended to read:

369 337.408 Regulation of bus stop benches, transit shelters,
370 street light poles, waste disposal receptacles, and modular news
371 racks within rights-of-way.-

372 (1) Benches or transit shelters, including advertising
373 displayed on benches or transit shelters, may be installed
374 within the right-of-way limits of any municipal, county, or
375 state road, except a limited access highway, provided that such
376 benches or transit shelters are for the comfort or convenience
377 of the general public or are at designated stops on official bus
378 routes and provided that written authorization has been given to
379 a qualified private supplier of such service by the municipal
380 government within whose incorporated limits such benches or
381 transit shelters are installed or by the county government
382 within whose unincorporated limits such benches or transit
383 shelters are installed. A municipality or county may authorize
384 the installation, without public bid, of benches and transit
385 shelters together with advertising displayed thereon within the
386 right-of-way limits of such roads. All installations shall be in
387 compliance with all applicable laws and rules including, without
388 limitation, the Americans with Disabilities Act. Municipalities
389 and counties shall indemnify, defend, and hold harmless the
390 department from any suits, actions, proceedings, claims, losses,
391 costs, charges, expenses, damages, liabilities, attorney fees,
392 and court costs relating to the installation, removal, or
393 relocation of such installations. Any contract for the
394 installation of benches or transit shelters or advertising on
395 benches or transit shelters which was entered into before April
396 8, 1992, without public bidding is ratified and affirmed. Such
397 benches or transit shelters may not interfere with right-of-way
398 preservation and maintenance. Any bench or transit shelter
399 located on a sidewalk within the right-of-way limits of any road



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400 on the State Highway System or the county road system shall be
401 located so as to leave at least 36 inches of clearance for
402 pedestrians and persons in wheelchairs. Such clearance shall be
403 measured in a direction perpendicular to the centerline of the
404 road.

405 (4) The department has the authority to direct the
406 immediate relocation or removal of any bus stop bench, transit
407 shelter, waste disposal receptacle, public pay telephone, or
408 modular news rack that endangers life or property, or that is
409 otherwise not in compliance with applicable laws and rules,
410 except that transit bus benches that were placed in service
411 before April 1, 1992, are not required to comply with bench size
412 and advertising display size requirements established by the
413 department before March 1, 1992. If a municipality or county
414 fails to comply with the department's direction, the department
415 shall remove the noncompliant installation, charge the cost of
416 the removal to the municipality or county, and may deduct or
417 offset such cost from any other funding available to the
418 municipality or county from the department. Any transit bus
419 ~~bench that was in service before April 1, 1992, may be replaced~~
420 ~~with a bus bench of the same size or smaller, if the bench is~~
421 ~~damaged or destroyed or otherwise becomes unusable.~~ The
422 department may adopt rules relating to the regulation of bench
423 size and advertising display size requirements. If a
424 municipality or county within which a bench is to be located has
425 adopted an ordinance or other applicable regulation that
426 establishes bench size or advertising display sign requirements
427 different from requirements specified in department rule, the
428 local government requirement applies within the respective
429 municipality or county. Placement of any bench or advertising
430 display on the National Highway System under a local ordinance
431 or regulation adopted under this subsection is subject to



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432 approval of the Federal Highway Administration.

433 Section 44. Section 373.413, Florida Statutes, is amended
434 to read:

435 373.413 Permits for construction or alteration.—

436 (1) Except for the exemptions set forth herein, the
437 governing board or the department may require such permits and
438 impose such reasonable conditions as are necessary to assure
439 that the construction or alteration of any stormwater management
440 system, dam, impoundment, reservoir, appurtenant work, or works
441 will comply with the provisions of this part and applicable
442 rules promulgated thereto and will not be harmful to the water
443 resources of the district. The department or the governing board
444 may delineate areas within the district wherein permits may be
445 required.

446 (2) A person proposing to construct or alter a stormwater
447 management system, dam, impoundment, reservoir, appurtenant
448 work, or works subject to such permit shall apply to the
449 governing board or department for a permit authorizing such
450 construction or alteration. The application shall contain the
451 following:

452 (a) Name and address of the applicant.

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

456 (c) Location of the work.

457 (d) Sketches of construction pending tentative approval.

458 (e) Name and address of the person who prepared the plans
459 and specifications of construction.

460 (f) Name and address of the person who will construct the
461 proposed work.

462 (g) General purpose of the proposed work.

463 (h) Such other information as the governing board or



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464 department may require.

465 (3) After receipt of an application for a permit, the
466 governing board or department shall publish notice of the
467 application by sending a notice to any persons who have filed a
468 written request for notification of any pending applications
469 affecting the particular designated area. Such notice may be
470 sent by regular mail. The notice shall contain the name and
471 address of the applicant; a brief description of the proposed
472 activity, including any mitigation; the location of the proposed
473 activity, including whether it is located within an Outstanding
474 Florida Water or aquatic preserve; a map identifying the
475 location of the proposed activity subject to the application; a
476 depiction of the proposed activity subject to the application; a
477 name or number identifying the application and the office where
478 the application can be inspected; and any other information
479 required by rule.

480 (4) In addition to the notice required by subsection (3),
481 the governing board or department may publish, or require an
482 applicant to publish at the applicant's expense, in a newspaper
483 of general circulation within the affected area, a notice of
484 receipt of the application and a notice of intended agency
485 action. This subsection does not limit the discretionary
486 authority of the department or the governing board of a water
487 management district to publish, or to require an applicant to
488 publish at the applicant's expense, any notice under this
489 chapter. The governing board or department shall also provide
490 notice of this intended agency action to the applicant and to
491 persons who have requested a copy of the intended agency action
492 for that specific application.

493 (5) The governing board or department may charge a
494 subscription fee to any person who has filed a written request
495 for notification of any pending applications to cover the cost



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496 of duplication and mailing charges.

497 (6) It is the intent of the Legislature that the governing
498 board or department exercise flexibility in the permitting of
499 stormwater management systems associated with the construction
500 or alteration of systems serving state transportation projects
501 and facilities. Because of the unique limitations of linear
502 facilities, the governing board or department shall balance the
503 expenditure of public funds for stormwater treatment for state
504 transportation projects and facilities and the treatment
505 objectives to be achieved. In consideration thereof, the
506 governing board or department shall allow alternatives to on-
507 site treatment, including but not limited to regional stormwater
508 treatment systems. The Department of Transportation shall not be
509 responsible for the abatement of pollutants and flows entering
510 its stormwater management systems from offsite; however, this
511 subsection does not prohibit the Department of Transportation
512 from receiving and managing such pollutants and flows when it is
513 found to be cost-effective and prudent. Further, in association
514 with right-of-way acquisition for state transportation projects,
515 the Department of Transportation is responsible for providing
516 stormwater treatment and attenuation for additional right-of-
517 way, but shall not be responsible for modifying permits of
518 adjacent lands when it is not the permittee. Further, in
519 association with right-of-way acquisition for state
520 transportation projects, the Department of Transportation is
521 responsible for providing stormwater treatment and attenuation
522 for additional right-of-way, but shall not be responsible for
523 modifying permits of adjacent lands when it is not the
524 permittee. To accomplish this, the governing board or department
525 shall adopt rules for these activities.

526 Section 45. Subsections (1), (2), (3), (4), and (5) of
527 section 373.4137, Florida Statutes, are amended to read:



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528 373.4137 Mitigation requirements for specified
529 transportation projects.—

530 (1) The Legislature finds that environmental mitigation for
531 the impact of transportation projects proposed by the Department
532 of Transportation or a transportation authority established
533 pursuant to chapter 348 or chapter 349 can be more effectively
534 achieved by regional, long-range mitigation planning rather than
535 on a project-by-project basis. It is the intent of the
536 Legislature that mitigation to offset the adverse effects of
537 these transportation projects be funded by the Department of
538 Transportation and be carried out by the water management
539 districts, including the use of mitigation banks and any other
540 mitigation options that satisfy state and federal requirements
541 ~~established pursuant to this part.~~

542 (2) Environmental impact inventories for transportation
543 projects proposed by the Department of Transportation or a
544 transportation authority established pursuant to chapter 348 or
545 chapter 349 shall be developed as follows:

546 (a) By July 1 of each year, the Department of
547 Transportation or a transportation authority established
548 pursuant to chapter 348 or chapter 349 which chooses to
549 participate in this program shall submit to the water management
550 districts a list ~~copy~~ of its projects in the adopted work
551 program and an environmental impact inventory of habitats
552 addressed in the rules adopted pursuant to this part and s. 404
553 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
554 by its plan of construction for transportation projects in the
555 next 3 years of the tentative work program. The Department of
556 Transportation or a transportation authority established
557 pursuant to chapter 348 or chapter 349 may also include in its
558 environmental impact inventory the habitat impacts of any future
559 transportation project. The Department of Transportation and



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560 each transportation authority established pursuant to chapter
561 348 or chapter 349 may fund any mitigation activities for future
562 projects using current year funds.

563 (b) The environmental impact inventory shall include a
564 description of these habitat impacts, including their location,
565 acreage, and type; state water quality classification of
566 impacted wetlands and other surface waters; any other state or
567 regional designations for these habitats; and a list survey of
568 threatened species, endangered species, and species of special
569 concern affected by the proposed project.

570 (3) (a) To fund development and implementation of the
571 mitigation plan for the projected impacts identified in the
572 environmental impact inventory described in subsection (2), the
573 Department of Transportation shall identify funds quarterly in
574 an escrow account within the State Transportation Trust Fund for
575 the environmental mitigation phase of projects budgeted by the
576 Department of Transportation for the current fiscal year. The
577 escrow account shall be maintained by the Department of
578 Transportation for the benefit of the water management
579 districts. Any interest earnings from the escrow account shall
580 remain with the Department of Transportation.

581 (b) Each transportation authority established pursuant to
582 chapter 348 or chapter 349 that chooses to participate in this
583 program shall create an escrow account within its financial
584 structure and deposit funds in the account to pay for the
585 environmental mitigation phase of projects budgeted for the
586 current fiscal year. The escrow account shall be maintained by
587 the authority for the benefit of the water management districts.
588 Any interest earnings from the escrow account shall remain with
589 the authority.

590 (c) Except for current mitigation projects in the
591 monitoring and maintenance phase and except as allowed by



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592 paragraph (d), the water management districts may request a
593 transfer of funds from an escrow account no sooner than 30 days
594 prior to the date the funds are needed to pay for activities
595 associated with development or implementation of the approved
596 mitigation plan described in subsection (4) for the current
597 fiscal year, including, but not limited to, design, engineering,
598 production, and staff support. Actual conceptual plan
599 preparation costs incurred before plan approval may be submitted
600 to the Department of Transportation or the appropriate
601 transportation authority each year with the plan. The conceptual
602 plan preparation costs of each water management district will be
603 paid from mitigation funds associated with the environmental
604 impact inventory for the current year. The amount transferred to
605 the escrow accounts each year by the Department of
606 Transportation and participating transportation authorities
607 established pursuant to chapter 348 or chapter 349 shall
608 correspond to a cost per acre of \$75,000 multiplied by the
609 projected acres of impact identified in the environmental impact
610 inventory described in subsection (2). However, the \$75,000 cost
611 per acre does not constitute an admission against interest by
612 the state or its subdivisions nor is the cost admissible as
613 evidence of full compensation for any property acquired by
614 eminent domain or through inverse condemnation. Each July 1, the
615 cost per acre shall be adjusted by the percentage change in the
616 average of the Consumer Price Index issued by the United States
617 Department of Labor for the most recent 12-month period ending
618 September 30, compared to the base year average, which is the
619 average for the 12-month period ending September 30, 1996. Each
620 quarter, the projected acreage of impact shall be reconciled
621 with the acreage of impact of projects as permitted, including
622 permit modifications, pursuant to this part and s. 404 of the
623 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer



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624 of funds shall be adjusted accordingly to reflect the acreage of
625 impacts as permitted. The Department of Transportation and
626 participating transportation authorities established pursuant to
627 chapter 348 or chapter 349 are authorized to transfer such funds
628 from the escrow accounts to the water management districts to
629 carry out the mitigation programs. Environmental mitigation
630 funds that are identified or maintained in an escrow account for
631 the benefit of a water management district may be released if
632 the associated transportation project is excluded in whole or
633 part from the mitigation plan. For a mitigation project that is
634 in the maintenance and monitoring phase, the water management
635 district may request and receive a one-time payment based on the
636 project's expected future maintenance and monitoring costs. Upon
637 disbursement of the final maintenance and monitoring payment,
638 the obligation of the department or the participating
639 transportation authority is satisfied, the water management
640 district has the continuing responsibility for the mitigation
641 project, and the escrow account for the project established by
642 the Department of Transportation or the participating
643 transportation authority may be closed. Any interest earned on
644 these disbursed funds shall remain with the water management
645 district and must be used as authorized under this section.

646 (d) Beginning in the 2005-2006 fiscal year, each water
647 management district shall be paid a lump-sum amount of \$75,000
648 per acre, adjusted as provided under paragraph (c), for
649 federally funded transportation projects that are included on
650 the environmental impact inventory and that have an approved
651 mitigation plan. Beginning in the 2009-2010 fiscal year, each
652 water management district shall be paid a lump-sum amount of
653 \$75,000 per acre, adjusted as provided under paragraph (c), for
654 federally funded and nonfederally funded transportation projects
655 that have an approved mitigation plan. All mitigation costs,



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656 including, but not limited to, the costs of preparing conceptual
657 plans and the costs of design, construction, staff support,
658 future maintenance, and monitoring the mitigated acres shall be
659 funded through these lump-sum amounts.

660 (4) Prior to March 1 of each year, each water management
661 district, in consultation with the Department of Environmental
662 Protection, the United States Army Corps of Engineers, the
663 Department of Transportation, participating transportation
664 authorities established pursuant to chapter 348 or chapter 349,
665 and other appropriate federal, state, and local governments, and
666 other interested parties, including entities operating
667 mitigation banks, shall develop a plan for the primary purpose
668 of complying with the mitigation requirements adopted pursuant
669 to this part and 33 U.S.C. s. 1344. In developing such plans,
670 the districts shall utilize sound ecosystem management practices
671 to address significant water resource needs and shall focus on
672 activities of the Department of Environmental Protection and the
673 water management districts, such as surface water improvement
674 and management (SWIM) projects and lands identified for
675 potential acquisition for preservation, restoration or
676 enhancement, and the control of invasive and exotic plants in
677 wetlands and other surface waters, to the extent that such
678 activities comply with the mitigation requirements adopted under
679 this part and 33 U.S.C. s. 1344. In determining the activities
680 to be included in such plans, the districts shall also consider
681 the purchase of credits from public or private mitigation banks
682 permitted under s. 373.4136 and associated federal authorization
683 and shall include such purchase as a part of the mitigation plan
684 when such purchase would offset the impact of the transportation
685 project, provide equal benefits to the water resources than
686 other mitigation options being considered, and provide the most
687 cost-effective mitigation option. The mitigation plan shall be



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688 submitted to the water management district governing board, or
689 its designee, for review and approval. At least 14 days prior to
690 approval, the water management district shall provide a copy of
691 the draft mitigation plan to any person who has requested a
692 copy.

693 (a) For each transportation project with a funding request
694 for the next fiscal year, the mitigation plan must include a
695 brief explanation of why a mitigation bank was or was not chosen
696 as a mitigation option, including an estimation of identifiable
697 costs of the mitigation bank and nonbank options to the extent
698 practicable.

699 (b) Specific projects may be excluded from the mitigation
700 plan, in whole or in part, and are ~~shall~~ not be subject to this
701 section upon the election agreement of the Department of
702 Transportation, ~~or~~ a transportation authority, if applicable, or
703 ~~and~~ the appropriate water management district ~~that the inclusion~~
704 ~~of such projects would hamper the efficiency or timeliness of~~
705 ~~the mitigation planning and permitting process. The water~~
706 ~~management district may choose to exclude a project in whole or~~
707 ~~in part if the district is unable to identify mitigation that~~
708 ~~would offset impacts of the project.~~

709 (5) The water management district shall ensure ~~be~~
710 ~~responsible for ensuring~~ that mitigation requirements pursuant
711 to 33 U.S.C. s. 1344 are met for the impacts identified in the
712 environmental impact inventory described in subsection (2), by
713 implementation of the approved plan described in subsection (4)
714 to the extent funding is provided by the Department of
715 Transportation, or a transportation authority established
716 pursuant to chapter 348 or chapter 349, if applicable. During
717 the federal permitting process, the water management district
718 may deviate from the approved mitigation plan in order to comply
719 with federal permitting requirements.



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720 Section 46. Paragraph (c) of subsection (1) of section
721 374.976, Florida Statutes, is amended to read:

722 374.976 Authority to address impacts of waterway
723 development projects.—

724 (1) Each inland navigation district is empowered and
725 authorized to undertake programs intended to alleviate the
726 problems associated with its waterway or waterways, including,
727 but not limited to, the following:

728 (c) The district is authorized to aid and cooperate with
729 the Federal Government; state; member counties; nonmember
730 counties that contain any part of the intracoastal waterway
731 within their boundaries; navigation districts; the seaports of
732 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm
733 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,
734 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and
735 Fernandina; and local governments within the district in
736 planning and carrying out public navigation, local and regional
737 anchorage management, beach renourishment, public recreation,
738 inlet management, environmental education, and boating safety
739 projects, directly related to the waterways. The district is
740 also authorized to enter into cooperative agreements with the
741 United States Army Corps of Engineers, state, and member
742 counties, and to covenant in any such cooperative agreement to
743 pay part of the costs of acquisition, planning, development,
744 construction, reconstruction, extension, improvement, operation,
745 and maintenance of such projects.

746 Section 47. Subsection (9) of section 403.021, Florida
747 Statutes, is amended to read:

748 403.021 Legislative declaration; public policy.—

749 (9) (a) The Legislature finds and declares that it is
750 essential to preserve and maintain authorized water depth in the
751 existing navigation channels, port harbors, turning basins, and



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752 harbor berths of this state in order to provide for the
753 continued safe navigation of deepwater shipping commerce. The
754 department shall recognize that maintenance of authorized water
755 depths consistent with port master plans developed pursuant to
756 s. 163.3178(2)(k) is an ongoing, continuous, beneficial, and
757 necessary activity that is in the public interest; and it shall
758 develop a regulatory process that shall enable the ports of this
759 state to conduct such activities in an environmentally sound,
760 safe, expeditious, and cost-efficient manner. It is the further
761 intent of the Legislature that the permitting and enforcement of
762 dredging, dredged-material management, and other related
763 activities for Florida's deepwater ports pursuant to this
764 chapter and chapters 161, 253, and 373 shall be consolidated
765 within the department's Division of Water Resource Management
766 and, with the concurrence of the affected deepwater port or
767 ports, may be administered by a district office of the
768 department or delegated to an approved local environmental
769 program.

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

777 Section 48. Subsection (26) of section 403.061, Florida
778 Statutes, is amended to read:

779 403.061 Department; powers and duties.—The department shall
780 have the power and the duty to control and prohibit pollution of
781 air and water in accordance with the law and rules adopted and
782 promulgated by it and, for this purpose, to:

783 (26) (a) Develop standards and criteria for waters used for



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784 deepwater shipping which standards and criteria consider
785 existing water quality; appropriate mixing zones and other
786 requirements for maintenance dredging in previously constructed
787 deepwater navigation channels, port harbors, turning basins, or
788 harbor berths; and appropriate mixing zones for disposal of
789 spoil material from dredging and, where necessary, develop a
790 separate classification for such waters. Such classification,
791 standards, and criteria shall recognize that the present
792 dedicated use of these waters is for deepwater commercial
793 navigation.

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

802
803 The department shall implement such programs in conjunction
804 with its other powers and duties and shall place special
805 emphasis on reducing and eliminating contamination that presents
806 a threat to humans, animals or plants, or to the environment.

807 Section 49. Subsection (3) of section 403.813, Florida
808 Statutes, is amended to read:

809 403.813 Permits issued at district centers; exceptions.—

810 (3) For maintenance dredging conducted under this section
811 by the seaports of Jacksonville, Port Canaveral, Port Citrus,
812 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
813 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
814 West, and Fernandina or by inland navigation districts:

815 (a) A mixing zone for turbidity is granted within a 150-



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816 meter radius from the point of dredging while dredging is
817 ongoing, except that the mixing zone may not extend into areas
818 supporting wetland communities, submerged aquatic vegetation, or
819 hardbottom communities.

820 (b) The discharge of the return water from the site used
821 for the disposal of dredged material shall be allowed only if
822 such discharge does not result in a violation of water quality
823 standards in the receiving waters. The return-water discharge
824 into receiving waters shall be granted a mixing zone for
825 turbidity within a 150-meter radius from the point of discharge
826 during and immediately after the dredging, except that the
827 mixing zone may not extend into areas supporting wetland
828 communities, submerged aquatic vegetation, or hardbottom
829 communities.

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

833 (d) The use of flocculants at the site used for disposal of
834 the dredged material is allowed if the use, including supporting
835 documentation, is coordinated in advance with the department and
836 the department has determined that the use is not harmful to
837 water resources.

838 (e) This subsection does not prohibit maintenance dredging
839 of areas where the loss of original design function and
840 constructed configuration has been caused by a storm event,
841 provided that the dredging is performed as soon as practical
842 after the storm event. Maintenance dredging that commences
843 within 3 years after the storm event shall be presumed to
844 satisfy this provision. If more than 3 years are needed to
845 commence the maintenance dredging after the storm event, a
846 request for a specific time extension to perform the maintenance
847 dredging shall be submitted to the department, prior to the end



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848 of the 3-year period, accompanied by a statement, including
849 supporting documentation, demonstrating that contractors are not
850 available or that additional time is needed to obtain
851 authorization for the maintenance dredging from the United
852 States Army Corps of Engineers.

853 Section 50. Section 403.816, Florida Statutes, is amended
854 to read:

855 403.816 Permits for maintenance dredging of deepwater ports
856 and beach restoration projects.—

857 (1) The department shall establish a permit system under
858 this chapter and chapter 253 which provides for the performance,
859 for up to 25 years from the issuance of the original permit, of
860 maintenance dredging of permitted navigation channels, port
861 harbors, turning basins, harbor berths, and beach restoration
862 projects approved pursuant to chapter 161. However, permits
863 issued for dredging river channels which are not a part of a
864 deepwater port shall be valid for no more than five years. No
865 charge shall be exacted by the state for material removed during
866 such maintenance dredging by a public port authority.

867 (2) The provisions of s. 253.77 do not apply to a permit
868 for maintenance dredging and spoil site approval when there is
869 no change in the size or location of the spoil disposal site and
870 when the applicant provides documentation to the department that
871 the appropriate lease, easement, or consent of use for the
872 project site issued pursuant to chapter 253 is recorded in the
873 county where the project is located.

874 (3) The provisions of this section relating to ports apply
875 only to the port waters, spoil disposal sites, port harbors,
876 navigation channels, turning basins, and harbor berths used for
877 deepwater commercial navigation in the ports of Jacksonville,
878 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.
879 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.



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880 Petersburg, Port Bartow, Florida Power Corporation's Crystal
881 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

882

883

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

885 And the title is amended as follows:

886 Delete line 76

887 and insert:

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

889 redefining the term "port" to include Port Citrus; amending s.

890 311.09, F.S.; including a representative of Port Citrus as a

891 member of the Florida Seaport Transportation and Economic

892 Development Council; amending s. 316.075, F.S.; providing for

893 minimum yellow light change interval times for traffic control

894 devices; amending s. 316.0083, F.S.; prohibiting the issuance of

895 a traffic citation for certain traffic light violations unless

896 the light meets specified requirements; repealing s. 316.2045,

897 F.S., relating to obstruction of public streets, highways, and

898 roads; creating s. 316.2046, F.S., relating to obstruction of

899 public streets, highways, and roads; providing legislative

900 findings; defining the term "solicit"; requiring a permit in

901 order to obstruct the use of any public street, highway, or road

902 when that obstruction may endanger the safe movement of vehicles

903 or pedestrians; requiring each county or municipality to adopt a

904 permitting process that protects public safety but does not

905 impair the rights of free speech; providing criteria for the

906 permitting process; limiting the cost of the permit to the

907 amount required to administer the permitting process;

908 prohibiting the denial of a permit due to lack of funds, as

909 attested to by a signed affidavit; providing for jurisdiction

910 over non-limited access state roads, and local roads, streets,

911 and highways for counties and municipalities; providing



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912 exceptions; providing that a violation of the act is a
913 pedestrian violation, punishable under ch. 318, F.S.; providing
914 for an additional fine; providing for the disposition of moneys
915 collected; providing for enforcement by the Department of
916 Highway Safety and Motor Vehicles and other law enforcement
917 agencies; creating s. 316.2047, F.S., relating to panhandling;
918 providing legislative findings; defining terms; prohibiting
919 aggressive panhandling, panhandling under certain circumstances,
920 and fraudulent panhandling; authorizing counties and
921 municipalities to increase the restrictions on panhandling under
922 certain conditions; providing that a violation of the act is a
923 pedestrian violation, punishable under ch. 318, F.S.; providing
924 for an additional fine; providing for the disposition of moneys
925 collected; providing for enforcement by the Department of
926 Highway Safety and Motor Vehicles and other law enforcement
927 agencies; amending s. 316.302, F.S.; providing that certain
928 restrictions on the number of consecutive hours that a
929 commercial motor vehicle may operate do not apply to a farm
930 labor vehicle operated during a state of emergency or during an
931 emergency pertaining to agriculture; amending s. 334.044, F.S.;
932 revising the types of transportation projects for which
933 landscaping materials must be purchased; limiting the amount of
934 funds that may be allocated for such purchases; amending s.
935 337.406, F.S.; removing the Department of Transportation's
936 authority to provide exceptions to the unlawful use of the
937 right-of-way of any state transportation facility; broadening
938 provisions to prohibit the unlawful use of any limited access
939 highway; removing an exception to prohibited uses provided for
940 art festivals, parades, fairs, or other special events; removing
941 a local government's authority to issue certain permits;
942 authorizing counties and municipalities to regulate the use of
943 transportation facilities within their respective jurisdictions,



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944 with the exception of limited access highways; authorizing the
945 Department of Transportation to regulate the use of welcome
946 centers and rest stops; removing provisions authorizing valid
947 peddler licensees to make sales from vehicles standing on the
948 rights-of-way of welcome centers and rest stops; amending s.
949 337.408, F.S., revising requirements for the installation of bus
950 stop benches, transit shelters, street light poles, waste
951 disposal receptacles, and modular news racks within the public
952 rights-of-way; requiring compliance with the Americans With
953 Disabilities Act; providing responsibilities for removal of
954 noncompliant installations; amending s. 373.413, F.S.; providing
955 legislative intent regarding flexibility in the permitting of
956 stormwater management systems; requiring the cost of stormwater
957 treatment for a transportation project to be balanced with
958 benefits to the public; absolving the Department of
959 Transportation of responsibility for the abatement of pollutants
960 entering its stormwater facilities from offsite sources and from
961 updating permits for adjacent lands impacted by right-of-way
962 acquisition; authorizing the water management districts and the
963 department to adopt rules; amending s. 373.4137, F.S.; revising
964 mitigation requirements for transportation projects to include
965 other nonspecified mitigation options; providing for the release
966 of escrowed mitigation funds under certain circumstances;
967 providing for the exclusion of projects from a mitigation plan
968 upon the election of one or more agencies rather than the
969 agreement of all parties; amending s. 374.976, F.S.; conforming
970 provisions to include Port Citrus in provisions relating to the
971 authority of inland navigation districts; amending s. 403.021,
972 F.S.; conforming provisions to include Port Citrus in
973 legislative declarations relating to environmental control;
974 amending s. 403.061, F.S.; conforming provisions to include Port
975 Citrus in provisions relating to powers of the Department of



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976 Environmental Protection; amending s. 403.813, F.S.; conforming
977 provisions to include Port Citrus in provisions relating to
978 permits issued at Department of Environmental Protection
979 district centers; amending s. 403.816, F.S.; conforming
980 provisions to include Port Citrus in provisions relating to
981 certain maintenance projects at deepwater ports and beach
982 restoration projects; providing an effective date.

983

984 WHEREAS, the state has a significant and substantial
985 interest in vehicular and pedestrian safety and the free flow of
986 traffic, and

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

989 WHEREAS, while the streets may have been the natural and
990 proper places for the public dissemination of information prior
991 to the advent of the automobile, the streets, highways, and
992 roads of this state are now used primarily for transportation,
993 and

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

997 WHEREAS, the current permitting provisions curtail behavior
998 only on sidewalks and streets, which is a danger to public
999 safety, and

1000 WHEREAS, the provisions of this act directed toward
1001 ordinary panhandling are designed to promote public safety,
1002 including minimizing panhandling in transit systems or in areas
1003 where panhandling is likely to intimidate persons who are
1004 solicited, and

1005 WHEREAS, aggressive panhandling may obstruct the free flow
1006 of traffic when carried out in or adjacent to a roadway, may
1007 intimidate citizens who may choose to avoid certain public areas



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1008 or give money to panhandlers in order to avoid an escalation of
1009 aggressive behavior, and generally threatens public safety and
1010 diminishes the quality of life for residents and tourists alike,
1011 and

1012 WHEREAS, an important public purpose is served when the
1013 public safety is protected in keeping with rights granted by the
1014 First Amendment to the United States Constitution, NOW,
1015 THEREFORE,

1016
1017



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LEGISLATIVE ACTION

Senate	.	House
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	.	
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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 316.091, Florida Statutes, is amended to read

316.091 Limited access facilities; interstate highways; use restricted.-

(4) No person shall operate a bicycle or other human-powered vehicle on the roadway or along the shoulder of a limited access highway including bridges unless official signs and a designated marked bicycle lane are present at the entrance



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13 of the section of highway indicating that such use is permitted
14 pursuant to a Department of Transportation pilot program ~~an~~
15 interstate highway.

16 (5)The Department of Transportation shall establish a two-
17 year pilot program, in three separate urban areas, in which it
18 shall erect signs and designated marked bicycle lanes indicating
19 highway approaches and bridge segments of limited access
20 highways as open to use by operators of bicycles and other human
21 powered vehicles, under the following conditions:

22 (a)The limited access highway approaches and bridge
23 segments chosen must cross a river, lake, bay, inlet, or surface
24 water, where no street or highway crossing the water body is
25 available for use within two miles of entrance to the limited
26 access facility, measured along the shortest public right-of-
27 way.

28 (b) The Department of Transportation, with the concurrence
29 of the Federal Highway Administration on interstate facilities,
30 shall establish the three highway approaches and bridge segments
31 for the pilot project by October 1, 2011. In selecting the
32 highway approaches and bridge segments, The Department of
33 Transportation shall consider, without limitation, a minimum
34 size of population in the urban area within five miles of the
35 highway approach and bridge segment, the lack of bicycle access
36 by other means, cost, safety, and operational impacts.

37 (c) The Department of Transportation shall begin the pilot
38 program by erecting signs and designating marked bicycle lanes
39 indicating highway approaches and bridge segments of limited
40 access highway, as qualified by the conditions described in this
41 section, as open to use by operators of bicycles and other human



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42 powered vehicles no later than January 1, 2012.

43 (d) The Department of Transportation shall conduct the
44 pilot program for a minimum of two years from the implementation
45 date. The Department is authorized to continue to provide
46 bicycle access on the highway approaches and bridge segments
47 chosen for the pilot program, or initiate bicycle access on
48 other limited access facilities after the end of the program.

49 (e) The Department of Transportation shall submit a report
50 of its findings and recommendations from the pilot program to
51 the Governor, the President of the Senate, and the Speaker of
52 the House by September 1, 2014. The report shall include, at a
53 minimum, bicycle crash data occurring in designated segments of
54 the pilot program, usage by operators of bicycles and other
55 human powered vehicles, enforcement issues, operational impacts
56 and the cost of the pilot program.

57
58 ~~(5)~~ (6)A violation of this section is a noncriminal traffic
59 infraction, punishable as a moving violation as provided in
60 chapter 318.

61
62
63 ===== T I T L E A M E N D M E N T =====

64 And the title is amended as follows:

65 Delete line 76

66 and insert:

67 changes to the act; amending s. 316.091, F.S.,

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1180

INTRODUCER: Senator Latvala

SUBJECT: Transportation

DATE: March 17, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
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"> • arterial road • collector road • local road • urban minor | <ul style="list-style-type: none"> • arterial road • urban principal arterial road • Florida Intrastate Highway System |
|--|---|

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

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

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

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

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- 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.

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



424908

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Before line 41
insert:

Section 1. Subsection (2) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(2) A minimum of \$8 million per year shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program. However, for the 5 fiscal years beginning with the 2011-2012



424908

13 fiscal year through the 2015-2016 fiscal year, a minimum of \$100
14 million each year shall be made available from the State
15 Transportation Trust Fund, and all funds except for \$8 million
16 shall be used to fund the Florida Deepwater Seaport Program,
17 which shall be for port infrastructure projects that expand this
18 state's role as a global hub for trade and investment, and that
19 enhance the supply chain system in the state to process,
20 assemble, and ship goods to markets.

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete line 2

25 and insert:

26 An act relating to seaports; amending s. 311.07, F.S.;
27 providing additional funds for 5 years to fund certain
28 projects through the Florida Deepwater Seaport
29 Program; creating s. 311.23, F.S.;



726292

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/28/2011	.	
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The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Before line 41
insert:

Section 1. 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



726292

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 2. 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
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete line 2

36 and insert:

37 An act relating to seaports; amending s. 310.002,
38 F.S.; redefining the term "port" to include Port
39 Citrus; amending s. 311.09, F.S.; including a
40 representative of Port Citrus as a member of the
41 Florida Seaport Transportation and Economic



726292

42

Development Council; creating s. 311.23, F.S.;



211622

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Between lines 406 and 407
insert:

Section 6. 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



211622

13 Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key
14 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port
15 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,
16 Carrabelle, Panama City, Port St. Joe, and Pensacola.

17 Section 7. Subsection (1) of section 311.09, Florida
18 Statutes, is amended to read:

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

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

33 Section 8. Paragraph (c) of subsection (1) of section
34 374.976, Florida Statutes, is amended to read:

35 374.976 Authority to address impacts of waterway
36 development projects.—

37 (1) Each inland navigation district is empowered and
38 authorized to undertake programs intended to alleviate the
39 problems associated with its waterway or waterways, including,
40 but not limited to, the following:

41 (c) The district is authorized to aid and cooperate with



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42 the Federal Government; state; member counties; nonmember
43 counties that contain any part of the intracoastal waterway
44 within their boundaries; navigation districts; the seaports of
45 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm
46 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,
47 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and
48 Fernandina; and local governments within the district in
49 planning and carrying out public navigation, local and regional
50 anchorage management, beach renourishment, public recreation,
51 inlet management, environmental education, and boating safety
52 projects, directly related to the waterways. The district is
53 also authorized to enter into cooperative agreements with the
54 United States Army Corps of Engineers, state, and member
55 counties, and to covenant in any such cooperative agreement to
56 pay part of the costs of acquisition, planning, development,
57 construction, reconstruction, extension, improvement, operation,
58 and maintenance of such projects.

59 Section 9. Subsection (9) of section 403.021, Florida
60 Statutes, is amended to read:

61 403.021 Legislative declaration; public policy.—

62 (9) (a) The Legislature finds and declares that it is
63 essential to preserve and maintain authorized water depth in the
64 existing navigation channels, port harbors, turning basins, and
65 harbor berths of this state in order to provide for the
66 continued safe navigation of deepwater shipping commerce. The
67 department shall recognize that maintenance of authorized water
68 depths consistent with port master plans developed pursuant to
69 s. 163.3178(2)(k) is an ongoing, continuous, beneficial, and
70 necessary activity that is in the public interest; and it shall



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71 develop a regulatory process that shall enable the ports of this
72 state to conduct such activities in an environmentally sound,
73 safe, expeditious, and cost-efficient manner. It is the further
74 intent of the Legislature that the permitting and enforcement of
75 dredging, dredged-material management, and other related
76 activities for Florida's deepwater ports pursuant to this
77 chapter and chapters 161, 253, and 373 shall be consolidated
78 within the department's Division of Water Resource Management
79 and, with the concurrence of the affected deepwater port or
80 ports, may be administered by a district office of the
81 department or delegated to an approved local environmental
82 program.

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

90 Section 10. Subsection (26) of section 403.061, Florida
91 Statutes, is amended to read:

92 403.061 Department; powers and duties.—The department shall
93 have the power and the duty to control and prohibit pollution of
94 air and water in accordance with the law and rules adopted and
95 promulgated by it and, for this purpose, to:

96 (26) (a) Develop standards and criteria for waters used for
97 deepwater shipping which standards and criteria consider
98 existing water quality; appropriate mixing zones and other
99 requirements for maintenance dredging in previously constructed



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100 deepwater navigation channels, port harbors, turning basins, or
101 harbor berths; and appropriate mixing zones for disposal of
102 spoil material from dredging and, where necessary, develop a
103 separate classification for such waters. Such classification,
104 standards, and criteria shall recognize that the present
105 dedicated use of these waters is for deepwater commercial
106 navigation.

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

115
116 The department shall implement such programs in conjunction
117 with its other powers and duties and shall place special
118 emphasis on reducing and eliminating contamination that presents
119 a threat to humans, animals or plants, or to the environment.

120 Section 11. Subsection (3) of section 403.813, Florida
121 Statutes, is amended to read:

122 403.813 Permits issued at district centers; exceptions.—

123 (3) For maintenance dredging conducted under this section
124 by the seaports of Jacksonville, Port Canaveral, Port Citrus,
125 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
126 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
127 West, and Fernandina or by inland navigation districts:

128 (a) A mixing zone for turbidity is granted within a 150-



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129 meter radius from the point of dredging while dredging is
130 ongoing, except that the mixing zone may not extend into areas
131 supporting wetland communities, submerged aquatic vegetation, or
132 hardbottom communities.

133 (b) The discharge of the return water from the site used
134 for the disposal of dredged material shall be allowed only if
135 such discharge does not result in a violation of water quality
136 standards in the receiving waters. The return-water discharge
137 into receiving waters shall be granted a mixing zone for
138 turbidity within a 150-meter radius from the point of discharge
139 during and immediately after the dredging, except that the
140 mixing zone may not extend into areas supporting wetland
141 communities, submerged aquatic vegetation, or hardbottom
142 communities.

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

146 (d) The use of flocculants at the site used for disposal of
147 the dredged material is allowed if the use, including supporting
148 documentation, is coordinated in advance with the department and
149 the department has determined that the use is not harmful to
150 water resources.

151 (e) This subsection does not prohibit maintenance dredging
152 of areas where the loss of original design function and
153 constructed configuration has been caused by a storm event,
154 provided that the dredging is performed as soon as practical
155 after the storm event. Maintenance dredging that commences
156 within 3 years after the storm event shall be presumed to
157 satisfy this provision. If more than 3 years are needed to



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158 commence the maintenance dredging after the storm event, a
159 request for a specific time extension to perform the maintenance
160 dredging shall be submitted to the department, prior to the end
161 of the 3-year period, accompanied by a statement, including
162 supporting documentation, demonstrating that contractors are not
163 available or that additional time is needed to obtain
164 authorization for the maintenance dredging from the United
165 States Army Corps of Engineers.

166 Section 12. Section 403.816, Florida Statutes, is amended
167 to read:

168 403.816 Permits for maintenance dredging of deepwater ports
169 and beach restoration projects.—

170 (1) The department shall establish a permit system under
171 this chapter and chapter 253 which provides for the performance,
172 for up to 25 years from the issuance of the original permit, of
173 maintenance dredging of permitted navigation channels, port
174 harbors, turning basins, harbor berths, and beach restoration
175 projects approved pursuant to chapter 161. However, permits
176 issued for dredging river channels which are not a part of a
177 deepwater port shall be valid for no more than five years. No
178 charge shall be exacted by the state for material removed during
179 such maintenance dredging by a public port authority.

180 (2) The provisions of s. 253.77 do not apply to a permit
181 for maintenance dredging and spoil site approval when there is
182 no change in the size or location of the spoil disposal site and
183 when the applicant provides documentation to the department that
184 the appropriate lease, easement, or consent of use for the
185 project site issued pursuant to chapter 253 is recorded in the
186 county where the project is located.



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

195
196 ===== T I T L E A M E N D M E N T =====

197 And the title is amended as follows:

198 Between lines 36 and 37

199 insert:

200 amending s. 310.002, F.S.; redefining the term "port"
201 to include Port Citrus; amending s. 311.09, F.S.;
202 including a representative of Port Citrus as a member
203 of the Florida Seaport Transportation and Economic
204 Development Council; amending s. 374.976, F.S.;
205 conforming provisions to include Port Citrus in
206 provisions relating to the authority of inland
207 navigation districts; amending s. 403.021, F.S.;
208 conforming provisions to include Port Citrus in
209 legislative declarations relating to environmental
210 control; amending s. 403.061, F.S.; conforming
211 provisions to include Port Citrus in provisions
212 relating to powers of the Department of Environmental
213 Protection; amending s. 403.813, F.S.; conforming
214 provisions to include Port Citrus in provisions
215 relating to permits issued at Department of



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216 Environmental Protection district centers; amending s.
217 403.816, F.S.; conforming provisions to include Port
218 Citrus in provisions relating to certain maintenance
219 projects at deepwater ports and beach restoration
220 projects;



267908

LEGISLATIVE ACTION

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

Senate Amendment

Delete lines 284 - 289
and insert:

(12) An overwater pier, dock, or a similar structure located in a deepwater port listed in s. 311.09 is not considered to be part of a stormwater management system for which this chapter or chapter 403 requires stormwater from impervious surfaces to be treated if:

(a) The port has a stormwater pollution prevention plan for industrial activities pursuant to the National Pollutant Discharge Elimination System Program; and



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13 (b) The stormwater pollution prevention plan also provides
14 similar pollution prevention measures for other activities that
15 are not subject to the National Pollutant Discharge Elimination
16 System Program and that occur on the port's overwater piers,
17 docks, and similar structures.



602684

LEGISLATIVE ACTION

Senate

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House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete lines 357 - 361
and insert:
districts, if the dredging to be performed is no more than is necessary to restore previously dredged areas to original design specifications or configurations, if previously undisturbed natural areas are not significantly impacted, and if the work conducted does not violate the protections for manatees under s. 379.2431(2)(d). In addition:



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LEGISLATIVE ACTION

Senate

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House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 388 - 392

and insert:

(e) The spoil material from maintenance dredging may be deposited in a self-contained, upland disposal site. The site is not required to be permitted if:

1. The site exists as of January 1, 2011;

2. A professional engineer certifies that the site has been designed in accordance with generally accepted engineering standards for such disposal sites;

3. The site has adequate capacity to receive and retain the



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13 dredged material; and

14 4. The site has operating and maintenance procedures that
15 provide for discharge of return flow of water and prevent the
16 escape of the spoil material into state waters.

17 (f) The department must be notified of the intent to use
18 this exemption at least 30 days before the commencement of
19 maintenance dredging. The notice shall include, if applicable,
20 the professional engineer certification required by paragraph
21 (e).

22 (g)~~(e)~~ This section does not prohibit maintenance

23
24

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

26 And the title is amended as follows:

27 Delete lines 34 - 36

28 and insert:

29 providing an additional exemption from permitting
30 requirements to allow the disposal of spoil material
31 on a self-contained, upland spoil site if certain
32 conditions are met; requiring notice to the department
33 of intent to use the exemption; providing conditions;



914624

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete lines 293 - 337
and insert:

(8) Except as otherwise provided in this section, the following procedures apply to the approval or denial of an application for a port conceptual permit or a final permit or authorization:

(a) Applications for a port conceptual permit, including any request for the conceptual approval of the use of sovereignty submerged lands, shall be processed in accordance with the provisions of ss. 373.427 and 120.60, with the



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13 following exceptions:

14 1. An application for a port conceptual permit, and any
15 applications for subsequent construction contained in a port
16 conceptual permit, must be approved or denied within 60 days
17 after receipt of a completed application.

18 2. The department may request additional information no
19 more than twice, unless the applicant waives this limitation in
20 writing. If the applicant does not provide a response to the
21 second request for additional information within 90 days or
22 another time period mutually agreed upon between the applicant
23 and the department, the application shall be considered
24 withdrawn. However,

25 3. If the applicant believes that any request for
26 additional information is not authorized by law or agency rule,
27 the applicant may request an informal hearing pursuant to s.
28 120.57(2) before the Secretary of Environmental Protection to
29 determine whether the application is complete.

30 4. If a third party petitions to challenge the issuance of
31 a port conceptual permit by the department, the petitioner
32 initiating the action has the burden of ultimate persuasion and,
33 in the first instance, has the burden of going forward with the
34 evidence.

35 (b)-(e) Final agency action on a port conceptual permit is
36 subject to challenge pursuant to ss. 120.569 and 120.57.
37 However, final agency action to authorize subsequent
38 construction of facilities contained in a port conceptual permit
39 333 may only be challenged by a third party for consistency with
40 the 334 port conceptual permit.

41 (c)-(d) A person who will be substantially affected by a



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42 final agency action described in paragraph (b) ~~(e)~~ must initiate

43

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

45 And the title is amended as follows:

46 Delete lines 17 - 26

47 and insert:

48 373.4133, F.S.; providing exceptions to time
49 limitations for the Department of Environmental
50 Protection to issue a notice of intent to issue a port
51 conceptual permit; providing that a third party who
52 challenges the issuance of a port conceptual permit
53 has the ultimate burden of proof and the burden of
54 going forward with the evidence in the first instance;
55 amending s. 403.813, F.S.;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/SB 768

INTRODUCER: Commerce and Tourism Committee and Senator Ring

SUBJECT: Seaports

DATE: March 28, 2011 REVISED: _____

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

Please see Section VIII. for Additional Information:

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

I. Summary:

Florida has 14 public deepwater seaports that are considered significant economic drivers for the regions in which they are located and for the state. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements.

Construction to widen and modernize the Panama Canal is nearing completion, and seaports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic boon in maritime transit of oil, foodstuffs, consumer goods, and other cargo. States such as California, Maryland, South Carolina, Alabama, and Texas are exploring options to finance major port improvements that will attract increased international shipping activity, and to handle the larger tankers and cargo ships that will be traveling through the Panama Canal.

CS/SB 768 includes several financing and permitting provisions to assist seaport infrastructure improvement projects that will make Florida's 14 seaports more globally competitive. The bill:

- Creates within the Florida Seaport Transportation and Economic Development (FSTED) Council a “Seaport Infrastructure Bank” that can provide financing for projects at the 14 seaports meeting specific criteria;
- Allows the Florida Ports Financing Commission to refinance and extend two existing bond issues and use the additional principle to finance capital improvement projects;
- Exempts from state stormwater permits all piers, docks and similar structures at any of the 14 ports that are not part of a stormwater system and meet other criteria, if the port has a Stormwater Pollution Prevention Plan pursuant to federal law;
- Requires the state Department of Environmental Protection (DEP) to issue a notice of intent for a port conceptual permit or a final permit within 30 days after receiving the application;
- Specifies that DEP’s notice of intent to issue a port conceptual permit creates a “rebuttable presumption” that the project or projects covered in the conceptual permit meet water-quality standards and sovereign-submerged land authorization requirements;
- Requires DEP to issue any requested construction permits from a port (that has been issued a conceptual permit) within 30 days of the request; and
- Clarifies conditions under which maintenance dredging activities conducted by the 14 seaports are exempt from permits under ch. 403, F.S.

CS/SB 768 substantially amends ss. 320.20, 373.406, 373.4133, and 403.813, F.S., and creates s. 311.23, F.S.

II. Present Situation:

Background on Florida’s seaports

Florida has 14 public seaports:¹ Port of Fernandina, Port of Fort Pierce, Jacksonville (JaxPort), Port of Key West, Port of Miami, Port of Palm Beach, Port Panama City, Port of Pensacola, Port Canaveral, Port Everglades, Port Manatee, Port St. Joe, Port of St. Petersburg, and Port of Tampa.

These seaports are considered significant economic drivers. Recent economic analyses and planning documents² prepared for the Florida Ports Council indicated that:

- In 2009, the maritime cargo activities at Florida seaports were responsible for generating more than 550,000 direct and indirect jobs and \$66 billion in total economic value.
- In 2009, the maritime cargo activities at Florida seaports contributed \$1.7 billion in state and local tax revenues.
- In 2009, the value of international trade moving through the 14 seaports was \$56.9 billion, down more than one-third from 2008. Still, the \$56.9 billion figure represented 55 percent of Florida’s total international trade value of \$103 billion in 2009.

¹ Listed in s. 403.021(9)(b), F.S. Interactive locator map is available at: http://flaports.org/Sub_Content2.aspx?id=3. Last visited Feb. 28, 2011.

² Information for this section as gleaned from a 2010 Economic Action Plan for Florida Ports, available at http://flaports.org/Assets/33201131346PM_2010_Economic_Action_Plan_for_Florida._A_Blueprint_to_Leverage_Florida_s_Strategic_State_Seaport_Partnership_January_2010.pdf and from a 2011 economic analysis, available at http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf and other information provided by the Florida Ports Council. Last visited March 2, 2011.

- Imports and exports continue to be fairly even. Of the \$56.9 billion in total value, imports were valued at \$27.6 billion and exports at \$29.2 billion.
- Based on 2009 figures, the average annual wage of Florida seaport-related jobs is \$54,400, more than double the average annual state wage for all other non-advanced degree workers (\$26,933) and over \$15,000 more than the average annual state wage for all occupations (\$38,470).
- The ROI for seaport projects is an estimated \$6.90 to \$1.

Florida's public seaports handled more than 121 million tons of cargo in FY 2006-2007, the most recent information available.³ Of that, 19 million tons were exports, 50.3 million tons were imports, and 51.9 million tons were domestic shipments. Florida seaports handled 55 percent of the containerized waterborne imports ultimately consumed in Florida. In recent years, Asian nations have become key trading partners; in 2009, for example, 38 percent of water-borne imports from Asia bound for Florida markets, entered the U.S. through Florida, 36 percent through Los Angeles-Long Beach, 13 percent through Savannah, and 4 percent through New York-New Jersey.⁴ Central and South America continue to be Florida's most important export partners, with Western Europe a distant second.⁵

The cruise business also is a significant segment of Florida's seaport activity; in 2009, an estimated 12.7 million passengers embarked and disembarked from the nine ports with cruise operations. This equates to more than 54 percent of all U.S. cruise ship bookings.⁶

Seaport Funding

Florida seaports are eligible, per s. 311.07, F.S., for a minimum of \$8 million a year⁷ in grants from the State Transportation Trust Fund for projects to improve the "movement and intermodal transportation" of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation. Most years, the Legislature appropriates more than \$8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend \$21.9 million on seaport grants and \$25.6 million in FY 10-11.⁸

The ports also benefit from an additional \$25 million in debt service paid with motor vehicle license fees⁹ from the State Transportation Trust Fund for 1996 and 1999 bond issues, per ch. 315, F.S., which financed \$375.4 million in major port projects. These bond issues will be paid off in 2026 and 2029, respectively.

Under the structure established by the Legislature in ch. 315, F.S., the Florida Ports Financing Commission was created via interlocal agreement of local governments where the 14 ports are

³ Available at <http://www.dot.state.fl.us/planning/trends/tc-report/Seaport032509.pdf>. Last visited March 1, 2010.

⁴ Florida Trade and Logistics Study, page 17. Available at: https://www.communicationsmgr.com/projects/1378/docs/FloridaTradeandLogisticsStudy_December2010.pdf. Last visited March 6, 2011.

⁵ Chart available at <http://flaports.org/UserFiles/File/Statistics/Table%204.jpg>. Last visited March 1, 2010.

⁶ Information provided by the Florida Ports Council and on file with the Senate Commerce and Tourism Committee.

⁷ Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least \$15 million for FSTED projects.

⁸ In 2007, the Legislature appropriated an additional \$50 million for port projects as a line-item.

⁹ Section 320.20(3) and (4), F.S.

located. It issued the 1996 and 1999 port facility improvement bonds, but none since a 2000 law change to s. 320.20, F.S., required that the state Division of Bond Finance, at the request of FDOT, issue any future port facility bonds.¹⁰

The 2000 legislation also specified that these two bond issues could be refinanced, but not for a longer term than the original 30 years.

Pursuant to s. 311.07, F.S., the state grant funds cannot exceed 50 percent of the total cost of an FSTED project. In order to be approved, a project must be consistent with the seaport's comprehensive master plan and the applicable local government's comprehensive plan, and comply with water-quality standards and requirements specified in ch. 403, F.S.

Eligible projects per the statute include:

- Dredging or otherwise deepening channels, harbors, and turning basins;
- Construction or rehabilitation of wharves, docks, piers, and related structures;
- Transportation facilities, such as roads or rail lines, located within a port; and
- Acquisition of land for port purposes.

The FSTED port projects also are part of FDOT's 5-Year Work Program, which is submitted to the Legislature annually for approval. There is a process by which FDOT can amend the work program to shift funding from one seaport project to another, pursuant to s. 311.09(10), F.S.

Port planning and regulatory requirements

Section 163.3178, F.S., requires each applicable county and municipal comprehensive plan to include a chapter (or "element") on coastal zone management, and if applicable, the comprehensive master plan for the public seaport located within its geographic jurisdiction. These seaport master plans generally comprise a 25-year planning horizon for expansion, dredging, and other improvements at the particular ports.¹¹

Dredging and other port projects that have the potential to impact water quality, sovereign submerged lands, sea grass and wildlife habitats, and upland disposal sites typically require permits from the U.S Army Corps of Engineers (corps), or the Florida Department of Environmental Protection (DEP) and the water management districts under regulations in chs. 161, 253, 373, and 403, F.S.

These agencies and the seaports try to work together early in the project planning process to identify environmental impacts and possible mitigation solutions. To that end, s. 311.105, F.S., created the Florida Seaport Environmental Management Committee to serve as a forum for seaport-related environmental permitting issues. The committee is comprised of five seaport directors as voting members and representatives of DEP, the state Department of Community Affairs, the corps, and the Florida Inland Navigation District as non-voting, ex officio members.

¹⁰ A March 22, 2000, audit by the Florida Auditor General reported several instances where "FSTED Program Management may not have, in several material respects, complied with the significant provisions of laws, administrative rules, and other guidelines governing the FSTED Program." A summary of the report (#13612) is on file with the Senate Commerce and Tourism Committee.

¹¹ The individual seaport master plans are available online at the ports' websites.

Section 311.105, F.S., also specifies the documentation required for applications submitted by seaports for joint coastal permits, which have a duration of 5 years, and for 15-year conceptual joint coastal permits. These permits are designed to address in a comprehensive manner the variety of environmental impacts large-scale port projects might create.¹²

In 2010, the Legislature created s. 373.4133, F.S., which specifies the process by which any of the 14 seaports may seek a port conceptual plan from DEP. The port conceptual plan is intended to serve as a multi-year blueprint for seaport infrastructure projects; it anticipates the regulatory approvals that will be needed and streamlines their review and approval processes. Both seaports and private entities with controlling interests in property near the seaports may use the conceptual plan process.

A port conceptual permit constitutes the state's conceptual certification of a port's compliance with federal Clean Water Act regulations and the state's conceptual determination that the project is consistent with Florida's coastal zone management program. The conceptual permits may be issued for a period of up to 20 years and provide for one additional extension of 10 years.

Not all seaport activities require permits; s. 403.813(3), F.S., lists a number of exemptions from state environmental permits generally issued at DEP district offices for maintenance dredging activities that meet certain criteria.

Panama Canal Project¹³

Built by the United States and opened in 1914, the Panama Canal is a 48-mile-long ship canal in the narrow Central American isthmus that joins the Atlantic and Pacific oceans. On December 31, 1999, ownership and control of the canal transferred from the United States to Panama. Today, the Panama Canal Authority (ACP) manages the canal.

The ACP has undertaken a \$5.2 billion modernization and expansion of the canal, which includes a third lock to move the new larger ships through the isthmus. Private investors and bank loans will finance some of the cost, and ACP is hoping that increased toll revenues from increased usage will generate enough money to pay for the rest of the project, which is expected to be completed by 2014.

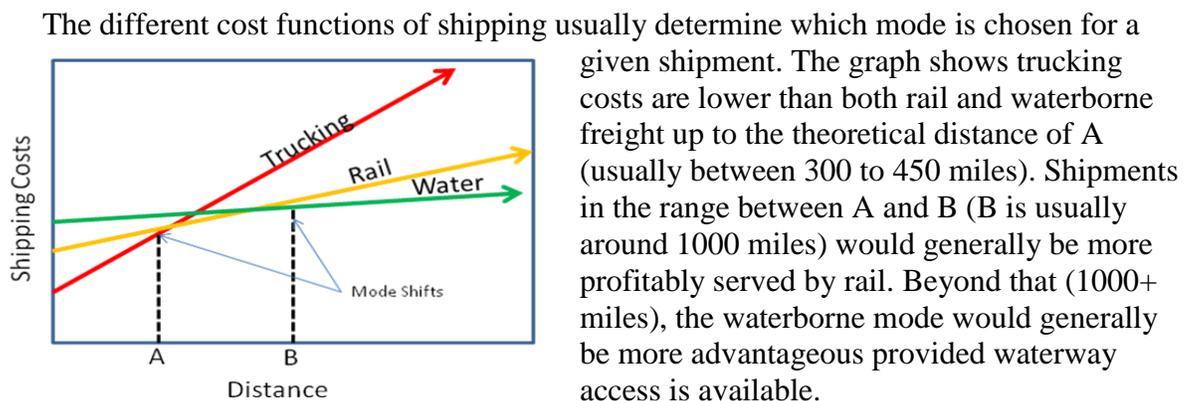
For decades the Panama Canal has been a significant shipping lane for international maritime trade. Annual traffic has risen from about 1,000 ships in the canal's early days to 14,702 vessels in 2008. While the canal was built to handle the largest ships of its era, modern tankers and container vessels are bigger. As a result, these larger ships either take a different route or their owners do not use them in the Western Hemisphere, or, more commonly, goods are dropped off at seaports on the U.S. west and east coasts – depending on the final destination of the goods – and then hauled by truck or rail across the continent, where they may be loaded onto outbound ships. Some cargo stays in the United States, and some is further transported on land to points north or south.

¹² See s. 403.061(37) and (38), F.S.

¹³ Numerous sources are available for information about the Panama Canal expansion project, but two basic sources are the Autoridad Panama de Canal (Panama Canal Authority) website, at <http://www.pancanal.com/eng/acp/index.html> and http://en.wikipedia.org/wiki/Panama_Canal_expansion_project.

Supporters of the Panama Canal expansion contend the improved shipping will significantly reduce shipping costs, and even transit time. The following passage taken from a Senate Interim Report¹⁴ 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.



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.¹⁵

The economic implications of the expansion have led several states, such as California, Maryland, South Carolina, and Texas, to reevaluate their long-term port planning and financing strategies, in order to take advantage of the anticipated greater volume of cargo.

¹⁴ Senate Interim Report 2009-126 "Freight Transportation Infrastructure: Assessing the Need for Statewide Coordination"

¹⁵"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

Here is a summary of some other states' recent and large funding actions:

- Alabama has invested more than \$500 million in upgrades at the Port of Mobile, much of it financed with a \$300 million state general revenue bond issue in 2008.¹⁶
- Georgia has invested approximately \$1 billion since 2005, most of it spent for improvements at the ports in Savannah and Brunswick.¹⁷ The expenditures have been funded in large part by a \$700 million state general revenue bond issue.
- California has three programs to fund its 11 public seaports. For example, the Maritime Infrastructure Bank, which lacks its own funding to make loans, acts as a conduit for bonding financing using private partners, and has issued at least \$200 million in bonds.¹⁸

The aforementioned states and several others also provide a number of state tax incentives to seaport and trade-related businesses, many of these credits against their state income tax liabilities. The credits are, variously, based on port-related jobs created, tonnage moved, and capital investment in infrastructure.¹⁹

FSTED's Project List²⁰

The FSTED council has prepared a list of priority projects at nine of the 14 seaports, with a cost of \$853 million. The FTSED council estimates the state's share of that would be \$337.3 million. The projects are:

- \$272 million to dredge Miami Harbor to a depth of 50 to 52 feet and to acquire new gantry cranes that can be used to load and unload the "super containers" docked at the Port of Miami;
- \$162 million for Port Everglades for expanding and improving several cruise ship terminals and to create at least four new cargo berths and mitigate that project's adverse environmental impacts;
- \$110 million each for JaxPort (developing a spoil site and improving navigation hindrances where the St. Johns River meets intra-coastal currents) and Port Canaveral (two new piers and new Mega-Cruise Ship terminal.);
- \$86 million for the Port of Tampa to relocate and improve petroleum off-loading capabilities, and to develop the Port Redwing site to handle more bulk cargo.
- \$50 million for Port Manatee to extend a berth and make other improvements to handle container traffic and to expand cold-storage facilities.
- \$34 million to rebuild a large slip at the Port of Palm Beach dedicated to ships moving sugar, molasses, fuel, and other commodities.

¹⁶See

http://flaports.org/Assets/33201131346PM_2010_Economic_Action_Plan_for_Florida_A_Blueprint_to_Leverage_Florida_s_Strategic_State_Seaport_Partnership_January_2010.pdf, page 8. Last visited March 6, 2011.

¹⁷ Ibid.

¹⁸ "Report on State Financial Assistance for Capital Improvements at Public Ports in the United States." Prepared for the Ports Association of Louisiana. Page 72-73. Available at: <http://portsoflouisiana.org/wp-content/uploads/full-document-final-copy-4.pdf>. Last visited Feb. 27, 2011.

¹⁹ Information on various state incentives is available from the reports mentioned in FN 4 and FN 16.

²⁰ Information for this section is found in the "Florida Seaports: Charting Our Future. An Economic Analysis," prepared for the Florida Ports Council and published in February 2011. See: http://flaports.org/Assets/312011100301AM_Martin_Associates_Analysis_of_Seaport_Priority_Projects_February_2011.pdf

- \$20.2 million for the Port of Fernandina for a new berth and an off-port warehousing and container depot, and;
- \$8.5 million for Port Panama City for a new off-port warehouse and reconfiguring and expanding the current container yard.

An economic impact analysis²¹ of the projects indicates that when all are completed and being utilized, 32,500 jobs will have been created; \$2.17 billion in personal income and nearly \$2.3 billion in direct business revenues will have been created; and nearly \$161 million in state and local tax revenues will be generated. The analysis calculates a \$7.47 to \$1 return on the state's investment.

III. Effect of Proposed Changes:

Section 1 creates s. 311.23, F.S., establishing the Florida Seaport Infrastructure Bank, or PIB. The PIB's purpose is to provide loans and credit enhancements²² to the state's 14 deepwater ports and to private entities operating at these ports for constructing or improving transportation-related projects or facilities intended to improve the movement and intermodal transportation of cargo and passengers.

Funds appropriated by the Legislature for the purposes of providing the 50-50 match for port projects, as outlined in s. 311.07, F.S., or to pay debt service or refinance existing state port bonds pursuant to s. 320.20, F.S., may be used for the PIB loan program. As mentioned above, the FY 10-11 appropriation for the 50-50 grants was \$25.6 million, and the debt service appropriation was \$25 million as set in statute.

The PIB may lend funds for capital costs, or provide credit enhancements, for seaport projects that meet the following criteria:

- Are approved pursuant to s. 311.09, F.S., which means they have been approved by the FSTED council and are part of its 5-Year Seaport Mission Plan, and at least the first year's projects are in FDOT's tentative 5-year Work Program;
- Are on the State Intermodal System;²³ and
- Provide connections to highways, airports, railways, and other transportation terminals, pursuant to s. 341.053, F.S., FDOT's intermodal transportation development program.

These loans are for a maximum term of 5 years.

²¹ Ibid. Pages 7-11.

²² Credit enhancement, in the context of CS/SB 768, can be defined as methods by which the PIB could reduce the risk of another financial institution extending credit or bonded revenues to the port or port business that is the borrower. For example, the PIB could provide collateral, a letter of credit, a surety bond, or a reserve account for the port to be able to obtain outside financing.

²³ Florida's State Intermodal System (SIS) is a transportation system comprised of facilities and services of statewide and interregional significance that integrates multiple modes to move people and goods throughout the state. The Legislature in 2003 directed FDOT to develop a SIS, keyed on identifying high-priority transportation facilities, and then creating a network of highway, air, rail, water, and space facilities. More information is available at <http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf>.

Additionally, the PIB may make emergency loans to repair damages at any of the 14 public seaports in areas where an official state declaration of emergency has been filed, pursuant to ch. 252, F.S. These emergency loans:

- Must be repaid within 24 months, although the FSTED chair may grant up to a 36-month repayment schedule upon a written finding that specifies the reasons for a longer repayment;
- Require an applicant to file a loan application with FSTED that includes documentation of damage claims filed with the Federal Emergency Management Agency (FEMA) or an insurance carrier and documentation of the applicant's overall financial condition; and
- Must be repaid upon the port or port business' receipt of FEMA funds or proceeds from an insurance payout, but before the term of the PIB emergency loan expires.

For both types of loan programs, the FSTED council may consider the following criteria for each project seeking PIB assistance:

- The project's credit-worthiness;
- The likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;
- The extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;
- The amount of the proposed assistance as a percentage of the overall project costs, with an emphasis on local and private participation; and
- If applicable, the extent to which damage from a disaster that results in a declaration of emergency has impacted a deepwater seaport's ability to maintain its previous level of service and remain accessible to the public, or has had a major impact on the port's cash flow or revenue-generation ability.

The interest rate for all PIB loans will be set by the FSTED council and may be at or below market rates. The borrowers must provide documentation to the FSTED council of a dedicated revenue stream to repay the loan. Finally, these loans may be subordinated to senior debt held by the port that has an investment-grade rating of at least "BBB."

The FSTED council may adopt rules to implement the PIB program.

The PIB is modeled after FDOT's State Infrastructure Bank (SIB), created in 2000 in s. 339.55, F.S., to provide loans and other financial assistance to public and private entities carrying out or proposing to carry out eligible highway and transit projects. It is a revolving loan fund that also has authority, pursuant to s. 215.617, F.S., to leverage its state funding to issue bonds. FDOT's SIB actually has two accounts: a federally funded account is limited to projects which meet all federal transportation requirements, and a state-funded account that focuses on projects on the State Highway System, provides for increased mobility on the state's transportation system, or provides intermodal connectivity.

As of 2010,²⁴ 32 projects have received nearly \$366 million from the federal SIB account; 17 of those have been completed and the loans repaid. Thirty-seven projects have been funded from

²⁴ Charts available at http://www.dot.state.fl.us/financialplanning/finance/sib/SIB_Project_List.pdf. Last visited March 3, 2011.

the state SIB account, receiving nearly \$767.3 million in loans. Seven of those projects have been completed and the loans repaid.

Section 2 amends s. 320.20, F.S., to strike limitations on the Florida Ports Financing Commission refinancing the existing Series 1996 and Series 1999 bond issues beyond the existing pay-off date, and from pledging the source of debt service for these bond issues – motor vehicle registration fees – for new bonded indebtedness to be issued by the Florida Ports Financing Commission.

Under this new provision, the Florida Ports Financing Commission could, as it did prior to 2000, issue port facility bonds, rather than the state Division of Bond Finance issue port facility bonds at the request of FDOT.

For any revenue bonds or other indebtedness issued after July 1, 2011, the new provisions direct the Florida Ports Financing Commission to ensure that the greatest amount of revenue from these new issues is available for eligible port projects. Representatives of the Florida Ports Council have said that refinancing the 1996 and 1999 bond issues and extending them for an additional 10 years could yield up to \$100 million in new revenues.²⁵

Section 3 amends s. 373.406, F.S., to add as a general exemption to ch. 373, F.S., stormwater permitting requirements overwater piers, docks, and similar structures located in any of the 14 public seaports that have a Stormwater Pollution Prevention Plan pursuant to the National Pollutant Discharge Elimination System Program. Many of the 14 ports do have an adopted plan.

This provision is intended to clarify port permitting provisions adopted in 2010.

Section 4 amends s. 373.4133, F.S., to clarify and expedite several permitting provisions in the conceptual permitting process for seaports. This section:

- Requires DEP, notwithstanding any other provision of law, to issue a notice of intent within 30 days after receipt of an application for a port conceptual permit.
- Specifies that the DEP notice of intent to issue a port conceptual permit creates a rebuttable presumption²⁶ that development of the port or private facilities consistent with the approved port master plan complies with all applicable standards for the issuance of a port conceptual permit, an environmental resource permit (typically needed for dredging projects), and a sovereign submerged lands authorization (typically needed for dredging and for construction of near-shore facilities), pursuant to chs. 161, 253, 373, and 403, F.S. In such cases, the rebuttable presumption may be overcome only by clear and convincing evidence that the project does not comply with the required environmental standards.
- Requires DEP, upon issuing a port conceptual permit, and if necessary, an environmental resource permit or sovereign submerged lands authorization, to notify the U.S. Army Corps of Engineers that the project is in compliance with all state water quality and

²⁵ Conversations with Nancy Leikauf and Michael Rubin on Feb. 28, 2011.

²⁶ “Rebuttable presumption” generally means a presumption of fact which can be overturned by persuasive and fact-based evidence to the contrary.

regulatory requirements, and shall issue any requested port construction permit within 30 days after receipt of the request.

Section 5 amends s. 403.813, F.S., to clarify the conditions by which maintenance dredging activities at seaports remains exempt from permits under this chapter. The changes:

- Add specific statutory and chapter law cites related to permits which the maintenance projects are not required to get. This provision tracks the exemption language elsewhere in the statute related to non-port dredging projects.
- Clarify that maintenance dredging does not require DEP permits if the dredging is no deeper or wider than the channel's original configuration, does not significantly impact previously undisturbed natural areas, and the dredging does not violate the requirements of s. 379.2431(2)(d), F.S., related to manatee protections.
- Clarify that the allowable mixing zone for the turbid discharge from the dredge disposal site encompasses a 150-meter radius from the point of discharge into the receiving waters.
- Clarify that ditches, outfall pipes, and other types of linear conveyances for the turbid discharge are not considered "receiving waters" for the purpose of determining the extent of the 150-meter radius.
- Specify that the port is not required to seek permission from the state again to use sovereign submerged lands, since it received such permission for the earlier dredging.
- Allow the port to deposit the dredged material on an unpermitted, self-contained upland spoil site where the spoil cannot re-enter state waters.

Section 6 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate, but likely positive.

C. Government Sector Impact:

DEP may incur some additional costs associated with Sections 3 and 4 of the bill, related to expedited review of applications for port conceptual permits.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Commerce and Tourism Committee on March 16, 2011:

The committee adopted two amendments at its meeting and incorporated them into the original bill as a committee substitute. The first amendment removed two sections of the original bill that would have raised from \$8 million to \$20 million the minimum amount of state transportation funds allocated for FSTED projects, on July 1, 2012, and eventually to \$50 minimum annually. The second amendment added clarifying changes to s. 403.813(3), F.S., related to state environmental permit exemptions for ports' maintenance dredging.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Transportation (Latvala) recommended the following:

Senate Amendment

Delete line 118

and insert:

Section 2. This act shall take effect October 1, 2011.

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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 900

INTRODUCER: Senator Bennett

SUBJECT: Specialty License Plates

DATE: March 24, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill creates the “Combat Infantry Badge” special license plate. Such plates may be issued to recipients of the Combat Infantry Badge upon application, accompanied by proof of membership in the Combat Infantryman’s Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, and payment of the vehicle license tax.

This bill substantially amends section 320.089, Florida Statutes.

II. Present Situation:

“Specialty license plates” are available to any owner or lessee of a motor vehicle who is willing to pay an annual fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate’s design and designated in statute.¹

However, special license plates are issued by the Department of Highway Safety and Motor Vehicles (DHSMV) to those who meet certain qualifying criteria and include the National Guard, U. S. Armed Forces Reserves, Ex-POW, Pearl Harbor Survivor, Combat-wounded Veteran, Purple Heart Recipient, Operation Iraqi Freedom, and Operation Enduring Freedom plates. License taxes for these special plates, excluding the Pearl Harbor Survivor, Purple Heart, and Ex-POW plates under certain circumstances, are the same as any other motor vehicle plate as prescribed in s. 320.08, F.S.

¹ Sections 320.08056 and 320.08058, F.S.

The first \$100,000 of revenues from the sales of these special plates are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6 1941.² The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously created during World War II as primary recognition of the combat service and sacrifices of the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.³

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Military Awards Army Regulation 600-8-22:

- Be an infantryman satisfactorily performing infantry duties.
- Assigned to an infantry unit during such time as the unit is engaged in active ground combat.
- Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for the award of the Combat Infantry Badge.

III. Effect of Proposed Changes:

This bill creates the "Combat Infantry Badge" special license plate. This bill requires the manufacture and issuance of a special license plate stamped with the words "Combat Infantry Badge" to any recipient of the Combat Infantry Badge, who applies for the special license plate, pays the applicable license taxes provided in s. 320.08, F.S., and provides proof of membership in the Combat Infantrymen's Association, Inc., or other acceptable proof of being a Combat Infantry Badge recipient.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

² http://en.wikipedia.org/wiki/Combat_Infantryman_Badge

³ *Id.*

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who are eligible to purchase a “Combat Infantry Badge” special license plate created by the bill will be required to pay applicable taxes as provided in s. 320.08, F.S.

C. Government Sector Impact:

According to DHSMV, costs to produce the “Combat Infantry Badge” special plate are minimal and can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV requests the effective date of the bill be changed to October 1, 2011, to allow PRIDE sufficient time to develop a prototype license plate.⁴

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.

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

⁴ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 900*, (on file with the Senate Transportation Committee).

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: CS/SB 1140

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Sachs

SUBJECT: Child Care Facilities

DATE: March 24, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Walsh	CF	Fav/CS
2.	Davis	Spalla	TR	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

Committee Substitute for SB 1140 creates the “Haile Brockington Act” and provides that on or before January 1, 2012, vehicles used by child care facilities to transport children must be equipped with an alarm system approved by the Department of Children and Families (DCF or department) that prompts the driver to inspect the vehicle for children before exiting. The bill provides that DCF shall adopt rules to administer the new provision of law and shall maintain a list of alarm manufacturers and alarm systems that are approved to be installed in such vehicles.

This bill substantially amends section 402.305, Florida Statutes.

II. Present Situation:

Licensing Standards for Child Care Facilities

The Department of Children and Families (DCF or department) establishes licensing standards that each licensed child care facility in the state must meet.¹ A child care facility is defined in Florida law as “any child care center or child care arrangement which provides child care for

¹ See s. 402.305, F.S.

more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.”² The department currently regulates 7,909 child care arrangements, including child care facilities, large family child care homes, family day care homes, and registered homes.³ In addition, as of January 2010, six counties in the state which conduct their own licensure of homes currently license 4,292 child care arrangements.⁴

The statutory licensing standards for child care facilities are extensive and include standards for transportation and vehicles; however, current standards for licensed child care providers do not address alarm systems in vehicles. Rule 65C-22.001(6) of the Florida Administrative Code provides requirements for licensed child care facilities to follow in relation to vehicles that are owned, operated, or regularly used by the child care facility, as well as vehicles that provide transportation through a contract or agreement with an outside entity. Specifically:

- The driver of any such vehicle must have a valid driver’s license and must have an annual physical exam granting the driver medical approval to drive;
- All child care facilities must comply with insurance requirements;
- All vehicles must be inspected annually;
- The maximum number of individuals transported may not exceed the manufacturer’s designated seating capacity or the number of factory installed seat belts;
- Each child must be wearing a factory installed seat belt when riding in the vehicle;
- When transporting children, the staff-to-child ratios must be maintained;
- Each vehicle must have the contact information of each child being transported;
- Providers must maintain a driver’s log for all children being transported. This log includes the child’s name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver’s log and that all children have left the vehicle;
- Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle; conduct a physical inspection and visual sweep of the vehicle; and sign, date, and record the driver’s log immediately to verify all children were accounted for and that the sweep was conducted;
- Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver’s log to verify all children were accounted for and that the driver’s log is complete.

There are similar requirements for family day care homes and large family child care homes.⁵

Children and Vehicles

In August 2010, 2 1/2 year old Haile Brockington died after being left in her car seat for nearly

² Section 402.302(2), F.S.

³ Florida Dep’t of Children and Families, *DCF Quick Facts*, 7 (Jan. 31, 2011), available at <http://www.dcf.state.fl.us/newsroom/docs/quickfacts.pdf> (last visited Mar. 25, 2011).

⁴ Health Care Servs. Policy Comm., Florida House of Representatives, *Staff Analysis on HB 487*, 2 (Jan. 26, 2010), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0487.HCS.doc&DocumentType=Analysis&BillNumber=0487&Session=2010> (last visited Mar. 25, 2011).

⁵ See Rules 65C-20.010(8) and 65C-20.013(8), F.A.C.

six hours in the back of a van employed by a Palm Beach County child care facility. According to the National Weather Service in Miami, the weather that day reached a high of 91 degrees.⁶ The child care facility was licensed by DCF and had no violations against it at the time of the incident.⁷

“Death by hyperthermia” (or overheating of the body) has become much more prevalent since Federal law required that children ride in the backseat due to the danger of front passenger seat airbags.⁸ Between 1998 and 2010, there have been approximately 495 child hyperthermia deaths, with 49 during the year 2010.⁹ Thirty-one percent of hyperthermia deaths involve children under the age of one.¹⁰ According to a Miami newspaper, roughly one-sixth of hyperthermia cases occur in Florida.¹¹ Approximately 60 children have died in Florida from being left in a vehicle and more than 150 have been injured.¹² Prosecutions and penalties vary widely and in total, charges were filed in 58 percent of Florida cases.¹³

III. Effect of Proposed Changes:

This bill creates the “Haile Brockington Act” and provides that on or before January 1, 2012, vehicles used by child care facilities to transport children must be equipped with an alarm system approved by DCF that prompts the driver to inspect the vehicle for children before exiting. The bill provides that DCF shall adopt rules to administer the new provision of law and shall maintain a list of alarm manufacturers and alarm systems that are approved to be installed in such vehicles.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁶ Julius Whigham II and Eliot Kleinberg, *Girl, 2 1/2, found dead in van at Delray Beach day care center*, THE PALM BEACH POST, Aug. 5, 2010 (updated Aug. 12, 2010), available at <http://www.palmbeachpost.com/news/girl-1-1-2-found-dead-in-van-843774.html> (last visited Mar. 25, 2011).

⁷ *Id.*

⁸ See Kids and Cars.org, *Fact Sheet*, <http://www.kidsandcars.org/userfiles/dangers/heat-stroke/heat-stroke-fact-sheet.pdf> (last visited Mar. 25, 2011); see also Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, at W08, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited Mar. 25, 2011).

⁹ Kids and Cars.org, *supra* note 8.

¹⁰ *Id.*

¹¹ Michael J. Mooney, *Babies left in hot cars: Accident or crime?*, MIAMI NEW TIMES, Oct. 14, 2010, available at <http://www.miaminewtimes.com/2010-10-14/news/babies-left-in-hot-cars-accident-or-crime/#> (last visited Mar. 25, 2011).

¹² *Id.*

¹³ *Id.*

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill requires owners and operators of child care facilities to purchase and install an alarm system in all vehicles used by the facility or home to transport children that alerts the driver to inspect the vehicle for children before exiting the vehicle. According to the DCF, the estimated cost for owners and operators of child care facilities statewide is approximately \$942,836 for the first year and \$135,720 each additional fiscal year thereafter.¹⁴ See breakdown of cost below.

Unit Price of Device	\$289.95
Installation Cost	\$85.00
Shipping Cost	\$11.60
Manufacturer's Required Annual Re-certification Cost*	\$65.00
Total Cost for One Facility	\$451.55
Total Cost for 2,088 Facilities	\$942,836.40

*Recurring cost

C. Government Sector Impact:

The department will be responsible for writing rules to regulate this new requirement, as well as creating and maintaining manufacturer and alarm system approval protocols and compliance enforcement methodology.¹⁵

VI. Technical Deficiencies:

According to the DCF, the implementation date of January 1, 2012, may not provide the department with enough time to research the types of alarm systems available, to craft rules and compliance enforcement methodology, and to prepare licensing staff to enforce and provide technical assistance. Additionally, all requirements are contingent upon the development of DCF's approval process through public hearings and final adoption of the rule pursuant to

¹⁴ Dep't of Children and Families, *Staff Analysis and Economic Impact SB 1140* (Feb. 16, 2011) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁵ *Id.*

s. 120.536, F.S.; dissemination of the requirement to providers; the availability of the device statewide; and the availability of certified system installation professionals.¹⁶

The department recommends only requiring that DCF maintain a list of available products, without providing approval for the actual product.

Lastly, the title of the bill (lines 4 and 5) states the alarm system requirement apply to large family child care homes; however, placement of the language in the bill within s. 402.305(10), F.S., restricts the requirement to licensed child care facilities.¹⁷ Additional provisions would need to be included in s. 402.3131, F.S., to have the requirements of the bill apply to large family child care homes.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Children, Families, and Elder Affairs on March 14, 2011:

The committee substitute amends the bill to provide that “on or before” January 1, 2012, vehicles used by child care facilities to transport children must be equipped with an alarm system approved by the Department of Children and Families, rather than “on or after” January 1, 2012.

- B. **Amendments:**

None.

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

¹⁶ *Id.*

¹⁷ *Id.*

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 1974

INTRODUCER: Senator Hill

SUBJECT: DL Exams/Blind Pedestrians

DATE: March 24, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	TR	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill mandates that all examinations given for Class E or Commercial Driver’s Licenses must include one question testing the applicant’s knowledge of traffic regulations to assist blind persons which must be answered correctly in order to pass the examination. This bill also mandates that the Department of Highway Safety and Motor Vehicles emphasize pedestrian right of way when a driver is making a right turn when developing questions under this subsection.

This bill substantially amends section 322.12 of the Florida Statutes.

II. Present Situation:

Currently, the Florida Driver’s Handbook, 2011, contains section 5.16.2 entitled “Persons Who are Blind” which includes advice as to how to recognize a blind pedestrian and which also states that “[d]rivers must always yield the right-of-way to persons who are blind. When a pedestrian is crossing a street or highway guided by a dog or carrying a white cane (or a white cane with a red tip), vehicles must come to a complete stop.” Driver’s License exams are currently formulated by pulling random questions from a large pool of questions. Questions about blind pedestrians may be, but are not guaranteed to be, tested on current driver’s license examinations.

Currently, applicants for a Class E or Commercial Driver’s License must pass each individual knowledge test (road signs, road laws, Commercial Driver License General Knowledge) by

answering 80% or more of the questions correctly. A passing score is based on all of the questions asked on each exam, not just one individual question.¹

III. Effect of Proposed Changes:

Section 1 mandates that all examinations given for Class E or Commercial Driver's Licenses must include one question testing the applicant's knowledge of traffic regulations to assist blind persons which must be answered correctly in order to pass the examination. This section also mandates that the Department of Highway Safety and Motor Vehicles emphasize pedestrian right of way when a driver is making a right turn when developing questions under this subsection.

Section 2 sets an effective date of July 1, 2011.

Other Potential Implications:

According to the Department of Highway Safety and Motor Vehicles, if enacted this bill may result in a higher failure rate since passing the test would require both an overall test score of 80% or above and correctly answering the question about traffic regulations to assist blind persons. This would have a negative impact on customer service when individuals score 80% or above but fail because they incorrectly answered the question about traffic regulations to assist blind persons and this would cause these customers to pay a \$10 retest fee. The modifications to include the question would be simple. However, the process to disqualify someone for failing the specific question on blind persons even if they score 80% correctly would require extensive programming.² Also, ensuring that the test pulls one of the required questions from the pool of available questions would require extensive reprogramming as well.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Florida Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis, SB 1974* (on file with the Senate Transportation Committee)

² Id.

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

None.

B. Private Sector Impact:

This bill could cost the private sector additional money due to imposing additional \$10.00 retest fees on drivers who fail the exam due to incorrectly answering the mandated question.

C. Government Sector Impact:

Enacting this bill would impose an indeterminate non-recurring cost for contract reprogramming due to extensive modifications to the Automated Driver License Test System.³

This bill could generate additional revenue due to imposing additional \$10.00 retest fees on drivers who fail the exam due to incorrectly answering the mandated question. Retest fees are deposited into the Highway Safety Operating Trust Fund.

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.

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

³ Id.



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LEGISLATIVE ACTION

Senate	.	House
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	.	

The Committee on Transportation (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete line 16
and insert:

Section 2. Duval County Law Enforcement Memorial Overpass designated; Department of Transportation to erect suitable markers.-

(1) The Interstate 295/State Road 9A overpass (Bridge Nos. 720256 and 720347) over Interstate 10/State Road 8 in Duval County is designated the "Duval County Law Enforcement Memorial Overpass."

(2) The Department of Transportation is directed to erect



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13 suitable markers designating the Duval County Law Enforcement
14 Memorial Overpass as described in subsection (1).

15 Section 3. SP4 Thomas Berry Corbin Memorial Highway
16 designated; Department of Transportation to erect suitable
17 markers.-

18 (1) That portion of U.S. Highway 19/27A/98/State Road 55
19 between the Suwannee River Bridge and N.E. 592nd Street/Chavous
20 Road/Kate Green Road in Dixie County is designated as "SP4
21 Thomas Berry Corbin Memorial Highway."

22 (2) The Department of Transportation is directed to erect
23 suitable markers designating SP4 Thomas Berry Corbin Memorial
24 Highway as described in subsection (1).

25 Section 4. U.S. Navy BMC Samuel Calhoun Chavous, Jr.
26 Memorial Highway designated; Department of Transportation to
27 erect suitable markers.-

28 (1) That portion of U.S. Highway 19/98/State Road 55
29 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E.
30 170th Street in Dixie County is designated as "U.S. Navy BMC
31 Samuel Calhoun Chavous, Jr. Memorial Highway."

32 (2) The Department of Transportation is directed to erect
33 suitable markers designating U.S. Navy BMC Samuel Calhoun
34 Chavous, Jr. Memorial Highway as described in subsection (1).

35 Section 5. Marine Lance Corporal Brian R. Buesing Memorial
36 Highway designated; Department of Transportation to erect
37 suitable markers.-

38 (1) That portion of State Road 24 between County Road 374
39 and Bridge Number 340053 in Levy County is designated as "Marine
40 Lance Corporal Brian R. Buesing Memorial Highway."

41 (2) The Department of Transportation is directed to erect



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42 suitable markers designating Marine Lance Corporal Brian R.
43 Buesing Memorial Highway as described in subsection (1).

44 Section 6. United States Army Sergeant Karl A. Campbell
45 Memorial Highway designated; Department of Transportation to
46 erect suitable markers.-

47 (1) That portion of U.S. Highway 19/98/State Road 55/S.
48 Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy
49 County is designated as "United States Army Sergeant Karl A.
50 Campbell Memorial Highway."

51 (2) The Department of Transportation is directed to erect
52 suitable markers designating United States Army Sergeant Karl A.
53 Campbell Memorial Highway as described in subsection (1).

54 Section 7. U.S. Army SPC James A. Page Memorial Highway
55 designated; Department of Transportation to erect suitable
56 markers.-

57 (1) That portion of U.S. Highway 27A/State Road
58 500/Hathaway Avenue between State Road 24/Thrasher Drive and
59 Town Court in Levy County is designated as "U.S. Army SPC James
60 A. Page Memorial Highway."

61 (2) The Department of Transportation is directed to erect
62 suitable markers designating U.S. Army SPC James A. Page
63 Memorial Highway as described in subsection (1).

64 Section 8. Mardi Gras Way designated; Department of
65 Transportation to erect suitable markers.-

66 (1) That portion of State Road 824 between I-95 and State
67 Road A1A in Broward County is designated as "Mardi Gras Way."

68 (2) The Department of Transportation is directed to erect
69 suitable markers designating Mardi Gras Way as described in
70 subsection (1).



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71 Section 9. West Park Boulevard designated; Department of
72 Transportation to erect suitable markers.-

73 (1) That portion of State Road 7 between Pembroke Road and
74 County Line Road in Broward County is designated as "West Park
75 Boulevard."

76 (2) The Department of Transportation is directed to erect
77 suitable markers designating West Park Boulevard as described in
78 subsection (1).

79 Section 10. Deputy Hal P. Croft and Deputy Ronald Jackson
80 Memorial Highway designated; Department of Transportation to
81 erect suitable markers.-

82 (1) That portion of State Road 100 in Union County from the
83 Bradford County line to the Columbia County line is designated
84 "Deputy Hal P. Croft and Deputy Ronald Jackson Memorial
85 Highway."

86 (2) The Department of Transportation is directed to erect
87 suitable markers designating Deputy Hal P. Croft and Deputy
88 Ronald Jackson Memorial Highway as described in subsection (1).

89 Section 11. Deputy Jack A. Romeis Road designated;
90 Department of Transportation to erect suitable markers.-

91 (1) That portion of State Road 26A in Gainesville, Alachua
92 County, between West University Avenue and S.W. 25th Street, is
93 designated "Deputy Jack A. Romeis Road."

94 (2) The Department of Transportation is directed to erect
95 suitable markers designating Deputy Jack A. Romeis Road as
96 described in subsection (1).

97 Section 12. Senator Javier D. Souto Way designated;
98 Department of Transportation to erect suitable markers.-

99 (1) That portion of State Road 976/Bird Road between S.W.



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100 87th Ave and the Palmetto Expressway Ramp in Miami-Dade County
101 is designated as "Senator Javier D. Souto Way."

102 (2) The Department of Transportation is directed to erect
103 suitable markers designating Alma Lee Loy Bridge as described
104 subsection (1).

105 Section 13. Nona and Papa Road designated; Department of
106 Transportation to erect suitable markers.-

107 (1) That portion of the San Juan Road Extension in
108 Anastasia State Park in St. Johns County is designated as "Nona
109 and Papa Road."

110 (2) The Department of Transportation is directed to erect
111 suitable markers designating Nona and Papa Road as described
112 subsection (1).

113 Section 14. Walter Francis Spence Parkway designated;
114 Department of Transportation to erect suitable markers.-

115 (1) That portion of State Road 293 from the Mid-Bay Bridge
116 Toll plaza north of Choctawhatchee Bay to its intersection with
117 State Highway 85 in Okaloosa County is designated as "Walter
118 Francis Spence Parkway."

119 (2) The Department of Transportation is directed to erect
120 suitable markers designating Walter Francis Spence Parkway as
121 described subsection (1).

122 Section 15. Beaches and Rivers Parkway designated;
123 Department of Transportation to erect suitable markers.-

124 (1) That portion of State Route 87 from its intersection
125 with US98 northward to its intersection of U.S.90 in Santa Rosa
126 County is designated the "Beaches and Rivers Parkway."

127 (2) The Department of Transportation is directed to erect
128 suitable markers designating Beaches and Rivers Parkway as



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129 described subsection (1).

130 Section 16. Section 24 of chapter 2010-230, Laws of
131 Florida, is amended to read:

132 Section 22. Miss Lillie Williams Boulevard designated;
133 Department of Transportation to erect suitable markers.—

134 (1) That portion of N.W. 79th Street between N.W. 6th
135 Avenue and N.W. 7th E. 12th Avenue in Miami-Dade County is
136 designated as "Miss Lillie Williams Boulevard."

137 (2) The Department of Transportation is directed to erect
138 suitable markers designating Miss Lillie Williams Boulevard as
139 described in subsection (1).

140 Section 17. Section 45 of chapter 2010-230, Laws of
141 Florida, is amended to read:

142 Section 45. Father Gerard Jean-Juste Street designated;
143 Department of Transportation to erect suitable markers.—

144 (1) That portion of N.W. 54th Street in Miami-Dade County
145 between N.W. 2nd Avenue and N.E. N.W. 3rd Avenue in Little Haiti
146 is designated "Father Gerard Jean-Juste Street."

147 (2) The Department of Transportation is directed to erect
148 suitable markers designating Father Gerard Jean-Juste Street as
149 described in subsection (1).

150 Section 18. Corporal Michael J. Roberts Parkway designated;
151 Department of Transportation to erect suitable markers.—

152 (1) That portion of U.S. 41/State Road 45/Nebraska Ave from
153 County Road 584/Waters Avenue to State Road 580/Busch Boulevard
154 is designated as "Corporal Michael J. Roberts Parkway."

155 (2) The Department of Transportation is directed to erect
156 suitable markers designating Corporal Michael J. Roberts as
157 described subsection (1).



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158 Section 19. Florida Highway Patrol Trooper Sgt. Nicholas G.
159 Sottile Memorial designated; Department of Transportation to
160 erect suitable markers.-

161 (1) Milepost 22.182 on U.S. 27 in Highlands County is
162 designated as "Florida Highway Patrol Trooper Sgt. Nicholas G.
163 Sottile Memorial."

164 (2) The Department of Transportation is directed to erect
165 suitable markers designating the Florida Highway Patrol Trooper
166 Sgt. Nicholas G. Sottile Memorial as described subsection (1).

167 Section 20. Hugh Anderson Boulevard designated; Department
168 of Transportation to erect suitable markers.-

169 (1) That portion of Biscayne Boulevard from N.E. 88th
170 Street to N.E. 105th Street in Miami Shores Village in Miami-
171 Dade County is designated as "Hugh Anderson Boulevard."

172 (2) The Department of Transportation is directed to erect
173 suitable markers designating the Hugh Anderson Boulevard as
174 described subsection (1).

175 Section 21. This act shall take effect July 1, 2011.

176
177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete line 3

180 and insert:

181 Veterans Memorial Highway in Putnam County;
182 designating the Duval County Law Enforcement Memorial
183 Overpass in Duval County; designating SP4 Thomas Berry
184 Corbin Memorial Highway and U.S. Navy BMC Samuel
185 Calhoun Chavous, Jr. Memorial Highway in Dixie County;
186 designating Marine Lance Corporal Brian R. Buesing



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187 Memorial Highway, United States Army Sergeant Karl A.
188 Campbell Memorial Highway, and U.S. Army SPC James A.
189 Page Memorial Highway in Levy County; designating
190 Mardi Gras Way and West Park Boulevard in Broward
191 County; designating Deputy Hal P. Croft and Deputy
192 Ronald Jackson Memorial Highway in Union County and
193 designating Deputy Jack A. Romeis Road in Alachua
194 County; designating Senator Javier D. Souto Way in
195 Miami-Dade County; designating Nona and Papa Road in
196 St. Johns County; designating Walter Francis Spence
197 Parkway in Okaloosa County; designating Beaches and
198 Rivers Parkway in Santa Rosa County; amending ss. 24
199 and 45, ch. 2010-230, Laws of Florida; revising the
200 designation for Miss Lillie Williams Boulevard and
201 Father Gerard Jean-Juste Street in Miami-Dade County;
202 designating Corporal Michael J. Roberts Parkway in
203 Hillsborough County; designating the Florida Highway
204 Patrol Trooper Sgt. Nicholas G. Sottile Memorial in
205 Highlands County; providing an effective date.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 274

INTRODUCER: Senator Lynn

SUBJECT: Road Designations/Veterans Memorial Highway

DATE: January 27, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

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 bill designates the following roads as follows:

State Road 19 in Putnam County between U.S. Highway 17 (State Road 15) and Carriage Drive in Palatka is designated as “Veterans Memorial Highway.”

This bill creates undesignated sections of Florida Law.

II. Present Situation:

Section 334.071, F.S., provides: (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes; (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and (3) The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or

county, resolutions supporting the designations must be passed by each affected local government prior to the erection of the markers.

III. Effect of Proposed Changes:

The effects of the bill are as follows:

Section 1: The bill designates the portion of State Road 19 in Putnam County between U.S. Highway 17 (State Road 15) and Carriage Drive in Palatka as “Veterans Memorial Highway” in recognition of military veterans.

Section 2: The bill will take effect on July 1, 2011 if passed by the Legislature.

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:

FDOT estimates the cost to erect suitable road designation markers is \$800. The expenditure will come from the State Transportation Trust Fund. FDOT is also responsible for any future maintenance and replacement cost, which is indeterminate.

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.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 492

INTRODUCER: Senator Wise

SUBJECT: Road and Bridge Designations

DATE: March 24, 2011 REVISED: _____

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

I. Summary:

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 bill designates the following roads as follows:

The Interstate 295/State Road 9A overpass (Bridge Nos. 720256 and 720347) over Interstate 10/State Road 8 in Duval County is designated as “Duval County Law Enforcement Memorial Overpass.”

This bill creates undesigned sections of Florida Law.

II. Present Situation:

Section 334.071, F.S., provides: (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes; (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and (3) The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or

county, resolutions supporting the designations must be passed by each affected local government prior to the erection of the markers.

III. Effect of Proposed Changes:

The effects of the bill are as follows:

Section 1: The bill designates the portion of Interstate 295/State Road 9A overpass (Bridge Nos. 720256 and 720347) over Interstate 10/State Road 8 in Duval County is designated as “Duval County Law Enforcement Memorial Overpass.” This memorial is dedicated to the men and women in all law enforcement agencies located within Duval County who have died in the line of duty.

Section 2: The bill will take effect on July 1, 2011, if passed by the Legislature.

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 FDOT will incur costs of approximately \$800 (from the State Transportation Trust Fund) for erecting markers for the designation. This is based on the assumption that two markers will be erected at a cost of maintaining these signs over time, and for future replacement of sign as necessary.

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.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 908

INTRODUCER: Senator Dean

SUBJECT: Road Designations

DATE: March 24, 2011 REVISED: _____

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

I. Summary:

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 bill designates the following roads as follows:

- U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County is designated as “SP4 Thomas Berry Corbin Memorial Highway.”
- U.S. Highway 19/98/State Road 55 between N.E. 592 Street/Chavous Road/ Kate Green Road and N.E. 170th Street in Dixie County is designated as “U.S. Navy BMC Samuel Calhou Chavous, Jr. Memorial Highway.”
- State Road 24 between County road 374 and Bridge Number 340053 in Levy County is designated as “Marine Lance Corporal Brian R. Buesing Memorial Highway.”
- U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County is designated as “United States Army Sergeant Karl A. Campbell Memorial Highway.”
- U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County is designated as “U.S. Army SPC James A. Page Memorial Highway.”

This bill creates undesignated sections of Florida Law.

II. Present Situation:

Section 334.071, F.S., provides: (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes; (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and (3) The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, resolutions supporting the designations must be passed by each affected local government prior to the erection of the markers.

III. Effect of Proposed Changes:

The effects of the bill are as follows:

Section 1: The bill designates U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County is designated as “SP4 Thomas Berry Corbin Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Thomas Corbin, born in Old Town Dixie, lived in Cross City, served in the United States Army as a Specialist Fourth Class and was killed in action during the Vietnam War during a mission against the Viet Cong. He was awarded the Silver Star due to his dedication and commitment.

Section 2: The bill designates U.S. Highway 19/98/State Road 55 between N.E. 592 Street/Chavous Road/ Kate Green Road and N.E. 170th Street in Dixie County is designated as “U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Samuel Chavous Jr. was born in Cross City and served in the US Navy. He served in the US Navy in the Vietnam War and was killed in action. For his service, he was awarded the Purple Heart.

Section 3: The bill designates State Road 24 between County road 374 and Bridge Number 340053 in Levy County is designated as “Marine Lance Corporal Brian R. Buesing Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Lance Corporal Brian Buesing was born and raised in Cedar Key. He enlisted in the Marines and at the young age of 21 during Operation Iraqi Freedom, he was killed in action while trying to protect two fellow Marines. For his bravery and dedication, he was awarded the Purple Heart.

Section 4: The bill designates U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County is designated as “United States Army Sergeant Karl A. Campbell Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Army Sergeant Karl Campbell of Chiefland enlisted in the Army in 1995 and served as an infantryman until 2003. He re-enlisted in November 2009. Sergeant Campbell died from wounds suffered when insurgents in Afghanistan attacked his unit with an improvised explosive device. He has been awarded the Bronze Star and the Purple Heart.

Section 5: The bill designates U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County is designated as “U.S. Army SPC James A. Page Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Army Specialist James Page of Titusville died from an improvised explosive device at the young age of 23. He has been awarded the Bronze Star and the Purple Heart.

Section 6: The bill will take effect on July 1, 2011 if passed by the Legislature.

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 FDOT will incur costs of approximately \$4000 (from the State Transportation Trust Fund) for erecting markers for the designation. This is based on the assumption that ten markers will be erected at a cost of \$400 each, maintaining these signs over time, and for future replacement of sign as necessary.

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 1172

INTRODUCER: Senator Oelrich

SUBJECT: Road and Bridge Designations

DATE: March 24, 2011 REVISED: _____

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

I. Summary:

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 bill designates the following road as follows:

- State Road 100 in Union County from the Bradford County Line to the Columbia County line is designated “Deputy Hal P. Croft and Deputy Ronald Jackson Memorial Highway.”
- State Road 26A in Gainesville, Alachua County, between West University Avenue and S.W. 25th Street, is designated “Deputy Jack A. Romeis Road.”

This bill creates an undesignated section of law.

II. Present Situation:

Section 334.071, F.S., provides: (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes; (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and (3) The FDOT may not erect the markers for honorary road or bridge

designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, resolutions supporting the designations must be passed by each affected local government prior to the erection of markers.

III. Effect of Proposed Changes:

The effects of the bill are as follows:

Section 1: The bill designates State Road 100 in Union County from the Bradford County Line to the Columbia County line is designated “Deputy Hal P. Croft and Deputy Ronald Jackson Memorial Highway.” Also this bill directs FDOT to erect suitable markers.

Deputy Hal P. Croft and Deputy Ronald Jackson were shot and killed while serving an arrest warrant on May 23rd, 1961. Both men were residents of Lake Butler and served the Union County Sheriff’s Department.

Section 2: The bill designates State Road 26A in Gainesville, Alachua County, between West University Avenue and S.W. 25th Street, is designated “Deputy Jack A. Romeis Road.” Also this bill directs FDOT to erect suitable markers.

Deputy Romeis died after sustaining injuries due to an automobile accident while in pursuit of a stolen vehicle. Deputy Romeis has served as a full time deputy for 5 years and had previously served as a reserve deputy for 15 years.

Section 3: 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.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDOT will incur costs of approximately \$1,600 (from the State Transportation Trust Fund) for erecting markers for the designations. This is based on the assumption that four markers will be erected at a cost of \$400 per marker. The FDOT will also have to pay the recurring cost of maintaining these signs over time, and for future replacement of the signs as necessary.

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 1464

INTRODUCER: Senator Sobel

SUBJECT: Road and Bridge Designations

DATE: March 24, 2011 REVISED: _____

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

I. Summary:

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 bill designates the following roads as follows:

- State Road 824 between I-95 and State Road A1A in Broward County is designated as “Mardi Gras Way.”
- State Road 7 between Pembroke Road and County Line Road in Broward County is designated as “West Park Boulevard.”

This bill creates undesignated sections of Florida Law.

II. Present Situation:

Section 334.071, F.S., provides: (1) Legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility, and may not be construed to require any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes; (2) When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility; and (3) The FDOT may not erect the markers for honorary road or bridge

designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, resolutions supporting the designations must be passed by each affected local government prior to the erection of markers.

III. Effect of Proposed Changes:

The effects of the bill are as follows:

Section 1: The bill designates State Road 824 between I-95 and State Road A1A in Broward County is designated as “Mardi Gras Way.” Also this bill directs FDOT to erect suitable markers.

The City of Hallandale recognizes pari-mutual gaming as part of Florida's history. The city has made efforts to be gaming friendly to bolster marketing and economic development.

Section 2: The bill designates State Road 7 between Pembroke Road and County Line Road in Broward County is designated as “West Park Boulevard.” Also this bill directs FDOT to erect suitable markers.

The City Commission of West Park recognizes the designated West Park Boulevard as a means to increase visibility.

Section 3: The bill will take effect on July 1, 2011 if passed by the Legislature.

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 FDOT will incur costs of approximately \$1600 (from the State Transportation Trust Fund) for erecting markers for the designation. This is based on the assumption that four markers will be erected at a cost of \$400 each, maintaining these signs over time, and for future replacement of sign as necessary.

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 1912

INTRODUCER: Senator Evers

SUBJECT: Trucking

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.			EP	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill, the “Small Trucker Relief Act” creates undesignated sections of statute to:

- define the term “small trucking firm” to mean a trucking firm that:
 - is family owned,
 - employs fewer than 30 persons, or
 - has fewer than 10 trucks in operation.

- direct county tax collector’s office to act as the agent for the Department of Highway Safety and Motor Vehicles (DHSMV) to issue and renew the registration license plates for trucks owned, and Commercial Driver’s Licenses (CDL) for employees of, small trucking firms.

- prohibit a penalty or fine from being assessed for idling if the truck is owned by a small trucking firm.

- direct the Department of Environmental Protection (DEP) to issue, upon application by a small trucking firm, a waiver exempting the firm from DEP restrictions on the washing of trucks.

- grant an annual credit against corporate income taxes imposed in ch. 220, F.S., to small trucking firms that make application for the credit. The credit is to be equal to the value of the time and amount of fuel consumed while idling.

- provide that any person who engages in theft of cargo or equipment from a small trucking firm commits a felony of the second degree. In addition to the punishments prescribed in ss. 775.082, 775.083, or 775.084, F.S., for each occurrence, a violator is to be sentenced to no less than five years in prison and fined \$100,000.
- creates the Trucking Regulation Workgroup to identify rules and regulations that can be removed without affecting public safety. The workgroup consists of the Secretary of the Florida Department of Transportation (FDOT), and an owner or employee of a small trucking firm, appointed by the Governor.
- authorize FDOT to inspect trucks randomly but may not use a “target list” when determining which trucks to inspect.

This bill creates several undesignated sections of the Florida Statutes.

II. Present Situation:

Commercial Vehicle Washing and Stormwater Discharge

Wastewater (including wash water) from any type of vehicle and equipment cleaning can contain significant amounts of substances such as oil and grease, petroleum products, suspended solids such as dirt and grit, heavy metals, detergents, and other pollutants. These contaminants may cause pollution of surface water or ground water and result in violations of water quality standards if the wastewater is not properly managed. Federal and state regulations exist to minimize the adverse effects of the discharge from wastewater from vehicle washing operations.

A stationary washing facility is a permanent fixed location where vehicles are driven for washing. Stationary facilities may include commercial car washes for passenger vehicles and commercial or industrial vehicle wash facilities for large trucks and heavy equipment. Alternatively, mobile vehicle and equipment washing involves washing at a location where vehicles are based (such as a trucking company, warehouse, bus station, vehicle dealership, fairgrounds, etc.) or at an intermediate location where the washing crew and vehicle owners meet solely for the purpose of washing vehicles (such as a business parking lot, gas station, etc.).

National Pollutant Discharge Elimination System

The U.S. Environmental Protection Agency (EPA) authorizes the Florida Department of Environmental Protection (DEP) to implement the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program in the State of Florida. The program regulates point source discharges of stormwater runoff from certain industrial facilities, including certain vehicle washing operations. The operators of regulated industrial facilities must obtain an NPDES stormwater permit and implement appropriate pollution prevention techniques to reduce contamination of stormwater runoff.

As the NPDES stormwater permitting authority, DEP is responsible for promulgating rules and issuing permits, managing and reviewing permit applications, and performing compliance and enforcement activities. Accordingly, DEP has established a General Permit for Car Wash Systems by rule (ch. 62-660.803, F.A.C.) which provides for exemptions, requirements, and best management practices for vehicle washing operations.

Truck Idling

Due to federal and state hours-of-service (HOS) requirements, truck drivers often have long off-hour rest periods, which they often spend inside the cab of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods.

The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. Idling functions to keep the fuel and engine warm; helps to keep the driver alert; mask out noises and smells; and provides safety. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Exhaust from diesel engines contains pollutants that negatively impact human health and the environment. Diesel engines emit large amounts of nitrogen oxides, particulate matter and air toxics, which contribute to serious public health problems. Idling also generates a great deal of noise.

Although several exemptions apply (*e.g.*, idling while sleeping or resting in a sleeper berth) owners or operators of heavy-duty diesel engine powered motor vehicles are prohibited by rule from idling for more than five consecutive minutes. (See FAC 62-285.420 for exemptions) First time offenders will be given a notice to comply without penalties. Complaint driven or repeat offenses may result in further enforcement action. Penalties will be assessed on a case by case basis.

Although an additional weight allowance is provided for auxiliary power units which obviate idling, the practice of idling is not currently prohibited by Florida Statute.

Safety Inspections

Safety inspections are conducted by the Florida Department of Transportation's (FDOT) Motor Carrier Compliance Office (MCCO) personnel and/or authorized agents at weigh stations and on the roadside. Officers follow a procedure established by the Commercial Vehicle Safety Alliance (CVSA) to inspect both the driver and/or vehicle(s). MCCO officers are authorized to inspect:

- Hazardous Materials Transportation
 - Placards, Markings, Labels, Spills, Leaks, Unsecured Cargo
- Brakes
 - Parking Brakes, Drums and Rotors, Hoses and Tubing, Low Air Warning Device, Tractor Protection Valve (All brakes must work and be properly adjusted. Brakes must be on all wheels if the truck or tractor was manufactured after July 25, 1980)
- Coupling Devices
 - Fifth Wheel, Pintle Hooks, Tow Bar, Safety Devices
- Fuel System
 - Leaks, Securely-Mounted Tanks, Filler Caps
- Rearview Mirrors
- Horn
- Lighting Devices
 - Stop Lights, Turn Signals, Headlights, Clearance Lights, Marker Lights

- Steering Mechanism
- Suspension
- Frame Members
- Body Components
- Tires and Wheels
- Windshield and Wipers
- Exhaust System
- Emergency Equipment
 - Reflectors, Fire Extinguisher
- Load Secured

When determining whether a vehicle is to be inspected and how thorough the inspection is, MCCO officers may consult the federally-maintained Comprehensive Safety Analysis database which is made available to insurers, shippers, law enforcement, and other parties interested in a carrier's safety record. The database ranks a given carrier's compliance and safety record as "good", "questionable", or "poor". The Federal Motor Carrier Safety Administration (FMCSA) recommends thorough inspection of vehicles maintained by carriers whose records are "poor".

III. Effect of Proposed Changes:

Section 1 of the bill allows for the act to be cited as the "Small Trucker Relief Act."

Section 2 of the bill defines the term "small trucking firm" in subsection (1) to mean a trucking firm that:

- is family owned,
- employs fewer than 30 persons, or
- has fewer than 10 trucks in operation.

Subsection (2) directs the applicable county tax collector's office to act as the agent for the DHSMV to issue and renew the registration license plates for trucks owned, and CDLs for employees of, small trucking firms.

Subsection (3) prohibits a penalty or fine from being assessed for idling if the truck is owned by a small trucking firm.

Subsection (4) directs DEP to issue, upon application by a small trucking firm, a waiver exempting the firm from DEP restrictions on the washing of trucks.

Subsection (5) grants an annual credit against corporate income taxes imposed in ch. 220, F.S., to small trucking firms that make application for the credit. The credit is to be equal to the value of the time and amount of fuel consumed while idling.

Subsection (6) provides that any person who engages in theft of cargo or equipment from a small trucking firm commits a felony of the second degree. In addition to the punishments prescribed

in ss. 775.082, 775.083, or 775.084, F.S., for each occurrence, a violator is to be sentenced to no less than five years in prison and fined \$100,000.

Section 3 creates the Trucking Regulation Workgroup consisting of two members:

- The Secretary of FDOT, or the Secretary's representative; and
- An owner or employee of a small trucking firm, appointed by the Governor.

The workgroup is charged with identifying rules and regulations that can be removed without affecting public safety. The workgroup is to provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than October 1, 2011.

Section 4 authorizes FDOT to inspect trucks randomly but may not use a "targeted list" when determining which trucks to inspect.

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

Other Potential Implications:

The definition of "small trucking firm" could be interpreted to include relative large trucking firms by its use of the disjunctive word "or," *i.e.*, of the following, only one need be satisfied to be considered a small trucking firm.

- is family owned,
- employs fewer than 30 persons, *or*
- has fewer than 10 trucks in operation.

Family-owned trucking firms can be quite large.

Under current law (s. 812.014(2)(a)1., F.S.) a person who engages in the theft of cargo or equipment with a value of more than \$100,000 commits a first degree felony. This bill would reduce that act to a second degree felony if the cargo or equipment were the property of or under the control of a small trucking firm.

According to DEP, the agency cannot provide an exemption for the discharge of pollutants from wash waters directly to surface waters since federal regulations (*i.e.*, the NPDES regulations) do not allow such exemptions. However, DEP has developed a best management practice (BMP) document for vehicle washing. Practices defined in the BMP when implemented, provide that wash waters either be percolated into the ground or collected and managed off-site and no pollutants would be discharged directly to surface waters. Operations implementing the BMP provisions are generally not required to obtain NPDES or other state wastewater permits. The BMPs were developed for mobile vehicle washing operations, but would have applicability to truck washing at small truck firms that would either contract for washing (*e.g.* mobile truck washing), or conduct vehicle washing on their own.

The Department of Revenue (DOR) notes that no authority is provided to adopt rules. However, rules would likely be needed to administer the tax credit authorized in Section 2 of the bill.

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 bill does not address how the corporate income tax credit is to be documented. According to DOR:

The cost value of the time and amount of fuel consumed during idling needs to be calculated and documented. The trucking firm would be required to document the amount of time a truck spends idling and the cost of the fuel used by a truck idling.

Other observations made by DOR include:

- The bill does not address when the applicant is to apply for the credit, or if the applicant must apply each tax year to claim the credit.
- The bill does not address what happens if the credit exceeds the amount owed on a tax return.
- The bill does not place the provisions addressing the corporate income tax credit in ch. 220, F.S., where all other such credits are located.
- The bill does not state in what order the credit is to be claimed relative to other tax credits an applicant may be eligible to claim.
- Although the bill's effective date is July 1, 2011, the bill does not address how the tax credit is to be applied (*i.e.*, is it applicable to the 2010/2011 tax year, or to subsequent years only.)

B. Private Sector Impact:

Owners of small trucking firms will experience indeterminate but positive fiscal impacts from the corporate income tax credit provided by the bill.

C. Government Sector Impact:

It is not clear how many taxpayers would qualify for the corporate income tax credit provided by the bill. According to DOR,

(T)here are a limited number of small trucking firms that pay corporate income tax, so it is anticipated that the statement of estimated regulatory costs should not exceed \$1 million in the aggregate within five years of implementation.

According to DHSMV:

This bill gives legislative authority to tax collectors to issue license plates and registration renewals for trucks owned by small trucking firms, as well as issuing commercial driver licenses to the employees of those firms; however, tax collectors currently have the authority to act as DHSMV's agent for these processes.

Therefore, the bill will have no impact on local government.

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 672

INTRODUCER: Senator Garcia

SUBJECT: Uniform Traffic Control

DATE: March 25, 2011

REVISED: _____

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

I. Summary:

SB 672 repeals authorization to use traffic infraction detectors, commonly known as “red light cameras,” to enforce traffic safety laws, which were enacted in Ch. 2010-80, Laws of Florida, by the Florida Legislature during the 2010 Session.

Specifically, the bill repeals s. 316.0076, F.S., which preempts the regulation and use of all traffic camera enforcement systems to the state. The bill repeals s. 316.008(8), F.S., authorizing local governments to install traffic infraction detectors, and s. 316.0083, F.S., which provides local ordinance requirements, installation, signage and notification-of-violation processes, as well as distribution requirements for fines collected by traffic infraction detector programs. The bill also repeals s. 316.0776, F.S., which provides engineering specifications for installation of traffic infraction detectors.

The bill repeals portions of other sections in Chapter 316, Florida Statutes, in order to conform to the repealed sections described above, and it repeals two statutes relating to the implementation of the traffic infraction detector bill passed in 2010.

This bill substantially amends the following sections of the Florida Statutes: 316.640, 316.650, 318.14, 318.18, and 322.27.

This bill substantially repeals the following sections of the Florida Statutes: 316.003(87), 316.0076, 316.008(8), 316.0083, 316.00831, 316.07456, 316.0776, 321.50.

In addition, the bill repeals ss. 15 and 16, Chapter 2010-80, Laws of Florida.

II. Present Situation:

Traffic Infraction Detectors generally

Traffic infraction detectors, or “red light cameras,” are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal, and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases video cameras are used. Cameras record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle speed.

Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted Chapter 2010-80, Laws of Florida. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of Chapter 316, Florida Statutes.¹ The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver’s failure to stop at a traffic signal when such violation was identified by a traffic infraction detector.²

Jurisdiction, Installation, and Awareness

Any traffic infraction detector installed on the highways, roads, and streets must meet requirements established by the Florida Department of Transportation (FDOT) and must be tested at regular intervals according to procedures prescribed by FDOT.³ Municipalities may install or authorize installation of traffic infraction detectors on streets and highways in accordance with FDOT standards, and on state roads within the incorporated area when permitted by FDOT.⁴ Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by FDOT.⁵ DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of FDOT, when permitted by FDOT.⁶

If DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must notify the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.⁷ Such signage must meet the specifications for uniform signals and devices adopted by FDOT pursuant to s. 316.0745, F.S.⁸

¹ Section 316.0076, F.S.

² *See generally* s. 316.0083, F.S.

³ Section 316.07456, F.S.

⁴ Section 316.008(7), F.S.; s. 316.0776(1), F.S.

⁵ *Id.*

⁶ Section 321.50, F.S. As of March 2011, DHSMV has not undertaken any effort to install or authorize traffic infraction detectors itself.

⁷ Section 316.0776(2), F.S.

⁸ *Id.*

Notifications and Citations

If a traffic infraction detector identifies a person violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. A notification must be issued to the registered owner of the vehicle within 30 days of the alleged violation.⁹ The notice must be accompanied by a photograph or other recorded image of the violation, and must include a statement of the vehicle owner's right to review images or video of the violation, and the time and place, or Internet location where the evidence may be reviewed.¹⁰ Violations may not be issued if the driver is making a right-hand turn "in a careful and prudent manner."¹¹

If the registered owner of the vehicle does not submit payment within 30 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a traffic citation to the owner.¹² A citation must be mailed by certified mail, and must be issued no later than 60 days after the violation.¹³ The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.¹⁴ The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.¹⁵

A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within 5 days after the issuance date of the citation to the violator.¹⁶

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Was, at the time of the violation, in the care, custody, or control of another person; or
- Received a Uniform Traffic Citation (UTC) for the alleged violation issued by a law enforcement officer.¹⁷

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as

⁹ Section 316.0083(1)(b), F.S.

¹⁰ *Id.*

¹¹ Section 316.0083(2), F.S.

¹² Section 316.0083(1)(c), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 316.0083(1)(e), F.S.

¹⁶ Section 316.650(3)(c), F.S.

¹⁷ Section 316.0083(1)(d), F.S.

provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued.¹⁸ If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the driver.¹⁹ A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.²⁰ Submission of a false affidavit is a second degree misdemeanor.

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.²¹ If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.²²

Oversight and Accountability

By October 1, 2012, and annually thereafter, each county or municipality that operates a traffic infraction detector is required to submit a report to DHSMV containing the following:

- the results of using the traffic infraction detector;
- the procedures for enforcement; and
- statistical data and information required by DHSMV.²³

By December 31, 2012, and annually thereafter, DHSMV must submit a summary report to the Governor and Legislature which must contain:

- a review of the information, described above, received from the counties and municipalities;
- a description of the enhancement of the traffic safety and enforcement programs; and
- recommendations, including any necessary legislation.²⁴

Fines

A fine of \$158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the \$158 fine is the result of a local government's traffic infraction detector, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).²⁵ DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.²⁶

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Section 318.18(15), F.S.

²³ Section 316.0083(4), F.S.

²⁴ *Id.*

²⁵ Section 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

²⁶ *Id.*

If a law enforcement officer cites a motorist for the same offense, the fine is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Administrative Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.²⁷

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points assessed against the operator’s driver’s license and may not be used for the purpose of setting motor vehicle insurance rates.²⁸

The following chart details amounts remitted from participating local governments to the Department of Revenue as a result of traffic infraction detector programs in place from July 2010 through February 2011:²⁹

JURISDICTION	COUNTY	Grand Total
COCOA BEACH	Brevard	\$218,207
PALM BAY	Brevard	\$117,445
FORT LAUDERDALE	Broward	\$376,717
HALLANDALE BEACH	Broward	\$54,697
PEMBROKE PINES	Broward	\$90,087
HOLLYWOOD	Broward	\$3,486
COLLIER COUNTY BOCC	Collier	\$270,165
PALM COAST	Flagler	\$103,086
HILLSBOROUGH BOCC	Hillsborough	\$807,406
TEMPLE TERRACE	Hillsborough	\$66,566
CAMPBELLTON	Jackson	\$54,780
TALLAHASSEE	Leon	\$326,273
BRADENTON	Manatee	\$134,228
DUNNELLON	Marion	\$97,525
AVENTURA	Miami-Dade	\$810,246
HOMESTEAD	Miami-Dade	\$179,861

JURISDICTION	COUNTY	Grand Total
MIAMI BEACH	Miami-Dade	\$268,090
MIAMI GARDENS	Miami-Dade	\$640,594
NORTH MIAMI	Miami-Dade	\$570,459
OPA LOCKA	Miami-Dade	\$196,673
WEST MIAMI	Miami-Dade	\$152,388
SWEETWATER	Miami-Dade	\$120,931
APOPKA	Orange	\$468,120
MAITLAND	Orange	\$5,312
OCOE	Orange	\$314,736
ORLANDO	Orange	\$927,442
PALM SPRINGS	Palm Beach	\$195,963
WEST PALM BEACH	Palm Beach	\$113,365
PORT RICHEY	Pasco	\$345,446
HAINES CITY	Polk	\$24,651
LAKELAND	Polk	\$358,311
WINTER SPRINGS	Seminole	\$39,342

Grand Total	\$8,452,598
\$70 General Revenue portion	\$7,132,152
\$10 Health Admin. Trust Fund	\$1,018,859
\$3 Brain & Spinal Cord Injury TF	\$305,654

Appropriations

²⁷ Section 318.18(15), F.S.

²⁸ Section 322.27(3)(d)6., F.S.

²⁹ Data accurate as of March 26, 2011. The Department of Revenue makes its most-recent data available online at http://dor.myflorida.com/dor/taxes/red_light_camera_coll/rldr.xls.

Section 16, Ch. 2010-80, L.O.F., appropriated during Fiscal Year (FY) 2009-2010, \$100,000 to DOR to implement the act. Any unexpended funds from the appropriation must be reappropriated for FY 2010-2011; however, DOR stated “those appropriated funds have been spent.”³⁰

Litigation

Prior to the passage of Ch. 2010-80, L.O.F., some cities in Florida implemented camera enforcement programs of their own as local ordinances, notwithstanding concerns stated by the Attorney General’s office. A 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but “a photographic record of a vehicle violating traffic control laws may not be used as the [sole] basis for issuing a citation for such violations.”³¹ A 2005 Attorney General opinion reached the same conclusion, stating that, “legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices” as collected from a photographic record from unmanned cameras monitoring intersections.³²

A lawsuit filed in the 15th Judicial Circuit (Palm Beach) argues that as a result of ch. 2010-80 L.O.F., the ‘burden of proof’ has been unconstitutionally shifted from the state to the motorist, because the statute provides that “if the state is able to prove that a vehicle registered to the Petitioner was involved in the commission of a red light camera violation, [the owner] is presumed to be guilty.”³³ The suit further asserts that “the State is not required to prove the identity of the driver of the vehicle who committed the red light camera violation.”³⁴ In its Motion to Dismiss, the state (among other defenses) argues that the law affords adequate due process to violators by creating a “rebuttable presumption” that the owner was also the operator. The burden-shifting created by this rebuttable presumption is appropriate in “noncriminal situations... [that] contemplate reasonable notice and an opportunity to hear and be heard. The state also asserts that this case must first be raised in the County Court.”³⁵ The court granted the state’s Motion to Dismiss, and has set a rehearing on this order for April 8, 2011.

III. Effect of Proposed Changes:

SB 672 repeals all provisions of ch. 316, F.S., that were created by ch. 2010-80, L.O.F. Specifically, the bill repeals s. 316.003(87), F.S., which provides the definition of “traffic infraction detector.” The bill repeals s. 316.0076, F.S., which preempts the regulation and use of all traffic camera enforcement systems to the state. The bill repeals s. 316.008(8), F.S., which authorizes local governments to install traffic infraction detectors, and s. 321.50, F.S., which authorizes DHSMV to install traffic infraction detectors. The bill repeals s. 316.0083, F.S.,

³⁰ Department of Revenue, *2011 Bill Analysis: SB 672*, (on file with the Senate Transportation Committee).

³¹ Attorney General Opinion AGO 97-06.

³² Attorney General Opinion AGO 2005-41.

³³ Action for Declaratory Judgment, *Salvatore Altimari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15th Cir.) A copy of this pleading is on file with the Committee.

³⁴ *Id* at 2.

³⁵ Defendant State of Florida’s Motion to Dismiss, *Salvatore Altimari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15th Cir.) A copy of this pleading is on file with the Committee.

which details ordinance requirements, installation and notification processes, and fine distributions related to traffic infraction detectors. The bill also repeals s. 316.0776, F.S., which provides engineering specifications for installation of traffic infraction detectors.

In order to conform to these repealed sections, SB 672 also:

- Repeals portions of ss. 316.640 and 316.650, F.S., authorizing “traffic infraction enforcement officers” to enforce s. 316.0083, F.S.;
- Repeals a portion of s. 318.14, F.S., which provides distribution requirements for fines collected from traffic infraction detector programs;
- Repeals portions of s. 318.18, F.S., which provide (i) distribution requirements for fines collected from traffic infraction detector programs, (ii) an exemption process for those motor vehicle owners who have successfully appealed a violation from a traffic infraction detector, and (iii) a provision that individuals may not receive commissions or per-ticket fees from the installation of traffic infraction detector programs; and
- Repeals a sentence from s. 316.27(3)(d)6., F.S., providing that points are not placed on the license of a person receiving a violation from a traffic infraction detector.

The bill repeals two additional statutes relating to the implementation of Ch. 2010-80, Laws of Florida. It repeals s. 316.00831, F.S., which authorizes local governments to retain traffic infraction detector fines until such time as DOR creates a specific accounting process for receiving such remittances,³⁶ and repeals s. 316.07456, F.S., which provides a “transitional implementation” period during which traffic infraction detectors installed prior to the passage of the 2010 law are permitted to operate, and allows such non-compliant operation only until July 1, 2011.

Lastly, the bill repeals ss. 15 and 16, Ch. 2010-80, L.O.F; however, s. 15, Ch. 2010-80, L.O.F., was codified as s. 316.00831, F.S., which is also repealed in the bill. Section 16, Ch. 2010-80, L.O.F., appropriated \$100,000 to DOR for implementation of the act, and according to DOR, those funds have been spent.

Other Potential Implications:

As indicated in the body of the analysis, from July 2010 through January 2011, fines collected by local governments from violations of traffic infraction detectors have resulted in approximately \$8.4 million. \$7.1 million has been deposited into the General Revenue Fund; \$1 million has been deposited into the Department of Health Administrative Trust Fund; and \$305,000 has been deposited into the Brain and Spinal Cord Injury Program Trust Fund. SB 672 would eliminate the source of this revenue.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁶ The Department of Revenue notified local governments and DHSMV that it was prepared to accept remittances from traffic infraction detectors as of August 1, 2010.

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:

The bill removes the possibility of private motor vehicle operators being issued a \$158 fine for violating a red light camera ordinance.

C. Government Sector Impact:

Current law requires \$83 out of each \$158 traffic infraction fine (approximately 52.5 percent) to be distributed to the Department of Revenue, with local governments retaining \$75 (approximately 47.5 percent). Based on the \$8.4 million actually received by DOR between July 2010 and February 2011, approximately \$7.6 million has been retained by local governments that have installed traffic infraction detectors. SB 672 would eliminate the source of this revenue.

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.