

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

**TRANSPORTATION**  
**Senator Brandes, Chair**  
**Senator Margolis, Vice Chair**

**MEETING DATE:** Thursday, March 21, 2013  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Brandes, Chair; Senator Margolis, Vice Chair; Senators Clemens, Diaz de la Portilla, Evers, Garcia, Joyner, Lee, Richter, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 274</b> Dean (Identical H 487)	Freemasonry License Plates; Creating a Freemasonry license plate; establishing an annual use fee for the plate; providing for the distribution of use fees received from the sale of such plates, etc.  TR     03/21/2013 Fav/CS RC ATD AP	Fav/CS Yeas 8 Nays 0
2	<b>SB 606</b> Gibson (Similar CS/H 345)	Northeast Florida Regional Transportation Commission; Citing this act as the "Northeast Florida Regional Transportation Commission Act"; creating the Northeast Florida Regional Transportation Commission; providing for transportation projects of regional significance; authorizing the commission to acquire property; exempting the commission from taxes or assessments; specifying that the commission is not an authority for purposes of specified provisions relating to a discretionary tax, etc.  TR     03/21/2013 Fav/CS CA GO	Fav/CS Yeas 9 Nays 0
3	<b>SB 632</b> Soto (Identical H 265)	Florida Wildflower License Plates; Revising the annual use fee for the Florida Wildflower license plate; revising the amount of proceeds from the sale of the plate that may be used to pay certain costs, etc.  TR     03/21/2013 Fav/CS ATD AP	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Transportation

Thursday, March 21, 2013, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 634</b> Simpson (Similar H 1019)	Motor Vehicles; Revising provisions relating to the operation of radios or other soundmaking devices in vehicles; deleting a standard for determining prohibited sound levels; deleting an exception for vehicles operated for business or political purposes; authorizing local authorities to regulate the place where such soundmaking devices may be operated, etc.  TR 03/21/2013 Favorable CJ JU	Favorable Yeas 8 Nays 1
5	<b>SB 712</b> Latvala (Identical H 911)	Fallen Law Enforcement Officers License Plates; Creating a Fallen Law Enforcement Officers license plate; establishing an annual use fee for the plate; providing for the distribution of use fees received from the sale of such plates, etc.  TR 03/21/2013 Favorable RC ATD AP	Favorable Yeas 8 Nays 0
6	<b>SB 796</b> Hukill (Compare CS/H 479, H 1291)	Ignition Interlock Devices; Requiring mandatory placement of an ignition interlock device on all vehicles owned or operated by a person convicted of driving under the influence for specified periods based on the violation; providing that a driver who obtains an ignition interlock license during a period of revocation shall receive credit on a day-for-day basis for the period the person holds a valid ignition interlock license toward any mandatory period of ignition interlock device-restricted use arising from the same incident, etc.  TR 03/21/2013 Temporarily Postponed JU ATD AP	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Transportation

Thursday, March 21, 2013, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 952</b> Simmons (Identical H 945)	Orlando-Orange County Expressway Authority; Renaming the Orlando-Orange County Expressway System as the "Central Florida Expressway System"; creating the Central Florida Expressway Authority; providing for the transfer of governance, and control, legal rights and powers, responsibilities, terms, and obligations to the authority; revising the composition of the governing body of the authority; providing that the area served by the authority is within the geopolitical boundaries of Orange, Seminole, Lake, and Osceola Counties; prohibiting the authority from spending funds for SunRail, etc.  TR 03/21/2013 Favorable CA AP	Favorable Yeas 9 Nays 0
8	<b>SB 1342</b> Abruzzo (Similar CS/H 1061, Compare H 1203, H 1407)	Traffic Control; Revising provisions for enforcement of specified provisions using a traffic infraction detector; prohibiting a notice of violation or a traffic citation for a right-on-red violation under specified provisions; specifying that, in any hearing involving a traffic infraction detector or similar unattended device, each person so charged has the right to confront the witnesses against him or her; requiring traffic control signals to maintain certain signal intervals and display durations based on posted speeds, etc.  TR 03/21/2013 Fav/CS ATD AP	Fav/CS Yeas 9 Nays 0
9	<b>SB 1104</b> Brandes	Environment; Revising the responsibilities of the Department of Transportation, a county, or a municipality to improve or maintain a road that provides access to property within the state park system; revising the process and criteria for the payment by the department or participating transportation authorities of mitigation implemented by water management districts or the Department of Environmental Protection; revising the outdoor advertisement exemption criteria for a public information system, etc.  TR 03/21/2013 Fav/CS EP AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 274

INTRODUCER: Transportation Committee and Senator Dean

SUBJECT: Freemasonry License Plates

DATE: March 21, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	Fav/CS
2.			RC	
3.			ATD	
4.			AP	
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:**

CS/SB 274 requires the Department of Highway Safety and Motor Vehicles (DHSMV, department) to develop the Freemasonry specialty license plate. The bill also provides:

- an annual use fee of \$25 for the plate; and
- that the department shall retain the proceeds of the Freemasonry specialty license plate use fees until the \$60,000 processing fee and the minimum 1,000 presale voucher requirements are met, thereafter distributing the use fees received from the sale of the license plate to the Masonic Home Endowment Fund, Inc.

This bill substantially amends ss. 320.08056 and 320.08058, of the Florida Statutes.

**II. Present Situation:**

**Specialty License Plates**

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use 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 in support of a

particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Annual use fees, or any interest earned from those fees, may be used by the authorized organization for public or private purposes; however, the annual fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

The sponsoring organization wishing to receive a specialty license plate is required to comply with the requirements of s. 320.08053, F.S., which include:

- describing the proposed specialty license, and submit a sample plate that conforms to the specifications set by the department;
- paying the \$60,000 processing fee which defrays the department's cost for reviewing the application and developing the specialty license plate, if authorized; and
- providing a marketing strategy outlining short-term and long-term marketing plans and a projected financial analysis outlining the anticipated and planned revenues from the sale of the requested specialty license plate.

The approved specialty license plate organization must presell a minimum of 1,000 vouchers within 24 months before the department can begin manufacturing the specialty license plate. If, at the end of the 24-month presale period, the minimum sales requirements have not been met, the department will de-authorize the specialty plate, discontinue development, and discontinue issuance of the presale voucher.

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, Ch. 2008-176, L.O.F., as amended by s. 21, Ch. 2010-223, L.O.F., provides that "[e]xcept for a 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 which 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, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014."

DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate's pro rata (proportionate) share of DHSMV's costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

**Freemasonry license plate**

Thirty nine states offer the Freemasonry license plate for a cost from \$20 to \$40, depending on the state.<sup>1</sup>

The Masonic Home Endowment Fund, Inc., is a 501(c)(3), public charity organization. The Masonic Home Endowment Fund, Inc., was founded around 1987 in the Jacksonville, Florida area.<sup>2</sup> The Grand Lodge of Florida<sup>3</sup> is just one company under the auspices of the Masonic Home Endowment Fund, Inc. The Grand Lodge of Florida is a retirement living facility for senior masons and their spouses/widows. The facility has two-levels of care; round the clock care and assisted living with geriatric physicians and specialists on the premises.

**III. Effect of Proposed Changes:**

The bill authorizes the department to develop and issue the Freemasonry specialty license plate. Drivers can purchase the specialty plate upon payment of the appropriate license taxes and fees and a \$25 annual use fee.

The bill also authorizes the department, notwithstanding the provisions of s. 320.08053, F.S., to distribute the use fees from the sale of the license plate. Thereafter, once the \$60,000 processing fee and the minimum 1,000 presell vouchers are met, the \$25 use fee will be distributed to the Masonic Home Endowment Fund, Inc., which may use up to 10 percent of the proceeds to promote and market the plate. The remainder of the proceeds must be used by the Masonic Home of Florida., to invest and reinvest and use the interest for its operations.

The bill has an effective date of October 1, 2013.

**Other Potential Implications:**

The plate does not qualify to be exempted from the requirements of the moratorium.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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<sup>1</sup> <http://www.daylightlodge.org/licenseplates.htm> (last visited on 3/17/2013)

<sup>2</sup> <http://www.lincc.us/PubApps/showVals.php?ein=592740213> (last visited on 3/18/2013)

<sup>3</sup> <http://masonichomeofflorida.org/aboutus.html> (last visited on 3/18/2013)

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

None.

**B. Private Sector Impact:**

Persons who purchase the Freemasonry specialty license plate will pay a \$25 annual use fee in addition to normal registration fees.

Proceeds from the sale of the Freemasonry specialty license plate will be distributed to the Masonic Home Endowment Fund, Inc.

**C. Government Sector Impact:**

The department's Information Systems Administration Office will require approximately 88 hours, non-recurring, in order to develop, design, manufacture, distribute the specialty license plate, and implement the provisions of this bill.

According to the department, the sponsoring organization has not yet fulfilled all requirements of s. 320.08053, F.S., which includes a \$60,000 application fee which is used by the department to offset startup costs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Transportation Committee on March 21, 2013:**

The CS added provisions authorizing the department, notwithstanding provisions of s. 320.08053, F.S., to develop and issue a Freemasonry specialty license plate. However, once all of the requirements are met, the department will distribute the \$25 use fees to Masonic Home Endowment Fund, Inc.

The CS also changed the effective date to October 1, 2013.

**B. Amendments:**

None.

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

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673604

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Evers) recommended the following:

**Senate Amendment**

Delete line 33  
and insert:  
Section 3. This act shall take effect October 1, 2013.



539102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Evers) recommended the following:

**Senate Amendment**

Delete lines 21 - 25  
and insert:

(a) Notwithstanding the provisions of s. 320.08053, the department shall develop a Freemasonry license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "In God We Trust" must appear at the bottom of the plate.

(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, the license



539102

13

plate annual use fees shall be distributed

By Senator Dean

5-00567-13

2013274\_\_

1 A bill to be entitled  
 2 An act relating to specialty license plates; amending  
 3 ss. 320.08056 and 320.08058, F.S.; creating a  
 4 Freemasonry license plate; establishing an annual use  
 5 fee for the plate; providing for the distribution of  
 6 use fees received from the sale of such plates;  
 7 providing an effective date.  
 8

9 Be It Enacted by the Legislature of the State of Florida:  
 10

11 Section 1. Paragraph (aaaa) is added to subsection (4) of  
 12 section 320.08056, Florida Statutes, to read:

13 320.08056 Specialty license plates.-

14 (4) The following license plate annual use fees shall be  
 15 collected for the appropriate specialty license plates:

16 (aaaa) Freemasonry license plate, \$25.

17 Section 2. Subsection (79) is added to section 320.08058,  
 18 Florida Statutes, to read:

19 320.08058 Specialty license plates.-

20 (79) FREEMASONRY LICENSE PLATES.-

21 (a) The department shall develop a Freemasonry license  
 22 plate as provided in this section. The word "Florida" must  
 23 appear at the top of the plate, and the words "In God We Trust"  
 24 must appear at the bottom of the plate.

25 (b) The license plate annual use fees shall be distributed  
 26 to the Masonic Home Endowment Fund, Inc., which may use a  
 27 maximum of 10 percent of the proceeds to promote and market the  
 28 plate. The remainder of the proceeds shall be used by the  
 29 Masonic Home Endowment Fund, Inc., to invest and reinvest and

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

5-00567-13

2013274\_\_

30 use the interest for the operation of the Masonic Home of  
 31 Florida, a five-star facility dedicated to the care of Masons  
 32 and their families.  
 33

Section 3. This act shall take effect July 1, 2013.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/21/2013  
Meeting Date

Topic Freemasonry License Plate

Bill Number 274  
(if applicable)

Name Stephen M. Berry

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Executive Officer

Address 2910 Kerry Forest Parkway  
Street  
Jacksonville, FL  
City State Zip

Phone 850-519-2834

E-mail Steve@BerryFL307.net

Speaking:  For  Against  Information

Representing FL Masonic Home

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic FREEMASONRY License Plate

Bill Number 274

(if applicable)

Name JORGE L. ALADRO

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title GRAND MASTER

Address 283 DEER RUN RD.

Phone 321-288-8980

Street  
Palm Bay FL 32909  
City State Zip

E-mail j.laGeorge@bellsouth.net

Speaking:  For  Against  Information

Representing Masonic Home of Florida & Grand Lodge of Fla.

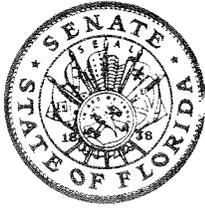
Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR CHARLES S. DEAN, SR.**

5th District

### COMMITTEES:

Environmental Preservation and  
Conservation, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on General  
Government  
Children, Families, and Elder Affairs  
Criminal Justice  
Gaming  
Military Affairs, Space, and Domestic Security

March 19, 2013

The Honorable Jeff Brandes  
318 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399-1100

Dear Chairman Brandes:

Thank you for allowing Senate Bill 274, relating to Specialty License Plates, to be placed on your agenda. Unfortunately, I will be unable to attend the Committee meeting and would like to request your permission to allow my aide, Chase Daniels, to present this bill in my place.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Charles S. Dean".

Charles S. Dean  
State Senator, District 5

Cc: Kurt Eichin, Staff Director

### REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 606

INTRODUCER: Transportation Committee and Senator Gibson

SUBJECT: Northeast Florida Regional Transportation Commission

DATE: March 22, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Fav/CS</b>
2.			CA	
3.			GO	
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:**

CS/SB 606 creates the Northeast Florida Regional Transportation Commission for the purposes of improving mobility and expanding multimodal transportation options for persons and freight throughout Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties. The primary provisions of the bill:

- create the Northeast Florida Regional Transportation Commission;
- provide for commission membership, powers and duties, and funding;
- provide criteria for transportation projects of regional significance;
- authorize the acquisition of lands and property, but do not authorize condemnation or eminent domain;
- exempts the commission from taxation;
- provide for repeal of the commission unless certain conditions are met; and
- provide that the commission is exempt from the Administrative Procedures Act.

This bill creates the following sections of the Florida Statutes: 120.52; and 343.1001, 343.1002, 343.1003, 343.1004, 343.1005, 343.1006, 343.1008, 343.1009, 343.1010, 343.1011, 343.1012, and 343.1013, constituting part V of chapter 343.

## II. Present Situation:

### Background

In 2009, the Legislature enacted HB 1213,<sup>1</sup> requiring the Jacksonville Transportation Authority (JTA), at the direction of the Florida Department of Transportation (FDOT), to perform a Regional Transportation Authority study. That study affirmed the need for a regional approach to transportation in Northeast Florida but also recommended further study. Additionally, the 2009 Regional Transportation Authority Study Final Report found that the development of a regional transportation elements plan is needed as the basis for further action on any regional transportation initiative.<sup>2</sup>

In 2010, the Legislature enacted SB 2470,<sup>3</sup> creating the Northeast Florida Regional Transportation Study Commission consisting of representatives from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties and the JTA.<sup>4</sup> The bill required the study commission, to prepare a report detailing its findings and making recommendations regarding regional transportation. The report was required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012. The report was required to include a regional transportation elements plan, the defining characteristics of transportation elements of regional significance, and an implementation plan for undertaking a regional transportation element plan. The report was allowed to include recommendations for the establishment of a regional transportation authority, draft legislation, and any other legislation the study commission deemed appropriate.

### Recommendations from the Study

In December 2012, the Northeast Florida Regional Transportation Study Commission issued its final report.<sup>5</sup> The report recommended a two-phased approach to regional transportation governance. Phase I would be a regional transportation commission and Phase II would be the establishment of a regional transportation entity and proposed funding to implement the multimodal regional transportation commission's regional transportation plan.

In the Phase I, the commission will:

- develop a multimodal regional transportation plan;
- identify and secure dedicated funding to implement the plan;
- advance strategic projects and services with an initial focus on coordinating regional transit; and
- propose an organizational framework for implementing the regional transportation plan.

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<sup>1</sup> Ch. 2009-111, L.O.F.

<sup>2</sup> A copy of the 2009 Regional Transportation Study Final Report is available at <http://www.northfloridartsc.com/Pages/LegislationReports.aspx> (Last visited March 20, 2013).

<sup>3</sup> Ch. 2010-202, L.O.F.

<sup>4</sup> The Department of Transportation's District 2 Secretary, the chair of the Northeast Florida Regional Council, and the North Florida Transportation Planning Organization served as nonvoting members of the Northeast Florida Regional Transportation Study Commission.

<sup>5</sup> A copy of the Northeast Florida Regional Transportation Study Commission's final report is available at: <http://www.northfloridartsc.com/Pages/default.aspx> (Last visited March 20, 2013).

In Phase II, the multimodal regional transportation plan would be implemented with dedicated funding as authorized by future legislation.

The bill implements the recommended first Phase, creating the Northeast Florida Regional Transportation Commission (commission).

### III. Effect of Proposed Changes:

#### Chapter 343, F.S.

The bill creates a new part V of ch. 343, F.S., consisting of ss. 343.1001 through 343.1013, F.S.

#### Short Title

The bill creates s. 343.0001, F.S., creating the Northeast Florida Regional Transportation Commission Act as part I of ch. 343, F.S.

#### Definitions:

The bill creates s. 343.1002, F.S., defining various terms. Notably the bill contains very broad definitions of the following terms:

*Transportation facilities* means all mobile and fixed assets, including real or personal property or rights therein, used in the transportation of persons or property by any means of conveyance, and all related appurtenances. This includes:

- highways; bridges; limited or controlled access roadways, lanes and related facilities;
- docks, wharves, vessels, jetties, piers, and marine terminals;
- vehicles, fixed guideway facilities, including freight rail, intermodal facilities, and any means of conveyance of persons or property of all types;
- passenger and other terminals;
- park and ride facilities;
- bicycle ways and related facilities;
- pedestrian ways and pedestrian-related facilities appurtenant to other transportation facilities;
- transit-related improvements or developments adjacent to transit facilities or stations; and
- bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities.

Unlike other statutory entities with transportation-related functions, this definition also includes administrative or other office space for the commission.

*Transportation Services* means the conveyance of persons or property including mass transit services such as fixed-route bus, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service; and the planning and funding of transportation facilities.

#### Northeast Florida Regional Transportation Commission

The bill creates s. 343.1003, F.S., establishing the Northeast Florida Regional Transportation Commission (commission). The commission covers a six-county area comprised of Baker, Clay,

Duval, Nassau, Putnam, and St. Johns Counties.<sup>6</sup> The commission's governing board consists of nine members who are selected as follows:

- The county commissions of Baker, Clay, Nassau, Putnam, and St. Johns Counties each appoint one person, who may be an elected official of the county.
- The City of Jacksonville will be represented by four members, who may be elected officials of the city. Of the four members the Mayor of the City of Jacksonville appoints two members, and the Jacksonville City Council appoints two members.

To ensure continuity on the initial governing board, the initial appointees will draw lots at the governing board's first meeting to provide for two-, three- and four-year terms. An appointed member may not select or have a designee selected to serve in the absence of the member, whether the member is an elected official or otherwise. However, if an appointed member is designed by the appointing entity by title, such as a chair of a county commission or a chair of a transportation planning agency, the successor or vice-chair of the position may serve for the appointee in his or her absence. After the initial board's terms, members will be appointed for four-year terms. A member may not serve more than two consecutive terms.

The DOT secretary appoints a nonvoting advisor to the board. In addition, the board may create an advisory panel, whose membership will be determined by the board, and may establish committees by direction of the chair or upon vote of the board.

Members of the board and persons appointed to a committee or advisory panel serve without compensation but are entitled to receive reimbursement for travel expenses and per diem actually incurred in connection with commission business.<sup>7</sup> Members of the board are required to file with the Commission on Ethics as their mandatory financial disclosure the Form 1 statement of financial interest.<sup>8</sup>

At its inaugural meeting, and annually thereafter, the board is required to elect a chair, vice chair, secretary, and treasurer from among its members, to serve a one-year term. No person may hold the office of chair for more than two consecutive terms. The commission's first meeting must be held no later than 60 days after its creation.

The commission may employ an executive director and an administrative assistant to the board and executive director. The commission may employ permanent or temporary staff, including consultants, as it determines necessary or convenient. Alternatively, with the approval of their respective boards or administrative chiefs, the commission may use the staff of the:

- JTA, its legal counsel, technical experts, engineers, and other administrative employees;
- North Florida Transportation Planning Organization, for planning matters;

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<sup>6</sup> Flagler County declined to join the commission.

<sup>7</sup> The provisions for per diem and travel expenses are in s. 112.061, F.S.

<sup>8</sup> The Form 1 statement of financial interest is provided for in s. 112.3145, F.S. Section 348.0003(4)(c), F.S. requires members of transportation authorities created pursuant to ch. 343, F.S., to file Form 6 with the Commission on Ethics, which is a more detailed financial disclosure.

- Northeast Florida Regional Council, for planning and coordination matters;
- FDOT;
- Jacksonville Port Authority; and
- the counties represented on the commission board, on an as-needed basis.

Members of the board may be removed by their appointing entity, for cause, including, but not limited to failure to attend two or more commission meetings in a 9-month period.

No liability exists on the part of, and no cause of action of any nature shall arise against, any commission member for any action taken in the performance of their duties.

### **Commission Powers and Duties**

The bill creates s. 343.1004, F.S., providing the commission's powers and duties. The commission's express purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the six-county Northeast Florida region. The commission shall, at a minimum:

- develop a multimodal, prioritized plan for transportation projects of regional significance; and
- research and develop an implementation plan that identifies available but not yet imposed, and potentially developable, sources of funding to execute the regional transportation plan.

In developing the regional transportation plan, the commission is to review and coordinate with the future land use, capital improvements, and traffic circulation elements of the constituent counties' local governments' comprehensive plans, the Northeast Florida Regional Council's Strategic Regional Policy Plan,<sup>9</sup> and the schedules of other units of government having transit or transportation authority within whose jurisdiction the projects or improvements will be located. This process is intended to define and resolve potential inconsistencies between these plans and the commission's regional transportation plan.

The commission is to present the regional transportation plan and updates to the governing bodies of the constituent counties within 90 days after adoption. The commission is to update the regional transportation plan and the implementation plan not less frequently than every other year. The commission may plan, develop, construct, coordinate, and promote transportation projects of regional significance that are identified in the commission's regional transportation plan.

Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may provide transportation services of regional significance identified in the regional transportation plan.

The commission may facilitate efforts to secure funding commitments from federal and state sources, or from the applicable counties, for the planning, development, construction, purchase,

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<sup>9</sup> A copy of the Northeast Florida Regional Council's Strategic Regional Policy Plan is available at <http://www.nefrc.org/SRPP.htm> (Last visited February 11, 2013).

operation and maintenance of transportation projects of regional significance or that support intercounty mobility for persons or freight.

The commission may request funding and technical assistance from DOT and from federal and local agencies. In order to operate for its first five years, the commission is also to request annual funding from each constituent county of up to 30 cents per capita per year based on the latest census. However, the contribution of Duval County may not exceed 45 percent of the commission's budget for any fiscal year.

The commission may exercise all powers necessary, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers to:

- Sue and be sued in all courts.
- Apply for and to accept grants from federal, state, local, or private sources.
- Partner with private sector business community entities and engage the public in support of regional multimodal transportation improvements.
- Adopt rules for the regulation of the affairs and the conducting of business, including termination of membership in the commission for the nonpayment of county contributions.
- Advertise, market, and promote regional transit services and facilities, freight mobility plans and projects, and the activities of the commission.
- Cooperate with other governmental entities and contract with other governmental agencies.
- Purchase directly from local, national, or international insurance companies liability insurance that the commission is contractually and legally obligated to provide, notwithstanding the requirements of s. 287.022(1), F.S.<sup>10</sup>
- Make contracts and execute necessary instruments.
- Form public benefit corporations with other agencies of the state or local governments.
- Do all acts and things necessary or convenient for the conduct of its business and the general welfare of the commission in order to carry out its powers.

The commission does not have the power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency of the state. The commission's obligations shall not be deemed to be obligations of the state or of any political subdivision.

### **Transportation Projects of Regional Significance**

The bill creates s. 343.1005, F.S., providing that transportation projects of regional significance are those transportation facilities and transportation services within a regional transportation corridor identified in the Northeast Florida Regional Transportation Study Commission's December 2012 report, or subsequently identified by the commission, which:

- exhibit a significant level of travel between counties or regions;
- provide a primary connection between activity centers or municipalities;

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<sup>10</sup> Section 287.022(1), F.S. pertains to the purchase of insurance for all agencies by the Department of Management Services.

- exhibit a significant percentage of freight conveyance;
- provide a primary connection to marine, aviation or intermodal facilities;
- provide a regional emergency evacuation route;
- support or enhance the functionality of another identified transportation project of regional significance in the corridor by providing for regional movement or removing non-regional trips from some other transportation project of regional significance; or
- have such other characteristics as the commission determines to be of regional significance.

#### **Coordination with Other Agencies**

The bill creates s. 343.1006, F.S., requiring the regional transportation plan and implementation plan to be forwarded to the North Florida Transportation Planning Organization for inclusion in its long-range transportation plans and other planning documents. To the extent feasible, the commission's planning activities, including the development and adoption of the regional transportation plan and the implementation plan, shall be coordinated with the work of the North Florida Transportation Planning Organization, the Northeast Florida Regional Council, and DOT.

#### **Authority to Contract**

The bill creates s. 343.1008, F.S., authorizing any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual to contract with the commission. The commission may make and enter into contracts, leases, conveyances, partnerships, interlocal and other agreements with any political subdivision, agency, or instrumentality of the state and any federal agencies, corporations, and individuals for the purpose of carrying out its statutory authority and serving the purposes of the commission.

#### **Exemption from taxation and assessment**

The bill creates s. 343.1009, F.S., providing that effectuation of the commission's authorized purposes is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and because the commission performs essential governmental functions, the commission is not required to pay taxes or assessments of any kind upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it.

#### **Powers of Commission are Supplemental**

The bill creates s. 343.1010, F.S., providing that the powers conferred by this part are supplemental to the existing authority of the North Florida Transportation Planning Organization, the JTA, the Northeast Florida Regional Council, the counties and the municipalities located therein, and the DOT. This does not repeal any other law, general, special, or local, but supplements other laws in the exercise of the powers provided and provides a complete method for the exercise of powers granted to the commission. The projects of the commission must comply with all applicable federal, state, and local laws and may be accomplished in compliance with the provisions of the bill without regard to or necessity for compliance with the provisions, limitation, or restrictions contained in any other general, special, or local law except as specifically set forth in the bill. The bill does not repeal, rescind, or modify any other law relating to the North Florida Transportation Planning Organization, the JTA, or DOT.

**Public Meetings and Hearings**

The bill creates s. 343.1011, F.S. requiring the commission to meet at the times and locations as the chair determines, provided that to the extent feasible there be regular quarterly meetings.

The bill also provides that before the adoption of the regional transportation plan or the implementation plan, the commission must conduct a properly noticed public hearing in each of the affected counties, at least one of which must be before the commission's board. At the hearings, any interested party has the opportunity to be heard and to introduce testimony. Additionally, the commission shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

**Discretionary Sales Surtax**

The bill creates s. 343.1012, F.S., providing that the commission is not an "authority" for the purposes of the Charter County and Regional Transportation System Surtax.<sup>11</sup>

**Repeal**

The bill creates s. 343.1013, F.S., repealing this act on November 30, 2018, unless:

- the commission has adopted a regional transportation plan and the implementation plan, and at least Clay, Duval, Nassau, and St. Johns counties have adopted resolutions endorsing the plans; and
- adequate funding sources to carry out the initial phases of such plans have been secured.

**Florida Administrative Code**

Currently, s. 120.52(1), F.S., defines "agency" for the purpose of the Administrative Procedures Act.<sup>12</sup> The statute exempts expressway authorities created pursuant to ch. 348, F.S., or transportation authorities created under chs. 343 or 349, F.S., from the definition of "agency" for the purpose of the Administrative Procedures Act. The bill amends the exemption of s. 120.52(1), F.S., to include a commission under chs. 343 or 349, F.S. which would provide that the Northeast Florida Regional Transportation Commission is not subject to the Administrative Procedures Act.

**Effective Date**

The bill has an effective date of July 1, 2013.

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

None.

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

None.

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<sup>11</sup> S. 212.055(1), F.S.

<sup>12</sup> Ch. 120, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For the first five years, the commission would be funded from funds appropriated from each of the constituent counties up to 30 cents per capita per year. However, Duval County’s contribution cannot exceed 45 percent of the commission’s budget. The Northeast Florida Regional Transportation Study Commission estimated that the Northeast Florida Regional Transportation Commission’s annual budget would be between \$214,000 and \$215,000. This would result in an estimated cost of 21.1 cents per capita. The estimated county contributions are as follows:

County	Estimated Contribution
Baker	\$5,682
Clay	\$40,331
Duval	\$96,445 <sup>13</sup>
Nassau	\$15,547
Putnam	\$15,625
St. Johns	\$40,692
Total	\$214,322

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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<sup>13</sup> Duval County’s contribution is based on a maximum of 45 percent of the costs.

**VIII. Additional Information:**

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

**CS by Transportation on March 21, 2013:**

The CS incorporates five amendments which, collectively, removed provisions which would have granted the commission the authority to acquire, own, operate, maintain, or manage transportation facilities. Rather the commission is limited to essentially providing transit services of regional significance.

- B. **Amendments:**

None.

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

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975722

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment**

Delete lines 77 - 83  
and insert:

(7) "Transportation services" means the conveyance of persons or property, including mass transit services such as fixed-route bus service, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service, and the planning and funding of transportation facilities.



713084

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment**

Delete lines 137 - 139  
and insert:

(6) Notwithstanding s. 348.0003(4)(c), members of the board shall file a statement of financial interest with the Commission on Ethics pursuant to s. 112.3145.



816602

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment**

Delete lines 214 - 219  
and insert:

(a) Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may provide transportation services of regional significance which are identified in the regional transportation plan.



635678

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment**

Delete lines 276 - 280  
and insert:

(k) Do everything necessary or convenient for the conduct



848592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 329 - 348.

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

And the title is amended as follows:

Delete lines 20 - 21

and insert:

specified entities;

By Senator Gibson

9-00300A-13

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1 A bill to be entitled  
 2 An act relating to the Northeast Florida Regional  
 3 Transportation Commission; providing a directive to  
 4 the Division of Law Revision and Information; creating  
 5 s. 343.1001, F.S.; providing a short title; creating  
 6 s. 343.1002, F.S.; providing definitions; creating s.  
 7 343.1003, F.S.; creating the Northeast Florida  
 8 Regional Transportation Commission; providing for a  
 9 nine-member commission board; providing for board  
 10 appointment; providing for staffing; providing for  
 11 member removal; providing liability protection for  
 12 members; creating s. 343.1004, F.S.; providing  
 13 commission powers and duties; prohibiting the  
 14 commission from pledging the state's credit; creating  
 15 s. 343.1005, F.S.; providing for transportation  
 16 projects of regional significance; specifying the  
 17 characteristics for such projects; creating s.  
 18 343.1006, F.S.; requiring commission plans and  
 19 planning activity to be coordinated with other  
 20 specified entities; creating s. 343.1007, F.S.;  
 21 authorizing the commission to acquire property;  
 22 creating s. 343.1008, F.S.; authorizing other  
 23 governmental units and the commission to contract with  
 24 each other; creating s. 343.1009, F.S.; exempting the  
 25 commission from taxes or assessments; creating s.  
 26 343.1010, F.S.; specifying that the powers of the  
 27 commission are supplemental to other laws; creating s.  
 28 343.1011, F.S.; providing for public meetings and  
 29 hearings; creating s. 343.1012, F.S.; specifying that

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 the commission is not an authority for purposes of  
 31 specified provisions relating to a discretionary tax;  
 32 creating s. 343.1013, F.S.; providing for repeal;  
 33 amending s. 120.52, F.S.; conforming provisions;  
 34 providing an effective date.  
 35

36 Be It Enacted by the Legislature of the State of Florida:  
 37

38 Section 1. The Division of Law Revision and Information is  
 39 requested to create part V of chapter 343, Florida Statutes,  
 40 consisting of ss. 343.1001-343.1013, Florida Statutes.

41 Section 2. Section 343.1001, Florida Statutes, is created  
 42 to read:

43 343.1001 Short title.—This part may be cited as the  
 44 "Northeast Florida Regional Transportation Commission Act."

45 Section 3. Section 343.1002, Florida Statutes, is created  
 46 to read:

47 343.1002 Definitions.—As used in this part, the term:

48 (1) "Agency of the state" means the state and any  
 49 department of the state, the commission, or any corporation,  
 50 agency, or instrumentality created, designated, or established  
 51 by the state.

52 (2) "Board" means the governing body of the commission.

53 (3) "Commission" means the Northeast Florida Regional  
 54 Transportation Commission.

55 (4) "Department" means the Department of Transportation.

56 (5) "Transportation authorities" means the department and  
 57 any entity created under this chapter, chapter 348, or chapter  
 58 349.

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59 (6) "Transportation facilities" means all mobile and fixed  
 60 assets, including real or personal property or rights therein,  
 61 used in the transportation of persons or property by any means  
 62 of conveyance, and all appurtenances thereto, such as, but not  
 63 limited to: highways; bridges; limited or controlled access  
 64 roadways, lanes, and related facilities; docks, wharves,  
 65 vessels, jetties, piers, and marine terminals; vehicles, fixed  
 66 guideway facilities, including freight rail, intermodal  
 67 facilities, and any means of conveyance of persons or property  
 68 of all types; passenger and other terminals; park-and-ride  
 69 facilities; bicycle ways and related facilities; pedestrian ways  
 70 and pedestrian-related facilities appurtenant to other  
 71 transportation facilities; transit-related improvements or  
 72 developments adjacent to transit facilities or stations; bus,  
 73 train, vessel, or other vehicle storage, cleaning, fueling,  
 74 control, and maintenance facilities; and administrative and  
 75 other office space necessary for the exercise by the commission  
 76 of the powers and obligations granted under this part.

77 (7) "Transportation services" means the conveyance of  
 78 persons or property or the provision of transportation  
 79 facilities which allows the conveyance of persons or property,  
 80 including mass transit services such as fixed-route bus, fixed-  
 81 guideway vehicle service, paratransit service, flex route or  
 82 demand responsive service, and the planning, designing,  
 83 construction, and operation of transportation facilities.

84 Section 4. Section 343.1003, Florida Statutes, is created  
 85 to read:

86 343.1003 Northeast Florida Regional Transportation  
 87 Commission.—

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88 (1) The Northeast Florida Regional Transportation  
 89 Commission, an agency of the state, is created and established  
 90 as a body politic and corporate, covering the six-county area  
 91 comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns  
 92 Counties.

93 (2) The nine-member governing board of the commission shall  
 94 be selected and serve as follows:

95 (a) The county commissions of Baker, Clay, Nassau, Putnam,  
 96 and St. Johns Counties shall each appoint one person, who may be  
 97 an elected official of such county. However, in order to ensure  
 98 continuity on the initial governing board, the initial  
 99 appointees under this paragraph shall draw lots at the first  
 100 meeting of the governing board to determine which two members  
 101 shall serve initial terms of 2 years, which member shall serve  
 102 an initial term of 3 years, and which two members shall serve  
 103 initial terms of 4 years.

104 (b) The City of Jacksonville shall be represented by four  
 105 members, who may be elected officials of the city. Of the four  
 106 members, the mayor of the City of Jacksonville shall appoint two  
 107 members, and the Jacksonville City Council shall appoint two  
 108 members. However, in order to ensure continuity on the initial  
 109 governing board, the initial appointees shall draw lots at the  
 110 first meeting of the governing board to determine which member  
 111 shall serve an initial term of 2 years, which two members shall  
 112 serve initial terms of 3 years, and which member shall serve an  
 113 initial term of 4 years.

114 (c) An appointed member may not select or have a designee  
 115 selected to serve in the absence of the member, whether such  
 116 member is an elected official or otherwise. However, if an

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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117 appointed member is designated by the appointing entity by  
 118 title, such as the chair of a county commission or the chair of  
 119 a transportation or planning agency, the successor or vice chair  
 120 may serve for such appointee in his or her absence.

121 (d) Except for the initial board, members shall be  
 122 appointed for 4-year terms. A member may not serve more than two  
 123 consecutive terms.

124 (3) The secretary of the department shall appoint a  
 125 nonvoting advisor to the board.

126 (4) The board may create an advisory panel, with membership  
 127 to be determined by the board, and may establish committees by  
 128 and at the will of the chair, or upon vote of the board.

129 (5) The members of the board shall serve without  
 130 compensation but are entitled to receive reimbursement from the  
 131 commission for travel expenses and per diem incurred in  
 132 connection with the business of the commission as provided in s.  
 133 112.061. Persons appointed to a committee or an advisory panel  
 134 shall also serve without compensation but may be entitled to per  
 135 diem or travel expenses incurred in connection with the business  
 136 of the commission as provided in s. 112.061.

137 (6) Members of the board shall file a statement of  
 138 financial interest with the Commission on Ethics as required  
 139 under s. 112.3145.

140 (7) At its inaugural meeting, the board shall establish the  
 141 duties and powers of its officers as set forth in subsection (8)  
 142 and its initial rules of conduct and meeting procedures.

143 (8) At its inaugural meeting, and annually thereafter, the  
 144 board shall elect a chair, vice chair, secretary, and treasurer  
 145 from among its members, to serve for a term of 1 year. No person

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146 may hold the office of chair for more than two consecutive  
 147 terms.

148 (9) The first meeting of the commission shall be held  
 149 within 60 days after the creation of the commission.

150 (10) Six members of the board constitute a quorum. The  
 151 commission may meet upon the presence of a quorum. A vacancy on  
 152 the board does not impair the ability of a quorum to exercise  
 153 all rights and perform all duties of the commission.

154 (11) The commission may employ an executive director and an  
 155 administrative assistant to the board and to the executive  
 156 director. The commission may employ permanent or temporary  
 157 staff, including consultants, as it determines necessary or  
 158 convenient, or, subject to approval by their respective boards  
 159 or administrative chiefs, may use the staff of:

160 (a) The Jacksonville Transportation Authority, its legal  
 161 counsel, technical experts, engineers, and other administrative  
 162 employees.

163 (b) The North Florida Transportation Planning Organization,  
 164 for planning matters.

165 (c) The Northeast Florida Regional Council, for planning  
 166 and coordination matters.

167 (d) The department.

168 (e) The Jacksonville Port Authority.

169 (f) The counties represented on the commission board, on an  
 170 as-needed basis.

171 (12) An appointing county commission, or, in the case of  
 172 Duval County, upon request of the mayor or the city council  
 173 president, the Jacksonville City Council, may remove a member  
 174 appointed by it for cause, including, but not limited to,

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 175 failure to attend two or more meetings of the commission during  
 176 any 9-month period.

177 (13) No liability on the part of, and no cause of action  
 178 may arise against, any member for any action taken in the  
 179 performance of his or her duties under this part.

180 Section 5. Section 343.1004, Florida Statutes, is created  
 181 to read:

182 343.1004 Commission powers and duties.—

183 (1) The express purposes of the commission are to improve  
 184 mobility and expand multimodal transportation options for  
 185 persons and freight throughout the six-county North Florida  
 186 region. The commission shall, at a minimum:

187 (a) Use the data contained in the Long Range Transportation  
 188 Plan of the North Florida Transportation Planning Organization  
 189 and other data to develop a multimodal and prioritized regional  
 190 transportation plan consisting of transportation projects of  
 191 regional significance; and

192 (b) Research and develop an implementation plan that  
 193 identifies available but not yet imposed, and potentially  
 194 developable, sources of funding to execute the regional  
 195 transportation plan. In developing the regional transportation  
 196 plan, the commission shall review and coordinate with the future  
 197 land use, capital improvements, and traffic circulation elements  
 198 of the counties' local government comprehensive plans, the  
 199 Strategic Regional Policy Plan of the Northeast Florida Regional  
 200 Council, and the schedules of other units of government having  
 201 transit or transportation authority within whose jurisdictions  
 202 the projects or improvements will be located in order to define  
 203 and resolve potential inconsistencies between such plans and the

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 204 commission's regional transportation plan. The commission shall  
 205 present the regional transportation plan and updates to the  
 206 governing bodies of the constituent counties within 90 days  
 207 after adoption. The commission shall update the regional  
 208 transportation plan and the implementation plan at least every  
 209 other year.

210 (2) The commission may plan, develop, coordinate, and  
 211 promote transportation projects and transportation services of  
 212 regional significance which are identified in the commission's  
 213 regional transportation plan.

214 (a) Subject to available funding and with the approval of  
 215 the affected counties and transportation authorities, the  
 216 commission may own, purchase, operate, maintain, relocate,  
 217 equip, repair, and manage transportation facilities and services  
 218 of regional significance identified in the regional  
 219 transportation plan.

220 (b) To ensure coordination of its plans with those of local  
 221 governments, the commission shall consult with local governments  
 222 concerning the commission's regional transportation plan.

223 (c) The commission may facilitate efforts to secure funding  
 224 commitments from federal and state sources, or from the  
 225 applicable counties, for the planning, development,  
 226 construction, purchase, operation, and maintenance of  
 227 transportation projects that are of regional significance or  
 228 that support intercounty mobility for persons or freight.

229 (3) In carrying out its purposes and powers, the commission  
 230 may request funding and technical assistance from the department  
 231 and from federal and local agencies. In order to carry out the  
 232 purposes and powers of the commission for its first 5 years, the

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233 commission shall also timely request annually that each  
 234 constituent county appropriate a cash contribution of up to 30  
 235 cents per capita per year, based on the latest decennial census,  
 236 to support its budget; however, the contribution of Duval County  
 237 may not exceed 45 percent of the commission's budget for any  
 238 fiscal year.

239 (4) The commission may exercise all powers necessary,  
 240 appurtenant, convenient, or incidental to carrying out the  
 241 purposes identified in subsections (1)-(3), including, but not  
 242 limited to, the power to:

243 (a) Sue and be sued, implead and be impleaded, and complain  
 244 and defend in all courts in its own name.

245 (b) Adopt and use a corporate seal.

246 (c) Apply for and accept grants from federal, state, local,  
 247 or private sources for the carrying out of the purposes and  
 248 powers of the commission.

249 (d) Partner with private sector business community entities  
 250 that may further the commission's mission and engage the public  
 251 in support of regional multimodal transportation improvements.

252 (e) Adopt rules, including bylaws and sanctions, for the  
 253 regulation of the affairs and the conducting of business,  
 254 including termination of membership in the commission for  
 255 nonpayment of county contributions required under subsection  
 256 (3).

257 (f) Advertise, market, and promote regional transit  
 258 services and facilities, freight mobility plans and projects,  
 259 and the general activities of the commission.

260 (g) Cooperate with other governmental entities and contract  
 261 with other governmental agencies, including the Federal

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262 Government, the department, counties, transit and transportation  
 263 authorities or agencies, municipalities, and expressway and  
 264 bridge authorities.

265 (h) Purchase liability insurance directly from local,  
 266 national, or international insurance companies which the  
 267 commission is contractually and legally obligated to provide,  
 268 notwithstanding s. 287.022(1).

269 (i) Make contracts and execute all instruments necessary or  
 270 convenient for conducting its business.

271 (j) Form, alone or with one or more other agencies of the  
 272 state or local governments, public benefit corporations to carry  
 273 out the powers and obligations granted under this part or the  
 274 powers and obligations of such other agencies or local  
 275 governments.

276 (k) Require or elect not to require bid bonds and protest  
 277 bonds, prequalify bidders or proposers in various categories of  
 278 work or services, and suspend or debar consultants and  
 279 contractors in accordance with commission rules.

280 (l) Do everything necessary or convenient for the conduct  
 281 of its business and the general welfare of the commission in  
 282 order to carry out the powers granted to it by this part or any  
 283 other law.

284 (5) The commission may not pledge the credit or taxing  
 285 power of the state or any political subdivision or agency  
 286 thereof, nor may any of the commission's obligations be deemed  
 287 to be obligations of the state or of any political subdivision  
 288 or agency thereof, nor may the state or any political  
 289 subdivision or agency thereof, except the commission, be liable  
 290 for the payment of the principal of or interest on such

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 291 obligations.

292 Section 6. Section 343.1005, Florida Statutes, is created  
 293 to read:

294 343.1005 Transportation projects of regional significance.-  
 295 Transportation projects of regional significance are those  
 296 transportation facilities and transportation services within, in  
 297 whole or in part, a regional transportation corridor identified  
 298 in the commission report presented to the Legislature on or  
 299 about December 31, 2012, or subsequently identified by the  
 300 commission, which have one or more of the following  
 301 characteristics:

302 (1) Exhibit a significant level of travel between counties  
 303 or regions.

304 (2) Provide a primary connection between activity centers  
 305 or municipalities.

306 (3) Exhibit a significant percentage of freight conveyance.

307 (4) Provide a primary connection to marine, aviation, or  
 308 intermodal facilities.

309 (5) Provide a regional emergency evacuation route.

310 (6) Support or enhance the functionality of another  
 311 identified transportation project of regional significance in  
 312 the corridor by providing for regional movement or removing  
 313 nonregional trips from other transportation projects of regional  
 314 significance.

315 (7) Such other characteristics as the commission may  
 316 determine relating to regional significance.

317 Section 7. Section 343.1006, Florida Statutes, is created  
 318 to read:

319 343.1006 Plan coordination with other agencies.-The

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320 regional transportation plan and implementation plan shall be  
 321 forwarded to the North Florida Transportation Planning  
 322 Organization for inclusion in its long range transportation plan  
 323 and other planning documents as required by law. To the extent  
 324 feasible, the commission's planning activities, including the  
 325 development and adoption of the regional transportation plan and  
 326 the implementation plan, shall be coordinated with the work of  
 327 the North Florida Transportation Planning Organization, the  
 328 Northeast Florida Regional Council, and the department.

329 Section 8. Section 343.1007, Florida Statutes, is created  
 330 to read:

331 343.1007 Acquisition of lands and property.-

332 (1) The commission may acquire by gift, bequest, or  
 333 voluntary purchase any property or property rights necessary to  
 334 carry out its mission and purposes under this part; however, the  
 335 commission may not obtain private or public property by  
 336 condemnation or eminent domain.

337 (2) If the commission acquires property pursuant to this  
 338 part, the commission is not subject to any liability imposed by  
 339 chapter 376 or chapter 403 for preexisting soil or groundwater  
 340 contamination due solely to its ownership. This subsection does  
 341 not affect the rights or liabilities of any past or future  
 342 owners of the acquired property, nor does it affect the  
 343 liability of any governmental entity for actions that create or  
 344 exacerbate a pollution source. The commission and the Department  
 345 of Environmental Protection may enter into interagency  
 346 agreements for the performance, funding, and reimbursement of  
 347 investigative and remedial acts necessary for acquiring property  
 348 by the commission.

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349 Section 9. Section 343.1008, Florida Statutes, is created  
350 to read:

351 343.1008 Authority to contract.—Any county, municipality,  
352 drainage district, road and bridge district, school district, or  
353 any other political subdivision, board, commission, or  
354 individual, in or of the state, may make and enter into  
355 contracts, leases, conveyances, partnerships, or other  
356 agreements with the commission within the provisions and for the  
357 purposes of this part. The commission may make and enter into  
358 contracts, leases, conveyances, partnerships, interlocal  
359 agreements, and other agreements with any political subdivision,  
360 agency, or instrumentality of the state and any federal  
361 agencies, corporations, and individuals for the purpose of  
362 carrying out the provisions of this part and serving the  
363 purposes of the commission.

364 Section 10. Section 343.1009, Florida Statutes, is created  
365 to read:

366 343.1009 Exemption from taxation and assessment.—The  
367 effectuation of the authorized purposes of the commission  
368 created under this part is for the benefit of the people of this  
369 state, for the increase of their commerce and prosperity, and  
370 for the improvement of their health and living conditions, and,  
371 because the commission performs essential governmental functions  
372 in effectuating such purposes, the commission is not required to  
373 pay any taxes or assessments upon any property acquired or used  
374 by it for such purposes, or upon any rates, fees, rentals,  
375 receipts, income, or charges at any time received by it.

376 Section 11. Section 343.1010, Florida Statutes, is created  
377 to read:

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378 343.1010 Powers of commission are supplemental.—

379 (1) The powers conferred by this part are supplemental to  
380 the existing powers of the North Florida Transportation Planning  
381 Organization, the Jacksonville Transportation Authority, the  
382 Northeast Florida Regional Council, the counties and the  
383 municipalities located therein, and the department. This part  
384 does not repeal any provisions of any other law, general,  
385 special, or local, but supplements such other laws in the  
386 exercise of the powers provided under this part and provides a  
387 complete method for the exercise of the powers granted in this  
388 part. The projects of the commission must comply with all  
389 applicable federal, state, and local laws. The projects of the  
390 commission undertaken pursuant to this part may be accomplished  
391 without regard to or necessity for compliance with the  
392 provisions, limitations, or restrictions contained in any other  
393 general, special, or local law except as specifically set forth  
394 in this part.

395 (2) This part does not repeal, rescind, or modify any other  
396 law relating to the North Florida Transportation Planning  
397 Organization, the Jacksonville Transportation Authority, or the  
398 department.

399 Section 12. Section 343.1011, Florida Statutes, is created  
400 to read:

401 343.1011 Public meetings and hearings.—

402 (1) The commission shall hold regular public meetings at  
403 the times and locations determined by the chair but, if  
404 feasible, at least quarterly.

405 (2) Before the adoption of the regional transportation plan  
406 or the implementation plan, a public hearing shall be conducted

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 407 by the commission in each of the counties affected, at least one  
 408 of which must be before the board. Any interested party shall  
 409 have the opportunity to be heard in person or by counsel and to  
 410 introduce testimony in his or her behalf at the hearing.  
 411 Reasonable notice of each public hearing must be published in a  
 412 newspaper of general circulation in each county in which such  
 413 hearings are required to be held, at least 7 days before the  
 414 hearing. The commission shall comply with all applicable federal  
 415 and state requirements related to new or altered transportation  
 416 facilities or services.

417 Section 13. Section 343.1012, Florida Statutes, is created  
 418 to read:

419 343.1012 Discretionary sales surtax.—The commission is not  
 420 an “authority” for purposes of s. 212.055(1).

421 Section 14. Section 343.1013, Florida Statutes, is created  
 422 to read:

423 343.1013 Repeal.—This part shall stand repealed on November  
 424 30, 2018, unless:

425 (1) The commission has adopted the regional transportation  
 426 plan and the implementation plan, and at least Clay, Duval,  
 427 Nassau, and St. Johns Counties have adopted resolutions  
 428 endorsing such plans; and

429 (2) Adequate funding sources to carry out the initial  
 430 phases of such plans have been secured.

431 Section 15. Subsection (1) of section 120.52, Florida  
 432 Statutes, is amended to read:

433 120.52 Definitions.—As used in this act:

434 (1) “Agency” means the following officers or governmental  
 435 entities if acting pursuant to powers other than those derived

9-00300A-13 2013606  
 436 from the constitution:  
 437 (a) The Governor; each state officer and state department,  
 438 and each departmental unit described in s. 20.04; the Board of  
 439 Governors of the State University System; the Commission on  
 440 Ethics; the Fish and Wildlife Conservation Commission; a  
 441 regional water supply authority; a regional planning agency; a  
 442 multicounty special district, but only if ~~when~~ a majority of its  
 443 governing board is comprised of nonelected persons; educational  
 444 units; and each entity described in chapters 163, 373, 380, and  
 445 582 and s. 186.504.

446 (b) Each officer and governmental entity in the state  
 447 having statewide jurisdiction or jurisdiction in more than one  
 448 county.

449 (c) Each officer and governmental entity in the state  
 450 having jurisdiction in one county or less than one county, to  
 451 the extent they are expressly made subject to this chapter ~~act~~  
 452 by general or special law or existing judicial decisions.

453 This definition does not include a ~~any~~ municipality or legal  
 454 entity created solely by a municipality; a ~~any~~ legal entity or  
 455 agency created in whole or in part pursuant to part II of  
 456 chapter 361; a ~~any~~ metropolitan planning organization created  
 457 pursuant to s. 339.175; a ~~any~~ separate legal or administrative  
 458 entity created pursuant to s. 339.175 of which a metropolitan  
 459 planning organization is a member; an expressway authority  
 460 pursuant to chapter 348 or any transportation authority or  
 461 commission under chapter 343 or chapter 349; or a ~~any~~ legal or  
 462 administrative entity created by an interlocal agreement  
 463 pursuant to s. 163.01(7), unless any party to such agreement is  
 464

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2013606\_\_

465 otherwise an agency as defined in this subsection.

466 Section 16. This act shall take effect July 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*WMS*

3/21/13  
Meeting Date

Topic Northeast Florida Regional Transportation Commission Bill Number SB 666  
(if applicable)

Name Brad Thoburn Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title V.P. Long Range Planning + Capital Programs

Address 100 N. Myrtle Avenue Phone (904) 598-8745  
Street

Jacksonville FL 32204  
City State Zip

E-mail brthoburn@JTAFLA.com

Speaking:  For  Against  Information

Representing JTA

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 632

INTRODUCER: Transportation Committee and Senator Soto

SUBJECT: Florida Wildflower License Plates

DATE: March 21, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	
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:**

CS/SB 632 revises the annual use fee for the Florida Wildflower license plate, increasing the fee from \$15 to \$25. The bill also increases from 15 to 20, the percentage of the annual use fee proceeds that may be used for administrative and marketing costs.

The bill also increases from ten to twenty percent, the percentage of annual use fees accruing from sales of the Florida Salutes Veterans license plate that are distributed to the Florida Veterans' Foundation, Inc., and allows for continued distribution of the use fees to the foundation by eliminating the expiration date.

This bill substantially amends s. 320.08058 of the Florida Statutes.

**II. Present Situation:**

Florida Wildflowers

The Florida Wildflower specialty license plate was created by the 2000<sup>1</sup> Legislature. Persons wishing to register a vehicle with the plate must pay a \$15 annual use fee in addition to the

<sup>1</sup> <http://www.wildflowertag.com/funds.htm> (last visited on 3/18/2000)

normal fees required when registering a vehicle. Revenues from the use fee were deposited in the Florida Wildflower Foundation, Inc., to be used to establish native Florida Wildflower research programs to municipal, county, and community-based groups in the state.

The annual use fees shall be distributed to the Florida Wildflower Foundation, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code. The proceeds shall be used to establish native Florida wildflower research programs, wildflower educational programs, and wildflower grant programs to municipal, county, and community-based groups in this state.

- The Florida Wildflower Foundation, Inc., shall develop procedures of operation, research contracts, education and marketing programs, and wildflower planting grants for Florida native wildflowers, plants, and grasses.
- A maximum of 15 percent of the proceeds from the sale of these plates may be used for administrative and marketing costs.
- If the Florida Wildflower Foundation, Inc., ceases to be an active nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, the proceeds from the annual use fee shall be deposited into the General Inspection Trust Fund created within the Department of Agriculture and Consumer Services. Any funds held by the Florida Wildflower Foundation, Inc., must be promptly transferred to the General Inspection Trust Fund.

In fiscal year 2011/2012, there were 15,497 vehicles registered using the Florida Wildflower specialty plate, with a total net revenue of \$154,970 accruing from use of the plate.<sup>2</sup>

#### Florida Salutes Veterans

The Florida Salutes Veterans specialty license plate was created by the 1989 Legislature. Persons wishing to register a vehicle with the plate must pay a \$15 annual use fee in addition to the normal fees required when registering a vehicle. Revenues from the use fee were deposited in the State Homes for Veterans Trust Fund to be used solely for the purposes of constructing, operating, and maintaining domiciliary and nursing homes for veterans, and promotion and marketing of the plate.

In 2008<sup>1</sup>, the Legislature revised s. 320.08058(4)(b)(1), F.S., to direct 20 percent of the annual use fee to a direct-support organization<sup>2</sup> created under s. 292.055, F.S., (*i.e.*, the Florida Veterans Foundation, Inc.) for a period not to exceed 24 months from the date the organization was incorporated. In 2010, the statute was again amended<sup>3</sup> so that currently, the distribution of the annual use fee requires 10 percent of the annual use fee to be distributed to the direct-support organization for a period not to exceed 48 months after the date the direct-support organization is incorporated. All remaining fees are to be deposited in the State Homes for Veterans Trust Fund, in the State Treasury.

In fiscal year 2011/2012, there were 22,660 vehicles registered using the Florida Salutes Veterans plate, with a total net revenue of \$456,220 accruing from use of the plate.

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<sup>2</sup> <http://www.flhsmv.gov/das/acct/SPAdFees.pdf>  
(last visited 3/19/2013)

*The Florida Veterans Foundation, Inc.*

The Florida Veterans Foundation, Inc. (foundation) was established as the Department of Veterans' Affairs direct support organization in 2008. The foundation exists to educate the public about the needs of veterans; and promote and aid charitable activities for the support of the livelihood and general welfare of Florida-resident veterans. The foundation is a Corporate Not-For-Profit organization under ch. 617, F.S., with one part-time employee, whose payroll and related expenses are administered by the State and reimbursed by the foundation. All other members of the organization serve on a volunteer basis. The foundation received \$35,749 in fiscal year 2011, and \$33,957 in fiscal year 2012 from the Florida Salutes Veterans specialty license plate annual use fee.<sup>4</sup> In compliance with the provisions of s. 320.08058(4)(b)(1), F.S., this distribution expired June 30 2012.

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

Section 320.08053, F.S., requires an increase in the annual use fee from \$15 to \$25 for the Florida Wildflower license plate.

Section 320.08058(27), F.S., authorizes an increase of 5 percent to the original 15 percent use of proceeds from the sale of the Florida Wildflower license plate. The Florida Wildflower Foundation, Inc., can use a maximum of 20 percent of the proceeds collected may be used for administrative and marketing costs.

Section 320.08058(4)(b)(1), F.S., revises and provides an increase from ten to twenty percent, the percentage of annual use fees accruing from sales of the Florida Salutes Veterans license plate that are distributed to the Florida Veterans' Foundation, Inc., and to allow for continued distribution of the use fees to the foundation by eliminating the expiration date.

The bill has an effective date of July 1, 2013.

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

The department recommends that the effective date be changed to October 1, 2013 to allow programming and administrative time to implement its provisions.

### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

**B. Private Sector Impact:**

Persons who purchase the Florida Wildflower specialty license plate will pay an additional \$10 for a total of \$25 for the annual use fee.

The bill also provides for continued distributions of annual use fees to the Florida Veterans Foundation, Inc., beyond the currently programmed expiration. The amounts of such distributions vary based on the number of license plates sold or renewed each year. Due to the increase from ten to twenty percent, near future distributions may be assumed to be approximately double the distribution of recent years. For comparison, the foundation received \$35,749 in fiscal year 2011, and \$33,957 in fiscal year 2012 from ten percent of the annual use fee.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

**CS by Transportation Committee on March 21, 2013:**

The CS adds provisions increasing from ten to twenty percent, the percentage of annual use fees accruing from sales of the Florida Salutes Veterans license plate that are distributed to the Florida Veterans' Foundation, Inc., and allowing for continued distribution of the use fees to the foundation by eliminating the expiration date.

**B. Amendments:**

None.



673474

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
	.	
	.	
	.	

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The Committee on Transportation (Evers) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 50  
and insert:

Section 3. Paragraph (b) of subsection (4) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(4) FLORIDA SALUTES VETERANS LICENSE PLATES.—

(b) The Florida Salutes Veterans license plate annual use fee shall be distributed as follows:

1. Twenty ~~Ten~~ percent shall be distributed to a direct-support organization created under s. 292.055 ~~for a period not~~



673474

13 ~~to exceed 48 months after the date the direct support~~  
14 ~~organization is incorporated.~~

15         2. Any remaining fees must be deposited in the State Homes  
16 for Veterans Trust Fund, which is created in the State Treasury.  
17 All such moneys are to be administered by the Department of  
18 Veterans' Affairs and must be used solely for the purpose of  
19 constructing, operating, and maintaining domiciliary and nursing  
20 homes for veterans and for continuing promotion and marketing of  
21 the license plate, subject to the requirements of chapter 216.

22         Section 4. This act shall take effect October 1, 2013

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 line 8

28 and insert:

29         date; revising provisions for distribution and use of  
30 fees collected from the sale of the Florida Salutes  
31 Veterans license plate; providing an effective.

By Senator Soto

14-00681-13

2013632\_\_

1 A bill to be entitled  
 2 An act relating to the Florida Wildflower license  
 3 plate; amending s. 320.08056, F.S.; revising the  
 4 annual use fee for the Florida Wildflower license  
 5 plate; amending s. 320.08058, F.S.; revising the  
 6 amount of proceeds from the sale of the plate that may  
 7 be used to pay certain costs; providing an effective  
 8 date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Paragraph (aa) of subsection (4) of section  
 13 320.08056, Florida Statutes, is amended to read:

14 320.08056 Specialty license plates.—

15 (4) The following license plate annual use fees shall be  
 16 collected for the appropriate specialty license plates:

17 (aa) Florida Wildflower license plate, \$25 ~~\$15~~.

18 Section 2. Subsection (27) of section 320.08058, Florida  
 19 Statutes, is amended to read:

20 320.08058 Specialty license plates.—

21 (27) FLORIDA WILDFLOWER LICENSE PLATES.—

22 (a) The department shall develop a Florida Wildflower  
 23 license plate as provided in this section. The word "Florida"  
 24 must appear at the top of the plate, and the words "State  
 25 Wildflower" and "coreopsis" must appear at the bottom of the  
 26 plate.

27 (b) The annual use fees shall be distributed to the Florida  
 28 Wildflower Foundation, Inc., a nonprofit corporation under s.  
 29 501(c)(3) of the Internal Revenue Code. The proceeds must be

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

14-00681-13

2013632\_\_

30 used to establish native Florida wildflower research programs,  
 31 wildflower educational programs, and wildflower grant programs  
 32 to municipal, county, and community-based groups in this state.

33 1. The Florida Wildflower Foundation, Inc., shall develop  
 34 procedures of operation, research contracts, education and  
 35 marketing programs, and wildflower planting grants for Florida  
 36 native wildflowers, plants, and grasses.

37 2. A maximum of 20 ~~15~~ percent of the proceeds from the sale  
 38 of such plates may be used for administrative and marketing  
 39 costs.

40 3. If the Florida Wildflower Foundation, Inc., ceases to be  
 41 an active nonprofit corporation under s. 501(c)(3) of the  
 42 Internal Revenue Code, the proceeds from the annual use fee  
 43 shall be deposited into the General Inspection Trust Fund  
 44 created within the Department of Agriculture and Consumer  
 45 Services. Any funds held by the Florida Wildflower Foundation,  
 46 Inc., must be promptly transferred to the General Inspection  
 47 Trust Fund. The Department of Agriculture and Consumer Services  
 48 shall use and administer the proceeds from the use fee in the  
 49 manner specified in this paragraph.

50 Section 3. This act shall take effect July 1, 2013.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic Amendment to 632

Bill Number SB 632  
(if applicable)

Name MIKE PRENDERGAST

Amendment Barcode 673474  
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FL Dept VETERANS AFFAIRS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13  
Meeting Date

Topic FL. WILDFLOWER LICENSES PLATES Bill Number SB-632  
*(if applicable)*

Name JOHN HAYNES Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title CHAIRMAN <sup>FW</sup> VETERANS FOUNDATION

Address FDVA Phone \_\_\_\_\_  
Street

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FLORIDA VETERANS FOUNDATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 634

INTRODUCER: Senator Simpson

SUBJECT: Motor Vehicles

DATE: March 22, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.	_____	_____	CJ	_____
3.	_____	_____	JU	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 634 revises provisions relating to the operation of radios or other soundmaking devices in vehicles following a recent Florida Supreme Court decision finding portions of the relevant statute unconstitutional.

This bill amends section 316.3045 of the Florida Statutes.

**II. Present Situation:**

Richard T. Catalano and another man were cited in 2007 and 2008, respectively, in separate incidents in Pinellas County, Florida, for violating the sound standards of s. 316.3045, F.S. (playing music too loudly in their vehicles) and both men challenged the constitutionality of the law, arguing that the statute is facially unconstitutional. The circuit court agreed and invalidated the law, and the Second District Court of Appeal upheld that decision.

Section 316.3045, F.S., provides:

316.3045 Operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.—

(1) It is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

(a) Plainly audible at a distance of 25 feet or more from the motor vehicle; or

(b) Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

(2) The provisions of this section shall not apply to any law enforcement motor vehicle equipped with any communication device necessary in the performance of law enforcement duties or to any emergency vehicle equipped with any communication device necessary in the performance of any emergency procedures.

(3) The provisions of this section do not apply to motor vehicles used for business or political purposes, which in the normal course of conducting such business use soundmaking devices. The provisions of this subsection shall not be deemed to prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power, from regulating the time and manner in which such business may be operated.

(4) The provisions of this section do not apply to the noise made by a horn or other warning device required or permitted by s. 316.271. The Department of Highway Safety and Motor Vehicles shall promulgate rules defining “plainly audible” and establish standards regarding how sound should be measured by law enforcement personnel who enforce the provisions of this section.

(5) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

On appeal, the Florida Supreme Court first determined that the “plainly audible at a distance of 25 feet or more” standard “provides fair warning of the prohibited conduct and provides an objective guideline – distance – to prevent arbitrary and discriminatory enforcement so that basic policy matters are not delegated to policemen, judges, and juries for resolution on an ad hoc and subjective basis. . . . This is not a standard that calls for police officers to judge whether sound is excessive, raucous, disturbing, or offensive; if the officer can hear the amplified sound more than twenty-five feet from its source, the individual has violated the statute.”<sup>1</sup> The court then held that the “plainly audible” standard is not unconstitutionally vague.<sup>2</sup>

Next turning to whether the statute is unconstitutionally overbroad or an unreasonable restriction on the freedom of expression, the court noted that “the right to play music, including amplified music, in public fora is protected under the First Amendment. . . . Limitations are reasonable if they are “justified without reference to the content of the regulated speech, . . . narrowly tailored to serve a significant governmental interest, and . . . leave open ample alternative channels for communication of the information.” . . . If the time, place, and manner of the limitations are content based, a strict standard of scrutiny is applied.”<sup>3</sup>

With respect to s. 316.045, F.S., the court noted:

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<sup>1</sup> Copy of opinion on file in the Senate Transportation Committee and may be accessed electronically at: <http://www.floridasupremecourt.org/decisions/2012/sc11-1166.pdf#xml=http://199.242.69.43/tehis/search/pdfhi.txt?query=No.+SC11-1166+December+2012&pr=Florida+Supreme+Court&prox=page&rorder=1000&rprox=1000&rdfreq=500&rwfreq=500&rle ad=1000&rdepth=0&sufs=2&order=r&cq=&id=50cabec423>

<sup>2</sup> Id. at 9-10.

<sup>3</sup> Id. at 13-14, citations omitted.

“Initially, it would appear that section 316.3045(1)(a) does not regulate expression based on the content of the message as it bans all amplified sound coming from within the interior of a motor vehicle that is “plainly audible” beyond twenty-five feet from the source. In short, the statute proscribes excessive sound emanating from vehicles on public thoroughfares. Subsection (3), however, except “motor vehicles” used for business or political purposes, which in the normal course of conducting such business use [sound-making] devices” from this broad proscription.

“...The regulation, however, treats commercial and political speech more favorably than noncommercial speech....Regardless of the intent of the Legislature, section 316.3045 is a sweeping ban on amplified sound that can be heard beyond twenty-five feet of a motor vehicle, unless that sound comes from a business or political vehicle, which presumably uses sound-making devices for the purpose of expressing commercial and political viewpoints....Thus, the statute is content based because it does not apply equally to music, political speech, and advertising.”<sup>4</sup>

Pointing to the State’s argument that the statute serves the State’s interest in traffic safety and protecting the public from excessively loud noise, the court agreed that protecting the public from excessively loud noise is a compelling state interest, but that traffic safety generally is not a compelling state interest.<sup>5</sup>

“Even assuming the asserted interests are compelling, it is unclear how the statute advances those interests by allowing commercial and political speech at a volume “plainly audible” beyond twenty-five feet, but not allowing noncommercial speech to be heard at the same distance....The State simply argues that noncommercial vehicles are more dangerous to the public because they are ubiquitous. This argument, however, fails to explain how a commercial or political vehicle amplifying commercial or political messages audible a mile away is less dangerous or more tolerable than a noncommercial vehicle amplifying a religious message audible just over twenty-five feet away from the vehicle. Further, the statute protects commercial speech to a greater degree than noncommercial speech; commercial speech, however, is generally afforded less protection.”

The court then held:

“Accordingly, we find that the statute is an unreasonable restriction on First Amendment rights. Likewise, the restriction of the constitutionally protected right to amplify sound, despite the State’s acknowledgement that this level of noise is tolerable and safe if the source is a commercial or political vehicle, is not narrowly tailored to achieve the government’s interests in improving traffic safety and protecting the citizenry from excessive noise. Thus, we also find that the statute is unconstitutionally overbroad because it restricts the freedom of expression in a manner more intrusive than necessary.”<sup>6</sup>

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<sup>4</sup> Id. at 15-16, citations omitted.

<sup>5</sup> Id. at 16.

<sup>6</sup> Id. at 19.

### III. Effect of Proposed Changes:

SB 634 amends s. 316.3045, F.S., to:

- repeal current paragraph (b) of subsection (1), which prohibits sound from a soundmaking device or instrument from with a motor vehicle so that the sound is louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals;
- repeal the exclusion in subsection (3) of motor vehicles used for business or political purposes, which in the normal course of conducting business use soundmaking devices; and
- make editorial and clarifying changes.<sup>7</sup>

Having removed those portions of the statute rejected by the court, the statute is then presumably constitutional.

### 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:

A citizen found to have violated the sound standard of s. 316.3045, F.S., for sound which is plainly audible at a distance of 25 feet or more from the citizen's motor vehicle, is subject to a \$30 penalty for a nonmoving traffic violation.<sup>8</sup>

---

<sup>7</sup> The Supreme Court noted the opinion of one of the lower court judges that paragraph "... (b) of the statute suffers constitutional infirmity as it "permits citations, at least 'in areas adjoining churches, schools, or hospitals,' for sound that is 'louder than necessary for the convenient hearing by persons inside the vehicle.'" Id. at 6, citations omitted.

<sup>8</sup> Section 318.18(2), F.S.

**C. Government Sector Impact:**

Law enforcement officers are equipped with a constitutional provision of law that serves the State's interest in traffic safety and in protecting the public from excessively loud noise on public streets.

**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.

By Senator Simpson

18-01010A-13

2013634

1 A bill to be entitled  
 2 An act relating to motor vehicles; amending s.  
 3 316.3045, F.S.; revising provisions relating to the  
 4 operation of radios or other soundmaking devices in  
 5 vehicles; deleting a standard for determining  
 6 prohibited sound levels; deleting an exception for  
 7 vehicles operated for business or political purposes;  
 8 authorizing local authorities to regulate the place  
 9 where such soundmaking devices may be operated;  
 10 providing an effective date.

12 Be It Enacted by the Legislature of the State of Florida:

14 Section 1. Section 316.3045, Florida Statutes, is amended  
 15 to read:

16 316.3045 Operation of radios or other mechanical  
 17 soundmaking devices or instruments in vehicles; exemptions.-

18 (1) A ~~It is unlawful for any person who operates or~~  
 19 occupies ~~operating or occupying~~ a motor vehicle on a street or  
 20 highway may not ~~to~~ operate or amplify the sound produced by a  
 21 radio, tape player, or other mechanical soundmaking device or  
 22 instrument from within the motor vehicle so that the sound is+

23 ~~(a)~~ plainly audible at a distance of 25 feet or more from  
 24 the motor vehicle; ~~or~~

25 ~~(b) Louder than necessary for the convenient hearing by~~  
 26 ~~persons inside the vehicle in areas adjoining churches, schools,~~  
 27 ~~or hospitals.~~

28 (2) ~~The provisions of~~ This section does ~~shall~~ not apply to  
 29 any law enforcement motor vehicle equipped with any

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-01010A-13

2013634

30 communication device necessary in the performance of law  
 31 enforcement duties or to any emergency vehicle equipped with any  
 32 communication device necessary in the performance of any  
 33 emergency procedures.

34 (3) ~~The provisions of this section do not apply to motor~~  
 35 ~~vehicles used for business or political purposes, which in the~~  
 36 ~~normal course of conducting such business use soundmaking~~  
 37 ~~devices. The provisions of~~ This subsection does ~~shall~~ not be  
 38 ~~deemed to~~ prevent local authorities, with respect to streets and  
 39 highways under their jurisdiction and within the reasonable  
 40 exercise of the police power, from regulating the time, place,  
 41 and manner in which a device or instrument described in  
 42 subsection (1) ~~such business~~ may be operated.

43 (4) ~~The provisions of~~ This section does ~~do~~ not apply to the  
 44 noise made by a horn or other warning device required or  
 45 permitted by s. 316.271. The Department of Highway Safety and  
 46 Motor Vehicles shall adopt ~~promulgate~~ rules defining "plainly  
 47 audible" and shall establish standards regarding how sound  
 48 should be measured by law enforcement personnel who enforce the  
 49 provisions of this section.

50 (5) A violation of this section is a noncriminal traffic  
 51 infraction, punishable as a nonmoving violation as provided in  
 52 chapter 318.

53 Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13  
Meeting Date

Topic Motor Vehicles Bill Number 634  
*(if applicable)*

Name FRANK FABRIZIO Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Chief of Police - PONCE INLET

Address 4301 S. Peninsula Dr. Phone 386-236-2160

Ponce Inlet, FL 32127 E-mail \_\_\_\_\_  
Street City State Zip

Speaking:  For  Against  Information

Representing FLORIDA POLICE CHIEFS ASSOCIATION

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/2013  
Meeting Date

Topic Motor Vehicles

Bill Number SB 0634  
*(if applicable)*

Name Kenneth B. Vickery JR

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Patrol Supervisor District IV

Address 123 W. INDIANA AVE.  
Street

Phone 386-248-1777

DeLand FL 32125  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Sheriff Ben Johnson / Florida Sheriff's Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Topic 634

Bill Number 634  
*(if applicable)*

Name Casey Cook

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Advocate

Address PB Box 1757  
*Street*

Phone 850 701 3701

Tallahassee FL 32302  
*City State Zip*

E-mail ccook@flctres.com

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic SOUND DEVICES/MOTOR VEH.

Bill Number 634  
*(if applicable)*

Name ROB JOHNSON

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LEG. DIRECTOR AG BONDI

Address PL-01 CAPITOL  
*Street*

Phone 245-0155

TALL. FL 32399  
*City State Zip*

E-mail ~~\_\_\_\_\_~~  
Rob-johnson@myfloridalegal.com

Speaking:  For  Against  Information

Representing AG PAM BONDI

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

## HUDSON.MARILYN

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**From:** SIMPSON.WILTON  
**Sent:** Monday, March 18, 2013 4:55 PM  
**To:** HUDSON.MARILYN  
**Cc:** WEIGHTMAN.PATRICK  
**Subject:** RE: TR Meeting Notice 3/21/2013

Marilyn,  
Please let the staff director and Chairman Brandes know that I will be chairing Community Affairs and that my aide, Patrick Weightman, will be presenting SB 634 on my behalf.  
Regards,  
Wilton

---

**From:** HUDSON.MARILYN  
**Sent:** Monday, March 18, 2013 4:26 PM  
**To:** +SDIST22 (Sen & Staff); +SDIST35 (Sen & Staff); +SDIST27 (Sen & Staff); +SDIST40 (Sen & Staff); +SDIST02 (Sen & Staff); +SDIST38 (Sen & Staff); +SDIST19 (Sen & Staff); +SDIST24 (Sen & Staff); +SDIST23 (Sen & Staff); +SDIST12 (Sen & Staff)  
**Cc:** +SDIST05 (Sen & Staff); +SDIST09 (Sen & Staff); +SDIST18 (Sen & Staff); +SDIST08 (Sen & Staff); +SDIST10 (Sen & Staff); +SDIST25 (Sen & Staff); +SDIST14 (Sen & Staff); +SDIST20 (Sen & Staff); +SDIST30 (Sen & Staff); IHSE Transportation and Highway Safety Subcommittee; Wells, Elizabeth; +SDIST30 (Sen & Staff); KEITH.ROBERT; Senate Document Center  
**Subject:** TR Meeting Notice 3/21/2013

Attached is the Transportation Committee meeting notice for Thursday, March 21, 2013 at 10:00a.m., in Room S37.

Thanks!

*Marilyn H. Hudson*  
Senate Committee on Transportation  
410 Knott Building  
(850) 487-5223

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 712

INTRODUCER: Senator Latvala

SUBJECT: Fallen Law Enforcement Officers License Plates

DATE: March 15, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	<b>Favorable</b>
2.	_____	_____	RC	_____
3.	_____	_____	ATD	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 712 creates the Fallen Law Enforcement Officers specialty license plate. The bill:

- Sets a \$25 annual use fee for the plate;
- Allows the Department of Highway Safety and Motor Vehicles (department, DHSMV) to develop the license plate, including colors and design;
- Requires that the word “Florida” must appear at the top of the plate and the words “A Hero Remembered Never Dies” must appear at the bottom; and
- Establishes that the annual use fee be distributed to the Police and Kids Foundation, Inc.

This bill substantially amends, ss. 320.08056 and 320.08058 of the Florida Statutes.

**II. Present Situation:**

**Specialty License Plates**

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use 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 in support of a particular cause or charity signified in the plate’s design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

The sponsoring organization wishing to receive a specialty license plate is required to comply with the requirements of s. 320.08.53, F.S., which include:

- describing the proposed specialty license, and submit a sample plate that conforms to the specifications set by the department.
- paying the \$60,000 processing fee which defrays the department's cost for reviewing the application and developing the specialty license plate, if authorized.
- providing a marketing strategy outlining short-term and long-term marketing plans and a projected financial analysis outlining the anticipated and planned revenues from the sale of the requested specialty license plate.

The approved specialty license plate organization must presell a minimum of 1,000 vouchers within 24 months before the department can begin manufacturing the specialty license plate. If, at the end of the 24-month presale period, the minimum sales requirements have not been met, the department will de-authorize the specialty plate, discontinue development, and discontinue issuance of the presale voucher.

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, Ch. 2008-176, L.O.F., as amended by s. 21, Ch. 2010-223, L.O.F., provides that “[e]xcept for a 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 which 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, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

#### **Fallen Law Enforcement Officers**

On average, one law enforcement officer is killed in the line of duty somewhere in the United States every 56 hours. Since the first known line-of-duty death in 1791, more than 19,000 U.S. law enforcement officers have made the ultimate sacrifice.<sup>1</sup> The Memorial Fund serves as a nationwide clearinghouse of information and statistics on law enforcement line-of-duty deaths.

#### **Police and Kids Foundation, Inc.**

The Police and Kids Foundation, Inc.,<sup>2</sup> is a non-profit 501(C) 3 charity, set up with two objectives: helping children in need, and creating the yearly scholarship to at least one senior student at Pinellas Park High School Criminal Justice Academy.

The Police and Kids Foundation, Inc., generate funding to assist children in and around the Tampa Bay community. Local police officers provide assistance of food, infant supplies, clothing, and any other measures necessary to stabilize a situation and improve child's life.

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

The bill authorizes the department to develop and issue the Fallen Law Enforcement Officers specialty license plate with an annual \$25 use fee. Additionally, the bill authorizes the department to approve the design and colors, place the word “Florida” at the top of the plate and the words “A Hero Remembered Never Dies” at the bottom of the plate. Drivers can purchase

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<sup>1</sup> <http://www.nleomf.org/facts/> (last visited on 3/19/2013)

<sup>2</sup> <http://www.policeandkids.com/about/> (last visited on 3/19/2013)

the specialty plate upon payment of the appropriate license taxes and fees and the \$25 annual use fee.

The bill also authorizes the department to distribute the use fees from the sale of the license plate. The \$25 use fee will be distributed to the Police and Kids Foundation, Inc.

The bill has an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who purchase the Fallen Law Enforcement Officers specialty license plate will pay the \$25 annual use fee.

C. Government Sector Impact:

The department's Information Systems Administration Office will require approximately 88 hours, non-recurring, in order to develop, design, manufacture, distribute the specialty license plate, and implement the provisions of this bill.

According to the department, the sponsoring organization has not yet fulfilled all requirements of s. 320.08053, F.S., which includes a \$60,000 application fee which is used by the department to offset startup costs.

#### **VI. Technical Deficiencies:**

The bill does not provide a limitation on the percentage of the annual use fee that may be used for administration and marketing.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

None.

B. **Amendments:**

None.

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

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By Senator Latvala

20-00448-13

2013712\_\_

1                   A bill to be entitled  
2           An act relating to specialty license plates; amending  
3           ss. 320.08056 and 320.08058, F.S.; creating a Fallen  
4           Law Enforcement Officers license plate; establishing  
5           an annual use fee for the plate; providing for the  
6           distribution of use fees received from the sale of  
7           such plates; providing an effective date.  
8

9   Be It Enacted by the Legislature of the State of Florida:  
10

11           Section 1. Paragraph (aaaa) is added to subsection (4) of  
12           section 320.08056, Florida Statutes, to read:

13           320.08056 Specialty license plates.-

14           (4) The following license plate annual use fees shall be  
15           collected for the appropriate specialty license plates:

16           (aaaa) Fallen Law Enforcement Officers license plate, \$25.

17           Section 2. Subsection (79) is added to section 320.08058,  
18           Florida Statutes, to read:

19           320.08058 Specialty license plates.-

20           (79) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.-

21           (a) The department shall develop a Fallen Law Enforcement  
22           Officers license plate as provided in this section. The plates  
23           must bear the colors and design approved by the department. The  
24           word "Florida" must appear at the top of the plate, and the  
25           words "A Hero Remembered Never Dies" must appear at the bottom  
26           of the plate.

27           (b) The license plate annual use fees shall be distributed  
28           to the Police and Kids Foundation, Inc.

29           Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*waives*

3/21/13  
Meeting Date

Topic Fallen LE Officers License Plates Bill Number 712  
*(if applicable)*

Name Jim Gabbard Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LEGISLATIVE DIRECTOR

Address 924 N. Gadsden St. Phone 850 219-3631  
*Street*

TALL. FL. 32303 E-mail GABBARD@GMAIL.COM  
*City State Zip*

Speaking:  For  Against  Information

Representing Florida Police Chiefs Assoc.

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/21/13  
Meeting Date

Topic operation 10-24 license plate

Bill Number 712  
*(if applicable)*

Name Lauren Lofton

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title student

Address 11850 MLK JR. ST. N Apt. 3307  
*Street*  
St. Petersburg FL 33714  
*City State Zip*

Phone (727) 479-2407

E-mail laurenlofton94@yahoo.com

Speaking:  For  Against  Information

Representing operation 10-24

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 796

INTRODUCER: Senator Hukill

SUBJECT: Ignition Interlock Devices

DATE: March 18, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	<b>Pre-meeting</b>
2.			JU	
3.			ATD	
4.			AP	
5.				
6.				

**I. Summary:**

Senate Bill 796 makes several changes to Florida’s DUI law. Specifically, the bill:

- Requires mandatory installation of an ignition interlock device (IID) for all first-time DUI convictions;
- Requires that when an IID is required, the IID be installed upon all vehicles owned or operated by the convicted driver;
- Lowers the maximum breath-alcohol content (BAC) threshold that will allow a vehicle with an IID installed to operate to 0.025 BAC from 0.05 BAC, and also removes the court’s discretion to set this threshold higher or lower on a case-by-case basis;
- Revises provisions related to the offense of tampering with or circumventing an IID;
- Relaxes the conditions precedent to administrative reinstatement of a licensee’s driving privileges after an arrest for DUI by eliminating the business purposes only (BPO) and employment purposes only (EPO) license options in favor of an ignition interlock license;
- Authorizes a driver convicted of DUI to not be subject to any legally imposed period of driver license suspension subject to certain requirements; and
- Sets requirements for the removal of the IID.

This bill substantially amends the following sections of the Florida Statutes: 316.193, 316.1937, 322.25, 322.2615, 322.28, 322.271, 322.2715

## II. Present Situation:

### Ignition Interlock Devices (IID)

A driver is considered under the influence of alcohol when a person's blood alcohol content (BAC) is 0.08 or more grams of alcohol per 100 milliliters of blood; or 0.08 or more grams of alcohol per 210 liters of breath. The department requires placement of a department-approved IID for any person convicted of committing an offense of driving under the influence as specified in s. 322.2715(3), F.S.:

Current Florida law also gives the court the discretion to order mandatory IID installation for all first-time offenders, in addition to any other authorized penalties.<sup>1</sup> If the court exercises this discretion, the installation period must be for at least six months.<sup>2</sup>

Modern IIDs also require random retests after the vehicle has been started to ensure that the driver did not use another person's breath sample to start the engine, or did not begin drinking after starting the engine; for example, by drinking in a bar while leaving the vehicle running.<sup>3</sup> In these cases, the driver will receive a warning of an upcoming retest and will be given time to pull the car over safely so that a breath sample may be given.<sup>4</sup> If the driver is unable to pull over safely, the driver may slow down and blow into the IID while driving.<sup>5</sup> If the IID detects a BAC above the pre-set level during one of these random tests, the IID will not stop or disable the engine, but will record the violation.<sup>6</sup> While continuing to give the driver the ability to drive in these cases may seem "counter-intuitive," this is done as a "safety feature," because "the only thing worse than a drunk [driver] behind the wheel is a drunk [driver] behind the wheel with no steering capability. Since steering shuts down when the engine is turned off, the device will not shut the engine down."<sup>7</sup>

Current Florida law also gives the court the discretion to order mandatory IID installation for all first-time offenders, in addition to any other authorized penalties.<sup>8</sup> If the court exercises this discretion, the installation period must be for at least six months.<sup>9</sup>

Any person who violates and is convicted of driving under the influence of alcohol, with the exception of certain violations, shall be punished by a fine of: no less than \$500 or more than \$1,000 for a first conviction; and no less than \$1,000 or more than \$2,000 for a second conviction; and by imprisonment for: no more than 6 months for a first conviction; and no more than 9 months for a second conviction.

---

<sup>1</sup> s. 316.1937, F.S.

<sup>2</sup> Id.

<sup>3</sup> See "Ignition Interlocks: Turn the Key and Blow. Can Technology Stop Drunk Driving?" Jeanne Mejeur for the National Conference of State Legislatures (December 2007). A copy of this article is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> s. 316.1937, F.S.

<sup>9</sup> Id.

For a second conviction, there is a mandatory 1 year IID. When there's a third conviction, occurring within 10 years of a prior conviction a IID shall be installed for a period of not less than 2 continuous years. A person with a fourth and subsequent violation commits a felony of the third degree and is punished as provided in ss. 775.082, 775.083, or 775.084, F.S., and the fine imposed can be no less than \$2,000.

Any person convicted of having a blood-alcohol level or breath-alcohol level of 0.15 or higher, and at the time of the offense and was accompanied by a person under the age of 18, shall be punished by a fine of: no less than \$1,000 or more than \$2,000 for a first conviction; no less than \$2,000 or more than \$4,000 for a second conviction; and no less than \$4,000 for a third or subsequent conviction. Also, this person shall be imprisoned for: no more than 9 months for a first conviction; and no more than 12 months for a second conviction.

At the expense of the person convicted of DUI, the court shall mandate a department approved IID to be placed on all vehicles that are individually or jointly leased or owned by the convicted person for no less than 6 continuous months for the first offense and for no less than 2 continuous years for a second offense, when qualifying for a permanent or restricted license.

#### *Cost*

In Florida, the offending driver pays for the installation, maintenance, and monitoring of the IID.<sup>10</sup> However, Florida law contains provisions for those drivers the court determines are unable to pay. For example, the court may order that any portion of a fine paid as a result of a DUI offense be counted against IID installation costs.<sup>11</sup> The cost (plus tax) to the offending driver for installation, maintenance, and monitoring is:

- Installation - \$75.50
- Monthly fees - \$72.50
- Optional Insurance - \$5/month

Based on the above, the average cost to the driver over a six month period is \$540.

According to Mothers Against Drunk Driving, 17 states require mandatory IID installation for all offenders, even for first-time offenders.<sup>12</sup>

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

**Section 1** amends s. 316.193, F.S., to require mandatory installation of an ignition interlock device (IID) for all first-time DUI convictions, when the convicted driver qualifies for a permanent or restricted driver license. This requirement is in addition to other authorized penalties. Because IID installation is already mandatory for first-time convictions where the convicted driver had a BAC of 0.15 or greater, or a passenger under 18 in the car at the time of arrest, the change specifically affects drivers convicted of a first DUI offense with a BAC between 0.08 and 0.14.

---

<sup>10</sup> s. 316.193, F.S.

<sup>11</sup> s. 316.1937(2)(d), F.S.

<sup>12</sup> See <http://www.madd.org/drunken-driving/ignition-interlocks/> (last visited 3/19/2013)

Under the bill's provisions, first-time DUI offenders are subject to the following required IID installation periods:

- 1st conviction (BAC between 0.08 and 0.14) – at least six months;
- 1st conviction (BAC of 0.15 or greater, or passenger under 18 in the car) – at least six continuous months.

In extending mandatory IID installation to this class of convicted DUI drivers who do not currently fall within the enhanced penalty range for those with a BAC of 0.15 or greater, or a passenger under 18 in the car at the time of arrest, the bill removes the court's current discretion to order IID installation for this population on a case-by-case basis. Because the bill sets a new minimum penalty for this population, the effect of the proposed change may cause a fluctuation in the number of those arrested for DUI to elect to go to trial. The exact impact this new minimum penalty will have on the state's court system is unknown. However, the required IID installation is in lieu of a driver license suspension of six months to one year.

The Florida Department of Highway Safety and Motor Vehicles (DHSMV, department) estimates that the bill's extension of required IID installation for all first-time DUI convictions will affect 50,000 people. Based on the cost of installation and the average cost of monthly maintenance and monitoring, The department estimates this extension will result in a total cost increase to convicted drivers of \$27,000,000.

Although the bill does not revise the required IID installation period for repeat DUI convictions, the bill amends the category of vehicles that will be subject to IID installation, and in later sections of the bill, allows for earlier IID installation while also expanding the scope of the driver's driving privileges.

Under the bill's provisions, the IID must be installed "upon all vehicles owned or operated by the convicted driver." This change removes the current requirement that the IID, when required, be installed "upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person." Currently, if a driver convicted of DUI jointly owns two vehicles with his or her spouse, the IID, when required, will be installed on the vehicle that the convicted driver "jointly owns" and "routinely operates." By extending mandatory IID installation to both vehicles in this example, the convicted driver will incur increased costs related to installation, maintenance, and monitoring of the IID. The bill applies this extension in all cases where IID installation is required.

**Section 2** amends s. 316.1937, F.S., to provide that a vehicle with an IID installed requires the driver to give a breath sample in order for the engine to start. If the IID detects BAC above the pre-set level, the vehicle will not start. The current level is set at 0.05 BAC, or as otherwise set by the court.

The bill lowers this pre-set level to 0.025 BAC from 0.05 BAC, and also removes the court's discretion to set the level higher or lower on a case-by-case basis. The effect of the proposed change will put Florida in line with the 24 other states with a pre-set level of 0.025 BAC. According to the department, the effect of the proposed changes will increase the number of IID violations, and as a result require two additional full-time equivalent positions (FTEs) to handle the increased workload.

The bill also revises provisions related to tampering with or circumventing an IID. Tampering with or circumventing an IID is still illegal, but the bill clarifies that this activity must be done “for the purpose of providing the person so restricted [to IID installation] with an operable motor vehicle.” The effect of the proposed change allows authorized persons, such as those responsible for monitoring or maintaining the IID, to disable the device when required, without being subject to criminal penalties.

With regard to the current exemption provided for drivers subject to IID installation on their personal vehicle(s) who must drive within the course and scope of employment, the bill adds the additional requirement that the department receive documentation that the employer has been notified of the driver’s restriction. The department must receive this documentation before the driver may qualify for the exemption, although the bill does not specify whether the driver or employer is responsible for providing this information to the department.

The bill also clarifies situations in which the “driving within the course and scope of employment” exemption does not apply. Currently, the exemption does not apply if the business entity that owns the vehicle is owned or controlled by the driver. In addition to this exclusion, the bill adds that the exemption does not apply if the business entity that owns or leases the vehicle is owned or controlled by the driver.

**Section 3** amends, s. 322.25(7), F.S., which currently allows a driver that has been convicted of DUI to obtain a court order reinstating the driver’s driving privilege on a temporary basis, provided the driver completes an approved driver training and/or substance abuse course (course must be completed prior to issuance). The current reinstatement period is no longer than 45-days.

In cases of reinstatement under this section, the bill only permits the driver to drive a vehicle equipped with an IID. The effect of the proposed change provides credit for IID use during this temporary reinstatement period toward the driver’s required IID installation period.

Although the department estimates that it processes a minimal number of temporary reinstatements under this section per year, the department does not have exact numbers. However, the department anticipates that the proposed change would require extensive programming to apply IID use during this temporary period as a credit toward the driver’s required IID installation period.

**Section 4** amends, s. 322.2615, F.S., revises the application of administrative penalties imposed under Florida’s Implied Consent Law. Under the bill’s provisions, a licensee that has had his or her driver license administratively suspended for refusing to submit to a chemical or physical breath test incidental to a lawful arrest, or found to have a BAC of 0.08 or higher upon submission, no longer has to wait to 90 days or 30 days, respectively, to apply for a business purposes only (BPO) driver license or employment purposes only (EPO) driver license. Instead, the licensee may drive right away – with an IID – upon enrollment in and subject to the successful completion of a department-approved driver training or substance abuse education course.

The bill relaxes the conditions precedent to administrative reinstatement of a licensee's driving privileges by eliminating BPO and EPO licenses in favor of an ignition interlock license. Under the bill, a licensee is eligible to receive the ignition interlock license as soon as he or she "enrolls in" a driver training or substance abuse education course, and no longer has to "successfully complete" a department-approved DUI Education and Evaluation Program before becoming eligible. However, the ignition interlock license's validity is subject to the licensee's successful completion of the course.

The effect of the proposed change may reduce the deterrent effect of Florida's Implied Consent Law due to the relaxed penalties for a first-refusal to submit to a chemical or physical breath test. On the other hand, in allowing licensees to have their driving privileges reinstated earlier, the effect of the proposed change may allow them to continue to support their families, and may help ensure that if they are driving, they are not above the legal BAC limit.

**Section 5** amends, s. 322.28, F.S., authorizing a driver convicted of DUI to not be subject to any legally imposed period of "hard"<sup>13</sup> driver license suspension – including drivers convicted of DUI manslaughter, DUI involving serious bodily injury, and vehicular homicide in connection with DUI.

In order to avoid a legally imposed hard driver license suspension, the bill requires the driver, at any time after revocation, to have proof of enrollment in a department-approved driver training or substance abuse education course. The driver must also obtain an ignition interlock license restricting the convicted person to operating only vehicles equipped with a functioning IID. The convicted driver's continued use of the ignition interlock license is subject to the successful completion of the department-approved driver training or substance abuse education course.

According to the department, this provision "requires no waiting periods" and allows drivers convicted of DUI to "begin driving anywhere immediately." However, because it is unknown how many drivers convicted of DUI currently comply with their driver license suspensions, it is unknown how many drivers will be truly affected by the proposed change.

The department estimates that section five's proposed change would require the department to fill 16 full-time equivalent positions (FTEs) in order to handle the increased workload associated with approving and monitoring the number of anticipated ignition interlock license applications.

**Section 6** amends, s. 322.271, F.S., eliminating the business purposes only (BPO) and employment purposes only (EPO) driver license options, the bill also eliminates the conditions a licensee must meet to obtain and maintain the restricted driving privileges those driver license options bring.

This section also eliminates the supervision and monitoring requirements in place for drivers under driver license suspension periods of five years, 10 years, and for those with permanent life-time suspensions. Specifically, the supervision and monitoring requirements that are eliminated are connected to the department's DUI Evaluation and Education Programs, which

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<sup>13</sup> In this case, a "hard driver license suspension" is a period of time wherein the driver will have all driving privileges revoked.

require the driver to abstain from certain illegal substances, make demonstrated lifestyle changes, and among other things, receive clinical evaluation.

**Section 7** amends, s. s. 322.2715, F.S., to conform to the bill's required IID installation period for a first, second, and third DUI conviction expressed in section one. For a fourth or subsequent DUI conviction, the bill authorizes issuance of an IID license and requires IID installation for at least five years. However, this minimum five year IID installation period conflicts with language in section five that subjects a person with four DUI convictions to life-time IID installation as a condition of having his or her driving privilege reinstated. Under current law, no driver license may be issued to persons with four or more DUI convictions.<sup>14</sup>

The bill also mandates that the IID remain installed until the department receives certification from the IID vendor that none of the following have occurred during the preceding four months: An attempt to start the vehicle with a breath-alcohol content (BAC) of 0.04 or more, unless a subsequent test within ten minutes registers a BAC less than 0.04;

- A failure to take any random retest unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed retest;
- A failure to pass any random retest with a BAC of 0.025 or lower, unless a subsequent test within ten minutes registers a BAC lower than 0.025;
- A failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

If any of the above happens, the required IID installation period will be extended for a minimum of four months. According to the department, this bill will have the greatest effect on first-time DUI offenders that are not currently subject to mandatory IID installation. Under the bill's provisions, first-time DUI offenders are subject to the following required IID installation periods:

- 1st conviction (BAC between 0.08 and 0.14) – at least six months;
- 1st conviction (BAC of 0.15 or greater, or passenger under 18 in the car) – at least six continuous months.

Although the full six months required for those convicted with a BAC between 0.08 and 0.14, does not have to be continuous under the bill, section 7 requires that four of the six months be continuous.

According to the department, none of the vendors currently participated in Florida's ignition interlock program provide digital images. As such, the requirement that "the digital image confirm that the vehicle was not occupied by the driver at the time of the missed retest" will require the department to contract with a vendor that provides the technology to supply a digital image.

The bill will take effect October 1, 2013.

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<sup>14</sup> s. 322.28(2)(e), F.S.

**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:

The fiscal impact to the private sector is indeterminate, but negative. First time offenders, will incur costs that would not have otherwise been incurred under current law.

Drivers convicted of DUI will incur increased costs due to increased IID requirements. However, by allowing for earlier reinstatement of driving privileges, the bill may allow drivers to continue to maintain their livelihoods.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on state revenue. DHSMV currently receives \$12 for every IID installation. DHSMV estimates that the bill will – at a minimum – result in an additional 50,000 IID installations. Based on this estimation, the bill will result in at least \$600,000 to DHSMV, which will be deposited in the Highway Safety Operating Trust Fund.

Expenditures:

Recurring

DHSMV estimates the following recurring expenditures from the Highway Safety Operating Trust Fund:

Salaries -	\$995,112
Expenses -	\$111,798
Human Resources Services -	<u>\$6,372</u>
Total -	\$1,113,282

These figures are associated with the 18 additional FTEs DHSMV anticipates will be needed to cover increased IID monitoring.

Nonrecurring

Under the bill, DHSMV estimates it will require 18 additional full-time equivalent positions (FTEs) to handle the increased workload associated with increased monitoring of the ignition interlock program. DHSMV estimates the 18 additional FTEs will require \$67,716 in nonrecurring expenditures.

DHSMV also estimates the bill's provisions will require 230 hours of programming, which will be contracted out and have a nonrecurring cost to the Highway Safety Operating Trust Fund of \$17,000.

**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
Comm: FAV	.	
03/25/2013	.	
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The Committee on Transportation (Diaz de la Portilla)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1), (2), and (4) and paragraphs (b)  
and (c) of subsection (6) of section 316.193, Florida Statutes,  
are amended to read:

316.193 Driving under the influence; penalties.-

(1) A person commits ~~is guilty of~~ the offense of driving  
under the influence and is subject to punishment as provided in  
subsection (2) if the person is driving or in actual physical  
control of a vehicle within this state and:

(a) The person is under the influence of alcoholic



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13 beverages, any chemical substance set forth in s. 877.111, or  
14 any substance controlled under chapter 893, when affected to the  
15 extent that the person's normal faculties are impaired;

16 (b) The person has a blood-alcohol level of 0.08 or more  
17 grams of alcohol per 100 milliliters of blood; or

18 (c) The person has a breath-alcohol level of 0.08 or more  
19 grams of alcohol per 210 liters of breath.

20 (2)(a) Except as provided in paragraph (b), subsection (3),  
21 or subsection (4), any person who is convicted of a violation of  
22 subsection (1) shall be punished:

23 1. By a fine of:

24 a. At least ~~Not less than~~ \$500 but not ~~ex~~ more than \$1,000  
25 for a first conviction.

26 b. At least ~~Not less than~~ \$1,000 but not ~~ex~~ more than  
27 \$2,000 for a second conviction; and

28 2. By imprisonment for:

29 a. Not more than 6 months for a first conviction.

30 b. Not more than 9 months for a second conviction.

31 3. Except as provided in sub-sub-subparagraph a.(I), ~~For a~~  
32 ~~second conviction,~~ by mandatory placement for the following a  
33 ~~period of at least 1 year,~~ at the convicted person's sole  
34 expense, of an ignition interlock device approved by the  
35 department in accordance with s. 316.1938 upon all vehicles that  
36 are individually or jointly leased or owned and routinely  
37 operated by the convicted person, when the convicted person  
38 qualifies for a permanent or restricted license:

39 a.(I) Except as provided in sub-sub-subparagraph (II), the  
40 convicted person shall have the option of choosing either the  
41 driver license or driving privilege revocation for the period



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42 specified in s. 322.28(2)(a)1., or installation of an ignition  
43 interlock device in accordance with this subparagraph, for at  
44 least 12 months for a first conviction. However, the court, in  
45 its sole discretion, may revoke the convicted person's driver  
46 license or driving privilege for the period specified in s.  
47 322.28(2)(a)1.;

48 (II) For a first conviction in which the convicted person  
49 had a blood-alcohol level or breath-alcohol level of 0.15 or  
50 higher, or the convicted person at the time of the offense was  
51 accompanied in the vehicle by a person younger than 18 years of  
52 age, for at least 18 months;

53 b.(I) Except as provided in sub-sub-subparagraph (II), for  
54 a second conviction at least 24 months;

55 (II) For a second conviction in which the convicted person  
56 had a blood-alcohol level or breath-alcohol level of 0.15 or  
57 higher, or the convicted person at the time of the offense was  
58 accompanied in the vehicle by a person younger than 18 years of  
59 age, for at least 30 months;

60 c. For a third conviction, for at least 36 months.

61 4. Any period of required ignition interlock device use  
62 under sub-sub-subparagraph 3.a.(I) shall be reduced on a day-  
63 for-day basis for any period such convicted person complies with  
64 the requirements of an ignition interlock license as defined in  
65 s. 322.271 ~~The installation of such device may not occur before~~  
66 July 1, 2003.

67 (b)1. Any person who is convicted of a third violation of  
68 this section for an offense that occurs within 10 years of after  
69 a prior conviction for a violation of this section commits a  
70 felony of the third degree, punishable as provided in s.



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71 775.082, s. 775.083, or s. 775.084. ~~In addition, the court shall~~  
72 ~~order the mandatory placement for a period of not less than 2~~  
73 ~~years, at the convicted person's sole expense, of an ignition~~  
74 ~~interlock device approved by the department in accordance with~~  
75 ~~s. 316.1938 upon all vehicles that are individually or jointly~~  
76 ~~leased or owned and routinely operated by the convicted person,~~  
77 ~~when the convicted person qualifies for a permanent or~~  
78 ~~restricted license. The installation of such device may not~~  
79 ~~occur before July 1, 2003.~~

80 2. Any person who is convicted of a third violation of this  
81 section for an offense that occurs more than 10 years of ~~after~~  
82 the date of a prior conviction for a violation of this section  
83 shall be punished by a fine of at least ~~not less than~~ \$2,000 but  
84 not ~~or~~ more than \$5,000 and by imprisonment for not more than 12  
85 months. ~~In addition, the court shall order the mandatory~~  
86 ~~placement for a period of at least 2 years, at the convicted~~  
87 ~~person's sole expense, of an ignition interlock device approved~~  
88 ~~by the department in accordance with s. 316.1938 upon all~~  
89 ~~vehicles that are individually or jointly leased or owned and~~  
90 ~~routinely operated by the convicted person, when the convicted~~  
91 ~~person qualifies for a permanent or restricted license. The~~  
92 ~~installation of such device may not occur before July 1, 2003.~~

93 3. Any person who is convicted of a fourth or subsequent  
94 violation of this section, regardless of when any prior  
95 conviction for a violation of this section occurred, commits a  
96 felony of the third degree, punishable as provided in s.  
97 775.082, s. 775.083, or s. 775.084. However, the fine imposed  
98 for such fourth or subsequent violation must ~~may~~ be at least ~~not~~  
99 ~~less than~~ \$2,000.



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100 (4) Any person who is convicted of a violation of  
101 subsection (1) and who has a blood-alcohol level or breath-  
102 alcohol level of 0.15 or higher, or any person who is convicted  
103 of a violation of subsection (1) and who at the time of the  
104 offense was accompanied in the vehicle by a person under the age  
105 of 18 years, shall be punished:

106 (a) By a fine of:

107 1. At least ~~Not less than~~ \$1,000 but not ~~or~~ more than  
108 \$2,000 for a first conviction.

109 2. At least ~~Not less than~~ \$2,000 but not ~~or~~ more than  
110 \$4,000 for a second conviction.

111 3. At least ~~Not less than~~ \$4,000 for a third or subsequent  
112 conviction.

113 (b) By imprisonment for:

114 1. Not more than 9 months for a first conviction.

115 2. Not more than 12 months for a second conviction.

116  
117 ~~For the purposes of this subsection, only the instant offense is~~  
118 ~~required to be a violation of subsection (1) by a person who has~~  
119 ~~a blood-alcohol level or breath-alcohol level of 0.15 or higher.~~

120 ~~(c) In addition to the penalties in paragraphs (a) and (b),~~  
121 ~~the court shall order the mandatory placement, at the convicted~~  
122 ~~person's sole expense, of an ignition interlock device approved~~  
123 ~~by the department in accordance with s. 316.1938 upon all~~  
124 ~~vehicles that are individually or jointly leased or owned and~~  
125 ~~routinely operated by the convicted person for not less than 6~~  
126 ~~continuous months for the first offense and for not less than 2~~  
127 ~~continuous years for a second offense, when the convicted person~~  
128 ~~qualifies for a permanent or restricted license.~~



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129           (6) With respect to any person convicted of a violation of  
130 subsection (1), regardless of any penalty imposed pursuant to  
131 subsection (2), subsection (3), or subsection (4):

132           (b) For the second conviction for an offense that occurs  
133 within a period of 5 years of ~~after~~ the date of a prior  
134 conviction for violation of this section, the court shall order  
135 imprisonment for at least ~~not less than~~ 10 days. The court must  
136 also, as a condition of probation, order the impoundment or  
137 immobilization of all vehicles owned by the defendant at the  
138 time of impoundment or immobilization, for a period of 30 days  
139 or for the unexpired term of any lease or rental agreement that  
140 expires within 30 days. The impoundment or immobilization must  
141 not occur concurrently with the incarceration of the defendant  
142 and must occur concurrently with the driver's license revocation  
143 imposed under s. 322.28(2)(a)2. The impoundment or  
144 immobilization order may be dismissed in accordance with  
145 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
146 At least 48 hours of confinement must be consecutive.

147           (c) For the third or subsequent conviction for an offense  
148 that occurs within a period of 10 years of ~~after~~ the date of a  
149 prior conviction for violation of this section, the court shall  
150 order imprisonment for not less than 30 days. The court must  
151 also, as a condition of probation, order the impoundment or  
152 immobilization of all vehicles owned by the defendant at the  
153 time of impoundment or immobilization, for a period of 90 days  
154 or for the unexpired term of any lease or rental agreement that  
155 expires within 90 days. The impoundment or immobilization must  
156 not occur concurrently with the incarceration of the defendant  
157 and must occur concurrently with the driver's license revocation



158 imposed under s. 322.28(2)(a)3. The impoundment or  
159 immobilization order may be dismissed in accordance with  
160 paragraph (e), paragraph (f), paragraph (g), or paragraph (h).  
161 At least 48 hours of confinement must be consecutive.  
162

163 For the purposes of this section, any conviction for a violation  
164 of s. 327.35; a previous conviction for the violation of former  
165 s. 316.1931, former s. 860.01, or former s. 316.028; or a  
166 previous conviction outside this state for driving under the  
167 influence, driving while intoxicated, driving with an unlawful  
168 blood-alcohol level, driving with an unlawful breath-alcohol  
169 level, or any other similar alcohol-related or drug-related  
170 traffic offense, is also considered a previous conviction for  
171 violation of this section. However, in satisfaction of the fine  
172 imposed pursuant to this section, the court may, upon a finding  
173 that the defendant is financially unable to pay either all or  
174 part of the fine, order that the defendant participate for a  
175 specified additional period of time in public service or a  
176 community work project in lieu of payment of that portion of the  
177 fine which the court determines the defendant is unable to pay.  
178 In determining such additional sentence, the court shall  
179 consider the amount of the unpaid portion of the fine and the  
180 reasonable value of the services to be ordered; however, the  
181 court may not compute the reasonable value of services at a rate  
182 less than the federal minimum wage at the time of sentencing.

183 Section 2. Subsection (1), paragraphs (a) and (d) of  
184 subsection (6), and subsection (7) of section 316.1937, Florida  
185 Statutes, are amended to read:

186 316.1937 Ignition interlock devices, requiring; unlawful



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187 acts.-

188 (1) In addition to any other authorized penalties, the  
189 court may require that any person who is convicted of driving  
190 under the influence in violation of s. 316.193 shall not operate  
191 a motor vehicle unless that vehicle is equipped with a  
192 functioning ignition interlock device certified by the  
193 department as provided in s. 316.1938, and installed in such a  
194 manner that the vehicle will not start if the operator's blood  
195 alcohol level is in excess of 0.025 ~~0.05~~ percent or as otherwise  
196 specified by the court. The court, in its sole discretion, may  
197 require the use of an approved ignition interlock device for any  
198 a period in excess of the minimums ~~of not less than 6 continuous~~  
199 ~~months, if the person is permitted to operate a motor vehicle,~~  
200 ~~whether or not the privilege to operate a motor vehicle is~~  
201 ~~restricted, as determined by the court. The court, however,~~  
202 ~~shall order placement of an ignition interlock device in those~~  
203 ~~circumstances~~ required by s. 316.193(2) ~~316.193~~.

204 (6) (a) It is unlawful to tamper with, or to circumvent the  
205 operation of, an a court-ordered ignition interlock device for  
206 the purpose of providing the person so restricted with an  
207 operable motor vehicle.

208 (d) It is unlawful to knowingly lease or lend a motor  
209 vehicle to a person who has had his or her driving privilege  
210 restricted as provided in this section, unless the vehicle is  
211 equipped with a functioning, certified ignition interlock  
212 device. Any person whose driving privilege requires the person  
213 to operate only vehicles equipped with an approved, functioning  
214 ~~is restricted under a condition of probation requiring an~~  
215 ignition interlock device shall notify any other person who



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216 leases or loans a motor vehicle to him or her of such driving  
217 restriction.

218 (7) Notwithstanding the provisions of this section, if a  
219 person is required to operate a motor vehicle in the course and  
220 scope of his or her employment and if the vehicle is owned or  
221 leased by the employer, the person may operate that vehicle  
222 without installation of an approved ignition interlock device if  
223 the department has received notification from the employer in a  
224 form acceptable to the department that the employer has been  
225 notified of the ~~such~~ driving privilege restriction before the  
226 restricted person operates the vehicle and if proof of that  
227 notification is with the vehicle. This employment exemption does  
228 not apply, however, if the business entity which owns or leases  
229 the vehicle is owned or controlled by the person whose driving  
230 privilege has been restricted.

231 Section 3. Subsections (1) and (10) of section 322.2615,  
232 Florida Statutes, are amended to read:

233 322.2615 Suspension of license; right to review.—

234 (1) (a) A law enforcement officer or correctional officer  
235 shall, on behalf of the department, suspend the driving  
236 privilege of a person who is driving or in actual physical  
237 control of a motor vehicle and who has an unlawful blood-alcohol  
238 level or breath-alcohol level of 0.08 or higher, or of a person  
239 who has refused to submit to a urine test or a test of his or  
240 her breath-alcohol or blood-alcohol level. The officer shall  
241 take the person's driver ~~driver's~~ license and issue the person a  
242 10-day temporary permit if the person is otherwise eligible for  
243 the driving privilege and shall issue the person a notice of  
244 suspension. If a blood test has been administered, the officer



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245 or the agency employing the officer shall transmit such results  
246 to the department within 5 days after receipt of the results. If  
247 the department then determines that the person had a blood-  
248 alcohol level or breath-alcohol level of 0.08 or higher, the  
249 department shall suspend the person's driver ~~driver's~~ license  
250 pursuant to subsection (3).

251 (b) The suspension under paragraph (a) shall be pursuant  
252 to, and the notice of suspension shall inform the driver of, the  
253 following:

254 1.a. The driver refused to submit to a lawful breath,  
255 blood, or urine test and his or her driving privilege is  
256 suspended for a period of 1 year for a first refusal or for a  
257 period of 18 months if his or her driving privilege has been  
258 previously suspended as a result of a refusal to submit to such  
259 a test; or

260 b. The driver was driving or in actual physical control of  
261 a motor vehicle and had an unlawful blood-alcohol level or  
262 breath-alcohol level of 0.08 or higher and his or her driving  
263 privilege is suspended for a period of 6 months for a first  
264 offense or for a period of 1 year if his or her driving  
265 privilege has been previously suspended under this section.

266 2. The suspension period shall commence on the date of  
267 issuance of the notice of suspension.

268 3. The driver may request a formal or informal review of  
269 the suspension by the department within 10 days after the date  
270 of issuance of the notice of suspension.

271 4. If the driver applies within 10 days after the date of  
272 issuance of the notice of suspension for ignition interlock-  
273 restricted driving privileges to be issued under paragraph (a),



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274 paragraph (10) (b), or paragraph (10) (c), the driver waives his  
275 or her right to a formal or an informal review of the  
276 suspension.

277 5.4. The temporary permit issued at the time of suspension  
278 expires at midnight of the 10th day following the date of  
279 issuance of the notice of suspension.

280 6.5. The driver may submit to the department any materials  
281 relevant to the suspension.

282 (10) A person whose driver ~~driver's~~ license is suspended  
283 under subsection (1) or subsection (3) may apply for issuance of  
284 a license for business or employment purposes only if the person  
285 is otherwise eligible for the driving privilege pursuant to s.  
286 322.271. Any period a person complies with the provisions of his  
287 or her ignition interlock license during a suspension or  
288 revocation under this section will reduce on a day-for-day basis  
289 any mandatory ignition interlock device requirement arising from  
290 the same incident. However, a person who has a previous  
291 conviction for a violation of s. 316.193 may apply for a license  
292 for business or employment purposes only if eligible pursuant to  
293 s. 322.271, and may not apply for an ignition interlock license.

294 (a) If the suspension of the driver ~~driver's~~ license of the  
295 person for failure to submit to a breath, urine, or blood test  
296 is sustained, the person is not eligible to receive an ignition  
297 interlock license.

298 (b) If the suspension of the driver license of the person  
299 for failure to submit to a breath, urine, or blood test is  
300 sustained, the person is not eligible to receive a license for  
301 business or employment purposes only, pursuant to s. 322.271,  
302 until 90 days have elapsed after the expiration of the last



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303 temporary permit issued. If the driver is not issued a 10-day  
304 permit pursuant to this section or s. 322.64 because he or she  
305 is ineligible for the permit and the suspension for failure to  
306 submit to a breath, urine, or blood test is not invalidated by  
307 the department, the driver is not eligible to receive a business  
308 or employment license pursuant to s. 322.271 until 90 days have  
309 elapsed from the date of the suspension.

310 ~~(c)~~ ~~(b)~~ If the suspension of the driver ~~driver's~~ license of  
311 the person relating to unlawful blood-alcohol level or breath-  
312 alcohol level of 0.08 or higher is sustained, the person is ~~not~~  
313 eligible to receive an ignition interlock ~~a license for business~~  
314 ~~or employment purposes only~~ pursuant to s. 322.271 upon the  
315 effective date of the notice of suspension or upon ~~until 30 days~~  
316 ~~have elapsed after~~ the expiration of the last temporary permit  
317 issued. If the driver is not issued a 10-day permit pursuant to  
318 this section or s. 322.64 because he or she is ineligible for  
319 the permit and the suspension relating to unlawful blood-alcohol  
320 level or breath-alcohol level of 0.08 or higher is not  
321 invalidated by the department, the driver is ~~not~~ eligible to  
322 receive an ignition interlock ~~a business or employment~~ license  
323 pursuant to s. 322.271 upon the effective ~~until 30 days have~~  
324 ~~elapsed from the~~ date of the suspension. Any period a person  
325 complies with the provisions of his or her ignition interlock  
326 license during a suspension or revocation under this section  
327 will reduce on a day-for-day basis any mandatory ignition  
328 interlock device requirement arising from the same incident.

329 Section 4. Subsection (1) and paragraph (c) of subsection  
330 (2) of section 322.271, Florida Statutes, are amended to read:  
331 322.271 Authority to modify revocation, cancellation, or



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332 suspension order.-

333 (1) (a) Upon the suspension, cancellation, or revocation of  
334 the driver ~~driver's~~ license of any person as authorized or  
335 required in this chapter, except a person whose license is  
336 revoked as a habitual traffic offender under s. 322.27(5) or a  
337 person who is ineligible to be granted the privilege of driving  
338 on a limited or restricted basis under subsection (2), the  
339 department shall immediately notify the licensee and, upon his  
340 or her request, shall afford him or her an opportunity for a  
341 hearing pursuant to chapter 120, as early as practicable within  
342 not more than 30 days after receipt of such request, in the  
343 county wherein the licensee resides, unless the department and  
344 the licensee agree that such hearing may be held in some other  
345 county.

346 (b) A person whose driving privilege has been revoked under  
347 s. 322.27(5) may, upon expiration of 12 months from the date of  
348 such revocation, petition the department for reinstatement of  
349 his or her driving privilege. Upon such petition and after  
350 investigation of the person's qualification, fitness, and need  
351 to drive, the department shall hold a hearing pursuant to  
352 chapter 120 to determine whether the driving privilege shall be  
353 reinstated on a restricted basis solely for business or  
354 employment purposes.

355 (c) For the purposes of this section, the term:

356 1. "A driving privilege restricted to business purposes  
357 only" means a driving privilege that is limited to any driving  
358 necessary to maintain livelihood, including driving to and from  
359 work, necessary on-the-job driving, driving for educational  
360 purposes, and driving for church and for medical purposes.



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361           2. "A driving privilege restricted to employment purposes  
362 only" means a driving privilege that is limited to driving to  
363 and from work and any necessary on-the-job driving required by  
364 an employer or occupation.

365           3. "An ignition interlock license" means a license that  
366 requires that the person operate only a motor vehicle equipped  
367 with a functioning ignition interlock device certified by the  
368 department in accordance with s. 316.1938. A person who has a  
369 previous conviction for a violation of s. 316.193 is not  
370 eligible to receive an ignition interlock license.

371  
372 Driving for any purpose other than as provided by this paragraph  
373 is not permitted by a person whose driving privilege has been  
374 restricted to employment or business purposes. In addition, a  
375 person whose driving privilege is restricted to employment or  
376 business purposes remains subject to any restriction that  
377 applied to the type of license which the person held at the time  
378 of the order of suspension, cancellation, or revocation. Any  
379 driving privilege, including a driving privilege restricted to  
380 business purposes or employment purposes only in accordance with  
381 this section, that is extended to a person who has a previous  
382 arrest for a violation of s. 316.193 or s. 316.1938 must be in  
383 conjunction with mandatory installation of a functioning  
384 ignition interlock device certified by the department in  
385 accordance with s. 316.1938.

386           (2) At such hearing, the person whose license has been  
387 suspended, canceled, or revoked may show that such suspension,  
388 cancellation, or revocation causes a serious hardship and  
389 precludes the person from carrying out his or her normal



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390 business occupation, trade, or employment and that the use of  
391 the person's license in the normal course of his or her business  
392 is necessary to the proper support of the person or his or her  
393 family.

394 (c) A person whose license has been revoked for a period of  
395 5 years or less pursuant to s. 322.28(2)(a) may, 6 ~~12~~ months  
396 after the date the revocation was imposed, petition the  
397 department for reinstatement of his or her driving privilege on  
398 a restricted basis. A person whose license has been revoked for  
399 more than 5 years under s. 322.28(2)(a) may, 12 ~~24~~ months after  
400 the date the revocation was imposed, petition the department for  
401 reinstatement of his or her driving privilege on a restricted  
402 basis. Reinstatement under this subsection is restricted to  
403 business or employment purposes only. In addition, the  
404 department shall require such persons upon reinstatement to have  
405 not driven and to have been drug free for at least 12 months  
406 immediately before the reinstatement, to be supervised by a DUI  
407 program licensed by the department, and to report to the program  
408 at least three times a year as required by the program for the  
409 duration of the revocation period for supervision. Such  
410 supervision includes evaluation, education, referral into  
411 treatment, and other activities required by the department. Such  
412 persons shall assume reasonable costs of supervision. If the  
413 person fails to comply with the required supervision, the  
414 program shall report the failure to the department, and the  
415 department shall cancel the person's driving privilege. This  
416 paragraph does not apply to any person whose driving privilege  
417 has been permanently revoked.

418 Section 5. Paragraph (a) of subsection (2) of section



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419 322.28, Florida Statutes, is amended to read:

420 322.28 Period of suspension or revocation.—

421 (2) In a prosecution for a violation of s. 316.193 or  
422 former s. 316.1931, the following provisions apply:

423 (a) Upon conviction of the driver, the court, along with  
424 imposing sentence, shall revoke the driver's license or driving  
425 privilege of the person so convicted, effective on the date of  
426 conviction, and shall prescribe the period of such revocation in  
427 accordance with the following provisions:

428 1. Upon a first conviction for a violation of ~~the~~  
429 ~~provisions of~~ s. 316.193, except for a violation resulting in  
430 death, and except as provided in s. 316.193(2)(a)3.(I), the  
431 driver ~~driver's~~ license or driving privilege shall be revoked  
432 for at least ~~not less than~~ 180 days but not ~~or~~ more than 1 year.

433 2. Upon a second conviction for an offense that occurs  
434 within a period of 5 years of ~~after~~ the date of a prior  
435 conviction for a violation of the provisions of s. 316.193 or  
436 former s. 316.1931 or a combination of such sections, the  
437 driver's license or driving privilege shall be revoked for not  
438 less than 5 years.

439 3. Upon a third conviction for an offense that occurs  
440 within a period of 10 years of ~~after~~ the date of a prior  
441 conviction for the violation of the provisions of s. 316.193 or  
442 former s. 316.1931 or a combination of such sections, the  
443 driver's license or driving privilege shall be revoked for not  
444 less than 10 years.

445

446 For the purposes of this paragraph, a previous conviction  
447 outside this state for driving under the influence, driving



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448 while intoxicated, driving with an unlawful blood-alcohol level,  
449 or any other alcohol-related or drug-related traffic offense  
450 similar to the offense of driving under the influence as  
451 proscribed by s. 316.193 will be considered a previous  
452 conviction for violation of s. 316.193, and a conviction for  
453 violation of former s. 316.028, former s. 316.1931, or former s.  
454 860.01 is considered a conviction for violation of s. 316.193.

455 Section 6. This act shall take effect October 1, 2013.

456  
457 ===== T I T L E A M E N D M E N T

458 =====

459 And the title is amended as follows:

460  
461 Delete everything before the enacting clause  
462 and insert:

463  
464 A bill to be entitled  
465 An act relating to ignition interlock devices;  
466 amending s. 316.193, F.S.; providing for placement of  
467 ignition interlock devices upon all vehicles that are  
468 individually or jointly leased or owned and routinely  
469 operated by certain persons convicted of driving under  
470 the influence for specified periods based on the  
471 violation; providing an exception for certain first-  
472 time convictions to allow an option of driver license  
473 suspension or placement of an ignition interlock  
474 device; giving the court discretion to revoke the  
475 driver license or driving privilege notwithstanding  
476 the allowed option; revising the required installation



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477 periods for certain violations; providing for credit  
478 for periods of compliance with ignition interlock  
479 license requirements under a specified provision;  
480 amending s. 316.1937, F.S.; revising the maximum  
481 allowable blood-alcohol level at which an ignition  
482 interlock device will allow operation of a vehicle;  
483 revising provisions prohibiting tampering with or  
484 circumventing an ignition interlock device; revising  
485 provisions concerning operation of vehicles owned or  
486 leased by the employer of a person subject to ignition  
487 interlock restrictions when such operation is required  
488 in the scope of his or her employment; amending s.  
489 322.2615, F.S.; providing that an application for  
490 ignition interlock-restricted driving privileges to be  
491 issued under specified provisions made more than a  
492 certain number of days after a notice of suspension  
493 constitutes a waiver of the right to review of the  
494 suspension; providing for ignition interlock licenses  
495 and licenses for business or employment purposes and  
496 requirements for such licenses; deleting certain  
497 references relating to temporary licenses for business  
498 or employment purposes; providing for credit for  
499 periods of compliance with ignition interlock license  
500 requirements; amending s. 322.271, F.S.; defining the  
501 term "an ignition interlock license"; requiring that  
502 any driving privilege extended to persons with  
503 previous arrests under specified provisions must  
504 require use of an ignition interlock device; reducing  
505 the period certain persons whose licenses have been



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506        revoked must wait before being eligible to reapply for  
507        reinstatement; amending s. 322.28, F.S.; revising  
508        provisions relating to periods of driver license  
509        suspension or revocation; providing an effective date.

By Senator Hukill

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1                   A bill to be entitled  
 2       An act relating to ignition interlock devices;  
 3       amending s. 316.193, F.S.; requiring mandatory  
 4       placement of an ignition interlock device on all  
 5       vehicles owned or operated by a person convicted of  
 6       driving under the influence for specified periods  
 7       based on the violation; revising the required  
 8       installation periods for certain violations; amending  
 9       s. 316.1937, F.S.; revising the maximum allowable  
 10      blood-alcohol level at which an ignition interlock  
 11      device will allow operation of a vehicle; revising  
 12      provisions prohibiting tampering with or circumventing  
 13      an ignition interlock device; revising provisions  
 14      concerning operation of vehicles owned or leased by  
 15      the employer of a person subject to ignition interlock  
 16      restrictions when such operation is required in the  
 17      scope of his or her employment; amending s. 322.25,  
 18      F.S.; requiring that court orders for reinstatement of  
 19      a license privilege for driving under the influence  
 20      include a requirement for an ignition interlock  
 21      device; amending s. 322.2615, F.S.; deleting  
 22      provisions relating to temporary licenses for business  
 23      or employment purposes; providing for ignition  
 24      interlock licenses and requirements for such licenses;  
 25      amending s. 322.28, F.S.; providing for ignition  
 26      interlock licenses following driver license or driving  
 27      privilege suspension; providing requirements for such  
 28      licenses; providing that a driver who obtains an  
 29      ignition interlock license during a period of

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30           revocation shall receive credit on a day-for-day basis  
 31           for the period the person holds a valid ignition  
 32           interlock license toward any mandatory period of  
 33           ignition interlock device-restricted use arising from  
 34           the same incident; providing for ignition interlock  
 35           licenses for persons whose driver license or driving  
 36           privilege has been permanently revoked; providing  
 37           requirements for such licenses; amending s. 322.271,  
 38           F.S.; deleting provisions providing for petitions for  
 39           reinstatement of a driving privilege in certain  
 40           circumstances following a revocation for a period of 5  
 41           years or less under specified provisions; amending s.  
 42           322.2715, F.S.; revising requirements for installation  
 43           of ignition interlock devices as a condition of  
 44           issuance of a permanent or restricted license for  
 45           persons convicted of driving under the influence;  
 46           requiring that the ignition interlock device  
 47           restriction remain in effect until the Department of  
 48           Highway Safety and Motor Vehicles receives a  
 49           declaration from the person's ignition interlock  
 50           device vendor certifying that certain incidents did  
 51           not occur during a specified period; providing an  
 52           effective date.

54           WHEREAS, ignition interlocks are devices that can be  
 55           installed in motor vehicles to prevent operation of the vehicle  
 56           by a driver who has a blood alcohol concentration (BAC) above a  
 57           specified level, and

58           WHEREAS, strong research evidence establishes the

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 59 effectiveness of ignition interlocks in reducing the number of  
 60 people previously convicted of alcohol-impaired driving from  
 61 reoffending and being rearrested, and

62 WHEREAS, more widespread and sustained use of ignition  
 63 interlocks by those previously convicted of alcohol-impaired  
 64 driving could result in the significant reduction in alcohol-  
 65 related vehicle crashes and save lives, NOW, THEREFORE,

66  
 67 Be It Enacted by the Legislature of the State of Florida:

68  
 69 Section 1. Subsections (1), (2), and (4) of section  
 70 316.193, Florida Statutes, are amended to read:

71 316.193 Driving under the influence; penalties.—

72 (1) A person commits ~~is guilty of~~ the offense of driving  
 73 under the influence and is subject to punishment as provided in  
 74 subsection (2) if the person is driving or in actual physical  
 75 control of a vehicle within this state and:

76 (a) The person is under the influence of alcoholic  
 77 beverages, any chemical substance set forth in s. 877.111, or  
 78 any substance controlled under chapter 893, when affected to the  
 79 extent that the person's normal faculties are impaired;

80 (b) The person has a blood-alcohol level of 0.08 or more  
 81 grams of alcohol per 100 milliliters of blood; or

82 (c) The person has a breath-alcohol level of 0.08 or more  
 83 grams of alcohol per 210 liters of breath.

84 (2) (a) Except as provided in paragraph (b), subsection (3),  
 85 or subsection (4), any person who is convicted of a violation of  
 86 subsection (1) shall be punished:

87 1. By a fine of:

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 88 a. At least ~~Not less than~~ \$500 but not ~~or~~ more than \$1,000  
 89 for a first conviction.

90 b. At least ~~Not less than~~ \$1,000 but not ~~or~~ more than  
 91 \$2,000 for a second conviction; and

92 2. By imprisonment for:

93 a. Not more than 6 months for a first conviction.

94 b. Not more than 9 months for a second conviction.

95 3. ~~For a second conviction,~~ By mandatory placement for the  
 96 following a period ~~of at least 1 year,~~ at the convicted person's  
 97 sole expense, of an ignition interlock device approved by the  
 98 department in accordance with s. 316.1938 upon all vehicles ~~that~~  
 99 ~~are individually or jointly leased or owned or~~ and routinely  
 100 operated by the convicted person, when the convicted person  
 101 qualifies for a permanent or restricted license:

102 a. (I) Except as provided in sub-sub-subparagraph (II), for  
 103 a first conviction at least 6 months; or

104 (II) For a first conviction in which the convicted person  
 105 had a blood-alcohol level or breath-alcohol level of 0.15 or  
 106 higher, or the convicted person at the time of the offense was  
 107 accompanied in the vehicle by a person younger than 18 years of  
 108 age, for at least 6 continuous months;

109 b. (I) Except as provided in sub-sub-subparagraph (II), for  
 110 a second conviction at least 1 year; or

111 (II) For a second conviction in which the convicted person  
 112 had a blood-alcohol level or breath-alcohol level of 0.15 or  
 113 higher, or the convicted person at the time of the offense was  
 114 accompanied in the vehicle by a person younger than 18 years of  
 115 age, for at least 2 continuous years; or

116 c. For a third conviction, for at least 2 years. ~~The~~

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~~installation of such device may not occur before July 1, 2003.~~

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.~~

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of at least not less than \$2,000 but not ~~or~~ more than \$5,000 and by imprisonment for not more than 12 months. ~~In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.~~

3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior

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conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation must ~~may~~ be at least not ~~less than~~ \$2,000.

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. At least ~~Not less than~~ \$1,000 but not or more than \$2,000 for a first conviction.

2. At least ~~Not less than~~ \$2,000 but not or more than \$4,000 for a second conviction.

3. At least ~~Not less than~~ \$4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.

2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

~~(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all~~

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175 ~~vehicles that are individually or jointly leased or owned and~~  
 176 ~~routinely operated by the convicted person for not less than 6~~  
 177 ~~continuous months for the first offense and for not less than 2~~  
 178 ~~continuous years for a second offense, when the convicted person~~  
 179 ~~qualifies for a permanent or restricted license.~~

180 Section 2. Subsection (1), paragraphs (a) and (d) of  
 181 subsection (6), and subsection (7) of section 316.1937, Florida  
 182 Statutes, are amended to read:

183 316.1937 Ignition interlock devices, requiring; unlawful  
 184 acts.—

185 (1) In addition to any other authorized penalties, the  
 186 court may require that any person who is convicted of driving  
 187 under the influence in violation of s. 316.193 may shall not  
 188 operate a motor vehicle unless that vehicle is equipped with a  
 189 functioning ignition interlock device certified by the  
 190 department as provided in s. 316.1938, and installed in such a  
 191 manner that the vehicle will not start if the operator's blood  
 192 alcohol level is in excess of 0.025 ~~0.05~~ percent ~~or as otherwise~~  
 193 ~~specified by the court. The court may require the use of an~~  
 194 ~~approved ignition interlock device for a period of not less than~~  
 195 ~~6 continuous months, if the person is permitted to operate a~~  
 196 ~~motor vehicle, whether or not the privilege to operate a motor~~  
 197 ~~vehicle is restricted, as determined by the court. The court,~~  
 198 however, shall order placement of an ignition interlock device  
 199 in those circumstances required by s. 316.193.

200 (6) (a) It is unlawful to tamper with, or to circumvent the  
 201 operation of, an a court-ordered ignition interlock device for  
 202 the purpose of providing the person so restricted with an  
 203 operable motor vehicle.

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204 (d) It is unlawful to knowingly lease or lend a motor  
 205 vehicle to a person who has had his or her driving privilege  
 206 restricted as provided in this section, unless the vehicle is  
 207 equipped with a functioning, certified ignition interlock  
 208 device. Any person whose driving privilege is restricted ~~under a~~  
 209 ~~condition of probation~~ requiring an ignition interlock device  
 210 shall notify any other person who leases or loans a motor  
 211 vehicle to him or her of such driving restriction.

212 (7) Notwithstanding the provisions of this section, if a  
 213 person is required to operate a motor vehicle in the course and  
 214 scope of his or her employment and if the vehicle is owned or  
 215 leased by the employer, the person may operate that vehicle  
 216 without installation of an approved ignition interlock device if  
 217 the department has received notification in a form acceptable to  
 218 the department that the employer has been notified of the ~~such~~  
 219 driving privilege restriction before the restricted person  
 220 operates the vehicle and if proof of that notification is with  
 221 the vehicle. This employment exemption does not apply, however,  
 222 if the business entity which owns or leases the vehicle is owned  
 223 or controlled by the person whose driving privilege has been  
 224 restricted.

225 Section 3. Subsection (7) of section 322.25, Florida  
 226 Statutes, is amended to read:

227 322.25 When court to forward license to department and  
 228 report convictions; temporary reinstatement of driving  
 229 privileges.—

230 (7) Any licensed driver convicted of driving, or being in  
 231 the actual physical control of, a vehicle within this state  
 232 while under the influence of alcoholic beverages in violation of

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233 s. 316.193, any chemical substance set forth in s. 877.111, or  
 234 any substance controlled under chapter 893, when affected to the  
 235 extent that his or her normal faculties are impaired, and whose  
 236 license and driving privilege have been revoked as provided in  
 237 subsection (1) may be issued a court order for reinstatement of  
 238 a driving privilege on a temporary basis; provided that, as a  
 239 part of the penalty, upon conviction, the defendant is required  
 240 to enroll in and complete a driver improvement course for the  
 241 rehabilitation of drinking drivers and the driver is otherwise  
 242 eligible for reinstatement of the driving privilege as provided  
 243 by s. 322.282. The court order for reinstatement shall require  
 244 that the person operate only a motor vehicle equipped with a  
 245 functioning ignition interlock device, and the person must  
 246 provide proof to the satisfaction of the department ~~be~~ on a form  
 247 provided by the department that a functioning ignition interlock  
 248 device has been installed on one or more vehicles to be operated  
 249 by the person, and the form must be taken by the person  
 250 convicted to a Florida driver ~~driver's~~ license examining office,  
 251 where a temporary driving permit may be issued. The period of  
 252 time for which a temporary permit issued in accordance with this  
 253 subsection is valid shall be deemed to be part of the period of  
 254 revocation imposed by the court.

255 Section 4. Subsection (10) of section 322.2615, Florida  
 256 Statutes, is amended to read:

257 322.2615 Suspension of license; right to review.—

258 (10) A person whose driver ~~driver's~~ license is suspended  
 259 under subsection (1) or subsection (3) may apply for issuance of  
 260 a license ~~for business or employment purposes~~ only if the person  
 261 is otherwise eligible ~~for the driving privilege pursuant to s.~~

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262 ~~322.271.~~

263 (a) If the suspension of the driver ~~driver's~~ license of the  
 264 person for failure to submit to a breath, urine, or blood test  
 265 is sustained, and the person is otherwise not eligible, the  
 266 person may apply for an ignition interlock license upon proof of  
 267 enrollment in and subject to the successful completion of a  
 268 department-approved driver training or substance abuse education  
 269 course to receive a license for business or employment purposes  
 270 only, pursuant to s. 322.271, until 90 days have elapsed after  
 271 the expiration of the last temporary permit issued. If the  
 272 driver is not issued a 10-day permit pursuant to this section or  
 273 s. 322.64 because he or she is ineligible for the permit and the  
 274 suspension for failure to submit to a breath, urine, or blood  
 275 test is not invalidated by the department, the driver is not  
 276 eligible to receive a business or employment license pursuant to  
 277 s. 322.271 until 90 days have elapsed from the date of the  
 278 suspension.

279 (b) If the suspension of the driver ~~driver's~~ license of the  
 280 person relating to unlawful blood-alcohol level or breath-  
 281 alcohol level of 0.08 or higher is sustained, and the person is  
 282 otherwise not eligible, the person may apply for an ignition  
 283 interlock license upon proof of enrollment in and subject to  
 284 enrollment in and the successful completion of a department-  
 285 approved driver training or substance abuse education course to  
 286 receive a license for business or employment purposes only  
 287 pursuant to s. 322.271 until 30 days have elapsed after the  
 288 expiration of the last temporary permit issued. If the driver is  
 289 not issued a 10-day permit pursuant to this section or s. 322.64  
 290 because he or she is ineligible for the permit and the

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291 ~~suspension relating to unlawful blood alcohol level or breath-~~  
 292 ~~alcohol level of 0.08 or higher is not invalidated by the~~  
 293 ~~department, the driver is not eligible to receive a business or~~  
 294 ~~employment license pursuant to s. 322.271 until 30 days have~~  
 295 ~~elapsed from the date of the suspension.~~

296 Section 5. Subsections (2) and (4) of section 322.28,  
 297 Florida Statutes, are amended to read:

298 322.28 Period of suspension or revocation.—

299 (2) In a prosecution for a violation of s. 316.193 or  
 300 former s. 316.1931, the following provisions apply:

301 (a) Upon conviction of the driver, the court, along with  
 302 imposing sentence, shall revoke the driver ~~driver's~~ license or  
 303 driving privilege of the person so convicted, effective on the  
 304 date of conviction, and shall prescribe the period of such  
 305 revocation in accordance with the following provisions:

306 1. Upon a first conviction for a violation of ~~the~~  
 307 ~~provisions of~~ s. 316.193, except a violation resulting in death,  
 308 the driver ~~driver's~~ license or driving privilege shall be  
 309 revoked for at least not less than 180 days but not ex more than  
 310 1 year. Any time after the driver license or driving privilege  
 311 has been revoked and the convicted person has proof of  
 312 enrollment in and subject to the successful completion of a  
 313 department-approved driver training or substance abuse education  
 314 course, the convicted person may obtain an ignition interlock  
 315 license restricting the convicted person to operating only motor  
 316 vehicles equipped with a functioning ignition interlock device  
 317 certified by the department as provided in s. 316.1938. Further,  
 318 the convicted person shall have installed, at the convicted  
 319 person's sole expense, an ignition interlock device approved by

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320 the department in accordance with s. 316.1938 upon all vehicles  
 321 owned or operated by the convicted person.

322 2. Upon a second conviction for an offense that occurs  
 323 within a period of 5 years after the date of a prior conviction  
 324 for a violation of ~~the provisions of~~ s. 316.193 or former s.  
 325 316.1931 or a combination of such sections, the driver ~~driver's~~  
 326 license or driving privilege shall be revoked for at least not  
 327 less than 5 years. Any time after the driver license or driving  
 328 privilege has been revoked and the convicted person has proof of  
 329 enrollment in and subject to successful completion of a  
 330 department-approved driver training or substance abuse education  
 331 course, the convicted person may obtain an ignition interlock  
 332 license restricting the convicted person to operating only motor  
 333 vehicles equipped with a functioning ignition interlock device  
 334 certified by the department as provided in s. 316.1938. Further,  
 335 the convicted person shall have installed, at the convicted  
 336 person's sole expense, an ignition interlock device approved by  
 337 the department in accordance with s. 316.1938 upon all vehicles  
 338 owned or operated by the convicted person.

339 3. Upon a third conviction for an offense that occurs  
 340 within a period of 10 years after the date of a prior conviction  
 341 for the violation of ~~the provisions of~~ s. 316.193 or former s.  
 342 316.1931 or a combination of such sections, the driver ~~driver's~~  
 343 license or driving privilege shall be revoked for at least not  
 344 less than 10 years. Any time after the driver license or driving  
 345 privilege has been revoked and the convicted person has proof of  
 346 enrollment in and subject to the successful completion of a  
 347 department-approved driver training or substance abuse education  
 348 course, the convicted person may obtain an ignition interlock

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 349 license restricting the convicted person to operating only motor  
 350 vehicles equipped with a functioning ignition interlock device  
 351 certified by the department as provided in s. 316.1938. Further,  
 352 the convicted person shall have installed, at the convicted  
 353 person's sole expense, an ignition interlock device approved by  
 354 the department in accordance with s. 316.1938 upon all vehicles  
 355 owned or operated by the convicted person.

356 4. A driver who obtains an ignition interlock license  
 357 during the period of revocation under subparagraph 1.,  
 358 subparagraph 2., or subparagraph 3. shall receive credit on a  
 359 day-for-day basis for the period the person holds a valid  
 360 ignition interlock license toward any mandatory period of  
 361 ignition interlock device-restricted use arising from the same  
 362 incident.

363  
 364 For the purposes of this paragraph, a previous conviction  
 365 outside this state for driving under the influence, driving  
 366 while intoxicated, driving with an unlawful blood-alcohol level,  
 367 or any other alcohol-related or drug-related traffic offense  
 368 similar to the offense of driving under the influence as  
 369 proscribed by s. 316.193 will be considered a previous  
 370 conviction for violation of s. 316.193, and a conviction for  
 371 violation of former s. 316.028, former s. 316.1931, or former s.  
 372 860.01 is considered a conviction for violation of s. 316.193.

373 (b) If the period of revocation was not specified by the  
 374 court at the time of imposing sentence or within 30 days  
 375 thereafter, and is not otherwise specified by law, the  
 376 department shall forthwith revoke the driver ~~driver's~~ license or  
 377 driving privilege for the maximum period applicable under

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 378 paragraph (a) for a first conviction and for the minimum period  
 379 applicable under paragraph (a) for any subsequent convictions.  
 380 The driver may, within 30 days after such revocation by the  
 381 department, petition the court for further hearing on the period  
 382 of revocation, and the court may reopen the case and determine  
 383 the period of revocation within the limits specified in  
 384 paragraph (a).

385 (c) The forfeiture of bail bond, not vacated within 20  
 386 days, in any prosecution for the offense of driving while under  
 387 the influence of alcoholic beverages, chemical substances, or  
 388 controlled substances to the extent of depriving the defendant  
 389 of his or her normal faculties shall be deemed equivalent to a  
 390 conviction for the purposes of this paragraph, and the  
 391 department shall forthwith revoke the defendant's driver  
 392 ~~driver's~~ license or driving privilege for the maximum period  
 393 applicable under paragraph (a) for a first conviction and for  
 394 the minimum period applicable under paragraph (a) for a second  
 395 or subsequent conviction; however, if the defendant is later  
 396 convicted of the charge, the period of revocation imposed by the  
 397 department for such conviction may ~~shall~~ not exceed the  
 398 difference between the applicable maximum for a first conviction  
 399 or minimum for a second or subsequent conviction and the  
 400 revocation period under this subsection that has actually  
 401 elapsed; upon conviction of such charge, the court may impose  
 402 revocation for a period of time as specified in paragraph (a).  
 403 This paragraph does not apply if an appropriate motion  
 404 contesting the forfeiture is filed within the 20-day period.

405 (d) When any driver ~~driver's~~ license or driving privilege  
 406 has been revoked pursuant to ~~the provisions of~~ this section, the

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407 department ~~may shall~~ not grant a new license, except upon  
 408 reexamination of the licensee after the expiration of the period  
 409 of revocation so prescribed. However, the court may, in its  
 410 sound discretion, issue an order of reinstatement on a form  
 411 furnished by the department which the person may take to any  
 412 driver ~~driver's~~ license examining office for reinstatement by  
 413 the department pursuant to s. 322.282.

414 (e) The court shall permanently revoke the driver ~~driver's~~  
 415 license or driving privilege of a person who has been convicted  
 416 four times for violation of s. 316.193 or former s. 316.1931 or  
 417 a combination of such sections. The court shall permanently  
 418 revoke the driver ~~driver's~~ license or driving privilege of any  
 419 person who has been convicted of DUI manslaughter in violation  
 420 of s. 316.193. If the court has not permanently revoked such  
 421 driver ~~driver's~~ license or driving privilege within 30 days  
 422 after imposing sentence, the department shall permanently revoke  
 423 the driver ~~driver's~~ license or driving privilege pursuant to  
 424 this paragraph. A driver ~~No driver's~~ license or driving  
 425 privilege ~~may be~~ issued or granted to any such person during the  
 426 remainder of the person's lifetime must require the person to  
 427 operate only motor vehicles equipped with a functioning ignition  
 428 interlock device. For the safety of the public, any time after  
 429 the driver license or driving privilege has been revoked and the  
 430 convicted person has proof of enrollment in and subject to the  
 431 successful completion of a department-approved driver training  
 432 or substance abuse education course, the convicted person may  
 433 obtain an ignition interlock license restricting the convicted  
 434 person to operating only motor vehicles equipped with a  
 435 functioning ignition interlock device certified by the

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436 department as provided in s. 316.1938. Further, the convicted  
 437 person shall have installed, at the convicted person's sole  
 438 expense, an ignition interlock device approved by the department  
 439 in accordance with s. 316.1938 upon all vehicles owned or  
 440 operated by the convicted person. This paragraph applies only if  
 441 at least one of the convictions for violation of s. 316.193 or  
 442 former s. 316.1931 was for a violation that occurred after July  
 443 1, 1982. For the purposes of this paragraph, a conviction for  
 444 violation of former s. 316.028, former s. 316.1931, or former s.  
 445 860.01 is also considered a conviction for violation of s.  
 446 316.193. Also, a conviction of driving under the influence,  
 447 driving while intoxicated, driving with an unlawful blood-  
 448 alcohol level, or any other similar alcohol-related or drug-  
 449 related traffic offense outside this state is considered a  
 450 conviction for the purposes of this paragraph.

451 (4) (a) Upon a conviction for a violation of s.  
 452 316.193(3)(c)2., involving serious bodily injury, a conviction  
 453 of manslaughter resulting from the operation of a motor vehicle,  
 454 or a conviction of vehicular homicide, the court shall revoke  
 455 the driver ~~driver's~~ license of the person convicted for a  
 456 minimum period of 3 years. If a conviction under s.  
 457 316.193(3)(c)2., involving serious bodily injury, is also a  
 458 subsequent conviction as described under paragraph (2)(a), the  
 459 court shall revoke the driver ~~driver's~~ license or driving  
 460 privilege of the person convicted for the period applicable as  
 461 provided in paragraph (2)(a) or paragraph (2)(e). Any time after  
 462 the driver license or driving privilege has been revoked and the  
 463 convicted person has proof of enrollment in and subject to the  
 464 successful completion of a department-approved driver training

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465 or substance abuse education course, the convicted person may  
 466 obtain an ignition interlock license restricting the convicted  
 467 person to operating only motor vehicles equipped with a  
 468 functioning ignition interlock device certified by the  
 469 department as provided in s. 316.1938. Further, the convicted  
 470 person shall have installed, at the convicted person's sole  
 471 expense, an ignition interlock device approved by the department  
 472 in accordance with s. 316.1938 upon all vehicles owned or  
 473 operated by the convicted person.

474 (b) If the period of revocation was not specified by the  
 475 court at the time of imposing sentence or within 30 days  
 476 thereafter, the department shall revoke the driver ~~driver's~~  
 477 license for the minimum period applicable under paragraph (a)  
 478 or, for a subsequent conviction, for the minimum period  
 479 applicable under paragraph (2)(a) or paragraph (2)(e).

480 Section 6. Paragraphs (a), (c), (d), and (e) of subsection  
 481 (2) of section 322.271, Florida Statutes, are amended to read:

482 322.271 Authority to modify revocation, cancellation, or  
 483 suspension order.—

484 (2) At such hearing, the person whose license has been  
 485 suspended, canceled, or revoked may show that such suspension,  
 486 cancellation, or revocation causes a serious hardship and  
 487 precludes the person from carrying out his or her normal  
 488 business occupation, trade, or employment and that the use of  
 489 the person's license in the normal course of his or her business  
 490 is necessary to the proper support of the person or his or her  
 491 family.

492 (a) Except as otherwise provided in this subsection, the  
 493 department shall require proof of the successful completion of

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494 the applicable department-approved driver training course  
 495 operating pursuant to s. 318.1451 or DUI program substance abuse  
 496 education course and evaluation as provided in s. 316.193(5).  
 497 Letters of recommendation from respected business persons in the  
 498 community, law enforcement officers, or judicial officers may  
 499 also be required to determine whether the person should be  
 500 permitted to operate a motor vehicle on a restricted basis for  
 501 business or employment use only and in determining whether such  
 502 person can be trusted to so operate a motor vehicle. If a driver  
 503 ~~driver's~~ license has been suspended under the point system or  
 504 under s. 322.2615, the department shall require proof of  
 505 enrollment in the applicable department-approved driver training  
 506 course or licensed DUI program substance abuse education course,  
 507 including evaluation and treatment, if referred, and may require  
 508 letters of recommendation described in this paragraph to  
 509 determine if the driver should be reinstated on a restricted  
 510 basis. If the person fails to complete the approved course  
 511 within 90 days after reinstatement or subsequently fails to  
 512 complete treatment, the department shall cancel his or her  
 513 driver ~~driver's~~ license until the course and treatment, if  
 514 applicable, is successfully completed, notwithstanding the terms  
 515 of the court order or any suspension or revocation of the  
 516 driving privilege. The department may temporarily reinstate the  
 517 driving privilege on a restricted basis upon verification from  
 518 the DUI program that the offender has reentered and is currently  
 519 participating in treatment and has completed the DUI education  
 520 course and evaluation requirement. If the DUI program notifies  
 521 the department of the second failure to complete treatment, the  
 522 department shall reinstate the driving privilege only after

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523 notice of completion of treatment from the DUI program. The  
 524 privilege of driving on a limited or restricted basis for  
 525 business or employment use may not be granted to a person who  
 526 has been convicted of a violation of s. 316.193 until completion  
 527 of the DUI program substance abuse education course and  
 528 evaluations as provided in s. 316.193(5). ~~Except as provided in~~  
 529 ~~paragraph (c),~~ The privilege of driving on a limited or  
 530 restricted basis for business or employment use may not be  
 531 granted to a person whose license is revoked pursuant to s.  
 532 322.28 or suspended pursuant to s. 322.2615 and who has been  
 533 convicted of a violation of s. 316.193 two or more times or  
 534 whose license has been suspended two or more times for refusal  
 535 to submit to a test pursuant to s. 322.2615 or former s.  
 536 322.261.

537 ~~(c) A person whose license has been revoked for a period of~~  
 538 ~~5 years or less pursuant to s. 322.28(2)(a) may, 12 months after~~  
 539 ~~the date the revocation was imposed, petition the department for~~  
 540 ~~reinstatement of his or her driving privilege on a restricted~~  
 541 ~~basis. A person whose license has been revoked for more than 5~~  
 542 ~~years under s. 322.28(2)(a) may, 24 months after the date the~~  
 543 ~~revocation was imposed, petition the department for~~  
 544 ~~reinstatement of his or her driving privilege on a restricted~~  
 545 ~~basis. Reinstatement under this subsection is restricted to~~  
 546 ~~business or employment purposes only. In addition, the~~  
 547 ~~department shall require such persons upon reinstatement to have~~  
 548 ~~not driven and to have been drug free for at least 12 months~~  
 549 ~~immediately before the reinstatement, to be supervised by a DUI~~  
 550 ~~program licensed by the department, and to report to the program~~  
 551 ~~at least three times a year as required by the program for the~~

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552 ~~duration of the revocation period for supervision. Such~~  
 553 ~~supervision includes evaluation, education, referral into~~  
 554 ~~treatment, and other activities required by the department. Such~~  
 555 ~~persons shall assume reasonable costs of supervision. If the~~  
 556 ~~person fails to comply with the required supervision, the~~  
 557 ~~program shall report the failure to the department, and the~~  
 558 ~~department shall cancel the person's driving privilege. This~~  
 559 ~~paragraph does not apply to any person whose driving privilege~~  
 560 ~~has been permanently revoked.~~

561 (c) (d) For the purpose of this section, a previous  
 562 conviction of driving under the influence, driving while  
 563 intoxicated, driving with an unlawful blood-alcohol level, or  
 564 any other similar alcohol-related or drug-related offense  
 565 outside this state or a previous conviction of former s.  
 566 316.1931, former s. 316.028, or former s. 860.01 is considered a  
 567 previous conviction for violation of s. 316.193.

568 (d) (e) The department, based upon review of the licensee's  
 569 application for reinstatement, may require use of an ignition  
 570 interlock device pursuant to s. 322.2715.

571 Section 7. Subsections (1) and (3) of section 322.2715,  
 572 Florida Statutes, are amended, subsection (5) is renumbered as  
 573 subsection (6), and a new subsection (5) is added to that  
 574 section, to read:

575 322.2715 Ignition interlock device.—

576 (1) Before issuing a permanent or restricted driver  
 577 driver's license under this chapter, the department shall  
 578 require the placement of a department-approved ignition  
 579 interlock device for any person convicted of committing an  
 580 offense of driving under the influence as specified in

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581 subsection (3), except that consideration may be given to those  
582 individuals having a documented medical condition that would  
583 prohibit the device from functioning normally. An interlock  
584 device shall be placed on all vehicles ~~that are individually or~~  
585 ~~jointly leased or owned or and routinely~~ operated by the  
586 convicted person.

587 (3) If the person is convicted of:

588 (a) 1. A first offense of driving under the influence under  
589 s. 316.193, except as provided in subparagraph 2., the person  
590 shall have the ignition interlock device installed for at least  
591 6 months; or

592 2. A first offense of driving under the influence under s.  
593 316.193 for which offense the person had and has an unlawful  
594 blood-alcohol level or breath-alcohol level as specified in s.  
595 316.193(4), or if the a person is convicted of a violation of s.  
596 316.193 and was at the time of the offense accompanied in the  
597 vehicle by a person younger than 18 years of age, the person  
598 shall have the ignition interlock device installed for at least  
599 not less than 6 continuous months for the first offense and for  
600 not less than 2 continuous years for a second offense.

601 (b) 1. A second offense of driving under the influence under  
602 s. 316.193, except as provided in subparagraph 2., the ignition  
603 interlock device shall be installed for a period of at least not  
604 less than 1 continuous year; or-

605 2. A second offense of driving under the influence under s.  
606 316.193 for which offense the person had an unlawful blood-  
607 alcohol level or breath-alcohol level as specified in s.  
608 316.193(4), or if the person was at the time of the offense  
609 accompanied in the vehicle by a person younger than 18 years of

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610 age, the person shall have the ignition interlock device  
611 installed for at least 2 continuous years.

612 (c) A third offense of driving under the influence ~~which~~  
613 ~~occurs within 10 years after a prior conviction for a violation~~  
614 ~~of s. 316.193, the ignition interlock device shall be installed~~  
615 ~~for a period of at least not less than 2 continuous years.~~

616 ~~(d) A third offense of driving under the influence which~~  
617 ~~occurs more than 10 years after the date of a prior conviction,~~  
618 ~~the ignition interlock device shall be installed for a period of~~  
619 ~~not less than 2 continuous years.~~

620 (d) ~~(e)~~ A fourth or subsequent offense of driving under the  
621 influence, the ignition interlock device shall be installed for  
622 a period of at least not less than 5 years.

623 (5) An ignition interlock device restriction imposed under  
624 subsection (3) or subsection (4) shall remain in effect until  
625 the department receives a declaration from the person's ignition  
626 interlock device vendor, in a form provided or approved by the  
627 department, certifying that none of the following incidents have  
628 occurred during the 4 consecutive months before the date of the  
629 declaration:

630 (a) Any attempt to start the vehicle with a breath-alcohol  
631 level of 0.04 or more unless a subsequent test performed within  
632 10 minutes registers a breath-alcohol level lower than 0.04.

633 (b) Failure to take any random retest unless a review of  
634 the digital image confirms that the vehicle was not occupied by  
635 the driver at the time of the missed retest.

636 (c) Failure to pass any random retest with a breath-alcohol  
637 level of 0.025 or lower unless a subsequent test performed  
638 within 10 minutes registers a breath-alcohol level lower than

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639  
640  
641  
642  
643  
644

0.025.

(d) Failure of the person to appear at the ignition  
interlock device vendor when required for maintenance, repair,  
calibration, monitoring, inspection, or replacement of the  
device.

Section 8. This act shall take effect October 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13  
Meeting Date

Topic Ignition Interlock Devices Bill Number 796  
*(if applicable)*

Name Kristen Allen Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title State Victim Services Manager

Address 1018 Thomasville Rd, #101 Phone 850-681-0061  
*Street*

Tallahassee, FL 32303 E-mail Kristen.allen@madd.org  
*City State Zip*

Speaking:  For  Against  Information

Representing MADD Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic \_\_\_\_\_

Bill Number 796  
*(if applicable)*

Name Steven Fielder

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Dep Dir Motorist Services

Address 9100 Applebee Pkwy

Phone 617-2600

Tall FL  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing DHSMV

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/15

Meeting Date

Topic SB 796

Bill Number SB 796  
*(if applicable)*

Name Daniel Simmons

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 1593 Crowder Rd

Phone 850 425 2626

Street

Tallahassee FL 32303

City

State

Zip

E-mail DSimmons@Lifesafe

Speaking:  For  Against  Information

Representing Lifesafe - Technical questions only

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Thurs.  
Meeting Date

Topic Interlock

Bill Number 796  
*(if applicable)*

Name Doug Mannheimer

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Attorney

Address 215 S. Monroe St  
*Street*

Phone 850-681-6810

Suite 400  
*City* Tallahassee *State* FL *Zip* \_\_\_\_\_

E-mail dmannheimer@broadandcassel.com

Speaking:  For  Against  Information

Representing Alcohol Countermeasure Systems

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic SB 796

Bill Number SB 796  
*(if applicable)*

Name Patrick Bell

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Lobbyist

Address P.O. Box 10242  
*Street*

Phone 850-544-0787

*City* \_\_\_\_\_ *State* \_\_\_\_\_ *Zip* \_\_\_\_\_

E-mail pebell@earthlink.net

Speaking:  For  Against  Information

Representing Life Safer Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic Ignition Interlock Device

Bill Number 796  
*(if applicable)*

Name Connie Russell

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title MADD Volunteer

Address 714 Rigbins Rd

Phone 407-222-6090

Tallahassee FL 32308  
City State Zip

E-mail BEARD,connie@gmail.com

Speaking:  For  Against  Information

Representing MADD FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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Meeting Date \_\_\_\_\_

Topic SB 796 Ignition Interlock Devices Bill Number 796  
Name Laura McLeod Amendment Barcode 144980  
Job Title Executive Director Florida Association of DUI Programs  
Address 1725 Mahon Drive Phone 850-671-3384  
Tallahassee, FL 32308 E-mail lmcLeod@fladui.org  
City State Zip

Speaking:  For  Against  Information

Representing Florida Association of DUI Programs

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Transportation

---

BILL: SB 952

INTRODUCER: Senator Simmons

SUBJECT: Orlando-Orange County Expressway Authority

DATE: February 27, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.			CA	
3.			AP	
4.				
5.				
6.				

**I. Summary:**

SB 952 re-names the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law and:

- revises and makes technical changes to definitions;
- creates the Central Florida Expressway Authority (CFX);
- provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) System to CFX;
- revises the composition of the governing body of CFX; provides for the appointment of officers; and revises quorum and voting requirements;
- provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties; prohibits CFX from spending funds for SunRail; and limits the use of certain electronic tolls collected in Orange County to projects built in that county;
- removes the requirement that the route of a project be approved by a municipality before the right-of-way can be acquired; requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities; and removes Orlando-Orange County Expressway Authority (OOCEA) power and criteria to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program;
- provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title in fee simple to the system will be retained by CFX;

- provides for the transfer of the Osceola County Expressway System to CFX;
- provides for the repeal of part V of chapter 348, F.S., when the Osceola County Expressway System is transferred to CFX;
- conforms terminology and makes technical changes; and,
- provides an effective date of July 1, 2013.

This bill amends the following sections of the Florida Statutes: 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, and 348.765.

## II. Present Situation:

### **Orlando-Orange County Expressway Authority**

The OOCEA currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.<sup>1</sup>

#### *OOCEA Governing Board*

The governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County mayor and the Florida Department of Transportation's (FDOT) district five secretary are the two *ex-officio* members of the Board.<sup>2</sup>

#### *OOCEA Facilities*

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408),
- 23 miles of the Martin Andersen Beachline Expressway (SR 528),
- 33 miles of the Central Florida GreeneWay (SR 417),
- 22 miles of the Daniel Webster Western Beltway (SR 429), and
- 5 miles of the John Land Apopka Expressway (SR 414).

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway pursuant to an existing Memorandum of Understanding and lease-purchase agreement between FDOT and the OOCEA. The memorandum, in part, describes both parties' obligations for the construction of the Wekiva Parkway. It sets up a payment schedule and provides bonding limitations for OOCEA to insure OOCEA makes its payment obligations to FDOT. The Legislature in SB 1998 (2012) codified references to the existing Memorandum and lease-purchase agreements and authorized the transfer of the Beachline-East Expressway to the Florida turnpike Enterprise, and payment to FDOT for the asset. The Beachline's estimated value of \$60 million will be used by FDOT to construct portions of the Wekiva Parkway. The OOCEA was required to pay FDOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay out the long-term debt obligation to FDOT. Thereafter,

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<sup>1</sup> Section 348.754(2)(n), F.S.

<sup>2</sup> Section 348.753, F.S.

FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates, and ownership of the system remains with the OOCEA. FDOT advises that the OOCEA's long-term debt as of February 28, 2013, is \$229,351,636.79.

### **Osceola County Expressway Authority**

Created in 2010, the Osceola County Expressway Authority (OCX) currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act, including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.<sup>3</sup>

#### *OCX Governing Board*

The OCX governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. FDOT's district five secretary serves as an *ex-officio*, non-voting member.<sup>4</sup>

#### *OCX Facilities*

OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The Florida Transportation Commission indicates efforts in 2011 to finalize an agreement for \$2.5 million in grant funding from FDOT to be used for two Project Development and Environment studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.<sup>5</sup>

### **Seminole County and Lake County**

The Seminole County Expressway Authority was abolished by the Legislature in 2011<sup>6</sup> and is not currently served by any expressway authority. Lake County is also not currently served by any expressway authority.

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

Section 1: Amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Section 2: Amends s. 348.752, F.S., to define:

- "Central Florida Expressway Authority" to mean the body politic and corporate and agency of the state;
- "Central Florida Expressway System," to mean a transportation facility, expressway, or appurtenant facility, and

<sup>3</sup> Section 348.0004, F.S.

<sup>4</sup> Section 348.9952, F.S.

<sup>5</sup> FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.

<sup>6</sup> Ch. 2011-64, L.O.F.

- “transportation facilities” to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

Research reveals no language elsewhere in ch. 348, F.S., that would include in any definition or in any other provision under current law the “administrative and other office space” of an expressway authority. This definition presumably would allow CFX to finance or even bond expenses for administrative and other office space.

This section of the bill also deletes the definitions of “city” and “county,” revises various definitions to conform terminology to the re-naming, and makes various other editorial and grammatical changes.

Section 3: Amends s. 348.753, F.S., in which the OOCEA is created, to replace the OOCEA and:

- create the Central Florida Expressway Authority;
- require, effective July 1, 2013, that CFX assume the governance and control of the OOCEA System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property;
- transfer any rights in such property and other OOCEA legal rights to CFX; and
- provide that the powers, responsibilities, and obligations of the OOCEA shall succeed to and be assumed by CFX on July 1, 2013.

The bill also provides for nine members of the CFX governing board as follows:

- three members appointed by the boards of county commission of Seminole, Lake, and Osceola Counties, who may be a commission member or chair;
- four citizen members, one each from Orange, Seminole, Lake, and Osceola Counties, appointed by the Governor;
- the mayor of Orange County and the mayor of the City of Orlando.

Otherwise, a person who is an officer or employee of a municipality or county may not be an appointed CFX member. The executive director of Florida’s Turnpike Enterprise serves as a nonvoting advisor to the CFX governing body. The Governor’s appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. In addition, the bill provides for election of CFX officers and requires elections to be held every two years. A member who is a resident of Orange County must be elected as chair every six years and, if a member from Orange County is not serving as chair, a member who is a resident of Orange County must be elected to serve as vice chair. This section of the bill also makes editorial and grammatical changes and conforms terminology to the re-naming.

Section 4: Amends s. 348.754, F.S., setting forth purposes and powers, to:

- provide, with specified exception, that the CFX area served is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties;
- include in the authority to construct the Central Florida Expressway System rapid transit, trams, fixed guideways, thoroughfares, and boulevards;
- prohibit CFX from spending system funds for SunRail;
- require that electronic tolls collected on the expressway system from vehicles registered in Orange County be used to finance projects built in Orange County;
- authorize CFX to construct, operate, and maintain roads and bridges, and electronic toll payment systems on the roads and bridges, outside the boundaries of Orange, Seminole, Lake, and Osceola Counties with the consent of the county within whose jurisdiction the activities occur;
- remove the municipal governing board approval of a project route currently required before acquisition of right-of-way for an OOCEA project within the boundaries of Orange County;
- require CFX to encourage the inclusion of local-, small-, minority-, and women-owned business in its procurement and contracting opportunities;
- remove provisions authorizing the OOCEA to waive payment and performance bonds on certain construction contracts and related small business provisions; and
- make editorial and grammatical changes and conform terminology to the re-naming.

Sections 5 - 11: Amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively, to make editorial and grammatical changes and conform terminology to the re-naming.

Section 12: Amends s. 348.757, relating to lease-purchase agreements with FDOT, to replace direction that the lease-purchase agreement between OOCEA and FDOT provide, upon completion of the OOCEA System, title in fee simple be transferred to FDOT, with direction that the agreement provide that title in fee simple be retained by CFX; and to make editorial and grammatical changes and conform terminology to the re-naming.

Section 13 – 17: Amends ss. 348.758, 348.759, 348.760, 348.761, and 348.765, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; and complete and additional authority, respectively, to make editorial and grammatical changes and conform terminology to the re-naming.

Section 18: Transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX on July 1, 2014; and repeals part V of chapter

348, F.S., consisting of ss. 348.9950 – 348.9961, on the same date that the Osceola County Expressway System is transferred to CFX.

Section 19: Provides the act shall take effect on July 1, 2013.

**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:

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.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2013	.	
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The Committee on Transportation (Margolis) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 348.751, Florida Statutes, is amended to read:

348.751 Short title.—This part ~~shall be known and~~ may be cited as the "Central Florida Orlando Orange County Expressway Authority Law."

Section 2. Section 348.752, Florida Statutes, is amended to read:

348.752 Definitions.—As used in this chapter ~~The following~~



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13 ~~terms, whenever used or referred to in this law, shall have the~~  
14 ~~following meanings, except in those instances where the context~~  
15 ~~clearly indicates otherwise:~~

16 (1) The term "agency of the state" means ~~and includes~~ the  
17 state and any department of, or corporation, agency, or  
18 instrumentality ~~heretofore or hereafter~~ created, designated, or  
19 established by, the state.

20 (2) The term "authority" means the body politic and  
21 corporate, and agency of the state created by this part.

22 (3) The term "bonds" means ~~and includes~~ the notes, bonds,  
23 refunding bonds, or other evidences of indebtedness or  
24 obligations, in either temporary or definitive form, which the  
25 authority is authorized to issue pursuant to this part.

26 (4) The term "Central Florida Expressway Authority" means  
27 the body politic and corporate, and agency of the state created  
28 by this chapter.

29 (5) The term "Central Florida Expressway System" means any  
30 expressway and appurtenant facilities, including all approaches,  
31 roads, bridges, and avenues for the expressway, and any rapid  
32 transit, trams, or fixed guideways located within the right-of-  
33 way of an expressway.

34 ~~(4) The term "city" means the City of Orlando.~~

35 ~~(5) The term "county" means the County of Orange.~~

36 (6) The term "department" means the Department of  
37 Transportation ~~existing under chapters 334-339.~~

38 (7) The term "expressway" has the same meaning ~~is the same~~  
39 as limited access expressway.

40 (8) The term "federal agency" means and includes the United  
41 States, the President of the United States, and any department



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42 of, or corporation, agency, or instrumentality ~~heretofore or~~  
43 ~~hereafter~~ created, designated, or established by, the United  
44 States.

45 (9) The term "lease-purchase agreement" means the lease-  
46 purchase agreements that ~~which~~ the authority is authorized  
47 ~~pursuant to this part~~ to enter into with the Department of  
48 Transportation pursuant to this part.

49 (10) The term "limited access expressway" means a street or  
50 highway specifically ~~especially~~ designed for through traffic,  
51 and over, from, or to which, a ~~no~~ person does not ~~shall~~ have the  
52 right of easement, use, or access except in accordance with the  
53 rules of ~~and regulations promulgated and established by~~ the  
54 authority governing its use ~~for the use of such facility~~. Such  
55 highways or streets may be parkways that do not allow traffic  
56 by, ~~from which~~ trucks, buses, and other commercial vehicles  
57 ~~shall be excluded,~~ or they may be freeways open to use by all  
58 customary forms of street and highway traffic.

59 (11) The term ~~"members"~~ means ~~the governing body of the~~  
60 ~~authority, and the term~~ "member" means an individual who serves  
61 on the ~~one of the individuals constituting such~~ governing body  
62 of the authority.

63 (12) The term "Orange County gasoline tax funds" means ~~all~~  
64 the revenue derived from the 80-percent surplus gasoline tax  
65 funds accruing in each year to the Department of Transportation  
66 for use in Orange County under ~~the provisions of~~ s. 9, Art. XII  
67 of the State Constitution, after deducting ~~deduction only of~~ any  
68 amounts of said gasoline tax funds previously ~~heretofore~~ pledged  
69 by the department or the county for outstanding obligations.

70 ~~(13) The term "Orlando-Orange County Expressway System"~~



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71 ~~means any and all expressways and appurtenant facilities~~  
72 ~~thereto, including, but not limited to, all approaches, roads,~~  
73 ~~bridges, and avenues of access for said expressway or~~  
74 ~~expressways.~~

75 ~~(13)-(14)~~ The term "State Board of Administration" means the  
76 body corporate existing under the provisions of s. 9, Art. XII  
77 of the State Constitution, or any successor ~~thereto.~~

78 (14) The term "transportation facilities" means and  
79 includes the mobile and fixed assets, and the associated real or  
80 personal property or rights, used in the transportation of  
81 persons or property by any means of conveyance, and all  
82 appurtenances, such as, but not limited to, highways; limited or  
83 controlled access lanes, avenues of access, and facilities;  
84 vehicles; and fixed guideway facilities, including maintenance  
85 facilities, necessary for the exercise by the authority of the  
86 powers and obligations granted in this part.

87 ~~(15) Words importing singular number include the plural~~  
88 ~~number in each case and vice versa, and words importing persons~~  
89 ~~include firms and corporations.~~

90 Section 3. Section 348.753, Florida Statutes, is amended to  
91 read:

92 348.753 Central Florida Orlando-Orange County Expressway  
93 Authority.-

94 (1) There is ~~hereby~~ created and established a body politic  
95 and corporate, an agency of the state, to be known as the  
96 Central Florida Orlando-Orange County Expressway Authority. ~~7~~  
97 ~~hereinafter referred to as "authority."~~

98 (2) Effective July 1, 2014, the Central Florida Expressway  
99 Authority shall assume the governance and control of the



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100 Orlando-Orange County Expressway Authority System, including its  
101 assets, personnel, contracts, obligations, liabilities,  
102 facilities, and tangible and intangible property. Any rights in  
103 such property, and other legal rights of the authority, are  
104 transferred to the Central Florida Expressway Authority. The  
105 powers, responsibilities, and obligations of the Orlando-Orange  
106 County Expressway Authority shall succeed to and be assumed by  
107 the Central Florida Expressway Authority on July 1, 2014.

108 (b) The transfer pursuant to this subsection is subject to  
109 all terms and covenants provided for the protection of the  
110 holders of the Orlando-Orange County Expressway Authority bonds  
111 in the lease-purchase agreement and the resolutions adopted in  
112 connection with the issuance of the bonds. Further, the transfer  
113 does not impair the terms of the contract between the Orlando-  
114 Orange County Expressway Authority and the bondholders, does not  
115 act to the detriment of the bondholders, and does not diminish  
116 the security for the bonds. After the transfer, the Central  
117 Florida Expressway Authority shall operate and maintain the  
118 expressway system and any other facilities of the Orlando-Orange  
119 County Expressway Authority in accordance with the terms,  
120 conditions, and covenants contained in the bond resolutions and  
121 lease-purchase agreement securing the bonds of the authority.  
122 The Central Florida Expressway Authority shall collect toll  
123 revenues and apply them to the payment of debt service as  
124 provided in the bond resolution securing the bonds, and  
125 expressly assumes all obligations relating to the bonds to  
126 ensure that the transfer will have no adverse impact on the  
127 security for the bonds. The transfer does not make the  
128 obligation to pay the principal and interest on the bonds a



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129 general liability of the Central Florida Expressway Authority or  
130 pledge additional expressway system revenues to payment of the  
131 bonds. Revenues that are generated by the expressway system and  
132 other facilities of the Central Florida Expressway Authority  
133 that were pledged by the Orlando-Orange County Expressway  
134 Authority to payment of the bonds will remain subject to the  
135 pledge for the benefit of the bondholders. The transfer does  
136 not modify or eliminate any prior obligation of the department  
137 to pay certain costs of the expressway system from sources other  
138 than revenues of the expressway system.

139 (3)~~(2)~~ The governing body of the authority shall consist of  
140 eleven ~~five~~ members. The chairs of the boards of county  
141 commission of Seminole, Lake, and Osceola Counties shall each  
142 appoint one Central Florida Expressway Authority Board member,  
143 who may be a commission member or chair. Six citizen members  
144 shall be appointed by the Governor. Three ~~members~~ shall be  
145 citizens of Orange County, ~~who shall be appointed by the~~  
146 ~~Governor~~ one shall be a citizen of Orange County appointed by  
147 the Governor from a list of three nominees submitted by the  
148 Orange County Commission, one shall be a citizen of Seminole  
149 County, and one shall be a citizen of Osceola County. One ~~The~~  
150 ~~fourth~~ member shall be, ~~ex officio,~~ the Mayor of chair of the  
151 ~~County Commissioners of Orange County,~~ and the final fifth  
152 member shall be, ~~ex officio,~~ the Mayor of the City of Orlando.  
153 The executive director of Florida's Turnpike Enterprise shall  
154 serve as a nonvoting advisor to the governing body of the  
155 authority ~~district secretary of the Department of Transportation~~  
156 ~~serving in the district that contains Orange County. The term of~~  
157 Each ~~appointed~~ member appointed by the Governor shall serve be



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158 for 4 years. Each county-appointed member shall serve for 2  
159 years. Standing board members shall complete their terms. Each  
160 appointed member shall hold office until his or her successor  
161 has been appointed and has qualified. A vacancy occurring during  
162 a term must ~~shall~~ be filled only for the balance of the  
163 unexpired term. Each appointed member of the authority shall be  
164 a person of outstanding reputation for integrity,  
165 responsibility, and business ability, but, except as provided in  
166 this subsection, a ~~no~~ person who is an officer or employee of a  
167 municipality or any city or of Orange county may not in any  
168 ~~other capacity shall~~ be an appointed member of the authority.  
169 Any member of the authority is ~~shall be~~ eligible for  
170 reappointment.

171 (4) ~~(3)~~ (a) The authority shall elect one of its members as  
172 chair of the authority. The authority shall also elect one of  
173 its members as vice chair, one of its members as a secretary,  
174 and one of its members as a treasurer ~~who may or may not be~~  
175 ~~members of the authority.~~ Elections for offices of the authority  
176 must be held every 2 years. A member who is a resident of Orange  
177 County must be elected to serve as chair every 6 years. If a  
178 member from Orange County is not serving as chair, a member who  
179 is a resident of Orange County must be elected to serve as vice  
180 chair. The chair, vice chair, secretary, and treasurer shall  
181 hold such offices at the will of the authority. Five ~~Three~~  
182 members of the authority ~~shall~~ constitute a quorum, and the vote  
183 of five ~~three~~ members is ~~shall be~~ necessary for any action taken  
184 by the authority. A ~~No~~ vacancy in the authority does not ~~shall~~  
185 impair the right of a quorum of the authority to exercise all of  
186 the rights and perform all of the duties of the authority.



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187 (b) Upon the effective date of his or her appointment, or  
188 as soon thereafter as practicable, each appointed member of the  
189 authority shall enter upon his or her duties.

190 ~~(5)~~<sup>(4)</sup>(a) The authority may employ an executive secretary,  
191 an executive director, its own counsel and legal staff,  
192 technical experts, and the ~~such~~ engineers, ~~and such~~ employees  
193 ~~that, permanent or temporary,~~ as it requires. The authority ~~may~~  
194 ~~require and~~ may determine the qualifications and fix the  
195 compensation of such persons, firms, or corporations, and may  
196 employ a fiscal agent or agents; ~~provided,~~ however, ~~that~~ the  
197 authority shall solicit sealed proposals from at least three  
198 persons, firms, or corporations for the performance of any  
199 services as fiscal agents. The authority may delegate to one or  
200 more of its agents or employees the ~~such of its~~ power as it  
201 deems ~~shall deem~~ necessary to carry out the purposes of this  
202 part, ~~subject always to the supervision and control of the~~  
203 ~~authority~~. Members of the authority may be removed from ~~their~~  
204 office by the Governor for misconduct, malfeasance, misfeasance,  
205 or nonfeasance in office.

206 (b) Members of the authority are ~~shall be~~ entitled to  
207 receive from the authority their travel and other necessary  
208 expenses incurred in connection with the business of the  
209 authority as provided in s. 112.061, but may not ~~they shall~~ draw  
210 ~~no~~ salaries or other compensation.

211 Section 4. Section 348.754, Florida Statutes, is amended to  
212 read:

213 348.754 Purposes and powers.—

214 (1) (a) The authority created and established under ~~by the~~  
215 ~~provisions of~~ this part is ~~hereby~~ granted and has ~~shall have~~ the



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216 right to acquire, hold, construct, improve, maintain, operate,  
217 own, and lease in the capacity of lessor, the Central Florida  
218 ~~Orlando-Orange County~~ Expressway System, hereinafter referred to  
219 as "system." Except as otherwise specifically provided by law,  
220 including paragraph (2) (n), the area served by the authority  
221 shall be within the geographical boundaries of Orange, Seminole,  
222 Lake, and Osceola Counties.

223 (b) ~~It is the express intention of this part that said~~  
224 ~~authority,~~ In the construction of the Central Florida said  
225 ~~Orlando-Orange County~~ Expressway System, the authority may shall  
226 ~~be authorized to~~ construct any extensions, additions, or  
227 improvements to the said system or appurtenant facilities,  
228 including all necessary approaches, roads, bridges, ~~and~~ avenues  
229 of access, rapid transit, trams, fixed guideways, thoroughfares,  
230 and boulevards with any such changes, modifications, or  
231 revisions of the said project which are ~~as shall be~~ deemed  
232 desirable and proper.

233 (c) Notwithstanding any other provision of this part to the  
234 contrary, to ensure the continued financial feasibility of the  
235 portion of the Wekiva Parkway to be constructed by the  
236 department, the authority shall not, without the prior consent  
237 of the Secretary of the department, construct any extensions,  
238 additions, or improvements to the expressway system in Lake  
239 County.

240 (2) The authority ~~is hereby granted, and shall have and may~~  
241 exercise all powers necessary, appurtenant, convenient, or  
242 incidental to the implementation ~~carrying out~~ of the stated  
243 ~~aforsaid~~ purposes, including, but not ~~without being~~ limited to,  
244 the following rights and powers:



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245 (a) To sue and be sued, implead and be impleaded, complain  
246 and defend in all courts.

247 (b) To adopt, use, and alter at will a corporate seal.

248 (c) To acquire by donation or otherwise, purchase, hold,  
249 lease as lessee, and use any franchise or any, property, real,  
250 personal, ~~or~~ mixed, or tangible or intangible, or any options  
251 ~~thereof~~ in its own name or in conjunction with others, or  
252 interest in those options therein, necessary or desirable to  
253 carry for carrying out the purposes of the authority, and to  
254 sell, lease as lessor, transfer, and dispose of any property or  
255 interest in the property therein at any time acquired by it.

256 (d) To enter into and make leases for terms not exceeding  
257 40 years, as ~~either~~ lessee or lessor, in order to carry out the  
258 right to lease as specified set forth in this part.

259 (e) To enter into and make lease-purchase agreements with  
260 the department for terms not exceeding 40 years, or until any  
261 bonds secured by a pledge of rentals pursuant to the agreement  
262 ~~thereunder~~, and any refundings pursuant to the agreement  
263 ~~thereof~~, are fully paid as to both principal and interest,  
264 whichever is longer.

265  
266 The authority is a party to a lease-purchase agreement between  
267 the department and the authority dated December 23, 1985, as  
268 supplemented by a first supplement to the lease-purchase  
269 agreement dated November 25, 1986, and a second supplement to  
270 the lease-purchase agreement dated October 27, 1988. The  
271 authority may not enter into other lease-purchase agreements  
272 with the department and may not amend the existing agreement in  
273 a manner that expands or increases the department's obligations,



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274 unless the department determines that the agreement or amendment  
275 is necessary to permit the refunding of bonds issued before July  
276 1, 2012.

277 (f) To fix, alter, charge, establish, and collect rates,  
278 fees, rentals, and other charges for the services and facilities  
279 of the Central Florida Orlando-Orange County Expressway System,  
280 which must rates, fees, rentals and other charges shall always  
281 be sufficient to comply with any covenants made with the holders  
282 of any bonds issued pursuant to this part; provided, however,  
283 that such right and power may be assigned or delegated, by the  
284 authority, to the department.

285  
286 No toll revenues attributable to an increase in the toll rates  
287 charged on or after July 1, 2014, for the use of a facility or  
288 portion of a facility may be used to construct or expand a  
289 different facility, unless the county commission in which the  
290 facility generating the revenue is located adopts a resolution  
291 supporting the toll rate increase. This requirement does not  
292 apply when, and to the extent that:

293 (a) application of the requirement would violate any  
294 covenant established in a resolution or trust indenture under  
295 which bonds were issued by the Orlando-Orange County Expressway  
296 Authority on or before July 1, 2014;

297 (b) application of the requirement would cause the  
298 authority to be unable to meet its obligations under the terms  
299 of the memorandum of understanding between the authority and the  
300 department as ratified by the Orlando-Orange County Expressway  
301 Authority board on February 22, 2012.

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303 Notwithstanding s. 338.165, and except as otherwise prohibited  
304 by this part, to the extent revenues of the expressway system  
305 exceed amounts required to comply with any covenants made with  
306 the holders of bonds issued pursuant to this part, revenues may  
307 be used for purposes enumerated in subsection (6), provided the  
308 expenditures are consistent with the metropolitan planning  
309 organization's adopted long-range plan.

310 (g) To borrow money, make and issue negotiable notes,  
311 bonds, refunding bonds, and other evidences of indebtedness or  
312 obligations, either in temporary or definitive form, ~~hereinafter~~  
313 ~~in this chapter sometimes called "bonds" of the authority,~~ for  
314 the purpose of financing all or part of the improvement or  
315 extension of the Central Florida Orlando-Orange County  
316 Expressway System, and appurtenant facilities, including all  
317 approaches, streets, roads, bridges, and avenues of access for  
318 the Central Florida ~~said Orlando-Orange County~~ Expressway System  
319 and for any other purpose authorized by this part, ~~said bonds to~~  
320 ~~mature in not exceeding 40 years from the date of the issuance~~  
321 ~~thereof,~~ and to secure the payment of such bonds or any part  
322 thereof by a pledge of any or all of its revenues, rates, fees,  
323 rentals, or other charges, including all or any portion of the  
324 Orange County gasoline tax funds received by the authority  
325 pursuant to ~~the terms of~~ any lease-purchase agreement between  
326 the authority and the department; and in general to provide for  
327 the security of the ~~said~~ bonds and the rights and remedies of  
328 the holders thereof. ~~Provided,~~ However, ~~that~~ no portion of the  
329 Orange County gasoline tax funds may ~~shall~~ be pledged for the  
330 construction of any project for which a toll is to be charged  
331 unless the anticipated toll is ~~tolls are~~ reasonably estimated by



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332 the board of county commissioners, at the date of its resolution  
333 pledging the said funds, to be sufficient to cover the principal  
334 and interest of such obligations during the period when the said  
335 pledge of funds is shall be in effect. The bonds issued under  
336 this paragraph must mature not more than 40 years after their  
337 issue date.

338 1. The authority shall reimburse Orange County for any sums  
339 expended from the said gasoline tax funds used for the payment  
340 of such obligations. Any gasoline tax funds so disbursed must  
341 ~~shall~~ be repaid when the authority deems it practicable,  
342 together with interest at the highest rate applicable to any  
343 obligations of the authority.

344 2. If, pursuant to this section, ~~In the event~~ the authority  
345 funds shall determine to fund or refunds refund any bonds  
346 previously theretofore issued by the said authority, ~~or the by~~  
347 ~~said~~ commission before the bonds mature as aforesaid prior to  
348 ~~the maturity thereof,~~ the proceeds of such funding or refunding  
349 must bonds shall, pending the prior redemption of these the  
350 bonds ~~to be funded or refunded,~~ be invested in direct  
351 obligations of the United States, ~~and it is the express~~  
352 ~~intention of this part that such outstanding bonds may be funded~~  
353 ~~or refunded by the issuance of bonds pursuant to this part.~~

354 (h) To make contracts ~~of every name and nature,~~ including,  
355 but not limited to, partnerships providing for participation in  
356 ownership and revenues, and to execute all instruments necessary  
357 or convenient for conducting the carrying on of its business.

358 (i) Notwithstanding paragraphs (a)-(h), ~~Without limitation~~  
359 ~~of the foregoing,~~ to borrow money and accept grants from, and to  
360 enter into contracts, leases, or other transactions with any



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361 federal agency, the state, any agency of the state, the County  
362 of Orange, the City of Orlando, or with any other public body of  
363 the state.

364 (j) To have the power of eminent domain, including the  
365 procedural powers granted under both chapters 73 and 74.

366 (k) To pledge, hypothecate, or otherwise encumber ~~all or~~  
367 any part of the revenues, rates, fees, rentals, or other charges  
368 or receipts of the authority, including all or any portion of  
369 the Orange County gasoline tax funds received by the authority  
370 pursuant to the terms of any lease-purchase agreement between  
371 the authority and the department, as security for ~~all or~~ any of  
372 the obligations of the authority.

373 (l) To enter into partnership and other agreements  
374 respecting ownership and revenue participation in order to  
375 facilitate financing and constructing the Western Beltway, or  
376 portions thereof.

377 (m) To do everything ~~all acts and things~~ necessary or  
378 convenient for the conduct of its business and the general  
379 welfare of the authority, in order to comply with ~~carry out the~~  
380 ~~powers granted to it by~~ this part or any other law.

381 (n) With the consent of the county within whose  
382 jurisdiction the following activities occur, the authority shall  
383 have the right to construct, operate, and maintain roads,  
384 bridges, avenues of access, thoroughfares, and boulevards  
385 outside the jurisdictional boundaries of Orange, Seminole, Lake,  
386 and Osceola Counties ~~County~~, together with the right to  
387 construct, repair, replace, operate, install, and maintain  
388 electronic toll payment systems thereon, ~~with all necessary and~~  
389 ~~incidental powers to accomplish the foregoing.~~



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390           (3) The authority does not ~~shall~~ have the ~~no~~ power at ~~any~~  
391 ~~time or in any manner~~ to pledge the credit or taxing power of  
392 the state or any political subdivision or agency thereof,  
393 including any city and any county ~~the City of Orlando and the~~  
394 ~~County of Orange,~~ nor may ~~nor shall~~ any of the authority's  
395 obligations be deemed to be obligations of the state or of any  
396 political subdivision or agency thereof, nor may ~~nor shall~~ the  
397 state or any political subdivision or agency thereof, except the  
398 authority, be liable for the payment of the principal of or  
399 interest on such obligations.

400           ~~(4) Anything in this part to the contrary notwithstanding,~~  
401 ~~acquisition of right-of-way for a project of the authority which~~  
402 ~~is within the boundaries of any municipality in Orange County~~  
403 ~~shall not be begun unless and until the route of said project~~  
404 ~~within said municipality has been given prior approval by the~~  
405 ~~governing body of said municipality.~~

406           (4)(5) The authority has ~~shall~~ have no power other than by  
407 consent of an affected ~~Orange~~ county or any affected city, to  
408 enter into any agreement which would legally prohibit the  
409 construction of a any road by the respective county or city  
410 ~~Orange County or by any city within Orange County.~~

411           (5)(6)(a) The authority shall encourage the inclusion of  
412 local-, small-, minority-, and women-owned businesses in its  
413 procurement and contracting opportunities. ~~Notwithstanding s.~~  
414 ~~255.05, the Orlando Orange County Expressway Authority may waive~~  
415 ~~payment and performance bonds on construction contracts for the~~  
416 ~~construction of a public building, for the prosecution and~~  
417 ~~completion of a public work, or for repairs on a public building~~  
418 ~~or public work that has a cost of \$500,000 or less and when the~~



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419 ~~project is awarded pursuant to an economic development program~~  
420 ~~for the encouragement of local small businesses that has been~~  
421 ~~adopted by the governing body of the Orlando-Orange County~~  
422 ~~Expressway Authority pursuant to a resolution or policy.~~

423 ~~(b) The authority's adopted criteria for participation in~~  
424 ~~the economic development program for local small businesses~~  
425 ~~requires that a participant:~~

426 ~~1. Be an independent business.~~

427 ~~2. Be principally domiciled in the Orange County Standard~~  
428 ~~Metropolitan Statistical Area.~~

429 ~~3. Employ 25 or fewer full-time employees.~~

430 ~~4. Have gross annual sales averaging \$3 million or less~~  
431 ~~over the immediately preceding 3 calendar years with regard to~~  
432 ~~any construction element of the program.~~

433 ~~5. Be accepted as a participant in the Orlando-Orange~~  
434 ~~County Expressway Authority's microcontracts program or such~~  
435 ~~other small business program as may be hereinafter enacted by~~  
436 ~~the Orlando-Orange County Expressway Authority.~~

437 ~~6. Participate in an educational curriculum or technical~~  
438 ~~assistance program for business development that will assist the~~  
439 ~~small business in becoming eligible for bonding.~~

440 ~~(c) The authority's adopted procedures for waiving payment~~  
441 ~~and performance bonds on projects with values not less than~~  
442 ~~\$200,000 and not exceeding \$500,000 shall provide that payment~~  
443 ~~and performance bonds may only be waived on projects that have~~  
444 ~~been set aside to be competitively bid on by participants in an~~  
445 ~~economic development program for local small businesses. The~~  
446 ~~authority's executive director or his or her designee shall~~  
447 ~~determine whether specific construction projects are suitable~~



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448 ~~for:~~

449 ~~1. Bidding under the authority's microcontracts program by~~  
450 ~~registered local small businesses; and~~

451 ~~2. Waiver of the payment and performance bond.~~

452

453 ~~The decision of the authority's executive director or deputy~~  
454 ~~executive director to waive the payment and performance bond~~  
455 ~~shall be based upon his or her investigation and conclusion that~~  
456 ~~there exists sufficient competition so that the authority~~  
457 ~~receives a fair price and does not undertake any unusual risk~~  
458 ~~with respect to such project.~~

459 ~~(d) For any contract for which a payment and performance~~  
460 ~~bond has been waived pursuant to the authority set forth in this~~  
461 ~~section, the Orlando-Orange County Expressway Authority shall~~  
462 ~~pay all persons defined in s. 713.01 who furnish labor,~~  
463 ~~services, or materials for the prosecution of the work provided~~  
464 ~~for in the contract to the same extent and upon the same~~  
465 ~~conditions that a surety on the payment bond under s. 255.05~~  
466 ~~would have been obligated to pay such persons if the payment and~~  
467 ~~performance bond had not been waived. The authority shall record~~  
468 ~~notice of this obligation in the manner and location that surety~~  
469 ~~bonds are recorded. The notice shall include the information~~  
470 ~~describing the contract that s. 255.05(1) requires be stated on~~  
471 ~~the front page of the bond. Notwithstanding that s. 255.05(9)~~  
472 ~~generally applies when a performance and payment bond is~~  
473 ~~required, s. 255.05(9) shall apply under this subsection to any~~  
474 ~~contract on which performance or payment bonds are waived and~~  
475 ~~any claim to payment under this subsection shall be treated as a~~  
476 ~~contract claim pursuant to s. 255.05(9).~~



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477 ~~(e) A small business that has been the successful bidder on~~  
478 ~~six projects for which the payment and performance bond was~~  
479 ~~waived by the authority pursuant to paragraph (a) shall be~~  
480 ~~ineligible to bid on additional projects for which the payment~~  
481 ~~and performance bond is to be waived. The local small business~~  
482 ~~may continue to participate in other elements of the economic~~  
483 ~~development program for local small businesses as long as it is~~  
484 ~~eligible.~~

485 ~~(f) The authority shall conduct bond eligibility training~~  
486 ~~for businesses qualifying for bond waiver under this subsection~~  
487 ~~to encourage and promote bond eligibility for such businesses.~~

488 ~~(g) The authority shall prepare a biennial report on the~~  
489 ~~activities undertaken pursuant to this subsection to be~~  
490 ~~submitted to the Orange County legislative delegation. The~~  
491 ~~initial report shall be due December 31, 2010.~~

492 (6) The authority may, within the right-of-way of the  
493 expressway system, finance or refinance the planning, design,  
494 acquisition, construction, extension, rehabilitation, equipping,  
495 preservation, maintenance, or improvement of an intermodal  
496 facility or facilities, a multimodal corridor or corridors, or  
497 any programs or projects that will improve the levels of service  
498 on the expressway system.

499 Section 5. Section 348.7543, Florida Statutes, is amended  
500 to read:

501 348.7543 Improvements, bond financing authority for.-  
502 Pursuant to s. 11(f), Art. VII of the State Constitution, the  
503 Legislature hereby approves for bond financing by the Central  
504 Florida Orlando-Orange County Expressway Authority improvements  
505 to toll collection facilities, interchanges to the legislatively



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506 approved expressway system, and any other facility appurtenant,  
507 necessary, or incidental to the approved system. Subject to  
508 terms and conditions of applicable revenue bond resolutions and  
509 covenants, such costs may be financed in whole or in part by  
510 revenue bonds issued pursuant to s. 348.755(1)(a) or (b) whether  
511 currently issued or issued in the future, or by a combination of  
512 such bonds.

513 Section 6. Section 348.7544, Florida Statutes, is amended  
514 to read:

515 348.7544 Northwest Beltway Part A, construction authorized;  
516 financing.—Notwithstanding s. 338.2275, the Central Florida  
517 ~~Orlando-Orange County~~ Expressway Authority may ~~is hereby~~  
518 ~~authorized to~~ construct, finance, operate, own, and maintain  
519 that portion of the Western Beltway known as the Northwest  
520 Beltway Part A, extending from Florida's Turnpike near Ocoee  
521 north to U.S. 441 near Apopka, as part of the authority's 20-  
522 year capital projects plan. This project may be financed with  
523 any funds available to the authority for such purpose or revenue  
524 bonds issued by the Division of Bond Finance of the State Board  
525 of Administration on behalf of the authority pursuant to s. 11,  
526 Art. VII of the State Constitution and the State Bond Act, ss.  
527 215.57-215.83.

528 Section 7. Section 348.7545, Florida Statutes, is amended  
529 to read:

530 348.7545 Western Beltway Part C, construction authorized;  
531 financing.—Notwithstanding s. 338.2275, the Central Florida  
532 ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~  
533 exercise its condemnation powers, construct, finance, operate,  
534 own, and maintain that portion of the Western Beltway known as



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535 the Western Beltway Part C, extending from Florida's Turnpike  
536 near Ocoee in Orange County southerly through Orange and Osceola  
537 Counties to an interchange with I-4 near the Osceola-Polk County  
538 line, as part of the authority's 20-year capital projects plan.  
539 This project may be financed with any funds available to the  
540 authority for such purpose or revenue bonds issued by the  
541 Division of Bond Finance of the State Board of Administration on  
542 behalf of the authority pursuant to s. 11, Art. VII of the State  
543 Constitution and the State Bond Act, ss. 215.57-215.83. This  
544 project may be refinanced with bonds issued by the authority  
545 pursuant to s. 348.755(1)(d).

546 Section 8. Section 348.7546, Florida Statutes, is amended  
547 to read:

548 348.7546 Wekiva Parkway, construction authorized;  
549 financing.—

550 (1) The Central Florida ~~Orlando-Orange County~~ Expressway  
551 Authority may ~~is authorized to~~ exercise its condemnation powers  
552 and ~~to~~ construct, finance, operate, own, and maintain those  
553 portions of the Wekiva Parkway which are identified by agreement  
554 between the authority and the department and which are included  
555 as part of the authority's long-range capital improvement plan.  
556 The "Wekiva Parkway" means any limited access highway or  
557 expressway constructed between State Road 429 and Interstate 4  
558 specifically incorporating the corridor alignment recommended by  
559 Recommendation 2 of the Wekiva River Basin Area Task Force final  
560 report dated January 15, 2003, and the recommendations of the SR  
561 429 Working Group, which were adopted January 16, 2004. This  
562 project may be financed with any funds available to the  
563 authority for such purpose or revenue bonds issued by the



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564 authority under s. 11, Art. VII of the State Constitution and s.  
565 348.755(1) (b). This section does not invalidate the exercise by  
566 the authority of its condemnation powers or the acquisition of  
567 any property for the Wekiva Parkway before July 1, 2012.

568 (2) Notwithstanding any other provision of law ~~to the~~  
569 ~~contrary~~, in order to ensure that funds are available to the  
570 department for its portion of the Wekiva Parkway, beginning July  
571 1, 2012, the authority shall repay the expenditures by the  
572 department for costs of operation and maintenance of the Central  
573 Florida Orlando-Orange County Expressway System in accordance  
574 with the terms of the memorandum of understanding between the  
575 authority and the department as ratified by the authority board  
576 on February 22, 2012, which requires the authority to pay the  
577 department \$10 million on July 1, 2012, and \$20 million on each  
578 successive July 1 until the department has been fully reimbursed  
579 for all costs of the Central Florida Orlando-Orange County  
580 Expressway System which were paid, advanced, or reimbursed to  
581 the authority by the department, with a final payment in the  
582 amount of the balance remaining. Notwithstanding any other law  
583 ~~to the contrary~~, the funds paid to the department pursuant to  
584 this subsection must ~~shall~~ be allocated by the department for  
585 construction of the Wekiva Parkway.

586 (3) The department's obligation to construct its portions  
587 of the Wekiva Parkway is contingent upon the timely payment by  
588 the authority of the annual payments required of the authority  
589 and receipt of all required environmental permits and approvals  
590 by the Federal Government.

591 Section 9. Section 348.7547, Florida Statutes, is amended  
592 to read:



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593           348.7547 Maitland Boulevard Extension and Northwest Beltway  
594 Part A Realignment construction authorized; financing.—  
595 Notwithstanding s. 338.2275, the Central Florida Orlando-Orange  
596 County Expressway Authority may ~~is hereby authorized to~~ exercise  
597 its condemnation powers, construct, finance, operate, own, and  
598 maintain the portion of State Road 414 known as the Maitland  
599 Boulevard Extension and the realigned portion of the Northwest  
600 Beltway Part A as part of the authority's long-range capital  
601 improvement plan. The Maitland Boulevard Extension extends ~~will~~  
602 ~~extend~~ from the current terminus of State Road 414 at U.S. 441  
603 west to State Road 429 in west Orange County. The realigned  
604 portion of the Northwest Beltway Part A runs ~~will run~~ from the  
605 point at or near where the Maitland Boulevard Extension connects  
606 ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to  
607 the west and then north resulting in the northern terminus of  
608 State Road 429 moving farther west before reconnecting with U.S.  
609 441. However, under no circumstances may ~~shall~~ the realignment  
610 of the Northwest Beltway Part A conflict with or contradict ~~with~~  
611 the alignment of the Wekiva Parkway as defined in s. 348.7546.  
612 This project may be financed with any funds available to the  
613 authority for such purpose or revenue bonds issued by the  
614 authority under s. 11, Art. VII of the State Constitution and s.  
615 348.755(1)(b).

616           Section 10. Subsections (2) and (3) of section 348.755,  
617 Florida Statutes, are amended to read:

618           348.755 Bonds of the authority.—

619           (2) Any ~~such~~ resolution that authorizes ~~or resolutions~~  
620 ~~authorizing~~ any bonds issued under this section ~~hereunder~~ may  
621 contain provisions that must ~~which shall~~ be part of the contract



622 with the holders of such bonds, relating as to:

623 (a) The pledging of ~~all or~~ any part of the revenues, rates,  
624 fees, rentals, ~~(including all or~~ any portion of the Orange  
625 County gasoline tax funds received by the authority pursuant to  
626 the terms of any lease-purchase agreement between the authority  
627 and the department, or any part thereof), or other charges or  
628 receipts of the authority, derived by the authority, from the  
629 Central Florida Orlando-Orange County Expressway System.

630 (b) The completion, improvement, operation, extension,  
631 maintenance, repair, lease or lease-purchase agreement of the  
632 ~~said~~ system, and the duties of the authority and others,  
633 including the department, ~~with reference thereto~~.

634 (c) Limitations on the purposes to which the proceeds of  
635 the bonds, then or thereafter to be issued, or of any loan or  
636 grant by the United States or the state may be applied.

637 (d) The fixing, charging, establishing, and collecting of  
638 rates, fees, rentals, or other charges for use of the services  
639 and facilities of the Central Florida Orlando-Orange County  
640 Expressway System or any part thereof.

641 (e) The setting aside of reserves or sinking funds or  
642 repair and replacement funds and the regulation and disposition  
643 thereof.

644 (f) Limitations on the issuance of additional bonds.

645 (g) The terms and provisions of any lease-purchase  
646 agreement, deed of trust or indenture securing the bonds, or  
647 under which the same may be issued.

648 (h) Any other or additional agreements with the holders of  
649 the bonds which the authority may deem desirable and proper.

650 (3) The authority may employ fiscal agents as provided by



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651 this part or the State Board of Administration of Florida may  
652 upon request of the authority act as fiscal agent for the  
653 authority in the issuance of any bonds that ~~which~~ may be issued  
654 pursuant to this part, and the State Board of Administration may  
655 upon request of the authority take over the management, control,  
656 administration, custody, and payment of any ~~or all~~ debt services  
657 or funds or assets now or hereafter available for any bonds  
658 issued pursuant to this part. The authority may enter into any  
659 deeds of trust, indentures or other agreements with its fiscal  
660 agent, or with any bank or trust company within or without the  
661 state, as security for such bonds, and may, under such  
662 agreements, sign and pledge ~~all or~~ any of the revenues, rates,  
663 fees, rentals or other charges or receipts of the authority,  
664 including ~~all or~~ any portion of the Orange County gasoline tax  
665 funds received by the authority pursuant to the terms of any  
666 lease-purchase agreement between the authority and the  
667 department, ~~thereunder~~. Such deed of trust, indenture, or other  
668 agreement may contain such provisions as are customary in such  
669 instruments, or, as the authority may authorize, including but  
670 without limitation, provisions as to:

671 (a) The completion, improvement, operation, extension,  
672 maintenance, repair, and lease of, or lease-purchase agreement  
673 relating to the Central Florida ~~Orlando-Orange County~~ Expressway  
674 System, and the duties of the authority and others including the  
675 department, with reference thereto.

676 (b) The application of funds and the safeguarding of funds  
677 on hand or on deposit.

678 (c) The rights and remedies of the trustee and the holders  
679 of the bonds.



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680 (d) The terms and provisions of the bonds or the  
681 resolutions authorizing the issuance of same.

682 Section 11. Subsections (3) and (4) of section 348.756,  
683 Florida Statutes, are amended to read:

684 348.756 Remedies of the bondholders.—

685 (3) When a ~~Any~~ trustee is ~~when~~ appointed pursuant to  
686 subsection (1) as aforesaid, or is acting under a deed of trust,  
687 indenture, or other agreement, and whether or not all bonds have  
688 been declared due and payable, the trustee is ~~shall be~~ entitled  
689 ~~as of right~~ to the appointment of a receiver, who may enter upon  
690 and take possession of the Central Florida ~~Orlando-Orange County~~  
691 Expressway System or the facilities or any part of the system or  
692 facilities ~~or parts thereof~~, the rates, fees, rentals, or other  
693 revenues, charges, or receipts that ~~from which~~ are, or may be,  
694 applicable to the payment of the bonds so in default, and  
695 subject to and in compliance with the provisions of any lease-  
696 purchase agreement between the authority and the department  
697 operate and maintain the same, for and on behalf of and in the  
698 name of, the authority, the department, and the bondholders, and  
699 collect and receive all rates, fees, rentals, and other charges  
700 or receipts or revenues arising therefrom in the same manner as  
701 the authority or the department might do, and shall deposit all  
702 such moneys in a separate account and apply the same in such  
703 manner as the court directs ~~shall direct~~. In any suit, action,  
704 or proceeding by the trustee, the fees, counsel fees, and  
705 expenses of the trustee, and the ~~said~~ receiver, if any, and all  
706 costs and disbursements allowed by the court must ~~shall~~ be a  
707 first charge on any rates, fees, rentals, or other charges,  
708 revenues, or receipts, derived from the Central Florida ~~Orlando-~~



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709 ~~Orange County~~ Expressway System, or the facilities or services  
710 or any part of the system or facilities ~~or parts thereof~~,  
711 including payments under any such lease-purchase agreement ~~as~~  
712 ~~aforsaid~~ which ~~said~~ rates, fees, rentals, or other charges,  
713 revenues, or receipts ~~shall or~~ may be applicable to the payment  
714 of the bonds that are ~~se~~ in default. The ~~Such~~ trustee has ~~shall~~,  
715 ~~in addition to the foregoing, have and possess~~ all of the powers  
716 necessary or appropriate for the exercise of any functions  
717 specifically set forth in this section ~~herein~~ or incident to the  
718 representation of the bondholders in the enforcement and  
719 protection of their rights.

720 (4) ~~Nothing in~~ This section or any other section of this  
721 part does not ~~shall~~ authorize any receiver appointed pursuant  
722 ~~hereto~~ for the purpose, subject to and in compliance with the  
723 provisions of any lease-purchase agreement between the authority  
724 and the department, of operating and maintaining the Central  
725 Florida Orlando-Orange County Expressway System or any  
726 facilities or part of the system or facilities ~~or parts thereof~~,  
727 to sell, assign, mortgage, or otherwise dispose of any of the  
728 assets of whatever kind and character belonging to the  
729 authority. ~~It is the intention of this part to limit~~ The powers  
730 of the ~~such~~ receiver, subject to and in compliance with the  
731 provisions of any lease-purchase agreement between the authority  
732 and the department, are limited to the operation and maintenance  
733 of the Central Florida Orlando-Orange County Expressway System,  
734 or any facility, or part ~~or parts~~ thereof, as the court may  
735 direct, in the name and for and on behalf of the authority, the  
736 department, and the bondholders, and no holder of bonds on the  
737 authority nor any trustee, has ~~shall ever have~~ the right in any



738 suit, action, or proceeding at law or in equity, to compel a  
739 receiver, nor may ~~shall~~ any receiver be authorized or any court  
740 be empowered to direct the receiver to sell, assign, mortgage,  
741 or otherwise dispose of any assets ~~of whatever kind or character~~  
742 belonging to the authority.

743 Section 12. Subsections (1), (2), (3), and (4) of section  
744 348.757, Florida Statutes, are amended to read:

745 (1) In order to effectuate the purposes of this part and as  
746 authorized by this part, the authority may enter into a lease-  
747 purchase agreement with the department relating to and covering  
748 the former Orlando-Orange County Expressway System.

749 (2) Such lease-purchase agreement shall provide for the  
750 leasing of the former Orlando-Orange County Expressway System,  
751 by the authority, as lessor, to the department, as lessee, shall  
752 prescribe the term of such lease and the rentals to be paid  
753 thereunder and shall provide that upon the completion of the  
754 faithful performance thereunder and the termination of such  
755 lease-purchase agreement, title in fee simple absolute to the  
756 former Orlando-Orange County Expressway System as then  
757 constituted shall be transferred in accordance with law by the  
758 authority, to the state and the authority shall deliver to the  
759 department such deeds and conveyances as shall be necessary or  
760 convenient to vest title in fee simple absolute in the state.

761 (3) Such lease-purchase agreement may include such other  
762 provisions, agreements and covenants as the authority and the  
763 department deem advisable or required, including, but not  
764 limited to, provisions as to the bonds to be issued under, and  
765 for the purposes of, this part, the completion, extension,  
766 improvement, operation and maintenance of the former Orlando-



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767 Orange County Expressway System and the expenses and the cost of  
768 operation of said authority, the charging and collection of  
769 tolls, rates, fees, and other charges for the use of the  
770 services and facilities thereof, the application of federal or  
771 state grants or aid which may be made or given to assist the  
772 authority in the completion, extension, improvement, operation  
773 and maintenance of the former Orlando-Orange County Expressway  
774 System, which the authority is hereby authorized to accept and  
775 apply to such purposes, the enforcement of payment and  
776 collection of rentals and any other terms, provisions or  
777 covenants necessary, incidental or appurtenant to the making of  
778 and full performance under such lease-purchase agreement.

779 (4) The department as lessee under such lease-purchase  
780 agreement, is hereby authorized to pay as rentals thereunder any  
781 rates, fees, charges, funds, moneys, receipts or income accruing  
782 to the department from the operation of the former Orlando-  
783 Orange County Expressway System and the Orange County gasoline  
784 tax funds and may also pay as rentals any appropriations  
785 received by the department pursuant to any act of the  
786 Legislature of the state heretofore or hereafter enacted;  
787 provided, however, that nothing herein nor in such lease-  
788 purchase agreement is intended to nor shall this part or such  
789 lease-purchase agreement require the making or continuance of  
790 such appropriations, nor shall any holder of bonds issued  
791 pursuant to this part ever have any right to compel the making  
792 or continuance of such appropriations.

793 Section 13. Section 348.758, Florida Statutes, is amended  
794 to read:

795 348.758 Appointment of department as ~~may be appointed~~ agent



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796 of authority for construction.—The department may be appointed  
797 by the ~~said~~ authority as its agent for the purpose of  
798 constructing improvements and extensions to the Central Florida  
799 ~~Orlando-Orange County~~ Expressway System and for its ~~the~~  
800 completion ~~thereof~~. In such event, the authority shall provide  
801 the department with complete copies of all documents,  
802 agreements, resolutions, contracts, and instruments relating  
803 thereto and shall request the department to do such construction  
804 work, including the planning, surveying, and actual construction  
805 of the completion, extensions, and improvements to the Central  
806 Florida ~~Orlando-Orange County~~ Expressway System and shall  
807 transfer to the credit of an account of the department in the  
808 State Treasury ~~of the state~~ the necessary funds, ~~therefor~~ and  
809 the department ~~may shall thereupon be authorized, empowered and~~  
810 ~~directed to~~ proceed with such construction and ~~to~~ use the ~~said~~  
811 funds for such purpose in the same manner that it is ~~now~~  
812 authorized to use the funds ~~otherwise provided by law~~ for the  
813 ~~its use in~~ construction of roads and bridges.

814 Section 14. Section 348.759, Florida Statutes, is amended  
815 to read:

816 348.759 Acquisition of lands and property.—

817 (1) For the purposes of this part, the Central Florida  
818 ~~Orlando-Orange County~~ Expressway Authority may acquire private  
819 or public property and property rights, including rights of  
820 access, air, view, and light, by gift, devise, purchase, or  
821 condemnation by eminent domain proceedings, as the authority  
822 deems ~~may deem~~ necessary for any of the purposes of this part,  
823 including, but not limited to, any lands reasonably necessary  
824 for securing applicable permits, areas necessary for management



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825 of access, borrow pits, drainage ditches, water retention areas,  
826 rest areas, replacement access for landowners whose access is  
827 impaired due to the construction of a facility, and replacement  
828 rights-of-way for relocated rail and utility facilities; for  
829 existing, proposed, or anticipated transportation facilities on  
830 the Central Florida ~~Orlando-Orange County~~ Expressway System or  
831 in a transportation corridor designated by the authority; or for  
832 the purposes of screening, relocation, removal, or disposal of  
833 junkyards and scrap metal processing facilities. The authority  
834 may ~~shall also have the power to~~ condemn any material and  
835 property necessary for such purposes.

836 (2) The ~~right of eminent domain herein conferred shall be~~  
837 ~~exercised by the~~ authority shall exercise the right of eminent  
838 domain in the manner provided by law.

839 (3) When the authority acquires property for a  
840 transportation facility or in a transportation corridor, it is  
841 not subject to any liability imposed by chapter 376 or chapter  
842 403 for preexisting soil or groundwater contamination due solely  
843 to its ownership. This section does not affect the rights or  
844 liabilities of any past or future owners of the acquired  
845 property and ~~nor~~ does not ~~it~~ affect the liability of any  
846 governmental entity for the results of its actions which create  
847 or exacerbate a pollution source. The authority and the  
848 Department of Environmental Protection may enter into  
849 interagency agreements for the performance, funding, and  
850 reimbursement of the investigative and remedial acts necessary  
851 for property acquired by the authority.

852 Section 15. Section 348.760, Florida Statutes, is amended  
853 to read:



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854           348.760 Cooperation with other units, boards, agencies, and  
855 individuals. ~~A Express authority and power is hereby given and~~  
856 ~~granted any county, municipality, drainage district, road and~~  
857 ~~bridge district, school district or any other political~~  
858 ~~subdivision, board, commission, or individual in, or of, the~~  
859 ~~state may to make and enter into with the authority, contracts,~~  
860 ~~leases, conveyances, partnerships, or other agreements pursuant~~  
861 ~~to within the provisions and purposes of this part. The~~  
862 ~~authority may is hereby expressly authorized to make and enter~~  
863 ~~into contracts, leases, conveyances, partnerships, and other~~  
864 ~~agreements with any political subdivision, agency, or~~  
865 ~~instrumentality of the state and any and all federal agencies,~~  
866 ~~corporations, and individuals, for the purpose of carrying out~~  
867 ~~the provisions of this part or with the consent of the Seminole~~  
868 ~~County Expressway Authority, for the purpose of carrying out and~~  
869 ~~implementing part VIII of this chapter.~~

870           Section 16. Section 348.761, Florida Statutes, is amended  
871 to read:

872           348.761 Covenant of the state.—The state pledges ~~does~~  
873 ~~hereby pledge~~ to, and agrees, with any person, firm or  
874 corporation, or federal or state agency subscribing to, or  
875 acquiring the bonds to be issued by the authority for the  
876 purposes of this part that the state will not limit or alter the  
877 rights that are hereby vested in the authority and the  
878 department until all issued bonds and interest ~~at any time~~  
879 ~~issued, together with the interest thereon,~~ are fully paid and  
880 discharged insofar as the pledge ~~same~~ affects the rights of the  
881 holders of bonds issued pursuant to this part ~~hereunder~~. The  
882 state does further pledge to, and agree, with the United States



883 that in the event any federal agency constructs or contributes  
884 ~~shall construct or contribute~~ any funds for the completion,  
885 extension, or improvement of the Central Florida Orlando-Orange  
886 County Expressway System, or any part or portion of the system  
887 ~~thereof~~, the state will not alter or limit the rights and powers  
888 of the authority and the department in any manner that ~~which~~  
889 would be inconsistent with the continued maintenance and  
890 operation of the Central Florida Orlando-Orange County  
891 Expressway System or the completion, extension, or improvement  
892 of the system ~~thereof~~, or that ~~which~~ would be inconsistent with  
893 the due performance of any agreements between the authority and  
894 any such federal agency, and the authority and the department  
895 shall continue to have and may exercise all powers ~~herein~~  
896 granted in this part, so long as the powers are ~~same shall be~~  
897 necessary or desirable for the carrying out of the purposes of  
898 this part and the purposes of the United States in the  
899 completion, extension, or improvement of the Central Florida  
900 Orlando-Orange County Expressway System, or any part of the  
901 system ~~or portion thereof~~.

902 Section 17. Section 348.765, Florida Statutes, is amended  
903 to read:

904 348.765 This part complete and additional authority.-

905 (1) The powers conferred by this part are ~~shall be~~ in  
906 addition and supplemental to the existing powers of the said  
907 board and the department, and this part may ~~shall~~ not be  
908 construed as repealing any of the provisions, of any other law,  
909 general, special, or local, but to supersede such other laws in  
910 the exercise of the powers provided in this part, and to provide  
911 a complete method for the exercise of the powers granted in this



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912 part. The extension and improvement of the Central Florida ~~said~~  
913 ~~Orlando-Orange County~~ Expressway System, and the issuance of  
914 bonds pursuant to this part hereunder to finance all or part of  
915 the cost of the system thereof, may be accomplished upon  
916 compliance with the provisions of this part without regard to or  
917 necessity for compliance with the provisions, limitations, or  
918 restrictions contained in any other general, special, or local  
919 law, including, but not limited to, s. 215.821, and no approval  
920 of any bonds issued under this part by the qualified electors or  
921 qualified electors who are freeholders in the state or in the  
922 ~~said~~ County of Orange, or in the ~~said~~ City of Orlando, or in any  
923 other political subdivision of the state, is shall be required  
924 for the issuance of such bonds pursuant to this part.

925 (2) This part does shall not ~~be deemed to~~ repeal, rescind,  
926 or modify any other law ~~or laws~~ relating to the said State Board  
927 of Administration, the said Department of Transportation, or the  
928 Division of Bond Finance of the State Board of Administration,  
929 but supersedes any shall be deemed to and shall supersede such  
930 ~~other law that is or laws as are~~ inconsistent with the  
931 provisions of this part, including, but not limited to, s.  
932 215.821.

933 Section 18. All powers, governance, and control of the  
934 Osceola County Expressway System, created pursuant to part V,  
935 chapter 348, Florida Statutes, is transferred to the Central  
936 Florida Expressway Authority and the assets, liabilities,  
937 facilities, tangible and intangible property and any rights in  
938 the property, and any other legal rights of the Osceola  
939 Expressway Authority, are transferred to the Central Florida  
940 Expressway Authority on July 1, 2014. Part V of chapter 348,



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941 Florida Statutes, consisting of ss. 348.9950-348.9961 is  
942 repealed on the same date that the Osceola County Expressway  
943 System is transferred to the Central Florida Expressway  
944 Authority.

945 Section 19. Subsections (6) and (7) of section 369.317,  
946 Florida Statutes, are amended to read:

947 369.317 Wekiva Parkway.—

948 (6) The Central Florida ~~Orlando-Orange County~~ Expressway  
949 Authority is hereby granted the authority to act as a third-  
950 party acquisition agent, pursuant to s. 259.041 on behalf of the  
951 Board of Trustees or chapter 373 on behalf of the governing  
952 board of the St. Johns River Water Management District, for the  
953 acquisition of all necessary lands, property and all interests  
954 in property identified herein, including fee simple or less-  
955 than-fee simple interests. The lands subject to this authority  
956 are identified in paragraph 10.a., State of Florida, Office of  
957 the Governor, Executive Order 03-112 of July 1, 2003, and in  
958 Recommendation 16 of the Wekiva Basin Area Task Force created by  
959 Executive Order 2002-259, such lands otherwise known as  
960 Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and  
961 Lake Counties within Sections 27, 28, 33, and 34 of Township 19  
962 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20  
963 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre  
964 parcel located in Lake County within Section 37, Township 19  
965 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in  
966 Lake County within Sections 23, 25, 26, 35, and 36, Township 19  
967 South, Range 28 East; Pine Plantation, a 617+/-acre tract  
968 consisting of eight individual parcels within the Apopka City  
969 limits. The Department of Transportation, the Department of



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970 Environmental Protection, the St. Johns River Water Management  
971 District, and other land acquisition entities shall participate  
972 and cooperate in providing information and support to the third-  
973 party acquisition agent. The land acquisition process authorized  
974 by this paragraph shall begin no later than December 31, 2004.  
975 Acquisition of the properties identified as Neighborhood Lakes,  
976 Pine Plantation, and New Garden Coal, or approval as a  
977 mitigation bank shall be concluded no later than December 31,  
978 2010. Department of Transportation and Central Florida ~~Orlando-~~  
979 ~~Orange County~~ Expressway Authority funds expended to purchase an  
980 interest in those lands identified in this subsection shall be  
981 eligible as environmental mitigation for road construction  
982 related impacts in the Wekiva Study Area. If any of the lands  
983 identified in this subsection are used as environmental  
984 mitigation for road-construction-related impacts incurred by the  
985 Department of Transportation or Central Florida ~~Orlando-Orange~~  
986 ~~County~~ Expressway Authority, or for other impacts incurred by  
987 other entities, within the Wekiva Study Area or within the  
988 Wekiva parkway alignment corridor, and if the mitigation offsets  
989 these impacts, the St. Johns River Water Management District and  
990 the Department of Environmental Protection shall consider the  
991 activity regulated under part IV of chapter 373 to meet the  
992 cumulative impact requirements of s. 373.414(8)(a).

993 (a) Acquisition of the land described in this section is  
994 required to provide right-of-way for the Wekiva Parkway, a  
995 limited access roadway linking State Road 429 to Interstate 4,  
996 an essential component in meeting regional transportation needs  
997 to provide regional connectivity, improve safety, accommodate  
998 projected population and economic growth, and satisfy critical



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999 transportation requirements caused by increased traffic volume  
1000 growth and travel demands.

1001 (b) Acquisition of the lands described in this section is  
1002 also required to protect the surface water and groundwater  
1003 resources of Lake, Orange, and Seminole counties, otherwise  
1004 known as the Wekiva Study Area, including recharge within the  
1005 springshed that provides for the Wekiva River system. Protection  
1006 of this area is crucial to the long term viability of the Wekiva  
1007 River and springs and the central Florida region's water supply.  
1008 Acquisition of the lands described in this section is also  
1009 necessary to alleviate pressure from growth and development  
1010 affecting the surface and groundwater resources within the  
1011 recharge area.

1012 (c) Lands acquired pursuant to this section that are needed  
1013 for transportation facilities for the Wekiva Parkway shall be  
1014 determined not necessary for conservation purposes pursuant to  
1015 ss. 253.034(6) and 373.089(5) and shall be transferred to or  
1016 retained by the Central Florida ~~Orlando-Orange County~~ Expressway  
1017 Authority or the Department of Transportation upon reimbursement  
1018 of the full purchase price and acquisition costs.

1019 (7) The Department of Transportation, the Department of  
1020 Environmental Protection, the St. Johns River Water Management  
1021 District, Central Florida ~~Orlando-Orange County~~ Expressway  
1022 Authority, and other land acquisition entities shall cooperate  
1023 and establish funding responsibilities and partnerships by  
1024 agreement to the extent funds are available to the various  
1025 entities. Properties acquired with Florida Forever funds shall  
1026 be in accordance with s. 259.041 or chapter 373. The Central  
1027 Florida ~~Orlando-Orange County~~ Expressway Authority shall acquire



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1028 land in accordance with this section of law to the extent funds  
1029 are available from the various funding partners, but shall not  
1030 be required nor assumed to fund the land acquisition beyond the  
1031 agreement and funding provided by the various land acquisition  
1032 entities.

1033 Section 20. Paragraph (f) of subsection (1) of section  
1034 369.324, Florida Statutes, is amended to read:

1035 (1) The Wekiva River Basin Commission is created to monitor  
1036 and ensure the implementation of the recommendations of the  
1037 Wekiva River Basin Coordinating Committee for the Wekiva Study  
1038 Area. The East Central Florida Regional Planning Council shall  
1039 provide staff support to the commission with funding assistance  
1040 from the Department of Economic Opportunity. The commission  
1041 shall be comprised of a total of 19 members appointed by the  
1042 Governor, 9 of whom shall be voting members and 10 shall be ad  
1043 hoc nonvoting members. The voting members shall include:

1044 (a) One member of each of the Boards of County  
1045 Commissioners for Lake, Orange, and Seminole Counties.

1046 (b) One municipal elected official to serve as a  
1047 representative of the municipalities located within the Wekiva  
1048 Study Area of Lake County.

1049 (c) One municipal elected official to serve as a  
1050 representative of the municipalities located within the Wekiva  
1051 Study Area of Orange County.

1052 (d) One municipal elected official to serve as a  
1053 representative of the municipalities located within the Wekiva  
1054 Study Area of Seminole County.

1055 (e) One citizen representing an environmental or  
1056 conservation organization, one citizen representing a local



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1057 property owner, a land developer, or an agricultural entity, and  
1058 one at-large citizen who shall serve as chair of the council.

1059 (f) The ad hoc nonvoting members shall include one  
1060 representative from each of the following entities:

- 1061 1. St. Johns River Management District.
- 1062 2. Department of Economic Opportunity.
- 1063 3. Department of Environmental Protection.
- 1064 4. Department of Health.
- 1065 5. Department of Agriculture and Consumer Services.
- 1066 6. Fish and Wildlife Conservation Commission.
- 1067 7. Department of Transportation.
- 1068 8. MetroPlan Orlando.
- 1069 9. Central Florida ~~Orlando-Orange County~~ Expressway  
1070 Authority.
- 1071 10. Seminole County Expressway Authority.

1072 Section 21. This act shall take effect July 1, 2014.

1073  
1074 ===== T I T L E A M E N D M E N T =====

1075 And the title is amended as follows:

1076 Delete everything before the enacting clause  
1077 and insert:

1078 A bill to be entitled  
1079 An act relating to An act relating to the Orlando-  
1080 Orange County Expressway Authority; amending ss.  
1081 348.751 and 348.752, F.S.; renaming the Orlando-Orange  
1082 County Expressway System as the "Central Florida  
1083 Expressway System"; revising definitions; making  
1084 technical changes; amending s. 348.753, F.S.; creating  
1085 the Central Florida Expressway Authority; providing



1086 for the transfer of governance, and control, legal  
1087 rights and powers, responsibilities, terms, and  
1088 obligations to the authority; providing that the  
1089 transfer is subject to the terms and covenants for the  
1090 protection of the holders of Orlando-Orange County  
1091 Expressway Authority bonds; requiring the Central  
1092 Florida Expressway Authority to operate and maintain  
1093 the expressway system after the transfer in accordance  
1094 with the terms, conditions, and covenants contained in  
1095 the bonds; requiring the Central Florida Expressway  
1096 Authority to collect toll revenues and apply them to  
1097 the payment of debt service; providing that the  
1098 transfer does not create a general liability of the  
1099 Central Florida Expressway Authority; providing that  
1100 revenues pledged by the Orlando-Orange County  
1101 Expressway authority to payment of the bonds remain  
1102 subject to the pledge for the benefit of the  
1103 bondholders; revising the composition of the governing  
1104 body of the authority; providing for appointment of  
1105 officers of the authority; revising quorum and voting  
1106 requirements; conforming terminology and making  
1107 technical changes; amending s. 348.754, F.S. ;  
1108 providing that the area served by the authority is  
1109 within the geographical boundaries of Orange,  
1110 Seminole, Lake, and Osceola Counties; providing that  
1111 the Central Florida Expressway Authority is prohibited  
1112 from entering into lease purchase agreements with the  
1113 Department of Transportation other than the identified  
1114 agreement and is prohibited from amending the existing



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1115 agreement under certain conditions; providing that  
1116 certain toll revenues may not be used to construct or  
1117 expand certain facilities under certain conditions and  
1118 providing conditions under which the prohibition is  
1119 inapplicable; authorizing the use of certain revenues  
1120 as specified; removing the requirement that the route  
1121 of a project must be approved by a municipality before  
1122 the right-of-way can be acquired; requiring that the  
1123 authority encourage the inclusion of local-, small-,  
1124 minority-, and women-owned businesses in its  
1125 procurement and contracting opportunities; removing  
1126 the authority and criteria for an authority to waive  
1127 payment and performance bonds for certain public works  
1128 projects that are awarded pursuant to an economic  
1129 development program; conforming terminology and making  
1130 technical changes; amending ss. 348.7543, 348.7544,  
1131 348.7545, 348.7546, 348.7547, 348.755, and 348.756,  
1132 F.S.; conforming terminology and making technical  
1133 changes; amending s. 348.757, F.S.; providing  
1134 references to the "former" Orlando-Orange County  
1135 Expressway Authority; conforming terminology and  
1136 making technical changes; amending ss. 348.758,  
1137 348.759, 348.760, 348.761, and 348.765, F.S.;  
1138 conforming terminology and making technical changes;  
1139 providing for the transfer of the Osceola County  
1140 Expressway System to the Central Florida Expressway  
1141 Authority; providing for the repeal of Part V of  
1142 Chapter 348 when the Osceola County Expressway System  
1143 is transferred to the Central Florida Expressway



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1144

Authority; providing an effective date.

By Senator Simmons

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1 A bill to be entitled  
 2 An act relating to the Orlando-Orange County  
 3 Expressway Authority; amending ss. 348.751 and  
 4 348.752, F.S.; renaming the Orlando-Orange County  
 5 Expressway System as the "Central Florida Expressway  
 6 System"; revising definitions; making technical  
 7 changes; amending s. 348.753, F.S.; creating the  
 8 Central Florida Expressway Authority; providing for  
 9 the transfer of governance, and control, legal rights  
 10 and powers, responsibilities, terms, and obligations  
 11 to the authority; revising the composition of the  
 12 governing body of the authority; providing for  
 13 appointment of officers of the authority; revising  
 14 quorum and voting requirements; conforming terminology  
 15 and making technical changes; amending s. 348.754,  
 16 F.S.; providing that the area served by the authority  
 17 is within the geopolitical boundaries of Orange,  
 18 Seminole, Lake, and Osceola Counties; prohibiting the  
 19 authority from spending funds for SunRail; limiting  
 20 the use of certain electronic tolls collected in  
 21 Orange County to projects built in that county;  
 22 removing the requirement that the route of a project  
 23 must be approved by a municipality before the right-  
 24 of-way can be acquired; requiring that the authority  
 25 encourage the inclusion of local-, small-, minority-,  
 26 and women-owned businesses in its procurement and  
 27 contracting opportunities; removing the authority and  
 28 criteria for an authority to waive payment and  
 29 performance bonds for certain public works projects

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 that are awarded pursuant to an economic development  
 31 program; conforming terminology and making technical  
 32 changes; amending ss. 348.7543, 348.7544, 348.7545,  
 33 348.7546, 348.7547, 348.755, and 348.756, F.S.;  
 34 conforming terminology and making technical changes;  
 35 amending s. 348.757, F.S.; providing that upon  
 36 termination of the lease-purchase agreement of the  
 37 Central Florida Expressway System, title in fee simple  
 38 to the system will be retained by the authority;  
 39 conforming terminology and making technical changes;  
 40 amending ss. 348.758, 348.759, 348.760, 348.761, and  
 41 348.765, F.S.; conforming terminology and making  
 42 technical changes; providing for the transfer of the  
 43 Osceola County Expressway System to the Central  
 44 Florida Expressway Authority; providing for the repeal  
 45 of Part V of Chapter 348 when the Osceola County  
 46 Expressway System is transferred to the Central  
 47 Florida Expressway Authority; providing an effective  
 48 date.

50 Be It Enacted by the Legislature of the State of Florida:

51  
 52 Section 1. Section 348.751, Florida Statutes, is amended to  
 53 read:

54 348.751 Short title.—This part ~~shall be known and~~ may be  
 55 cited as the "Central Florida ~~Orlando-Orange County~~ Expressway  
 56 Authority Law."

57 Section 2. Section 348.752, Florida Statutes, is amended to  
 58 read:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 348.752 Definitions.—As used in this chapter ~~The following~~  
 60 ~~terms, whenever used or referred to in this law, shall have the~~  
 61 ~~following meanings, except in those instances where the context~~  
 62 ~~clearly indicates otherwise:~~

63 (1) The term "agency of the state" means ~~and includes~~ the  
 64 state and any department of, or corporation, agency, or  
 65 instrumentality ~~heretofore or hereafter~~ created, designated, or  
 66 established by, the state.

67 (2) The term "authority" means the body politic and  
 68 corporate, and agency of the state created by this part.

69 (3) The term "bonds" means ~~and includes~~ the notes, bonds,  
 70 refunding bonds, or other evidences of indebtedness or  
 71 obligations, in either temporary or definitive form, which the  
 72 authority is authorized to issue pursuant to this part.

73 (4) The term "Central Florida Expressway Authority" means  
 74 the body politic and corporate, and agency of the state created  
 75 by this chapter.

76 (5) The term "Central Florida Expressway System" means a  
 77 transportation facility, expressway, or appurtenant facility.

78 ~~(4) The term "city" means the City of Orlando.~~

79 ~~(5) The term "county" means the County of Orange.~~

80 (6) The term "department" means the Department of  
 81 Transportation ~~existing under chapters 334-339.~~

82 (7) The term "expressway" has the same meaning is the same  
 83 as limited access expressway.

84 (8) The term "federal agency" means and includes the United  
 85 States, the President of the United States, and any department  
 86 of, or corporation, agency, or instrumentality ~~heretofore or~~  
 87 ~~hereafter~~ created, designated, or established by, the United

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88 States.

89 (9) The term "lease-purchase agreement" means the lease-  
 90 purchase agreements that ~~which~~ the authority is authorized  
 91 ~~pursuant to this part~~ to enter into with the Department of  
 92 Transportation pursuant to this part.

93 (10) The term "limited access expressway" means a street or  
 94 highway specifically ~~especially~~ designed for through traffic,  
 95 and over, from, or to which, a ~~no~~ person does not shall have the  
 96 right of easement, use, or access except in accordance with the  
 97 rules of ~~and~~ regulations promulgated and established by the  
 98 authority governing its use for the use of such facility. Such  
 99 highways or streets may be parkways that do not allow traffic  
 100 by, ~~from which~~ trucks, buses, and other commercial vehicles  
 101 ~~shall be excluded, or they may be~~ freeways open to use by all  
 102 customary forms of street and highway traffic.

103 (11) The term "~~members~~" means ~~the governing body of the~~  
 104 ~~authority, and the term "member" means an individual who serves~~  
 105 on the one of the individuals constituting such governing body  
 106 of the authority.

107 (12) The term "Orange County gasoline tax funds" means ~~all~~  
 108 the revenue derived from the 80-percent surplus gasoline tax  
 109 funds accruing in each year to the Department of Transportation  
 110 for use in Orange County ~~under the provisions of s. 9, Art. XII~~  
 111 ~~of the State Constitution, after deducting deduction only of~~ any  
 112 amounts of said gasoline tax funds previously heretofore pledged  
 113 by the department or the county for outstanding obligations.

114 (13) The term "Central Florida Orlando-Orange County  
 115 Expressway System" means any expressway and all expressways and  
 116 appurtenant facilities ~~thereto~~, including, but not limited to,

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117 all approaches, roads, bridges, and avenues of access for the  
118 ~~said~~ ~~expressway~~ ~~or~~ ~~expressways~~.

119 (14) The term "State Board of Administration" means the  
120 body corporate existing under the provisions of s. 9, Art. XII  
121 of the State Constitution, or any successor ~~thereto~~.

122 (15) The term "transportation facilities" means and  
123 includes the mobile and fixed assets, and the associated real or  
124 personal property or rights, used in the transportation of  
125 persons or property by any means of conveyance, and all  
126 appurtenances, such as, but not limited to, highways; limited or  
127 controlled access lanes, avenues of access, and facilities;  
128 vehicles; fixed guideway facilities, including maintenance  
129 facilities; and administrative and other office space for the  
130 exercise by the authority of the powers and obligations granted  
131 in this part.

132 ~~(15) Words importing singular number include the plural~~  
133 ~~number in each case and vice versa, and words importing persons~~  
134 ~~include firms and corporations.~~

135 Section 3. Section 348.753, Florida Statutes, is amended to  
136 read:

137 348.753 Central Florida ~~Orlando-Orange County~~ Expressway  
138 Authority.-

139 (1) There is ~~hereby~~ created and established a body politic  
140 and corporate, an agency of the state, to be known as the  
141 Central Florida ~~Orlando-Orange County~~ Expressway Authority, ~~r~~  
142 ~~hereinafter referred to as "authority."~~

143 (2) Effective July 1, 2013, the Central Florida Expressway  
144 Authority shall assume the governance and control of the  
145 Orlando-Orange County Expressway Authority System, including its

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146 assets, personnel, contracts, obligations, liabilities,  
147 facilities, and tangible and intangible property. Any rights in  
148 such property, and other legal rights of the authority, are  
149 transferred to the Central Florida Expressway Authority. The  
150 powers, responsibilities, and obligations of the Orlando-Orange  
151 County Expressway Authority shall succeed to and be assumed by  
152 the Central Florida Expressway Authority on July 1, 2013.

153 (3)-(2) The governing body of the authority shall consist of  
154 nine ~~five~~ members. The chairs of the boards of county commission  
155 of Seminole, Lake, and Osceola Counties shall each appoint one  
156 Central Florida Expressway Authority Board member, who may be a  
157 commission member or chair. A citizen from each of Orange,  
158 Seminole, Lake, and Osceola Counties ~~Three members shall be~~  
159 ~~citizens of Orange County, who shall be appointed by the~~  
160 ~~Governor. One~~ ~~The fourth~~ ~~member shall be, ex officio,~~ the Mayor  
161 of ~~chair of the County Commissioners of Orange County, and the~~  
162 final fifth ~~member shall be, ex officio,~~ the Mayor of the City  
163 of Orlando. The executive director of Florida's Turnpike  
164 Enterprise shall serve as a nonvoting advisor to the governing  
165 body of the authority ~~district secretary of the Department of~~  
166 ~~Transportation serving in the district that contains Orange~~  
167 ~~County. The term of Each appointed member appointed by the~~  
168 Governor shall serve ~~be~~ for 4 years. Each county-appointed  
169 member shall serve for 2 years. Standing board members shall  
170 complete their terms. Each appointed member shall hold office  
171 until his or her successor has been appointed and has qualified.  
172 A vacancy occurring during a term ~~must shall~~ be filled only for  
173 the balance of the unexpired term. Each appointed member of the  
174 authority shall be a person of outstanding reputation for

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175 integrity, responsibility, and business ability, but, except as  
 176 provided in this subsection, a ~~ne~~ person who is an officer or  
 177 employee of a municipality or any city or of Orange county may  
 178 not in any other capacity shall be an appointed member of the  
 179 authority. Any member of the authority is ~~shall be~~ eligible for  
 180 reappointment.

181 ~~(4)(3)~~(a) The authority shall elect one of its members as  
 182 chair of the authority. The authority shall also elect one of  
 183 its members as vice chair, one of its members as a secretary,  
 184 and one of its members as a treasurer who may or may not be  
 185 members of the authority. Elections for offices of the authority  
 186 must be held every 2 years. A member who is a resident of Orange  
 187 County must be elected to serve as chair every 6 years. If a  
 188 member from Orange County is not serving as chair, a member who  
 189 is a resident of Orange County must be elected to serve as vice  
 190 chair. The chair, vice chair, secretary, and treasurer shall  
 191 hold such offices at the will of the authority. Five ~~Three~~  
 192 members of the authority shall constitute a quorum, and the vote  
 193 of five ~~three~~ members is ~~shall be~~ necessary for any action taken  
 194 by the authority. ~~A~~ ~~Ne~~ vacancy in the authority does not ~~shall~~  
 195 impair the right of a quorum of the authority to exercise all of  
 196 the rights and perform all of the duties of the authority.

197 (b) Upon the effective date of his or her appointment, or  
 198 as soon thereafter as practicable, each appointed member of the  
 199 authority shall enter upon his or her duties.

200 ~~(5)(4)~~(a) The authority may employ an executive secretary,  
 201 an executive director, its own counsel and legal staff,  
 202 technical experts, and the ~~such~~ engineers, and ~~such~~ employees  
 203 that, permanent or temporary, as it requires. The authority may

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204 ~~require and~~ may determine the qualifications and fix the  
 205 compensation of such persons, firms, or corporations, and may  
 206 employ a fiscal agent or agents; ~~provided,~~ however, ~~that~~ the  
 207 authority shall solicit sealed proposals from at least three  
 208 persons, firms, or corporations for the performance of any  
 209 services as fiscal agents. The authority may delegate to one or  
 210 more of its agents or employees the ~~such of its~~ power ~~as~~ it  
 211 deems ~~shall deem~~ necessary to carry out the purposes of this  
 212 part, ~~subject always to the supervision and control of the~~  
 213 authority. Members of the authority may be removed from their  
 214 office by the Governor for misconduct, malfeasance, misfeasance,  
 215 or nonfeasance in office.

216 (b) Members of the authority are ~~shall be~~ entitled to  
 217 receive from the authority their travel and other necessary  
 218 expenses incurred in connection with the business of the  
 219 authority as provided in s. 112.061, but may not ~~they shall~~ draw  
 220 ~~ne~~ salaries or other compensation.

221 Section 4. Section 348.754, Florida Statutes, is amended to  
 222 read:

223 348.754 Purposes and powers.—

224 (1) (a) The authority created and established under ~~by the~~  
 225 ~~provisions of this part is hereby~~ granted and has ~~shall have~~ the  
 226 right to acquire, hold, construct, improve, maintain, operate,  
 227 own, and lease in the capacity of lessor, the Central Florida  
 228 ~~Orlando Orange County~~ Expressway System, hereinafter referred to  
 229 as "system." Except as otherwise specifically provided by law,  
 230 including paragraph (2)(n), the area served by the authority  
 231 shall be within the geographical boundaries of Orange, Seminole,  
 232 Lake, and Osceola Counties.

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233 (b) ~~It is the express intention of this part that said~~  
 234 ~~authority,~~ In the construction of the Central Florida said  
 235 ~~Orlando-Orange County~~ Expressway System, the authority may shall  
 236 ~~be authorized to~~ construct any extensions, additions, or  
 237 improvements to the said system or appurtenant facilities,  
 238 including all necessary approaches, roads, bridges, ~~and~~ avenues  
 239 of access, rapid transit, trams, fixed guideways, thoroughfares,  
 240 and boulevards with any such changes, modifications, or  
 241 revisions of the said project which are ~~as shall be~~ deemed  
 242 desirable and proper.

243 (c) The Central Florida Expressway Authority is prohibited  
 244 from spending system funds for SunRail.

245 (d) Electronic tolls collected on the expressway system  
 246 from vehicles registered in Orange County must be used to  
 247 finance projects built in Orange County.

248 (2) The authority ~~is hereby granted, and shall have and may~~  
 249 exercise all powers necessary, appurtenant, convenient, or  
 250 incidental to the implementation carrying out of the stated  
 251 ~~aforesaid~~ purposes, including, but not without being limited to,  
 252 the following rights and powers:

253 (a) To sue and be sued, implead and be impleaded, complain  
 254 and defend in all courts.

255 (b) To adopt, use, and alter at will a corporate seal.

256 (c) To acquire by donation or otherwise, purchase, hold,  
 257 lease as lessee, and use any franchise or any property, real,  
 258 personal, ~~or~~ mixed, or tangible or intangible, or any options  
 259 ~~thereof~~ in its own name or in conjunction with others, or  
 260 interest in those options therein, necessary or desirable to  
 261 carry for carrying out the purposes of the authority, and to

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262 sell, lease as lessor, transfer, and dispose of any property or  
 263 interest in the property therein at any time acquired by it.

264 (d) To enter into and make leases for terms not exceeding  
 265 40 years, as ~~either~~ lessee or lessor, in order to carry out the  
 266 right to lease as specified set forth in this part.

267 (e) To enter into and make lease-purchase agreements with  
 268 the department for terms not exceeding 40 years, or until any  
 269 bonds secured by a pledge of rentals pursuant to the agreement  
 270 ~~thereunder,~~ and any refundings pursuant to the agreement  
 271 ~~thereof,~~ are fully paid as to both principal and interest,  
 272 whichever is longer.

273 (f) To fix, alter, charge, establish, and collect rates,  
 274 fees, rentals, and other charges for the services and facilities  
 275 of the Central Florida Orlando-Orange County Expressway System,  
 276 which must rates, fees, rentals and other charges shall always  
 277 be sufficient to comply with any covenants made with the holders  
 278 of any bonds issued pursuant to this part; ~~provided,~~ however,  
 279 ~~that~~ such right and power may be assigned or delegated, by the  
 280 authority, to the department.

281 (g) To borrow money, make and issue negotiable notes,  
 282 bonds, refunding bonds, and other evidences of indebtedness or  
 283 obligations, either in temporary or definitive form, ~~hereinafter~~  
 284 ~~in this chapter~~ sometimes called "bonds" of the authority, for  
 285 the purpose of financing all or part of the improvement or  
 286 extension of the Central Florida Orlando-Orange County  
 287 Expressway System, and appurtenant facilities, including all  
 288 approaches, streets, roads, bridges, and avenues of access for  
 289 the Central Florida said Orlando-Orange County Expressway System  
 290 and for any other purpose authorized by this part, ~~said bonds to~~

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291 ~~mature in not exceeding 40 years from the date of the issuance~~  
 292 ~~thereof~~, and to secure the payment of such bonds or any part  
 293 thereof by a pledge of any or all of its revenues, rates, fees,  
 294 rentals, or other charges, including all or any portion of the  
 295 Orange County gasoline tax funds received by the authority  
 296 pursuant to ~~the terms of~~ any lease-purchase agreement between  
 297 the authority and the department; and in general to provide for  
 298 the security of the said bonds and the rights and remedies of  
 299 the holders thereof. ~~Provided, However, that~~ no portion of the  
 300 Orange County gasoline tax funds may ~~shall~~ be pledged for the  
 301 construction of any project for which a toll is to be charged  
 302 unless the anticipated toll is ~~tolls are~~ reasonably estimated by  
 303 the board of county commissioners, at the date of its resolution  
 304 pledging the said funds, to be sufficient to cover the principal  
 305 and interest of such obligations during the period when the said  
 306 pledge of funds is ~~shall be~~ in effect. The bonds issued under  
 307 this paragraph must mature not more than 40 years after their  
 308 issue date.

309 1. The authority shall reimburse Orange County for any sums  
 310 expended from the said gasoline tax funds used for the payment  
 311 of such obligations. Any gasoline tax funds so disbursed must  
 312 ~~shall~~ be repaid when the authority deems it practicable,  
 313 together with interest at the highest rate applicable to any  
 314 obligations of the authority.

315 2. If, pursuant to this section, in the event the authority  
 316 funds shall determine to fund or refunds refund any bonds  
 317 previously theretofore issued by the said authority, or the by  
 318 said commission before the bonds mature as aforesaid prior to  
 319 the maturity thereof, the proceeds of such funding or refunding

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320 ~~must bonds shall~~, pending the prior redemption of these the  
 321 ~~bonds to be funded or refunded~~, be invested in direct  
 322 obligations of the United States, ~~and it is the express~~  
 323 ~~intention of this part that such outstanding bonds may be funded~~  
 324 ~~or refunded by the issuance of bonds pursuant to this part.~~

325 (h) To make contracts ~~of every name and nature~~, including,  
 326 but not limited to, partnerships providing for participation in  
 327 ownership and revenues, and to execute all instruments necessary  
 328 or convenient for conducting the carrying on of its business.

329 (i) Notwithstanding paragraphs (a)-(h), without limitation  
 330 of the foregoing, to borrow money and accept grants from, and to  
 331 enter into contracts, leases, or other transactions with any  
 332 federal agency, the state, any agency of the state, the County  
 333 of Orange, the City of Orlando, or with any other public body of  
 334 the state.

335 (j) To have the power of eminent domain, including the  
 336 procedural powers granted under both chapters 73 and 74.

337 (k) To pledge, hypothecate, or otherwise encumber ~~all or~~  
 338 any part of the revenues, rates, fees, rentals, or other charges  
 339 or receipts of the authority, including all or any portion of  
 340 the Orange County gasoline tax funds received by the authority  
 341 pursuant to the terms of any lease-purchase agreement between  
 342 the authority and the department, as security for ~~all or~~ any of  
 343 the obligations of the authority.

344 (l) To enter into partnership and other agreements  
 345 respecting ownership and revenue participation in order to  
 346 facilitate financing and constructing the Western Beltway, or  
 347 portions thereof.

348 (m) To do everything ~~all acts and things~~ necessary or

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 349 convenient for the conduct of its business and the general  
 350 welfare of the authority, in order to comply with ~~carry out the~~  
 351 ~~powers granted to it by~~ this part or any other law.

352 (n) With the consent of the county within whose  
 353 jurisdiction the following activities occur, the authority shall  
 354 have the right to construct, operate, and maintain roads,  
 355 bridges, avenues of access, thoroughfares, and boulevards  
 356 outside the jurisdictional boundaries of Orange, Seminole, Lake,  
 357 and Osceola Counties ~~County~~, together with the right to  
 358 construct, repair, replace, operate, install, and maintain  
 359 electronic toll payment systems thereon, ~~with all necessary and~~  
 360 ~~incidental powers to accomplish the foregoing.~~

361 (3) The authority does not ~~shall~~ have the ~~no~~ power at any  
 362 ~~time or in any manner~~ to pledge the credit or taxing power of  
 363 the state or any political subdivision or agency thereof,  
 364 including any city and any county ~~the City of Orlando and the~~  
 365 ~~County of Orange, nor may nor shall~~ any of the authority's  
 366 obligations be deemed to be obligations of the state or of any  
 367 political subdivision or agency thereof, nor may nor shall the  
 368 state or any political subdivision or agency thereof, except the  
 369 authority, be liable for the payment of the principal of or  
 370 interest on such obligations.

371 ~~(4) Anything in this part to the contrary notwithstanding,~~  
 372 ~~acquisition of right-of-way for a project of the authority which~~  
 373 ~~is within the boundaries of any municipality in Orange County~~  
 374 ~~shall not be begun unless and until the route of said project~~  
 375 ~~within said municipality has been given prior approval by the~~  
 376 ~~governing body of said municipality.~~

377 ~~(4)(5)~~ The authority has ~~shall~~ have no power other than by

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 378 consent of an affected ~~Orange~~ county or any affected city, to  
 379 enter into any agreement which would legally prohibit the  
 380 construction of a any road by the respective county or city  
 381 ~~Orange County or by any city within Orange County.~~

382 ~~(5)(6)~~ (a) The authority shall encourage the inclusion of  
 383 local-, small-, minority-, and women-owned businesses in its  
 384 procurement and contracting opportunities. ~~Notwithstanding s.~~  
 385 ~~255.05, the Orlando-Orange County Expressway Authority may waive~~  
 386 ~~payment and performance bonds on construction contracts for the~~  
 387 ~~construction of a public building, for the prosecution and~~  
 388 ~~completion of a public work, or for repairs on a public building~~  
 389 ~~or public work that has a cost of \$500,000 or less and when the~~  
 390 ~~project is awarded pursuant to an economic development program~~  
 391 ~~for the encouragement of local small businesses that has been~~  
 392 ~~adopted by the governing body of the Orlando-Orange County~~  
 393 ~~Expressway Authority pursuant to a resolution or policy.~~

394 ~~(b)~~ The authority's adopted criteria for participation in  
 395 the economic development program for local small businesses  
 396 requires that a participant:

- 397 1. ~~Be an independent business.~~
- 398 2. ~~Be principally domiciled in the Orange County Standard~~  
 399 ~~Metropolitan Statistical Area.~~
- 400 3. ~~Employ 25 or fewer full-time employees.~~
- 401 4. ~~Have gross annual sales averaging \$3 million or less~~  
 402 ~~over the immediately preceding 3 calendar years with regard to~~  
 403 ~~any construction element of the program.~~
- 404 5. ~~Be accepted as a participant in the Orlando-Orange~~  
 405 ~~County Expressway Authority's microcontracts program or such~~  
 406 ~~other small business program as may be hereinafter enacted by~~

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407 ~~the Orlando-Orange County Expressway Authority.~~

408 ~~6. Participate in an educational curriculum or technical~~  
 409 ~~assistance program for business development that will assist the~~  
 410 ~~small business in becoming eligible for bonding.~~

411 ~~(c) The authority's adopted procedures for waiving payment~~  
 412 ~~and performance bonds on projects with values not less than~~  
 413 ~~\$200,000 and not exceeding \$500,000 shall provide that payment~~  
 414 ~~and performance bonds may only be waived on projects that have~~  
 415 ~~been set aside to be competitively bid on by participants in an~~  
 416 ~~economic development program for local small businesses. The~~  
 417 ~~authority's executive director or his or her designee shall~~  
 418 ~~determine whether specific construction projects are suitable~~  
 419 ~~for:~~

420 ~~1. Bidding under the authority's microcontracts program by~~  
 421 ~~registered local small businesses; and~~

422 ~~2. Waiver of the payment and performance bond.~~

423  
 424 ~~The decision of the authority's executive director or deputy~~  
 425 ~~executive director to waive the payment and performance bond~~  
 426 ~~shall be based upon his or her investigation and conclusion that~~  
 427 ~~there exists sufficient competition so that the authority~~  
 428 ~~receives a fair price and does not undertake any unusual risk~~  
 429 ~~with respect to such project.~~

430 ~~(d) For any contract for which a payment and performance~~  
 431 ~~bond has been waived pursuant to the authority set forth in this~~  
 432 ~~section, the Orlando-Orange County Expressway Authority shall~~  
 433 ~~pay all persons defined in s. 713.01 who furnish labor,~~  
 434 ~~services, or materials for the prosecution of the work provided~~  
 435 ~~for in the contract to the same extent and upon the same~~

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436 ~~conditions that a surety on the payment bond under s. 255.05~~  
 437 ~~would have been obligated to pay such persons if the payment and~~  
 438 ~~performance bond had not been waived. The authority shall record~~  
 439 ~~notice of this obligation in the manner and location that surety~~  
 440 ~~bonds are recorded. The notice shall include the information~~  
 441 ~~describing the contract that s. 255.05(1) requires be stated on~~  
 442 ~~the front page of the bond. Notwithstanding that s. 255.05(9)~~  
 443 ~~generally applies when a performance and payment bond is~~  
 444 ~~required, s. 255.05(9) shall apply under this subsection to any~~  
 445 ~~contract on which performance or payment bonds are waived and~~  
 446 ~~any claim to payment under this subsection shall be treated as a~~  
 447 ~~contract claim pursuant to s. 255.05(9).~~

448 ~~(c) A small business that has been the successful bidder on~~  
 449 ~~six projects for which the payment and performance bond was~~  
 450 ~~waived by the authority pursuant to paragraph (a) shall be~~  
 451 ~~ineligible to bid on additional projects for which the payment~~  
 452 ~~and performance bond is to be waived. The local small business~~  
 453 ~~may continue to participate in other elements of the economic~~  
 454 ~~development program for local small businesses as long as it is~~  
 455 ~~eligible.~~

456 ~~(f) The authority shall conduct bond eligibility training~~  
 457 ~~for businesses qualifying for bond waiver under this subsection~~  
 458 ~~to encourage and promote bond eligibility for such businesses.~~

459 ~~(g) The authority shall prepare a biennial report on the~~  
 460 ~~activities undertaken pursuant to this subsection to be~~  
 461 ~~submitted to the Orange County legislative delegation. The~~  
 462 ~~initial report shall be due December 31, 2010.~~

463 Section 5. Section 348.7543, Florida Statutes, is amended  
 464 to read:

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465 348.7543 Improvements, bond financing authority for.-  
 466 Pursuant to s. 11(f), Art. VII of the State Constitution, the  
 467 Legislature hereby approves for bond financing by the Central  
 468 Florida Orlando-Orange County Expressway Authority improvements  
 469 to toll collection facilities, interchanges to the legislatively  
 470 approved expressway system, and any other facility appurtenant,  
 471 necessary, or incidental to the approved system. Subject to  
 472 terms and conditions of applicable revenue bond resolutions and  
 473 covenants, such costs may be financed in whole or in part by  
 474 revenue bonds issued pursuant to s. 348.755(1)(a) or (b) whether  
 475 currently issued or issued in the future, or by a combination of  
 476 such bonds.

477 Section 6. Section 348.7544, Florida Statutes, is amended  
 478 to read:

479 348.7544 Northwest Beltway Part A, construction authorized;  
 480 financing.—Notwithstanding s. 338.2275, the Central Florida  
 481 Orlando-Orange County Expressway Authority may ~~is hereby~~  
 482 ~~authorized to~~ construct, finance, operate, own, and maintain  
 483 that portion of the Western Beltway known as the Northwest  
 484 Beltway Part A, extending from Florida's Turnpike near Ocoee  
 485 north to U.S. 441 near Apopka, as part of the authority's 20-  
 486 year capital projects plan. This project may be financed with  
 487 any funds available to the authority for such purpose or revenue  
 488 bonds issued by the Division of Bond Finance of the State Board  
 489 of Administration on behalf of the authority pursuant to s. 11,  
 490 Art. VII of the State Constitution and the State Bond Act, ss.  
 491 215.57-215.83.

492 Section 7. Section 348.7545, Florida Statutes, is amended  
 493 to read:

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494 348.7545 Western Beltway Part C, construction authorized;  
 495 financing.—Notwithstanding s. 338.2275, the Central Florida  
 496 Orlando-Orange County Expressway Authority may ~~is authorized to~~  
 497 exercise its condemnation powers, construct, finance, operate,  
 498 own, and maintain that portion of the Western Beltway known as  
 499 the Western Beltway Part C, extending from Florida's Turnpike  
 500 near Ocoee in Orange County southerly through Orange and Osceola  
 501 Counties to an interchange with I-4 near the Osceola-Polk County  
 502 line, as part of the authority's 20-year capital projects plan.  
 503 This project may be financed with any funds available to the  
 504 authority for such purpose or revenue bonds issued by the  
 505 Division of Bond Finance of the State Board of Administration on  
 506 behalf of the authority pursuant to s. 11, Art. VII of the State  
 507 Constitution and the State Bond Act, ss. 215.57-215.83. This  
 508 project may be refinanced with bonds issued by the authority  
 509 pursuant to s. 348.755(1)(d).

510 Section 8. Section 348.7546, Florida Statutes, is amended  
 511 to read:

512 348.7546 Wekiva Parkway, construction authorized;  
 513 financing.—

514 (1) The Central Florida Orlando-Orange County Expressway  
 515 Authority may ~~is authorized to~~ exercise its condemnation powers  
 516 and ~~to~~ construct, finance, operate, own, and maintain those  
 517 portions of the Wekiva Parkway which are identified by agreement  
 518 between the authority and the department and which are included  
 519 as part of the authority's long-range capital improvement plan.  
 520 The "Wekiva Parkway" means any limited access highway or  
 521 expressway constructed between State Road 429 and Interstate 4  
 522 specifically incorporating the corridor alignment recommended by

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523 Recommendation 2 of the Wekiva River Basin Area Task Force final  
 524 report dated January 15, 2003, and the recommendations of the SR  
 525 429 Working Group, which were adopted January 16, 2004. This  
 526 project may be financed with any funds available to the  
 527 authority for such purpose or revenue bonds issued by the  
 528 authority under s. 11, Art. VII of the State Constitution and s.  
 529 348.755(1)(b). This section does not invalidate the exercise by  
 530 the authority of its condemnation powers or the acquisition of  
 531 any property for the Wekiva Parkway before July 1, 2012.

532 (2) Notwithstanding any other provision of law ~~to the~~  
 533 ~~contrary~~, in order to ensure that funds are available to the  
 534 department for its portion of the Wekiva Parkway, beginning July  
 535 1, 2012, the authority shall repay the expenditures by the  
 536 department for costs of operation and maintenance of the Central  
 537 Florida Orlando-Orange County Expressway System in accordance  
 538 with the terms of the memorandum of understanding between the  
 539 authority and the department as ratified by the authority board  
 540 on February 22, 2012, which requires the authority to pay the  
 541 department \$10 million on July 1, 2012, and \$20 million on each  
 542 successive July 1 until the department has been fully reimbursed  
 543 for all costs of the Central Florida Orlando-Orange County  
 544 Expressway System which were paid, advanced, or reimbursed to  
 545 the authority by the department, with a final payment in the  
 546 amount of the balance remaining. Notwithstanding any other law  
 547 ~~to the contrary~~, the funds paid to the department pursuant to  
 548 this subsection must ~~shall~~ be allocated by the department for  
 549 construction of the Wekiva Parkway.

550 (3) The department's obligation to construct its portions  
 551 of the Wekiva Parkway is contingent upon the timely payment by

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552 the authority of the annual payments required of the authority  
 553 and receipt of all required environmental permits and approvals  
 554 by the Federal Government.

555 Section 9. Section 348.7547, Florida Statutes, is amended  
 556 to read:

557 348.7547 Maitland Boulevard Extension and Northwest Beltway  
 558 Part A Realignment construction authorized; financing.—  
 559 Notwithstanding s. 338.2275, the Central Florida Orlando-Orange  
 560 County Expressway Authority may ~~is hereby~~ authorized to exercise  
 561 its condemnation powers, construct, finance, operate, own, and  
 562 maintain the portion of State Road 414 known as the Maitland  
 563 Boulevard Extension and the realigned portion of the Northwest  
 564 Beltway Part A as part of the authority's long-range capital  
 565 improvement plan. The Maitland Boulevard Extension extends ~~will~~  
 566 ~~extend~~ from the current terminus of State Road 414 at U.S. 441  
 567 west to State Road 429 in west Orange County. The realigned  
 568 portion of the Northwest Beltway Part A runs ~~will run~~ from the  
 569 point at or near where the Maitland Boulevard Extension connects  
 570 ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to  
 571 the west and then north resulting in the northern terminus of  
 572 State Road 429 moving farther west before reconnecting with U.S.  
 573 441. However, under no circumstances may ~~shall~~ the realignment  
 574 of the Northwest Beltway Part A conflict with or contradict ~~with~~  
 575 the alignment of the Wekiva Parkway as defined in s. 348.7546.  
 576 This project may be financed with any funds available to the  
 577 authority for such purpose or revenue bonds issued by the  
 578 authority under s. 11, Art. VII of the State Constitution and s.  
 579 348.755(1)(b).

580 Section 10. Subsections (2) and (3) of section 348.755,

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581 Florida Statutes, are amended to read:

582 348.755 Bonds of the authority.-

583 (2) Any ~~such resolution that authorizes or resolutions~~  
 584 ~~authorizing~~ any bonds issued under this section hereunder may  
 585 contain provisions that must ~~which shall~~ be part of the contract  
 586 with the holders of such bonds, relating ~~as~~ to:

587 (a) The pledging of ~~all or~~ any part of the revenues, rates,  
 588 fees, rentals, ~~(including all or~~ any portion of the Orange  
 589 County gasoline tax funds received by the authority pursuant to  
 590 the terms of any lease-purchase agreement between the authority  
 591 and the department, or any part thereof), or other charges or  
 592 receipts of the authority, derived by the authority, from the  
 593 Central Florida Orlando-Orange County Expressway System.

594 (b) The completion, improvement, operation, extension,  
 595 maintenance, repair, lease or lease-purchase agreement of the  
 596 ~~said~~ system, and the duties of the authority and others,  
 597 including the department, ~~with reference thereto~~.

598 (c) Limitations on the purposes to which the proceeds of  
 599 the bonds, then or thereafter to be issued, or of any loan or  
 600 grant by the United States or the state may be applied.

601 (d) The fixing, charging, establishing, and collecting of  
 602 rates, fees, rentals, or other charges for use of the services  
 603 and facilities of the Central Florida Orlando-Orange County  
 604 Expressway System or any part thereof.

605 (e) The setting aside of reserves or sinking funds or  
 606 repair and replacement funds and the regulation and disposition  
 607 thereof.

608 (f) Limitations on the issuance of additional bonds.

609 (g) The terms and provisions of any lease-purchase

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610 agreement, deed of trust or indenture securing the bonds, or  
 611 under which the same may be issued.

612 (h) Any other or additional agreements with the holders of  
 613 the bonds which the authority may deem desirable and proper.

614 (3) The authority may employ fiscal agents as provided by  
 615 this part or the State Board of Administration of Florida may  
 616 upon request of the authority act as fiscal agent for the  
 617 authority in the issuance of any bonds that ~~which~~ may be issued  
 618 pursuant to this part, and the State Board of Administration may  
 619 upon request of the authority take over the management, control,  
 620 administration, custody, and payment of any ~~or all~~ debt services  
 621 or funds or assets now or hereafter available for any bonds  
 622 issued pursuant to this part. The authority may enter into any  
 623 deeds of trust, indentures or other agreements with its fiscal  
 624 agent, or with any bank or trust company within or without the  
 625 state, as security for such bonds, and may, under such  
 626 agreements, sign and pledge ~~all or~~ any of the revenues, rates,  
 627 fees, rentals or other charges or receipts of the authority,  
 628 including ~~all or~~ any portion of the Orange County gasoline tax  
 629 funds received by the authority pursuant to the terms of any  
 630 lease-purchase agreement between the authority and the  
 631 department, ~~thereunder~~. Such deed of trust, indenture, or other  
 632 agreement may contain such provisions as are customary in such  
 633 instruments, or, as the authority may authorize, including but  
 634 without limitation, provisions as to:

635 (a) The completion, improvement, operation, extension,  
 636 maintenance, repair, and lease of, or lease-purchase agreement  
 637 relating to the Central Florida Orlando-Orange County Expressway  
 638 System, and the duties of the authority and others including the

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639 department, with reference thereto.

640 (b) The application of funds and the safeguarding of funds  
641 on hand or on deposit.

642 (c) The rights and remedies of the trustee and the holders  
643 of the bonds.

644 (d) The terms and provisions of the bonds or the  
645 resolutions authorizing the issuance of same.

646 Section 11. Subsections (3) and (4) of section 348.756,  
647 Florida Statutes, are amended to read:

648 348.756 Remedies of the bondholders.-

649 (3) When a Any trustee is when appointed pursuant to  
650 subsection (1) as aforesaid, or is acting under a deed of trust,  
651 indenture, or other agreement, and whether or not all bonds have  
652 been declared due and payable, the trustee is shall be entitled  
653 as of right to the appointment of a receiver, who may enter upon  
654 and take possession of the Central Florida Orlando-Orange County  
655 Expressway System or the facilities or any part of the system or  
656 facilities or parts thereof, the rates, fees, rentals, or other  
657 revenues, charges, or receipts that from which are, or may be,  
658 applicable to the payment of the bonds so in default, and  
659 subject to and in compliance with the provisions of any lease-  
660 purchase agreement between the authority and the department  
661 operate and maintain the same, for and on behalf of and in the  
662 name of, the authority, the department, and the bondholders, and  
663 collect and receive all rates, fees, rentals, and other charges  
664 or receipts or revenues arising therefrom in the same manner as  
665 the authority or the department might do, and shall deposit all  
666 such moneys in a separate account and apply the same in such  
667 manner as the court directs shall direct. In any suit, action,

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668 or proceeding by the trustee, the fees, counsel fees, and  
669 expenses of the trustee, and ~~the said~~ receiver, if any, and all  
670 costs and disbursements allowed by the court must shall be a  
671 first charge on any rates, fees, rentals, or other charges,  
672 revenues, or receipts, derived from the Central Florida Orlando-  
673 Orange County Expressway System, or the facilities or services  
674 or any part of the system or facilities or parts thereof,  
675 including payments under any such lease-purchase agreement as  
676 aforesaid which said rates, fees, rentals, or other charges,  
677 revenues, or receipts shall or may be applicable to the payment  
678 of the bonds that are so in default. The Such trustee has shall,  
679 in addition to the foregoing, have and possess all of the powers  
680 necessary or appropriate for the exercise of any functions  
681 specifically set forth in this section herein or incident to the  
682 representation of the bondholders in the enforcement and  
683 protection of their rights.

684 (4) ~~Nothing in~~ This section or any other section of this  
685 part does not shall authorize any receiver appointed pursuant  
686 hereto for the purpose, subject to and in compliance with the  
687 provisions of any lease-purchase agreement between the authority  
688 and the department, of operating and maintaining the Central  
689 Florida Orlando-Orange County Expressway System or any  
690 facilities or part of the system or facilities or parts thereof,  
691 to sell, assign, mortgage, or otherwise dispose of any of the  
692 assets of whatever kind and character belonging to the  
693 authority. It is the intention of this part to limit The powers  
694 of the such receiver, subject to and in compliance with the  
695 provisions of any lease-purchase agreement between the authority  
696 and the department, are limited to the operation and maintenance

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 697 of the Central Florida Orlando-Orange County Expressway System,  
 698 or any facility, or part ~~or parts~~ thereof, as the court may  
 699 direct, in the name and for and on behalf of the authority, the  
 700 department, and the bondholders, and no holder of bonds on the  
 701 authority nor any trustee, ~~has shall ever have~~ the right in any  
 702 suit, action, or proceeding at law or in equity, to compel a  
 703 receiver, nor ~~may shall~~ any receiver be authorized or any court  
 704 be empowered to direct the receiver to sell, assign, mortgage,  
 705 or otherwise dispose of any assets ~~of whatever kind or character~~  
 706 belonging to the authority.

707 Section 12. Subsections (1) through (7) of section 348.757,  
 708 Florida Statutes, are amended to read:

709 348.757 Lease-purchase agreement.—

710 (1) ~~In order to effectuate the purposes of this part and as~~  
 711 ~~authorized by this part,~~ The authority may enter into a lease-  
 712 purchase agreement with the department relating to and covering  
 713 the Central Florida Orlando-Orange County Expressway System.

714 (2) ~~The~~ Such lease-purchase agreement must shall provide  
 715 for the leasing of the Central Florida Orlando-Orange County  
 716 Expressway System, by the authority, as lessor, to the  
 717 department, as lessee, must shall prescribe the term of such  
 718 lease and the rentals to be paid ~~thereunder,~~ and must shall  
 719 provide that upon the completion of the faithful performance  
 720 ~~thereunder~~ and the termination of the ~~such~~ lease-purchase  
 721 agreement, title in fee simple absolute to the Central Florida  
 722 Orlando-Orange County Expressway System must be retained by the  
 723 authority as then constituted shall be transferred in accordance  
 724 with law by the authority, to the state and the authority shall  
 725 deliver to the department such deeds and conveyances as shall be

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 726 ~~necessary or convenient to vest title in fee simple absolute in~~  
 727 ~~the state.~~

728 (3) ~~The~~ Such lease-purchase agreement may include ~~such~~  
 729 other provisions, agreements, and covenants that as the  
 730 authority and the department deem advisable or required,  
 731 including, but not limited to, provisions as to the bonds to be  
 732 issued under, and for the purposes of, this part, the  
 733 completion, extension, improvement, operation, and maintenance  
 734 of the Central Florida Orlando-Orange County Expressway System  
 735 and the expenses and the cost of operation of the said  
 736 authority, the charging and collection of tolls, rates, fees,  
 737 and other charges for the use of the services and facilities of  
 738 the system thereof, the application of federal or state grants  
 739 or aid that which may be made or given to assist the authority  
 740 in the completion, extension, improvement, operation, and  
 741 maintenance of the Central Florida Orlando Expressway System,  
 742 which the authority is ~~hereby~~ authorized to accept and apply to  
 743 such purposes, the enforcement of payment and collection of  
 744 rentals and any other terms, provisions, or covenants necessary,  
 745 incidental, or appurtenant to the making of and full performance  
 746 under the ~~such~~ lease-purchase agreement.

747 (4) The department as lessee under the ~~such~~ lease-purchase  
 748 agreement, ~~may is hereby authorized to pay as rentals under the~~  
 749 agreement thereunder any rates, fees, charges, funds, moneys,  
 750 receipts, or income accruing to the department from the  
 751 operation of the Central Florida Orlando-Orange County  
 752 Expressway System and the Orange County gasoline tax funds and  
 753 may also pay as rentals any appropriations received by the  
 754 department pursuant to any act of the Legislature of the state

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 755 heretofore or hereafter enacted; ~~provided, however, this part or~~  
 756 ~~the that nothing herein nor in such~~ lease-purchase agreement is  
 757 ~~not intended to and does not nor shall this part or such lease-~~  
 758 ~~purchase agreement~~ require the making or continuance of such  
 759 appropriations, ~~and nor shall~~ any holder of bonds issued  
 760 pursuant to this part does not ever have any right to compel the  
 761 making or continuance of such appropriations.

(5) ~~A~~ ~~No~~ pledge of the said Orange County gasoline tax  
 763 funds as rentals under a such lease-purchase agreement may not  
 764 ~~shall~~ be made without the consent of the County of Orange  
 765 evidenced by a resolution duly adopted by the board of county  
 766 commissioners of said county at a public hearing held pursuant  
 767 to due notice thereof published at least once a week for 3  
 768 consecutive weeks before the hearing in a newspaper of general  
 769 circulation in Orange County. ~~The said~~ resolution, among other  
 770 things, must shall provide that any excess of the said pledged  
 771 gasoline tax funds which is not required for debt service or  
 772 reserves for the such debt service for any bonds issued by the  
 773 ~~said~~ authority shall be returned annually to the department for  
 774 distribution to Orange County as provided by law. Before making  
 775 any application for a such pledge of gasoline tax funds, the  
 776 authority shall present the plan of its proposed project to the  
 777 Orange County planning and zoning commission for its comments  
 778 and recommendations.

(6) ~~The said~~ department may shall have power to covenant in  
 780 any lease-purchase agreement that it will pay all or any part of  
 781 the cost of the operation, maintenance, repair, renewal, and  
 782 replacement of the said system, and any part of the cost of  
 783 completing the said system to the extent that the proceeds of

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 784 bonds issued ~~therefor~~ are insufficient, from sources other than  
 785 the revenues derived from the operation of the said system and  
 786 the said Orange County gasoline tax funds. ~~The said~~ department  
 787 may also agree to make such other payments from any moneys  
 788 available to the said commission, the said county, or the said  
 789 city in connection with the construction or completion of the  
 790 ~~said~~ system as shall be deemed by the said department to be fair  
 791 and proper under any ~~such~~ covenants ~~heretofore or hereafter~~  
 792 entered into.

(7) ~~The said~~ system must shall be a part of the state road  
 794 system and the said department may is hereby authorized, upon  
 795 the request of the authority, ~~to~~ expend out of any funds  
 796 available for the purpose the such moneys, and ~~to~~ use ~~such of~~  
 797 its engineering and other forces, as may be necessary ~~and~~  
 798 ~~desirable in the judgment of said department,~~ for the operation  
 799 of the said authority and for traffic surveys, borings, surveys,  
 800 preparation of plans and specifications, estimates of cost, and  
 801 other preliminary engineering and other studies; provided,  
 802 however, that the aggregate amount of moneys expended for the  
 803 ~~said~~ purposes by the said department do shall not exceed the sum  
 804 of \$375,000.

Section 13. Section 348.758, Florida Statutes, is amended  
 806 to read:

348.758 Appointment of department as may be appointed agent  
 808 of authority for construction.—The department may be appointed  
 809 by the said authority as its agent for the purpose of  
 810 constructing improvements and extensions to the Central Florida  
 811 ~~Orlando-Orange County~~ Expressway System and for its the  
 812 completion ~~thereof~~. In such event, the authority shall provide

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813 the department with complete copies of all documents,  
 814 agreements, resolutions, contracts, and instruments relating  
 815 thereto and shall request the department to do such construction  
 816 work, including the planning, surveying, and actual construction  
 817 of the completion, extensions, and improvements to the Central  
 818 Florida Orlando-Orange County Expressway System and shall  
 819 transfer to the credit of an account of the department in the  
 820 State Treasury of the state the necessary funds, ~~therefor~~ and  
 821 the department ~~may shall thereupon be authorized, empowered and~~  
 822 ~~directed to~~ proceed with such construction and ~~to~~ use the ~~said~~  
 823 funds for such purpose in the same manner that it is ~~now~~  
 824 authorized to use the funds ~~otherwise provided by law~~ for the  
 825 ~~its use in~~ construction of roads and bridges.

826 Section 14. Section 348.759, Florida Statutes, is amended  
 827 to read:

828 348.759 Acquisition of lands and property.—

829 (1) For the purposes of this part, the Central Florida  
 830 ~~Orlando-Orange County~~ Expressway Authority may acquire private  
 831 or public property and property rights, including rights of  
 832 access, air, view, and light, by gift, devise, purchase, or  
 833 condemnation by eminent domain proceedings, as the authority  
 834 ~~deems may deem~~ necessary for any of the purposes of this part,  
 835 including, but not limited to, any lands reasonably necessary  
 836 for securing applicable permits, areas necessary for management  
 837 of access, borrow pits, drainage ditches, water retention areas,  
 838 rest areas, replacement access for landowners whose access is  
 839 impaired due to the construction of a facility, and replacement  
 840 rights-of-way for relocated rail and utility facilities; for  
 841 existing, proposed, or anticipated transportation facilities on

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842 the Central Florida ~~Orlando-Orange County~~ Expressway System or  
 843 in a transportation corridor designated by the authority; or for  
 844 the purposes of screening, relocation, removal, or disposal of  
 845 junkyards and scrap metal processing facilities. The authority  
 846 ~~may shall also have the power to~~ condemn any material and  
 847 property necessary for such purposes.

848 (2) The ~~right of eminent domain herein conferred shall be~~  
 849 ~~exercised by the~~ authority shall exercise the right of eminent  
 850 domain in the manner provided by law.

851 (3) When the authority acquires property for a  
 852 transportation facility or in a transportation corridor, it is  
 853 not subject to any liability imposed by chapter 376 or chapter  
 854 403 for preexisting soil or groundwater contamination due solely  
 855 to its ownership. This section does not affect the rights or  
 856 liabilities of any past or future owners of the acquired  
 857 property ~~and~~ ~~nor~~ does not ~~it~~ affect the liability of any  
 858 governmental entity for the results of its actions which create  
 859 or exacerbate a pollution source. The authority and the  
 860 Department of Environmental Protection may enter into  
 861 interagency agreements for the performance, funding, and  
 862 reimbursement of the investigative and remedial acts necessary  
 863 for property acquired by the authority.

864 Section 15. Section 348.760, Florida Statutes, is amended  
 865 to read:

866 348.760 Cooperation with other units, boards, agencies, and  
 867 individuals.—~~A Express authority and power is hereby given and~~  
 868 ~~granted any~~ county, municipality, drainage district, road and  
 869 bridge district, school district or any other political  
 870 subdivision, board, commission, or individual in, or of, the

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871 state ~~may~~ to make and enter into with the authority, contracts,  
 872 leases, conveyances, partnerships, or other agreements pursuant  
 873 to within the provisions and purposes of this part. The  
 874 authority may ~~is hereby expressly authorized~~ to make and enter  
 875 into contracts, leases, conveyances, partnerships, and other  
 876 agreements with any political subdivision, agency, or  
 877 instrumentality of the state and any ~~and all~~ federal agencies,  
 878 corporations, and individuals, for the purpose of carrying out  
 879 the provisions of this part ~~or with the consent of the Seminole~~  
 880 ~~County Expressway Authority, for the purpose of carrying out and~~  
 881 ~~implementing part VIII of this chapter.~~

882 Section 16. Section 348.761, Florida Statutes, is amended  
 883 to read:

884 348.761 Covenant of the state.—The state pledges ~~does~~  
 885 ~~hereby pledge~~ to, and agrees, with any person, firm or  
 886 corporation, or federal or state agency subscribing to, or  
 887 acquiring the bonds to be issued by the authority for the  
 888 purposes of this part that the state will not limit or alter the  
 889 rights that are ~~hereby~~ vested in the authority and the  
 890 department until all issued bonds and interest ~~at any time~~  
 891 ~~issued, together with the interest thereon,~~ are fully paid and  
 892 discharged insofar as the pledge ~~same~~ affects the rights of the  
 893 holders of bonds issued pursuant to this part ~~hereunder~~. The  
 894 state does further pledge to, and agree, with the United States  
 895 that in the event any federal agency constructs or contributes  
 896 ~~shall construct or contribute~~ any funds for the completion,  
 897 extension, or improvement of the Central Florida Orlando-Orange  
 898 County Expressway System, or any part or portion of the system  
 899 ~~thereof,~~ the state will not alter or limit the rights and powers

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900 of the authority and the department in any manner that ~~which~~  
 901 would be inconsistent with the continued maintenance and  
 902 operation of the Central Florida Orlando-Orange County  
 903 Expressway System or the completion, extension, or improvement  
 904 of the system thereof, or that ~~which~~ would be inconsistent with  
 905 the due performance of any agreements between the authority and  
 906 any such federal agency, and the authority and the department  
 907 shall continue to have and may exercise all powers ~~herein~~  
 908 granted in this part, so long as the powers are ~~same~~ shall be  
 909 necessary or desirable for the carrying out of the purposes of  
 910 this part and the purposes of the United States in the  
 911 completion, extension, or improvement of the Central Florida  
 912 Orlando-Orange County Expressway System, or any part of the  
 913 system ~~or portion thereof.~~

914 Section 17. Section 348.765, Florida Statutes, is amended  
 915 to read:

916 348.765 This part complete and additional authority.—

917 (1) The powers conferred by this part are ~~shall be~~ in  
 918 addition and supplemental to the existing powers of the said  
 919 board and the department, and this part may ~~shall~~ not be  
 920 construed as repealing any of the provisions, of any other law,  
 921 general, special, or local, but to supersede such other laws in  
 922 the exercise of the powers provided in this part, and to provide  
 923 a complete method for the exercise of the powers granted in this  
 924 part. The extension and improvement of the Central Florida said  
 925 Orlando-Orange County Expressway System, and the issuance of  
 926 bonds pursuant to this part ~~hereunder~~ to finance all or part of  
 927 the cost of the system thereof, may be accomplished upon  
 928 compliance with the provisions of this part without regard to or

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929 necessity for compliance with the provisions, limitations, or  
930 restrictions contained in any other general, special, or local  
931 law, including, but not limited to, s. 215.821, and no approval  
932 of any bonds issued under this part by the qualified electors or  
933 qualified electors who are freeholders in the state or in the  
934 ~~said~~ County of Orange, or in the ~~said~~ City of Orlando, or in any  
935 other political subdivision of the state, ~~is shall be~~ required  
936 for the issuance of such bonds pursuant to this part.

937 (2) This part ~~does shall not be deemed to~~ repeal, rescind,  
938 or modify any other law ~~or laws~~ relating to the ~~said~~ State Board  
939 of Administration, the ~~said~~ Department of Transportation, or the  
940 Division of Bond Finance of the State Board of Administration,  
941 but supersedes any ~~shall be deemed to and shall supersede such~~  
942 ~~other~~ law that is ~~or laws as are~~ inconsistent with the  
943 provisions of this part, including, but not limited to, s.  
944 215.821.

945 Section 18. All powers, governance, and control of the  
946 Osceola County Expressway System, created pursuant to part V,  
947 chapter 348, Florida Statutes, is transferred to the Central  
948 Florida Expressway Authority and the assets, liabilities,  
949 facilities, tangible and intangible property and any rights in  
950 the property, and any other legal rights of the Osceola  
951 Expressway Authority, are transferred to the Central Florida  
952 Expressway Authority on July 1, 2014. Part V of chapter 348,  
953 Florida Statutes, consisting of ss. 348.9950-348.9961 is  
954 repealed on the same date that the Osceola County Expressway  
955 System is transferred to the Central Florida Expressway  
956 Authority.

957 Section 19. This act shall take effect July 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13  
Meeting Date

Topic Orlando Orange County Expressway

Bill Number 952  
*(if applicable)*

Name Chris Dudley

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 123 S. Adams St.  
*Street*

Phone 850/671-4401

Tallahassee FL 32312  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic Regional Trans Authority

Bill Number 952  
*(if applicable)*

Name Kathy Russell

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Dir of Gov Relations

Address 400 S. Orange Ave  
*Street*

Phone 407 383 2075

Orlando FL 32801  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing City of Orlando

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/20/13  
Meeting Date

Topic SB 952 OCX Bill Number SB 952  
Name ATLEE MERCER Amendment Barcode \_\_\_\_\_  
Job Title CHAIRMAN (if applicable)

Address OSCEOLA COUNTY EXPRESSWAY AUTHORITY Phone 407-742-0200  
Street  
City KISSIMMEE State FL Zip 34741 E-mail AMERCER@CFL.RR.COM

Speaking:  For  Against  Information

Representing OCX

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 1342

INTRODUCER: Transportation Committee and Senator Abruzzo

SUBJECT: Traffic Control

DATE: March 22, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	
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:**

CS/SB 1342 revises various provisions relating to traffic infraction detectors, commonly known as “red light cameras,” used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights.

Major provisions of the bill:

- provide that a notice of violation rather than a traffic citation, may be sent initially to a person identified in an affidavit,;
- provide that mailing (rather than delivery) of a traffic citation constitutes notice;
- provide that if the registered owner or the person identified in the affidavit, or a duly authorized representative is present at any proceeding, such person waives any challenge or dispute as to notification of the citation;
- require traffic signal plans (*e.g.*, yellow light timing) to comply with certain standards; and
- provide clarification relating to right-on-red violations.

This bill amends the following sections of the Florida Statutes: 316.0083 and 316.075.

## 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. These video cameras record the license plate number, the date and time of day, the time elapsed since the signal has turned red and the vehicle’s 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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup> DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of FDOT, when permitted by FDOT.<sup>5</sup>

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.<sup>6</sup> Such signage must meet the specifications for uniform signals and devices adopted by FDOT pursuant to s. 316.0745, F.S.<sup>7</sup>

### *Notifications and Citations*

If a traffic infraction detector identifies a vehicle 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.

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<sup>1</sup> s. 316.0076, F.S.

<sup>2</sup> *See generally* s. 316.0083, F.S.

<sup>3</sup> s. 316.008(7), F.S.; s. 316.0776(1), F.S.

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

<sup>5</sup> s. 321.50, F.S. DHSMV has not undertaken any effort to install or authorize traffic infraction detectors itself.

<sup>6</sup> s. 316.0776(2), F.S.

<sup>7</sup> *Id.*

A notification must be issued to the registered owner (first name on registration in cases of joint registration) of the vehicle within 30 days of the alleged violation.<sup>8</sup> The notice must be accompanied by a photograph or other recorded image of the violation, 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.<sup>9</sup> Violations may not be issued if the driver is making a right-hand turn "in a careful and prudent manner."<sup>10</sup>

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 UTC to the registered owner (first name on registration in cases of joint registration).<sup>11</sup> A citation must be mailed by certified mail, and must be issued no later than 60 days after the violation.<sup>12</sup> The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup>

### *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 UTC for the alleged violation issued by a law enforcement officer.

An additional defense is available if the motor vehicle's owner was deceased on or before the date the UTC was issued.<sup>16</sup>

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 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.<sup>17</sup> If the owner submits an affidavit that another

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<sup>8</sup> s. 316.0083(1)(b), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> s. 316.0083(2), F.S.

<sup>11</sup> s. 316.0083(1)(c), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> s. 316.0083(1)(e), F.S.

<sup>15</sup> s. 316.650(3)(c), F.S.

<sup>16</sup> s. 316.0083(1)(d), F.S.

<sup>17</sup> *Id.*

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.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

### *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).<sup>22</sup> 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.<sup>23</sup>

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.<sup>24</sup>

Violations of ss. 316.074(1) or 316.075(1)(c)1., F.S., enforced by traffic infraction detectors may not result in points being assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.<sup>25</sup>

### *No Notice of Violation issued to Person Named in the Affidavit*

In instances where the registered owner furnishes an affidavit raising the exemption that the vehicle was, at the time of the violation, in the care, custody or control of another person, the identified person is not issued a notice of violation. Instead, the person is immediately issued a traffic citation at a higher amount,<sup>26</sup> which includes associated court fees and costs.<sup>27</sup> The immediate issuance of a traffic citation comes as a result of time constraints imposed by the red-light camera statute. Because a traffic citation must be issued to the registered owner within 60 days after the date of the violation in cases of nonpayment, there is not enough time to issue

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> s. 318.18(15), F.S.

<sup>22</sup> s. 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

<sup>23</sup> *Id.*

<sup>24</sup> s. 318.18(15), F.S.

<sup>25</sup> s. 322.27(3)(d)6., F.S.

<sup>26</sup> The UTC amount varies across jurisdictions due to differing court costs and fees, but is generally above \$200.

<sup>27</sup> s. 316.0083(1)(d)3., F.S.

another notice of violation – even if the registered owner furnishes an affidavit identifying someone else as the driver. As such, while registered owners are given the opportunity to pay a \$158 fine pursuant to the notice of violation, persons identified on the affidavit are subject to a higher fine and run the risk of having a conviction recorded on their driving record if they elect to attend a hearing and are found to have committed the violation.

#### *Federal Rules on Traffic Control Devices*

The Federal Highway Administration (“FHWA”) publishes a Manual on Uniform Traffic Control Devices (“MUTCD”) that defines standards related to the installation and maintenance of traffic control signals. The MUTCD is updated periodically to “accommodate the nation’s changing transportation needs and address new safety technologies, traffic control tools and traffic management techniques.”<sup>28</sup> On December 16, 2009, a final rule adopting the 2009 Edition of the MUTCD was published in the Federal Register with an effective date of January 15, 2010.<sup>29</sup> All states must adopt the 2009 edition of the MUTCD by January 15, 2012.<sup>30</sup> According to information published on FHWA’s website, Florida has adopted this national standard.<sup>31</sup>

#### **Florida Laws and Rules on Traffic Control Devices**

Section 316.0745(1), F.S., requires FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of the state. Section 316.0745(2), F.S., requires FDOT to compile and publish a manual defining its uniform system. The statute also requires FDOT to compile and publish minimum specifications for traffic control signal devices “certified by [FDOT] as conforming with the uniform system.”<sup>32</sup>

Following statutory requirements, FDOT publishes a Traffic Engineering Manual (“TEM”) to provide traffic engineering standards and guidelines.<sup>33</sup> The TEM covers the processes whereby standards and guidelines are adopted, as well as chapters devoted to “highway signs and markings, traffic signals, traffic optimization through the use of computer models . . . , and links to information on [FDOT’s] aging road user program –Safe Mobility for Life.”<sup>34</sup>

In addition to FDOT’s TEM, many sections of Florida law require drivers to obey traffic control signal demands. Section 316.075, F.S., requires drivers to follow set traffic control signal commands and yield the right-of-way to pedestrians lawfully in intersections and crosswalks. Violators of s. 316.075, F.S., including those that run red lights, commit non-criminal traffic violations punishable pursuant to ch. 318, F.S.

#### **Institute of Transportation Engineers**

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<sup>28</sup> See the Federal Highway Administration’s (FHWA) information on the MUTCD at <http://mutcd.fhwa.dot.gov/> (Last viewed 2/19/2013).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See FHWA’s site indicating Florida has adopted the 2009 Edition of the MUTCD. This information can be accessed at [http://mutcd.fhwa.dot.gov/resources/state\\_info/florida/fl.htm](http://mutcd.fhwa.dot.gov/resources/state_info/florida/fl.htm) (Last visited 2/19/2013).

<sup>32</sup> s. 316.0745(2), F.S.

<sup>33</sup> Florida Department of Transportation *Traffic Engineering Manual*, “Adoption Procedure.” This information can be viewed at <http://www.dot.state.fl.us/trafficoperations/Operations/Studies/TEM/TEM.shtm> (Last visited 2/19/13).

<sup>34</sup> *Id.*

According to its website, the Institute of Transportation Engineers (“ITE”) is an international, educational and scientific association of transportation professionals.<sup>35</sup> Among other things, ITE offers recommendations to the MUTCD and is recognized as one of the leading organizations in transportation research. It publishes a Traffic Engineering Handbook containing information used by transportation officials nationwide. FDOT’s TEM calculates the minimum yellow signal change and all-red clearance intervals using formulas contained within the ITE’s Traffic Engineering Handbook. However, there is no express requirement in Florida law that FDOT’s TEM contain formulas contained within ITE’s Traffic Engineering Handbook.

### **Traffic Signal Yellow Intervals**

The purpose of the yellow light display is “to provide a safe transition between two conflicting traffic signal phases.”<sup>36</sup> More specifically, the function of the yellow light display is “to warn traffic of an impending change in the right-of-way assignment.”<sup>37</sup> The MUTCD states that a yellow change interval should have a minimum duration of 3 seconds and a maximum duration of 6 seconds and a red clearance interval should have a duration not exceeding 6 seconds.<sup>38</sup>

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

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

The ideal yellow interval accommodates conditions 1 and 2, eliminates condition 3, and minimizes condition 4. To accomplish this, traffic engineers nationwide typically employ the following formula, which is heavily influenced by vehicle approach speed, and was developed by the Institute of Transportation Engineers (ITE):

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<sup>35</sup> See the Institute of Transportation Engineers website at <http://www.ite.org/aboutite/index.asp> (Last visited 2/19/13).

<sup>36</sup> Florida Department of Transportation *Traffic Engineering Manual*, s. 3.6.1, “Purpose.” This information can be viewed at [http://www.dot.state.fl.us/trafficoperations/Operations/PDFs/FDOT\\_Traffic\\_Engineering\\_Manual\\_revised\\_January\\_2012.pdf](http://www.dot.state.fl.us/trafficoperations/Operations/PDFs/FDOT_Traffic_Engineering_Manual_revised_January_2012.pdf) (Last visited 2/19/13).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

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

Where:

Y= length of yellow interval, sec.

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

v = speed of approaching vehicles, in mph.

a = deceleration rate in response to the onset of a yellow indication. (Use 10 ft/sec<sup>2</sup>)

g = acceleration due to gravity. (Use 32.2 ft/sec<sup>2</sup>)

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

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

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

**III. Effect of Proposed Changes:**

**Section 1** of the bill makes several changes to s. 316.0083, F.S., governing administration of red light camera violations. Taken together, these provisions subject a person having care, custody, or control of the vehicle involved in the violation to the same procedure that applies to the registered owner. A notice of violation would be issued to that person before issuance of a UTC. The changes lift the time constraints on traffic infraction enforcement officers responsible for mailing notices of violations and UTCs and give the identified person the same rights as the registered owner. The bill allows the person identified to pay a \$158 fine that is not subject to court costs, fees, and risks associated with attending a hearing; namely, the possibility of a conviction being recorded on the person’s driving record. The identified person receives the same amount of time as a registered vehicle owner to pay the imposed fine before a UTC is issued.

Specifically, the bill:

- provides that a notice of violation rather than a traffic citation, may be sent initially to a person identified in an affidavit as having care, custody, or control of the vehicle at the time of the violation;
- provides that a notice of violation must be sent to the person identified in the affidavit within 30 days after receipt of the affidavit.; and
- requires that, when appropriate, a traffic citation must be sent to the person identified in the affidavit no later than 30 days after the date the notice of violation is mailed; and
- provides that mailing (rather than delivery) of a traffic citation constitutes notice; and
- provides that if the registered owner or the person identified in the affidavit, or a duly authorized representative is present at any proceeding, such person waives any challenge or dispute as to notification of the citation.

The bill further specifies that FDOT documentation demonstrating that the traffic infraction detector equipment meets requires testing specifications is prima facie evidence of the reliability of the detector. The burden of proof is on the person raising the reliability of the detector as a defense to the notice of violation to establish that the detector did not meet the specifications.

The bill also adds items for consideration by a traffic infraction officer<sup>39</sup> when examining evidence for purposes of issuing a notice of violation or a traffic citation for failure to stop at a red light before making a right turn. The officer is directed to consider one or more of the following factors that would indicate the turn was not made in a careful and prudent manner:

- The operator of the motor vehicle failed to yield to a pedestrian or bicyclist.
- The operator of the motor vehicle put a pedestrian or bicyclist in danger of injury.
- The operator of the motor vehicle failed to yield to another vehicle or oncoming traffic.
- The operator of the motor vehicle did not substantially reduce the speed of the motor vehicle before making the right-hand turn movement, with direction to the officer to approximate that the speed of the turn was made in excess of 10 miles per hour.

The bill prohibits issuance of a citation if the driver of the vehicle came to a complete stop before turning right, when permissible at a red light, but failed to stop before the point at which a stop is required. By January 1, 2014, cities and counties must install signs notifying the public that a traffic infraction detector is in use at a given intersection, which signage must specifically include notice of enforcement of right-on-red violations and must meet FDOT specifications for uniform signals and devices.

**Section 2** of the bill amends s. 316.075, F.S., relating to traffic control signal devices. The bill requires the yellow signal display duration on traffic control signals to be based on the standards set forth in FDOT's Traffic Engineering Manual. Additionally, if the traffic control device does not meet the yellow signal display duration requirements, a person may not be found to have committed a violation of subparagraph (1)(c)1., F.S.<sup>40</sup>

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<sup>39</sup> The traffic infraction officer is additionally authorized to issue such notices or citations at his or her discretion, as if the citation has been issued by an officer observing the violation at an intersection.

<sup>40</sup> That subsection generally requires vehicular traffic facing a steady red signal to stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing, with exceptions for

**Section 3** provides the act shall take effect July 1, 2013.

**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:

The registered owner of a motor vehicle and the person identified as having care, custody, or control of the motor vehicle will be subject to the same procedure for the disposition of a red-light camera violation.

C. Government Sector Impact:

Indeterminate. Cities and counties may incur expenses associated with the required signage.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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right-on-red and left-on-red from a one-way street intersecting another one-way street on which traffic moves to the left, except when prohibited, in both cases, by a county or city and such prohibition is visibly posted.

**VIII. Additional Information:**

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

**CS by Transportation on March 21, 2013:**

The committee adopted two amendments at its meeting and incorporated them into a committee substitute. The amendments:

- remove provisions relating to governmental entity burden of proof and to the right to confront all witnesses and remove all “chain of evidence” provisions from the bill (required device authentication by any person who received or processed evidence, any person who reviewed the evidence to determine whether to issue a notice of violation, and any person who issued a notice of violation or a traffic citation);
- remove the prohibition against notices of violation or traffic citations for right-on-red violations detected by a traffic infraction detector;
- remove all provisions relating to the right to request a hearing, remove inclusion of attempted delivery relative to notices of violation and traffic citations; and remove the requirement that notice of violation must be sent by certified mail;
- removes all provisions relating to re-timing of all intersections, all provisions relating to dismissal of citations for failure to comply with the re-timing requirements, and the provisions relating to fines against local governmental entities for non-compliant intersections.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Lee) recommended the following:

**Senate Amendment**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1) and (2) of section 316.0083,  
Florida Statutes, are amended to read:

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

(1) (a) For purposes of administering this section, the  
department, a county, or a municipality may authorize a traffic  
infraction enforcement officer under s. 316.640 to issue a  
traffic citation for a violation of s. 316.074(1) or s.  
316.075(1)(c)1. Neither a notice of violation nor ~~and~~ a traffic



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14 citation may ~~not~~ be issued under this section for a right-on-red  
15 violation for failure to stop at a red light if the driver is  
16 making a right-hand turn in a careful and prudent manner at an  
17 intersection where right-hand turns are permissible. This  
18 paragraph does not prohibit a review of information from a  
19 traffic infraction detector by an authorized employee or agent  
20 of the department, a county, or a municipality before issuance  
21 of the traffic citation by the traffic infraction enforcement  
22 officer. This paragraph does not prohibit the department, a  
23 county, or a municipality from issuing notification as provided  
24 in paragraph (b) to the registered owner of the motor vehicle or  
25 to another person identified as having care, custody, or control  
26 of the motor vehicle involved in the violation of s. 316.074(1)  
27 or s. 316.075(1)(c)1. unless the notification is for a right-on-  
28 red violation.

29 (b)1.a. Within 30 days after a violation, notification must  
30 be sent to the registered owner of the motor vehicle involved in  
31 the violation specifying the remedies available under s. 318.14  
32 and that the violator must pay the penalty of \$100 ~~\$158~~ to the  
33 department, county, or municipality, or furnish an affidavit in  
34 accordance with paragraph (d), or request a hearing to be held  
35 in the county court for the county in which the violation  
36 occurred, within 90 ~~30~~ days following the date of delivery or  
37 attempted delivery of the notification in order to avoid court  
38 fees, costs, and the issuance of a traffic citation. The  
39 notification shall be sent by certified ~~first-class~~ mail.

40 b. Included with the notification to the registered owner  
41 of the motor vehicle involved in the infraction must be a notice  
42 that the owner has the right to review the photographic or



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43 electronic images or the streaming video evidence that  
44 constitutes a rebuttable presumption against the owner of the  
45 vehicle. The notice must state the time and place or Internet  
46 location where the evidence may be examined and observed.

47 c. Notwithstanding any other provision of law, a person who  
48 receives a notice of violation under this section shall have the  
49 option of requesting a hearing within 90 days following the date  
50 of delivery or attempted delivery of the notice of violation or  
51 paying the penalty pursuant to the notice of violation, but no  
52 payment or fee may be required before a hearing requested by the  
53 person. The notice of violation must be accompanied by  
54 information on the person's right to request a hearing and on  
55 all court costs related thereto, and by a form to request a  
56 hearing. For purposes of this subparagraph, the term "person"  
57 includes a natural person, registered owner or coowner of a  
58 motor vehicle, or person identified on an affidavit as having  
59 care, custody, or control of the motor vehicle at the time of  
60 the violation.

61 d. If the person requests a hearing, the request must be  
62 made to the county or municipality in which the violation  
63 occurred. The municipality in which the violation occurred, or,  
64 if the violation occurred in an unincorporated area, the county  
65 in which the violation occurred, shall forward the request for  
66 hearing and a copy of the citation to the clerk of the circuit  
67 court of the county where the violation occurred.

68 e. If the registered owner or coowner of the motor vehicle,  
69 or the person designated as having care, custody, or control of  
70 the motor vehicle at the time of the violation, or a duly  
71 authorized representative of the owner, coowner, or designated



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72 person, initiates a proceeding to challenge the delivery or  
73 attempted delivery of the notice of violation pursuant to this  
74 paragraph, such person waives any challenge or dispute as to  
75 delivery.

76 2. Penalties assessed and collected by the department,  
77 county, or municipality authorized to collect the funds provided  
78 for in this paragraph, less the amount retained by the county or  
79 municipality pursuant to subparagraph 3., shall be paid to the  
80 Department of Revenue weekly. Payment by the department, county,  
81 or municipality to the state shall be made by means of  
82 electronic funds transfers. In addition to the payment, summary  
83 detail of the penalties remitted shall be reported to the  
84 Department of Revenue.

85 3. Penalties to be assessed and collected by the  
86 department, county, or municipality are as follows:

87 a. One hundred ~~fifty-eight~~ dollars for a violation of s.  
88 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
89 stop at a traffic signal if enforcement is by the department's  
90 traffic infraction enforcement officer. Fifty-two ~~One hundred~~  
91 dollars shall be remitted to the Department of Revenue for  
92 deposit into the General Revenue Fund, \$10 shall be remitted to  
93 the Department of Revenue for deposit into the Department of  
94 Health Emergency Medical Services Trust Fund, \$3 shall be  
95 remitted to the Department of Revenue for deposit into the Brain  
96 and Spinal Cord Injury Trust Fund, \$35 ~~and \$45~~ shall be  
97 distributed to the municipality in which the violation occurred,  
98 unless a hearing is requested and the person is found to have  
99 committed the violation, in which case, \$25 shall be distributed  
100 to the municipality or county and ~~or~~, if the violation occurred



101 in an unincorporated area, to the county in which the violation  
102 occurred. Funds deposited into the Department of Health  
103 Emergency Medical Services Trust Fund under this sub-  
104 subparagraph shall be distributed as provided in s. 395.4036(1).  
105 Proceeds of the infractions in the Brain and Spinal Cord Injury  
106 Trust Fund shall be distributed quarterly to the Miami Project  
107 to Cure Paralysis and shall be used for brain and spinal cord  
108 research.

109 b. One hundred ~~fifty-eight~~ dollars for a violation of s.  
110 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
111 stop at a traffic signal if enforcement is by a county or  
112 municipal traffic infraction enforcement officer. Twenty Five  
113 ~~Seventy~~ dollars shall be remitted by the county or municipality  
114 to the Department of Revenue for deposit into the General  
115 Revenue Fund, \$10 shall be remitted to the Department of Revenue  
116 for deposit into the Department of Health Emergency Medical  
117 Services Trust Fund, \$3 shall be remitted to the Department of  
118 Revenue for deposit into the Brain and Spinal Cord Injury Trust  
119 Fund, and \$62 ~~\$75~~ shall be retained by the county or  
120 municipality enforcing the ordinance enacted pursuant to this  
121 section unless a hearing is requested and the person is found to  
122 have committed the violation, in which case, \$52 shall be  
123 distributed to the municipality or county and and \$10 shall be  
124 distributed to the clerk of the court of the county in which the  
125 violation occurred. Funds deposited into the Department of  
126 Health Emergency Medical Services Trust Fund under this sub-  
127 subparagraph shall be distributed as provided in s. 395.4036(1).  
128 Proceeds of the infractions in the Brain and Spinal Cord Injury  
129 Trust Fund shall be distributed quarterly to the Miami Project



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130 to Cure Paralysis and shall be used for brain and spinal cord  
131 research.

132 4. An individual may not receive a commission from any  
133 revenue collected from violations detected through the use of a  
134 traffic infraction detector. A manufacturer or vendor may not  
135 receive a fee or remuneration based upon the number of  
136 violations detected through the use of a traffic infraction  
137 detector.

138 (c)1.a. A traffic citation issued under this section shall  
139 be issued by mailing the traffic citation by certified mail to  
140 the address of the registered owner of the motor vehicle  
141 involved in the violation when payment has not been made within  
142 90 ~~30~~ days after the date of delivery or attempted delivery of  
143 the notification under paragraph (b), the registered owner has  
144 not requested a hearing as permitted by paragraph (b), and the  
145 registered owner has not submitted an affidavit under this  
146 section subparagraph (b)1.

147 b. Delivery or attempted delivery of the traffic citation  
148 constitutes notification under this paragraph. If the registered  
149 owner or coowner of the motor vehicle, or the person designated  
150 as having care, custody, or control of the motor vehicle at the  
151 time of the violation, or a duly authorized representative of  
152 the owner, coowner, or designated person, initiates a proceeding  
153 to challenge the delivery or attempted delivery of the citation  
154 pursuant to this section, such person waives any challenge or  
155 dispute as to delivery.

156 c. In the case of joint ownership of a motor vehicle, the  
157 traffic citation shall be mailed to the first name appearing on  
158 the registration, unless the first name appearing on the



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159 registration is a business organization, in which case the  
160 second name appearing on the registration may be used.

161 ~~d. The traffic citation shall be mailed to the registered~~  
162 ~~owner of the motor vehicle involved in the violation no later~~  
163 ~~than 60 days after the date of the violation.~~

164 2. Included with the notification to the registered owner  
165 of the motor vehicle involved in the infraction shall be a  
166 notice that the owner has the right to review, either in person  
167 or remotely, the photographic or electronic images or the  
168 streaming video evidence that constitutes a rebuttable  
169 presumption against the owner of the vehicle. The notice must  
170 state the time and place or Internet location where the evidence  
171 may be examined and observed.

172 (d)1. The owner of the motor vehicle involved in the  
173 violation is responsible and liable for paying the uniform  
174 traffic citation issued for a violation of s. 316.074(1) or s.  
175 316.075(1)(c)1. when the driver failed to stop at a traffic  
176 signal, unless the owner can establish that:

177 a. The motor vehicle passed through the intersection in  
178 order to yield right-of-way to an emergency vehicle or as part  
179 of a funeral procession;

180 b. The motor vehicle passed through the intersection at the  
181 direction of a law enforcement officer;

182 c. The motor vehicle was, at the time of the violation, in  
183 the care, custody, or control of another person;

184 d. A uniform traffic citation was issued by a law  
185 enforcement officer to the driver of the motor vehicle for the  
186 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

187 e. The motor vehicle's owner was deceased on or before the



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188 date that the uniform traffic citation was issued, as  
189 established by an affidavit submitted by the representative of  
190 the motor vehicle owner's estate or other designated person or  
191 family member.

192 2. In order to establish such facts, the owner of the motor  
193 vehicle shall, within 30 days after the date of issuance of the  
194 traffic citation, furnish to the appropriate governmental entity  
195 an affidavit setting forth detailed information supporting an  
196 exemption as provided in this paragraph.

197 a. An affidavit supporting an exemption under sub-  
198 subparagraph 1.c. must include the name, address, date of birth,  
199 and, if known, the driver license number of the person who  
200 leased, rented, or otherwise had care, custody, or control of  
201 the motor vehicle at the time of the alleged violation. If the  
202 vehicle was stolen at the time of the alleged offense, the  
203 affidavit must include the police report indicating that the  
204 vehicle was stolen.

205 b. If a traffic citation for a violation of s. 316.074(1)  
206 or s. 316.075(1)(c)1. was issued at the location of the  
207 violation by a law enforcement officer, the affidavit must  
208 include the serial number of the uniform traffic citation.

209 c. If the motor vehicle's owner to whom a traffic citation  
210 has been issued is deceased, the affidavit must include a  
211 certified copy of the owner's death certificate showing that the  
212 date of death occurred on or before the issuance of the uniform  
213 traffic citation and one of the following:

214 (I) A bill of sale or other document showing that the  
215 deceased owner's motor vehicle was sold or transferred after his  
216 or her death, but on or before the date of the alleged



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217 violation.

218 (II) Documentary proof that the registered license plate  
219 belonging to the deceased owner's vehicle was returned to the  
220 department or any branch office or authorized agent of the  
221 department, but on or before the date of the alleged violation.

222 (III) A copy of a police report showing that the deceased  
223 owner's registered license plate or motor vehicle was stolen  
224 after the owner's death, but on or before the date of the  
225 alleged violation.

226

227 Upon receipt of the affidavit and documentation required under  
228 this sub-subparagraph, the governmental entity must dismiss the  
229 citation and provide proof of such dismissal to the person that  
230 submitted the affidavit.

231 3. Upon receipt of an affidavit, the person designated as  
232 having care, custody, or ~~and~~ control of the motor vehicle at the  
233 time of the violation may be issued a notice of violation  
234 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.  
235 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
236 at a traffic signal. The affidavit is admissible in a proceeding  
237 pursuant to this section for the purpose of providing proof that  
238 the person identified in the affidavit was in actual care,  
239 custody, or control of the motor vehicle. The owner of a leased  
240 vehicle for which a traffic citation is issued for a violation  
241 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to  
242 stop at a traffic signal is not responsible for paying the  
243 traffic citation and is not required to submit an affidavit as  
244 specified in this subsection if the motor vehicle involved in  
245 the violation is registered in the name of the lessee of such



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246 motor vehicle.

247 4. Paragraphs (b) and (c) apply to the person identified on  
248 the affidavit, except that the notification under sub-  
249 subparagraph (b)1.a. must be sent to the person identified on  
250 the affidavit within 30 days after receipt of an affidavit.

251 5.4. The submission of a false affidavit is a misdemeanor  
252 of the second degree, punishable as provided in s. 775.082 or s.  
253 775.083.

254 (e) The photographic or electronic images or streaming  
255 video attached to or referenced in the traffic citation is  
256 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
257 when the driver failed to stop at a traffic signal has occurred  
258 and is admissible in any proceeding to enforce this section and  
259 raises a rebuttable presumption that the motor vehicle named in  
260 the report or shown in the photographic or electronic images or  
261 streaming video evidence was used in violation of s. 316.074(1)  
262 or s. 316.075(1)(c)1. when the driver failed to stop at a  
263 traffic signal.

264 (f) Notwithstanding any other provision of law, the burden  
265 of proving guilt shall rest upon the governmental entity  
266 bringing the charge under this section. A person appearing in  
267 any hearing under this section may not be compelled to be a  
268 witness against himself or herself.

269 (g) Notwithstanding any other provision of law, in any  
270 hearing involving a traffic infraction detector used to enforce  
271 the traffic laws of this state, each person so charged has the  
272 right to confront the witnesses against him or her. Any evidence  
273 obtained from such device must be authenticated in court by the  
274 person receiving or processing the evidence, any person having



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275 reviewed such evidence in order to make a decision to issue a  
276 notice of violation, and any person who issued the notice of  
277 violation or traffic citation. An affidavit is not sufficient to  
278 authenticate such evidence, and such evidence must be accounted  
279 for in writing from the time of the alleged violation until the  
280 issuance of any notice of violation or traffic citation.  
281 Compensation of any witness for the prosecution shall be as  
282 required in s. 92.143.

283 (2) Neither a notice of violation nor ~~and~~ a traffic  
284 citation may ~~not~~ be issued under this section for a right-on-red  
285 violation for failure to stop at a red light if the driver is  
286 ~~making a right-hand turn in a careful and prudent manner at an~~  
287 ~~intersection where right-hand turns are permissible.~~

288 Section 2. Section 316.075, Florida Statutes, is amended to  
289 read:

290 316.075 Traffic control signal devices.—

291 (1) Except for automatic warning signal lights installed or  
292 to be installed at railroad crossings, whenever traffic,  
293 including municipal traffic, is controlled by traffic control  
294 signals exhibiting different colored lights, or colored lighted  
295 arrows, successively one at a time or in combination, only the  
296 colors green, red, and yellow shall be used, except for special  
297 pedestrian signals carrying a word legend, and the lights shall  
298 indicate and apply to drivers of vehicles and pedestrians as  
299 follows:

300 (a) *Green indication.*—

301 1. Vehicular traffic facing a circular green signal may  
302 proceed cautiously straight through or turn right or left unless  
303 a sign at such place prohibits either such turn. But vehicular



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304 traffic, including vehicles turning right or left, shall yield  
305 the right-of-way to other vehicles and to pedestrians lawfully  
306 within the intersection or an adjacent crosswalk at the time  
307 such signal is exhibited.

308 2. Vehicular traffic facing a green arrow signal, shown  
309 alone or in combination with another indication, as directed by  
310 the manual, may cautiously enter the intersection only to make  
311 the movement indicated by such arrow, or such other movement as  
312 is permitted by other indications shown at the same time, except  
313 the driver of any vehicle may U-turn, so as to proceed in the  
314 opposite direction unless such movement is prohibited by posted  
315 traffic control signs. Such vehicular traffic shall yield the  
316 right-of-way to pedestrians lawfully within an adjacent  
317 crosswalk and to other traffic lawfully using the intersection.

318 3. Unless otherwise directed by a pedestrian control signal  
319 as provided in s. 316.0755, pedestrians facing any green signal,  
320 except when the sole green signal is a turn arrow, may proceed  
321 across the roadway within any marked or unmarked crosswalk.

322 (b) *Steady yellow indication.*—

323 1. Vehicular traffic facing a steady yellow signal is  
324 thereby warned that the related green movement is being  
325 terminated or that a red indication will be exhibited  
326 immediately thereafter when vehicular traffic shall not enter  
327 the intersection.

328 2. Pedestrians facing a steady yellow signal, unless  
329 otherwise directed by a pedestrian control signal as provided in  
330 s. 316.0755, are thereby advised that there is insufficient time  
331 to cross the roadway before a red indication is shown and no  
332 pedestrian shall start to cross the roadway.



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333 (c) *Steady red indication.*—

334 1. Vehicular traffic facing a steady red signal shall stop  
335 before entering the crosswalk on the near side of the  
336 intersection or, if none, then before entering the intersection  
337 and shall remain standing until a green indication is shown;  
338 however:

339 a. The driver of a vehicle which is stopped at a clearly  
340 marked stop line, but if none, before entering the crosswalk on  
341 the near side of the intersection, or, if none then at the point  
342 nearest the intersecting roadway where the driver has a view of  
343 approaching traffic on the intersecting roadway before entering  
344 the intersection in obedience to a steady red signal may make a  
345 right turn, but shall yield the right-of-way to pedestrians and  
346 other traffic proceeding as directed by the signal at the  
347 intersection, except that municipal and county authorities may  
348 prohibit any such right turn against a steady red signal at any  
349 intersection, which prohibition shall be effective when a sign  
350 giving notice thereof is erected in a location visible to  
351 traffic approaching the intersection.

352 b. The driver of a vehicle on a one-way street that  
353 intersects another one-way street on which traffic moves to the  
354 left shall stop in obedience to a steady red signal, but may  
355 then make a left turn into the one-way street, but shall yield  
356 the right-of-way to pedestrians and other traffic proceeding as  
357 directed by the signal at the intersection, except that  
358 municipal and county authorities may prohibit any such left turn  
359 as described, which prohibition shall be effective when a sign  
360 giving notice thereof is attached to the traffic control signal  
361 device at the intersection.



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362           2.a. The driver of a vehicle facing a steady red signal  
363 shall stop before entering the crosswalk and remain stopped to  
364 allow a pedestrian, with a permitted signal, to cross a roadway  
365 when the pedestrian is in the crosswalk or steps into the  
366 crosswalk and is upon the half of the roadway upon which the  
367 vehicle is traveling or when the pedestrian is approaching so  
368 closely from the opposite half of the roadway as to be in  
369 danger.

370           b. Unless otherwise directed by a pedestrian control signal  
371 as provided in s. 316.0755, pedestrians facing a steady red  
372 signal shall not enter the roadway.

373           (2) In the event an official traffic control signal is  
374 erected and maintained at a place other than an intersection,  
375 the provisions of this section shall be applicable except as to  
376 those provisions which by their nature can have no application.  
377 Any stop required shall be made at a sign or marking on the  
378 pavement indicating where the stop shall be made, but in the  
379 absence of any such sign or marking the stop shall be made at  
380 the signal.

381           (3) (a) A ~~No~~ traffic control signal device may not ~~shall~~ be  
382 used unless it exhibits which does not exhibit a yellow or  
383 "caution" light between the green or "go" signal and the red or  
384 "stop" signal. The yellow signal display duration on traffic  
385 control signals shall be based on the standards set forth in the  
386 Florida Department of Transportation's Traffic Engineering  
387 Manual.

388           (b) A ~~No~~ traffic control signal device may not ~~shall~~  
389 display other than the color red at the top of the vertical  
390 signal, nor may ~~shall~~ it display other than the color red at the



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391 extreme left of the horizontal signal.

392 (4) (a) A violation of subsection (1) or subsection (2) ~~this~~  
393 ~~section~~ is a noncriminal traffic infraction, punishable pursuant  
394 to chapter 318 as either a pedestrian violation or, if the  
395 infraction resulted from the operation of a vehicle, as a moving  
396 violation. However, no person issued a citation by a traffic  
397 enforcement officer shall be found to have committed a violation  
398 of subparagraph (1)(c)1. if the traffic control device at the  
399 intersection did not meet all requirements under subsection (3).

400

401 Section 3. This act shall take effect July 1, 2013.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/25/2013	.	
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The Committee on Transportation (Clemens) recommended the following:

**Senate Amendment to Amendment (824056)**

Delete lines 12 - 287  
and insert:  
traffic citation for a violation of s. 316.074(1) or s.  
316.075(1)(c)1. A notice of violation and a traffic citation may  
not be issued for failure to stop at a red light if the driver  
is making a right-hand turn in a careful and prudent manner at  
an intersection where right-hand turns are permissible. This  
paragraph does not prohibit a review of information from a  
traffic infraction detector by an authorized employee or agent  
of the department, a county, or a municipality before issuance



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13 of the traffic citation by the traffic infraction enforcement  
14 officer. This paragraph does not prohibit the department, a  
15 county, or a municipality from issuing notification as provided  
16 in paragraph (b) to the registered owner of the motor vehicle or  
17 to another person identified as having care, custody, and  
18 control of the motor vehicle involved in the violation of s.  
19 316.074(1) or s. 316.075(1)(c)1.

20 (b)1.a. Within 30 days after a violation, notification must  
21 be sent to the registered owner of the motor vehicle involved in  
22 the violation specifying the remedies available under s. 318.14  
23 and that the violator must pay the penalty of \$158 to the  
24 department, county, or municipality, or furnish an affidavit in  
25 accordance with paragraph (d), within 30 days following the date  
26 of the notification in order to avoid court fees, costs, and the  
27 issuance of a traffic citation. The notification shall be sent  
28 by first-class mail.

29 b. Included with the notification to the registered owner  
30 of the motor vehicle involved in the infraction must be a notice  
31 that the owner has the right to review the photographic or  
32 electronic images or the streaming video evidence that  
33 constitutes a rebuttable presumption against the owner of the  
34 vehicle. The notice must state the time and place or Internet  
35 location where the evidence may be examined and observed.

36 2. Penalties assessed and collected by the department,  
37 county, or municipality authorized to collect the funds provided  
38 for in this paragraph, less the amount retained by the county or  
39 municipality pursuant to subparagraph 3., shall be paid to the  
40 Department of Revenue weekly. Payment by the department, county,  
41 or municipality to the state shall be made by means of



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42 electronic funds transfers. In addition to the payment, summary  
43 detail of the penalties remitted shall be reported to the  
44 Department of Revenue.

45 3. Penalties to be assessed and collected by the  
46 department, county, or municipality are as follows:

47 a. One hundred fifty-eight dollars for a violation of s.  
48 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
49 stop at a traffic signal if enforcement is by the department's  
50 traffic infraction enforcement officer. One hundred dollars  
51 shall be remitted to the Department of Revenue for deposit into  
52 the General Revenue Fund, \$10 shall be remitted to the  
53 Department of Revenue for deposit into the Department of Health  
54 Emergency Medical Services Trust Fund, \$3 shall be remitted to  
55 the Department of Revenue for deposit into the Brain and Spinal  
56 Cord Injury Trust Fund, and \$45 shall be distributed to the  
57 municipality in which the violation occurred, or, if the  
58 violation occurred in an unincorporated area, to the county in  
59 which the violation occurred. Funds deposited into the  
60 Department of Health Emergency Medical Services Trust Fund under  
61 this sub-subparagraph shall be distributed as provided in s.  
62 395.4036(1). Proceeds of the infractions in the Brain and Spinal  
63 Cord Injury Trust Fund shall be distributed quarterly to the  
64 Miami Project to Cure Paralysis and shall be used for brain and  
65 spinal cord research.

66 b. One hundred fifty-eight dollars for a violation of s.  
67 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
68 stop at a traffic signal if enforcement is by a county or  
69 municipal traffic infraction enforcement officer. Seventy  
70 dollars shall be remitted by the county or municipality to the



71 Department of Revenue for deposit into the General Revenue Fund,  
72 \$10 shall be remitted to the Department of Revenue for deposit  
73 into the Department of Health Emergency Medical Services Trust  
74 Fund, \$3 shall be remitted to the Department of Revenue for  
75 deposit into the Brain and Spinal Cord Injury Trust Fund, and  
76 \$75 shall be retained by the county or municipality enforcing  
77 the ordinance enacted pursuant to this section. Funds deposited  
78 into the Department of Health Emergency Medical Services Trust  
79 Fund under this sub-subparagraph shall be distributed as  
80 provided in s. 395.4036(1). Proceeds of the infractions in the  
81 Brain and Spinal Cord Injury Trust Fund shall be distributed  
82 quarterly to the Miami Project to Cure Paralysis and shall be  
83 used for brain and spinal cord research.

84 4. An individual may not receive a commission from any  
85 revenue collected from violations detected through the use of a  
86 traffic infraction detector. A manufacturer or vendor may not  
87 receive a fee or remuneration based upon the number of  
88 violations detected through the use of a traffic infraction  
89 detector.

90 (c)1.a. A traffic citation issued under this section shall  
91 be issued by mailing the traffic citation by certified mail to  
92 the address of the registered owner of the motor vehicle  
93 involved in the violation when payment has not been made within  
94 30 days after notification under subparagraph (b)1.

95 b. Mailing Delivery of the traffic citation constitutes  
96 notification under this paragraph. If the registered owner or  
97 the person designated as having care, custody, and control of  
98 the motor vehicle at the time of the violation, or a duly  
99 authorized representative thereof, is present at any proceeding



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100 pursuant to this section, such person waives any challenge or  
101 dispute as to notification of the citation.

102 c. In the case of joint ownership of a motor vehicle, the  
103 traffic citation shall be mailed to the first name appearing on  
104 the registration, unless the first name appearing on the  
105 registration is a business organization, in which case the  
106 second name appearing on the registration may be used.

107 d. The traffic citation shall be mailed to the registered  
108 owner of the motor vehicle involved in the violation no later  
109 than 60 days after the date of the violation.

110 2. Included with the notification to the registered owner  
111 of the motor vehicle involved in the infraction shall be a  
112 notice that the owner has the right to review, either in person  
113 or remotely, the photographic or electronic images or the  
114 streaming video evidence that constitutes a rebuttable  
115 presumption against the owner of the vehicle. The notice must  
116 state the time and place or Internet location where the evidence  
117 may be examined and observed.

118 (d)1. The owner of the motor vehicle involved in the  
119 violation is responsible and liable for paying the uniform  
120 traffic citation issued for a violation of s. 316.074(1) or s.  
121 316.075(1)(c)1. when the driver failed to stop at a traffic  
122 signal, unless the owner can establish that:

123 a. The motor vehicle passed through the intersection in  
124 order to yield right-of-way to an emergency vehicle or as part  
125 of a funeral procession;

126 b. The motor vehicle passed through the intersection at the  
127 direction of a law enforcement officer;

128 c. The motor vehicle was, at the time of the violation, in



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129 the care, custody, or control of another person;

130 d. A uniform traffic citation was issued by a law  
131 enforcement officer to the driver of the motor vehicle for the  
132 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

133 e. The motor vehicle's owner was deceased on or before the  
134 date that the uniform traffic citation was issued, as  
135 established by an affidavit submitted by the representative of  
136 the motor vehicle owner's estate or other designated person or  
137 family member.

138 2. In order to establish such facts, the owner of the motor  
139 vehicle shall, within 30 days after the date of issuance of the  
140 traffic citation, furnish to the appropriate governmental entity  
141 an affidavit setting forth detailed information supporting an  
142 exemption as provided in this paragraph.

143 a. An affidavit supporting an exemption under sub-  
144 subparagraph 1.c. must include the name, address, date of birth,  
145 and, if known, the driver license number of the person who  
146 leased, rented, or otherwise had care, custody, or control of  
147 the motor vehicle at the time of the alleged violation. If the  
148 vehicle was stolen at the time of the alleged offense, the  
149 affidavit must include the police report indicating that the  
150 vehicle was stolen.

151 b. If a traffic citation for a violation of s. 316.074(1)  
152 or s. 316.075(1)(c)1. was issued at the location of the  
153 violation by a law enforcement officer, the affidavit must  
154 include the serial number of the uniform traffic citation.

155 c. If the motor vehicle's owner to whom a traffic citation  
156 has been issued is deceased, the affidavit must include a  
157 certified copy of the owner's death certificate showing that the



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158 date of death occurred on or before the issuance of the uniform  
159 traffic citation and one of the following:

160 (I) A bill of sale or other document showing that the  
161 deceased owner's motor vehicle was sold or transferred after his  
162 or her death, but on or before the date of the alleged  
163 violation.

164 (II) Documentary proof that the registered license plate  
165 belonging to the deceased owner's vehicle was returned to the  
166 department or any branch office or authorized agent of the  
167 department, but on or before the date of the alleged violation.

168 (III) A copy of a police report showing that the deceased  
169 owner's registered license plate or motor vehicle was stolen  
170 after the owner's death, but on or before the date of the  
171 alleged violation.

172  
173 Upon receipt of the affidavit and documentation required under  
174 this sub-subparagraph, the governmental entity must dismiss the  
175 citation and provide proof of such dismissal to the person that  
176 submitted the affidavit.

177 3. Upon receipt of an affidavit, the person designated as  
178 having care, custody, and control of the motor vehicle at the  
179 time of the violation may be issued a notice of violation  
180 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.  
181 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
182 at a traffic signal. The notice of violation may be issued to  
183 the person designated by a traffic infraction officer or an  
184 agent of the department, county, or municipality in the  
185 affidavit as having care, custody, and control of the motor  
186 vehicle at the time of the violation. The affidavit is



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187 admissible in a proceeding pursuant to this section for the  
188 purpose of providing proof that the person identified in the  
189 affidavit was in actual care, custody, or control of the motor  
190 vehicle. The owner of a leased vehicle for which a traffic  
191 citation is issued for a violation of s. 316.074(1) or s.  
192 316.075(1)(c)1. when the driver failed to stop at a traffic  
193 signal is not responsible for paying the traffic citation and is  
194 not required to submit an affidavit as specified in this  
195 subsection if the motor vehicle involved in the violation is  
196 registered in the name of the lessee of such motor vehicle.

197 4. Paragraphs (b) and (c) apply to the person identified on  
198 the affidavit, except that the notification under sub-  
199 subparagraph (b)1.a. must be sent within 30 days after receipt  
200 of an affidavit and the traffic citation mailed pursuant to sub-  
201 subparagraph (c)1.d. must be mailed no later than 30 days after  
202 the date the notification of violation is mailed.

203 5.4. The submission of a false affidavit is a misdemeanor  
204 of the second degree, punishable as provided in s. 775.082 or s.  
205 775.083.

206 (e) The photographic or electronic images or streaming  
207 video attached to or referenced in the traffic citation is  
208 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
209 when the driver failed to stop at a traffic signal has occurred  
210 and is admissible in any proceeding to enforce this section and  
211 raises a rebuttable presumption that the motor vehicle named in  
212 the report or shown in the photographic or electronic images or  
213 streaming video evidence was used in violation of s. 316.074(1)  
214 or s. 316.075(1)(c)1. when the driver failed to stop at a  
215 traffic signal.



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216           (f) Documentation provided by the Department of  
217 Transportation which demonstrates that the traffic infraction  
218 detection equipment meets the appropriate testing specifications  
219 is prima facie evidence of the reliability of the traffic  
220 infraction detector. A person raising the reliability of the  
221 traffic infraction detector as an affirmative defense to the  
222 notice of violation must establish by clear and convincing  
223 evidence that the detector did not meet specifications  
224 prescribed by the Department of Transportation.

225           (2) A notice of violation and a traffic citation may not be  
226 issued for failure to stop at a red light if the driver is  
227 making a right-hand turn in a careful and prudent manner at an  
228 intersection where right-hand turns are permissible.

229           (a) A notice of violation or traffic citation for failure  
230 to stop at a red light before making a right-hand turn may be  
231 issued at the discretion of the reviewing traffic infraction  
232 enforcement officer, as if the citation had been issued by an  
233 officer at an intersection. When examining evidence for  
234 violations under this subsection, a traffic infraction  
235 enforcement officer shall consider one or more of the following  
236 factors that would indicate the turn was not made in a careful  
237 or prudent manner:

238           1. The operator of the motor vehicle failed to yield to a  
239 pedestrian or bicyclist.

240           2. The operator of the motor vehicle put a pedestrian or  
241 bicyclist in danger of injury.

242           3. The operator of the motor vehicle failed to yield to  
243 another vehicle or oncoming traffic.

244           4. The operator of the motor vehicle did not substantially



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245 reduce the speed of the motor vehicle before making the right-  
246 hand turn movement. For violations of this factor, the reviewing  
247 officer must approximate that the speed of the turn was made in  
248 excess of 10 miles per hour.

249 (b) A citation may not be issued under this subsection if  
250 the driver of the vehicle came to a complete stop before turning  
251 right, when permissible at a red light, but failed to stop  
252 before the point at which a stop is required.

253 (c) A county or municipality that installs a traffic  
254 infraction detector at an intersection shall install a sign  
255 notifying the public that a traffic infraction detector is in  
256 use at that intersection. Such signage must specifically include  
257 notification of camera enforcement of violations for right turns  
258 at that intersection. Such signage must meet the specifications  
259 for uniform signals and devices adopted by the Department of  
260 Transportation. Counties and municipalities must be in  
261 compliance with this subsection by January 1, 2014.



913514

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/25/2013	.	
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The Committee on Transportation (Clemens) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsections (1) and (2) of section 316.0083, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

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

(1) (a) For purposes of administering this section, the department, a county, or a municipality may authorize a traffic infraction enforcement officer under s. 316.640 to issue a



913514

13 traffic citation for a violation of s. 316.074(1) or s.  
14 316.075(1)(c)1. A notice of violation and a traffic citation may  
15 not be issued for failure to stop at a red light if the driver  
16 is making a right-hand turn in a careful and prudent manner at  
17 an intersection where right-hand turns are permissible. This  
18 paragraph does not prohibit a review of information from a  
19 traffic infraction detector by an authorized employee or agent  
20 of the department, a county, or a municipality before issuance  
21 of the traffic citation by the traffic infraction enforcement  
22 officer. This paragraph does not prohibit the department, a  
23 county, or a municipality from issuing notification as provided  
24 in paragraph (b) to the registered owner of the motor vehicle or  
25 to another person identified as having care, custody, and  
26 control of the motor vehicle involved in the violation of s.  
27 316.074(1) or s. 316.075(1)(c)1.

28 (b)1.a. Within 30 days after a violation, notification must  
29 be sent to the registered owner of the motor vehicle involved in  
30 the violation specifying the remedies available under s. 318.14  
31 and that the violator must pay the penalty of \$158 to the  
32 department, county, or municipality, or furnish an affidavit in  
33 accordance with paragraph (d), within 30 days following the date  
34 of the notification in order to avoid court fees, costs, and the  
35 issuance of a traffic citation. The notification shall be sent  
36 by first-class mail.

37 b. Included with the notification to the registered owner  
38 of the motor vehicle involved in the infraction must be a notice  
39 that the owner has the right to review the photographic or  
40 electronic images or the streaming video evidence that  
41 constitutes a rebuttable presumption against the owner of the



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42 vehicle. The notice must state the time and place or Internet  
43 location where the evidence may be examined and observed.

44 2. Penalties assessed and collected by the department,  
45 county, or municipality authorized to collect the funds provided  
46 for in this paragraph, less the amount retained by the county or  
47 municipality pursuant to subparagraph 3., shall be paid to the  
48 Department of Revenue weekly. Payment by the department, county,  
49 or municipality to the state shall be made by means of  
50 electronic funds transfers. In addition to the payment, summary  
51 detail of the penalties remitted shall be reported to the  
52 Department of Revenue.

53 3. Penalties to be assessed and collected by the  
54 department, county, or municipality are as follows:

55 a. One hundred fifty-eight dollars for a violation of s.  
56 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
57 stop at a traffic signal if enforcement is by the department's  
58 traffic infraction enforcement officer. One hundred dollars  
59 shall be remitted to the Department of Revenue for deposit into  
60 the General Revenue Fund, \$10 shall be remitted to the  
61 Department of Revenue for deposit into the Department of Health  
62 Emergency Medical Services Trust Fund, \$3 shall be remitted to  
63 the Department of Revenue for deposit into the Brain and Spinal  
64 Cord Injury Trust Fund, and \$45 shall be distributed to the  
65 municipality in which the violation occurred, or, if the  
66 violation occurred in an unincorporated area, to the county in  
67 which the violation occurred. Funds deposited into the  
68 Department of Health Emergency Medical Services Trust Fund under  
69 this sub-subparagraph shall be distributed as provided in s.  
70 395.4036(1). Proceeds of the infractions in the Brain and Spinal



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71 Cord Injury Trust Fund shall be distributed quarterly to the  
72 Miami Project to Cure Paralysis and shall be used for brain and  
73 spinal cord research.

74       b. One hundred fifty-eight dollars for a violation of s.  
75 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
76 stop at a traffic signal if enforcement is by a county or  
77 municipal traffic infraction enforcement officer. Seventy  
78 dollars shall be remitted by the county or municipality to the  
79 Department of Revenue for deposit into the General Revenue Fund,  
80 \$10 shall be remitted to the Department of Revenue for deposit  
81 into the Department of Health Emergency Medical Services Trust  
82 Fund, \$3 shall be remitted to the Department of Revenue for  
83 deposit into the Brain and Spinal Cord Injury Trust Fund, and  
84 \$75 shall be retained by the county or municipality enforcing  
85 the ordinance enacted pursuant to this section. Funds deposited  
86 into the Department of Health Emergency Medical Services Trust  
87 Fund under this sub-subparagraph shall be distributed as  
88 provided in s. 395.4036(1). Proceeds of the infractions in the  
89 Brain and Spinal Cord Injury Trust Fund shall be distributed  
90 quarterly to the Miami Project to Cure Paralysis and shall be  
91 used for brain and spinal cord research.

92       4. An individual may not receive a commission from any  
93 revenue collected from violations detected through the use of a  
94 traffic infraction detector. A manufacturer or vendor may not  
95 receive a fee or remuneration based upon the number of  
96 violations detected through the use of a traffic infraction  
97 detector.

98       (c)1.a. A traffic citation issued under this section shall  
99 be issued by mailing the traffic citation by certified mail to



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100 the address of the registered owner of the motor vehicle  
101 involved in the violation when payment has not been made within  
102 30 days after notification under subparagraph (b)1.

103 b. Mailing ~~Delivery~~ of the traffic citation constitutes  
104 notification under this paragraph. If the registered owner or  
105 the person designated as having care, custody, and control of  
106 the motor vehicle at the time of the violation, or a duly  
107 authorized representative thereof, is present at any proceeding  
108 pursuant to this section, such person waives any challenge or  
109 dispute as to notification of the citation.

110 c. In the case of joint ownership of a motor vehicle, the  
111 traffic citation shall be mailed to the first name appearing on  
112 the registration, unless the first name appearing on the  
113 registration is a business organization, in which case the  
114 second name appearing on the registration may be used.

115 d. The traffic citation shall be mailed to the registered  
116 owner of the motor vehicle involved in the violation no later  
117 than 60 days after the date of the violation.

118 2. Included with the notification to the registered owner  
119 of the motor vehicle involved in the infraction shall be a  
120 notice that the owner has the right to review, either in person  
121 or remotely, the photographic or electronic images or the  
122 streaming video evidence that constitutes a rebuttable  
123 presumption against the owner of the vehicle. The notice must  
124 state the time and place or Internet location where the evidence  
125 may be examined and observed.

126 (d)1. The owner of the motor vehicle involved in the  
127 violation is responsible and liable for paying the uniform  
128 traffic citation issued for a violation of s. 316.074(1) or s.



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129 316.075(1)(c)1. when the driver failed to stop at a traffic  
130 signal, unless the owner can establish that:  
131       a. The motor vehicle passed through the intersection in  
132 order to yield right-of-way to an emergency vehicle or as part  
133 of a funeral procession;  
134       b. The motor vehicle passed through the intersection at the  
135 direction of a law enforcement officer;  
136       c. The motor vehicle was, at the time of the violation, in  
137 the care, custody, or control of another person;  
138       d. A uniform traffic citation was issued by a law  
139 enforcement officer to the driver of the motor vehicle for the  
140 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or  
141       e. The motor vehicle's owner was deceased on or before the  
142 date that the uniform traffic citation was issued, as  
143 established by an affidavit submitted by the representative of  
144 the motor vehicle owner's estate or other designated person or  
145 family member.  
146       2. In order to establish such facts, the owner of the motor  
147 vehicle shall, within 30 days after the date of issuance of the  
148 traffic citation, furnish to the appropriate governmental entity  
149 an affidavit setting forth detailed information supporting an  
150 exemption as provided in this paragraph.  
151       a. An affidavit supporting an exemption under sub-  
152 subparagraph 1.c. must include the name, address, date of birth,  
153 and, if known, the driver license number of the person who  
154 leased, rented, or otherwise had care, custody, or control of  
155 the motor vehicle at the time of the alleged violation. If the  
156 vehicle was stolen at the time of the alleged offense, the  
157 affidavit must include the police report indicating that the



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158 vehicle was stolen.

159       b. If a traffic citation for a violation of s. 316.074(1)  
160 or s. 316.075(1)(c)1. was issued at the location of the  
161 violation by a law enforcement officer, the affidavit must  
162 include the serial number of the uniform traffic citation.

163       c. If the motor vehicle's owner to whom a traffic citation  
164 has been issued is deceased, the affidavit must include a  
165 certified copy of the owner's death certificate showing that the  
166 date of death occurred on or before the issuance of the uniform  
167 traffic citation and one of the following:

168       (I) A bill of sale or other document showing that the  
169 deceased owner's motor vehicle was sold or transferred after his  
170 or her death, but on or before the date of the alleged  
171 violation.

172       (II) Documentary proof that the registered license plate  
173 belonging to the deceased owner's vehicle was returned to the  
174 department or any branch office or authorized agent of the  
175 department, but on or before the date of the alleged violation.

176       (III) A copy of a police report showing that the deceased  
177 owner's registered license plate or motor vehicle was stolen  
178 after the owner's death, but on or before the date of the  
179 alleged violation.

180

181 Upon receipt of the affidavit and documentation required under  
182 this sub-subparagraph, the governmental entity must dismiss the  
183 citation and provide proof of such dismissal to the person that  
184 submitted the affidavit.

185       3. Upon receipt of an affidavit, the person designated as  
186 having care, custody, and control of the motor vehicle at the



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187 time of the violation may be issued a notice of violation  
188 pursuant to paragraph (b) ~~traffic citation~~ for a violation of s.  
189 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
190 at a traffic signal. The notice of violation may be issued to  
191 the person designated by a traffic infraction officer or an  
192 agent of the department, county, or municipality in the  
193 affidavit as having care, custody, and control of the motor  
194 vehicle at the time of the violation. The affidavit is  
195 admissible in a proceeding pursuant to this section for the  
196 purpose of providing proof that the person identified in the  
197 affidavit was in actual care, custody, or control of the motor  
198 vehicle. The owner of a leased vehicle for which a traffic  
199 citation is issued for a violation of s. 316.074(1) or s.  
200 316.075(1)(c)1. when the driver failed to stop at a traffic  
201 signal is not responsible for paying the traffic citation and is  
202 not required to submit an affidavit as specified in this  
203 subsection if the motor vehicle involved in the violation is  
204 registered in the name of the lessee of such motor vehicle.

205 4. Paragraphs (b) and (c) apply to the person identified on  
206 the affidavit, except that the notification under sub-  
207 subparagraph (b)1.a. must be sent within 30 days after receipt  
208 of an affidavit and the traffic citation mailed pursuant to sub-  
209 subparagraph (c)1.d. must be mailed no later than 30 days after  
210 the date the notification of violation is mailed.

211 5.4. The submission of a false affidavit is a misdemeanor  
212 of the second degree, punishable as provided in s. 775.082 or s.  
213 775.083.

214 (e) The photographic or electronic images or streaming  
215 video attached to or referenced in the traffic citation is



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216 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
217 when the driver failed to stop at a traffic signal has occurred  
218 and is admissible in any proceeding to enforce this section and  
219 raises a rebuttable presumption that the motor vehicle named in  
220 the report or shown in the photographic or electronic images or  
221 streaming video evidence was used in violation of s. 316.074(1)  
222 or s. 316.075(1)(c)1. when the driver failed to stop at a  
223 traffic signal.

224 (f) Documentation provided by the Department of  
225 Transportation which demonstrates that the traffic infraction  
226 detection equipment meets the appropriate testing specifications  
227 is prima facie evidence of the reliability of the traffic  
228 infraction detector. A person raising the reliability of the  
229 traffic infraction detector as an affirmative defense to the  
230 notice of violation must establish by clear and convincing  
231 evidence that the detector did not meet specifications  
232 prescribed by the Department of Transportation.

233 (2) A notice of violation and a traffic citation may not be  
234 issued for failure to stop at a red light if the driver is  
235 making a right-hand turn in a careful and prudent manner at an  
236 intersection where right-hand turns are permissible.

237 (a) A notice of violation or traffic citation for failure  
238 to stop at a red light before making a right-hand turn may be  
239 issued at the discretion of the reviewing traffic infraction  
240 enforcement officer, as if the citation had been issued by an  
241 officer at an intersection. When examining evidence for  
242 violations under this subsection, a traffic infraction  
243 enforcement officer shall consider one or more of the following  
244 factors that would indicate the turn was not made in a careful



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245 or prudent manner:

246 1. The operator of the motor vehicle failed to yield to a  
247 pedestrian or bicyclist.

248 2. The operator of the motor vehicle put a pedestrian or  
249 bicyclist in danger of injury.

250 3. The operator of the motor vehicle failed to yield to  
251 another vehicle or oncoming traffic.

252 4. The operator of the motor vehicle did not substantially  
253 reduce the speed of the motor vehicle before making the right-  
254 hand turn movement. For violations of this factor, the reviewing  
255 officer must approximate that the speed of the turn was made in  
256 excess of 10 miles per hour.

257 (b) A citation may not be issued under this subsection if  
258 the driver of the vehicle came to a complete stop before turning  
259 right, when permissible at a red light, but failed to stop  
260 before the point at which a stop is required.

261 (c) A county or municipality that installs a traffic  
262 infraction detector at an intersection shall install a sign  
263 notifying the public that a traffic infraction detector is in  
264 use at that intersection. Such signage must specifically include  
265 notification of camera enforcement of violations for right turns  
266 at that intersection. Such signage must meet the specifications  
267 for uniform signals and devices adopted by the Department of  
268 Transportation. Counties and municipalities must be in  
269 compliance with this subsection by January 1, 2014.

270 Section 2. Present subsection (4) of section 316.075,  
271 Florida Statutes, is amended and redesignated as subsection (5),  
272 and a new subsection (4) is added to that section, to read:

273 316.075 Traffic control signal devices.—



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274       (4) (a) Before installing a traffic infraction detector at  
275 an intersection, each jurisdiction shall establish a minimum  
276 measured yellow light-change interval for the designated  
277 intersection. The interval shall be developed in accordance with  
278 engineering standards established in the Institute of  
279 Transportation Engineers Traffic Engineering Handbook, as  
280 adopted by the Department of Transportation. The interval  
281 established by the jurisdiction may not be less than the  
282 recognized national minimum standard. The Department of  
283 Transportation shall adopt the latest edition of the Institute  
284 of Transportation Engineers Engineering Handbook for use in  
285 compliance with this subsection.

286       (b) To ensure compliance with this section, a jurisdiction  
287 issuing a notice of violation under s. 316.0083 shall include in  
288 the notice the length of the yellow light-change interval during  
289 the signal phase of the traffic control signal immediately  
290 before the violation or shall maintain for inspection the  
291 records of the most recent programmed intervals.

292       (c) Unless each notice of violation for a particular  
293 approach states the length of the yellow light duration, the  
294 yellow light-change interval shall be tested at least once  
295 during every calendar year beginning in 2013. A traffic  
296 infraction detector that monitors a traffic signal that is not  
297 in compliance with Institute of Transportation Engineers Traffic  
298 Engineering Handbook standards, as adopted by the Department of  
299 Transportation, shall be disabled until that signal is brought  
300 into compliance with the standards.

301       (d) Issuance of a notice stating the length of the yellow  
302 light duration, or annual testing of the yellow light-change



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303 interval time pursuant to this subsection, establishes a  
304 presumption that the yellow light cycle was operating in  
305 compliance with this subsection at the time the violation is  
306 alleged to have occurred. A certificate or signed affidavit that  
307 shows that the testing of the yellow light-change cycle was  
308 completed in compliance with this subsection is admissible as  
309 proof of such compliance.

310 (e) A person who raises the length of the yellow light-  
311 change cycle as an affirmative defense to the notice of  
312 violation must establish by clear and convincing evidence that  
313 the signal was not operating in compliance with the Institute of  
314 Transportation Engineers Traffic Engineering Handbook standards,  
315 as adopted by the Department of Transportation.

316 (f) A notice of violation shall not be issued if any part  
317 of the automobile was in the intersection when the light was  
318 yellow, regardless of whether the light turned red while the  
319 automobile was in the intersection.

320 (g) A traffic infraction detector that is operational on  
321 July 1, 2013, must be in compliance with this section by January  
322 1, 2014.

323 (5)(4) A violation of subsection (1) or subsection (2) ~~this~~  
324 section is a noncriminal traffic infraction, punishable pursuant  
325 to chapter 318 as either a pedestrian violation or, if the  
326 infraction resulted from the operation of a vehicle, as a moving  
327 violation.

328 Section 3. This act shall take effect July 1, 2013.

329  
330 ===== T I T L E A M E N D M E N T =====

331 And the title is amended as follows:



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332 Delete everything before the enacting clause  
333 and insert:

334 A bill to be entitled  
335 An act relating to traffic control; amending s.  
336 316.0083, F.S., relating to enforcement of specified  
337 traffic control signal red light provisions; revising  
338 circumstances under which the Department of Highway  
339 Safety and Motor Vehicles, a county, or a municipality  
340 may not issue a notice of violation or a traffic  
341 citation for failing to stop; providing that mailing  
342 the traffic citation constitutes notification;  
343 providing that a person's presence or the person's  
344 agent's presence at any proceeding under this section  
345 waives any challenge or dispute as to notification of  
346 the citation; revising procedures for disposition upon  
347 receipt of an affidavit that the vehicle was in the  
348 care, custody, or control of another person;  
349 specifying application of specified timeframes for  
350 mailing the notice of traffic infraction or the  
351 traffic citation; providing for prima facie evidence  
352 of reliability of a traffic infraction detector;  
353 requiring a person who questions the reliability of  
354 the traffic infraction detector to prove by clear and  
355 convincing evidence that the detector did not meet  
356 required specifications; revising provisions that  
357 prohibit issuance of a notice of violation or traffic  
358 citation under certain circumstances; providing that a  
359 notice of violation or traffic citation for specified  
360 violations shall be issued at the discretion of the



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361 reviewing traffic infraction enforcement officer;  
362 providing criteria for consideration by the officer  
363 when examining evidence of a violation; providing an  
364 exception; requiring the county or municipality to  
365 install signs notifying the public that traffic  
366 infraction detectors are in use at specific  
367 intersections; specifying requirements for signs;  
368 amending s. 316.075, F.S.; requiring each jurisdiction  
369 to establish minimum yellow light-change interval  
370 times for each intersection designated to receive a  
371 traffic infraction detector; requiring that the  
372 intervals comply with specified engineering standards;  
373 requiring the Department of Transportation to adopt a  
374 specified handbook; requiring that the yellow light-  
375 change interval for each intersection be tested;  
376 requiring the notice of a violation to include the  
377 length of the yellow light-change interval; requiring  
378 a traffic infraction detector that is not in  
379 compliance with certain standards be disabled;  
380 providing that testing of the yellow light-change  
381 interval or issuance of a notice including the length  
382 of the yellow light-change interval establishes a  
383 presumption of compliance; providing that a person  
384 raising the length of the yellow light-change interval  
385 as an affirmative defense must prove noncompliance by  
386 clear and convincing evidence; establishing the  
387 timeframe for compliance; providing an effective date.

By Senator Abruzzo

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1 A bill to be entitled  
 2 An act relating to traffic control; amending s.  
 3 316.0083, F.S.; revising provisions for enforcement of  
 4 specified provisions using a traffic infraction  
 5 detector; prohibiting a notice of violation or a  
 6 traffic citation for a right-on-red violation under  
 7 specified provisions; revising notification  
 8 requirements; revising procedures for disposition upon  
 9 notice of violation; providing that initiating a  
 10 proceeding to challenge the delivery or attempted  
 11 delivery of the notice of violation or a citation  
 12 waives any challenge or dispute as to delivery;  
 13 revising provisions for issuance of a citation;  
 14 revising provisions for enforcement when a person  
 15 other than the owner is designated as having care,  
 16 custody, or control of the motor vehicle at the time  
 17 of the violation; providing that specified provisions  
 18 for notice of violation apply to such designated  
 19 person; specifying that the burden of proving guilt  
 20 rests upon the governmental entity bringing the charge  
 21 and that a person may not be compelled to be a witness  
 22 against himself or herself; specifying that, in any  
 23 hearing involving a traffic infraction detector or  
 24 similar unattended device, each person so charged has  
 25 the right to confront the witnesses against him or  
 26 her; providing procedures for presentation and  
 27 authentication of evidence relating to a traffic  
 28 infraction detector or similar unattended device;  
 29 specifying requirements for compensation of witnesses

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 for the prosecution; amending s. 316.075, F.S.;  
 31 requiring traffic control signals to maintain certain  
 32 signal intervals and display durations based on posted  
 33 speeds; providing that a citation for specified  
 34 violations shall be dismissed if the traffic control  
 35 signal does not meet specified requirements; providing  
 36 dates for intersections to meet such requirements;  
 37 providing penalties for violation by a local  
 38 governmental entity; providing for dismissal of  
 39 citations issued at certain nonconforming  
 40 intersections and refund of penalties collected  
 41 pursuant to such citations; providing an effective  
 42 date.

44 Be It Enacted by the Legislature of the State of Florida:

46 Section 1. Subsections (1) and (2) of section 316.0083,  
 47 Florida Statutes, are amended to read:  
 48 316.0083 Mark Wandall Traffic Safety Program;  
 49 administration; report.—

50 (1) (a) For purposes of administering this section, the  
 51 department, a county, or a municipality may authorize a traffic  
 52 infraction enforcement officer under s. 316.640 to issue a  
 53 traffic citation for a violation of s. 316.074(1) or s.  
 54 316.075(1) (c)1. Neither a notice of violation nor ~~and~~ a traffic  
 55 citation may ~~not~~ be issued under this section for a right-on-red  
 56 violation for failure to stop at a red light if the driver is  
 57 making a right-hand turn in a careful and prudent manner at an  
 58 intersection where right-hand turns are permissible. This

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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 59 paragraph does not prohibit a review of information from a  
 60 traffic infraction detector by an authorized employee or agent  
 61 of the department, a county, or a municipality before issuance  
 62 of the traffic citation by the traffic infraction enforcement  
 63 officer. This paragraph does not prohibit the department, a  
 64 county, or a municipality from issuing notification as provided  
 65 in paragraph (b) to the registered owner of the motor vehicle or  
 66 to another person identified as having care, custody, or control  
 67 of the motor vehicle involved in the violation of s. 316.074(1)  
 68 or s. 316.075(1)(c)1. unless the notification is for a right-on-  
 69 red violation.

(b)1.a. Within 30 days after a violation, notification must  
 71 be sent to the registered owner of the motor vehicle involved in  
 72 the violation specifying the remedies available under s. 318.14  
 73 and that the violator must pay the penalty of \$158 to the  
 74 department, county, or municipality, or furnish an affidavit in  
 75 accordance with paragraph (d), or request a hearing, within 30  
 76 days following the date of delivery or attempted delivery of the  
 77 notification in order to avoid court fees, costs, and the  
 78 issuance of a traffic citation. The notification shall be sent  
 79 by certified first-class mail.

b. Included with the notification to the registered owner  
 81 of the motor vehicle involved in the infraction must be a notice  
 82 that the owner has the right to review the photographic or  
 83 electronic images or the streaming video evidence that  
 84 constitutes a rebuttable presumption against the owner of the  
 85 vehicle. The notice must state the time and place or Internet  
 86 location where the evidence may be examined and observed.

87 c. Notwithstanding any other provision of law, a person who

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 88 receives a notice of violation under this section shall have the  
 89 option of requesting a hearing within 30 days following the date  
 90 of delivery or attempted delivery of the notice of violation or  
 91 paying the penalty pursuant to the notice of violation, but no  
 92 payment or fee may be required before a hearing requested by the  
 93 person. For purposes of this subparagraph, the term "person"  
 94 includes a natural person, registered owner or coowner of a  
 95 motor vehicle, or person identified on an affidavit as having  
 96 care, custody, or control of the motor vehicle at the time of  
 97 the violation.

d. If the registered owner or coowner of the motor vehicle,  
 99 or the person designated as having care, custody, or control of  
 100 the motor vehicle at the time of the violation, or a duly  
 101 authorized representative of the owner, coowner, or designated  
 102 person, initiates a proceeding to challenge the delivery or  
 103 attempted delivery of the notice of violation pursuant to this  
 104 paragraph, such person waives any challenge or dispute as to  
 105 delivery.

2. Penalties assessed and collected by the department,  
 107 county, or municipality authorized to collect the funds provided  
 108 for in this paragraph, less the amount retained by the county or  
 109 municipality pursuant to subparagraph 3., shall be paid to the  
 110 Department of Revenue weekly. Payment by the department, county,  
 111 or municipality to the state shall be made by means of  
 112 electronic funds transfers. In addition to the payment, summary  
 113 detail of the penalties remitted shall be reported to the  
 114 Department of Revenue.

3. Penalties to be assessed and collected by the  
 115 department, county, or municipality are as follows:  
 116

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117 a. One hundred fifty-eight dollars for a violation of s.  
 118 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
 119 stop at a traffic signal if enforcement is by the department's  
 120 traffic infraction enforcement officer. One hundred dollars  
 121 shall be remitted to the Department of Revenue for deposit into  
 122 the General Revenue Fund, \$10 shall be remitted to the  
 123 Department of Revenue for deposit into the Department of Health  
 124 Emergency Medical Services Trust Fund, \$3 shall be remitted to  
 125 the Department of Revenue for deposit into the Brain and Spinal  
 126 Cord Injury Trust Fund, and \$45 shall be distributed to the  
 127 municipality in which the violation occurred, or, if the  
 128 violation occurred in an unincorporated area, to the county in  
 129 which the violation occurred. Funds deposited into the  
 130 Department of Health Emergency Medical Services Trust Fund under  
 131 this sub-subparagraph shall be distributed as provided in s.  
 132 395.4036(1). Proceeds of the infractions in the Brain and Spinal  
 133 Cord Injury Trust Fund shall be distributed quarterly to the  
 134 Miami Project to Cure Paralysis and shall be used for brain and  
 135 spinal cord research.

136 b. One hundred fifty-eight dollars for a violation of s.  
 137 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
 138 stop at a traffic signal if enforcement is by a county or  
 139 municipal traffic infraction enforcement officer. Seventy  
 140 dollars shall be remitted by the county or municipality to the  
 141 Department of Revenue for deposit into the General Revenue Fund,  
 142 \$10 shall be remitted to the Department of Revenue for deposit  
 143 into the Department of Health Emergency Medical Services Trust  
 144 Fund, \$3 shall be remitted to the Department of Revenue for  
 145 deposit into the Brain and Spinal Cord Injury Trust Fund, and

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146 \$75 shall be retained by the county or municipality enforcing  
 147 the ordinance enacted pursuant to this section. Funds deposited  
 148 into the Department of Health Emergency Medical Services Trust  
 149 Fund under this sub-subparagraph shall be distributed as  
 150 provided in s. 395.4036(1). Proceeds of the infractions in the  
 151 Brain and Spinal Cord Injury Trust Fund shall be distributed  
 152 quarterly to the Miami Project to Cure Paralysis and shall be  
 153 used for brain and spinal cord research.

154 4. An individual may not receive a commission from any  
 155 revenue collected from violations detected through the use of a  
 156 traffic infraction detector. A manufacturer or vendor may not  
 157 receive a fee or remuneration based upon the number of  
 158 violations detected through the use of a traffic infraction  
 159 detector.

160 (c)1.a. A traffic citation issued under this section shall  
 161 be issued by mailing the traffic citation by certified mail to  
 162 the address of the registered owner of the motor vehicle  
 163 involved in the violation when payment has not been made within  
 164 30 days after the date of delivery or attempted delivery of the  
 165 notification under paragraph (b), the registered owner has not  
 166 requested a hearing as permitted by paragraph (b), and the  
 167 registered owner has not submitted an affidavit under this  
 168 section ~~subparagraph (b)1.~~

169 b. Delivery or attempted delivery of the traffic citation  
 170 constitutes notification under this paragraph. If the registered  
 171 owner or coowner of the motor vehicle, or the person designated  
 172 as having care, custody, or control of the motor vehicle at the  
 173 time of the violation, or a duly authorized representative of  
 174 the owner, coowner, or designated person, initiates a proceeding

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175 to challenge the delivery or attempted delivery of the citation  
 176 pursuant to this section, such person waives any challenge or  
 177 dispute as to delivery.

178 c. In the case of joint ownership of a motor vehicle, the  
 179 traffic citation shall be mailed to the first name appearing on  
 180 the registration, unless the first name appearing on the  
 181 registration is a business organization, in which case the  
 182 second name appearing on the registration may be used.

183 ~~d. The traffic citation shall be mailed to the registered~~  
 184 ~~owner of the motor vehicle involved in the violation no later~~  
 185 ~~than 60 days after the date of the violation.~~

186 2. Included with the notification to the registered owner  
 187 of the motor vehicle involved in the infraction shall be a  
 188 notice that the owner has the right to review, either in person  
 189 or remotely, the photographic or electronic images or the  
 190 streaming video evidence that constitutes a rebuttable  
 191 presumption against the owner of the vehicle. The notice must  
 192 state the time and place or Internet location where the evidence  
 193 may be examined and observed.

194 (d)1. The owner of the motor vehicle involved in the  
 195 violation is responsible and liable for paying the uniform  
 196 traffic citation issued for a violation of s. 316.074(1) or s.  
 197 316.075(1)(c)1. when the driver failed to stop at a traffic  
 198 signal, unless the owner can establish that:

199 a. The motor vehicle passed through the intersection in  
 200 order to yield right-of-way to an emergency vehicle or as part  
 201 of a funeral procession;

202 b. The motor vehicle passed through the intersection at the  
 203 direction of a law enforcement officer;

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204 c. The motor vehicle was, at the time of the violation, in  
 205 the care, custody, or control of another person;

206 d. A uniform traffic citation was issued by a law  
 207 enforcement officer to the driver of the motor vehicle for the  
 208 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1; or

209 e. The motor vehicle's owner was deceased on or before the  
 210 date that the uniform traffic citation was issued, as  
 211 established by an affidavit submitted by the representative of  
 212 the motor vehicle owner's estate or other designated person or  
 213 family member.

214 2. In order to establish such facts, the owner of the motor  
 215 vehicle shall, within 30 days after the date of issuance of the  
 216 traffic citation, furnish to the appropriate governmental entity  
 217 an affidavit setting forth detailed information supporting an  
 218 exemption as provided in this paragraph.

219 a. An affidavit supporting an exemption under sub-  
 220 subparagraph 1.c. must include the name, address, date of birth,  
 221 and, if known, the driver license number of the person who  
 222 leased, rented, or otherwise had care, custody, or control of  
 223 the motor vehicle at the time of the alleged violation. If the  
 224 vehicle was stolen at the time of the alleged offense, the  
 225 affidavit must include the police report indicating that the  
 226 vehicle was stolen.

227 b. If a traffic citation for a violation of s. 316.074(1)  
 228 or s. 316.075(1)(c)1. was issued at the location of the  
 229 violation by a law enforcement officer, the affidavit must  
 230 include the serial number of the uniform traffic citation.

231 c. If the motor vehicle's owner to whom a traffic citation  
 232 has been issued is deceased, the affidavit must include a

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233 certified copy of the owner's death certificate showing that the  
 234 date of death occurred on or before the issuance of the uniform  
 235 traffic citation and one of the following:

236 (I) A bill of sale or other document showing that the  
 237 deceased owner's motor vehicle was sold or transferred after his  
 238 or her death, but on or before the date of the alleged  
 239 violation.

240 (II) Documentary proof that the registered license plate  
 241 belonging to the deceased owner's vehicle was returned to the  
 242 department or any branch office or authorized agent of the  
 243 department, but on or before the date of the alleged violation.

244 (III) A copy of a police report showing that the deceased  
 245 owner's registered license plate or motor vehicle was stolen  
 246 after the owner's death, but on or before the date of the  
 247 alleged violation.

248  
 249 Upon receipt of the affidavit and documentation required under  
 250 this sub-subparagraph, the governmental entity must dismiss the  
 251 citation and provide proof of such dismissal to the person that  
 252 submitted the affidavit.

253 3. Upon receipt of an affidavit, the person designated as  
 254 having care, custody, ~~or and~~ control of the motor vehicle at the  
 255 time of the violation may be issued a notice of violation  
 256 pursuant to paragraph (b) traffic citation for a violation of s.  
 257 316.074(1) or s. 316.075(1)(c)1. when the driver failed to stop  
 258 at a traffic signal. The affidavit is admissible in a proceeding  
 259 pursuant to this section for the purpose of providing proof that  
 260 the person identified in the affidavit was in actual care,  
 261 custody, or control of the motor vehicle. The owner of a leased

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262 vehicle for which a traffic citation is issued for a violation  
 263 of s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to  
 264 stop at a traffic signal is not responsible for paying the  
 265 traffic citation and is not required to submit an affidavit as  
 266 specified in this subsection if the motor vehicle involved in  
 267 the violation is registered in the name of the lessee of such  
 268 motor vehicle.

269 4. Paragraphs (b) and (c) apply to the person identified on  
 270 the affidavit, except that the notification under sub-  
 271 paragraph (b)1.a. must be sent to the person identified on  
 272 the affidavit within 30 days after receipt of an affidavit.

273 5.4- The submission of a false affidavit is a misdemeanor  
 274 of the second degree, punishable as provided in s. 775.082 or s.  
 275 775.083.

276 (e) The photographic or electronic images or streaming  
 277 video attached to or referenced in the traffic citation is  
 278 evidence that a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
 279 when the driver failed to stop at a traffic signal has occurred  
 280 and is admissible in any proceeding to enforce this section and  
 281 raises a rebuttable presumption that the motor vehicle named in  
 282 the report or shown in the photographic or electronic images or  
 283 streaming video evidence was used in violation of s. 316.074(1)  
 284 or s. 316.075(1)(c)1. when the driver failed to stop at a  
 285 traffic signal.

286 (f) Notwithstanding any other provision of law, the burden  
 287 of proving guilt shall rest upon the governmental entity  
 288 bringing the charge under this section. A person appearing in  
 289 any hearing under this section may not be compelled to be a  
 290 witness against himself or herself.

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291 (g) Notwithstanding any other provision of law, in any  
 292 hearing involving a traffic infraction detector or similar  
 293 unattended device used to enforce the traffic laws of this  
 294 state, each person so charged has the right to confront the  
 295 witnesses against him or her. Any evidence obtained from such  
 296 device must be authenticated in court by the person receiving or  
 297 processing the evidence, any person having reviewed such  
 298 evidence in order to make a decision to issue a notice of  
 299 violation, and any person who issued the notice of violation or  
 300 traffic citation. An affidavit is not sufficient to authenticate  
 301 such evidence, and such evidence must be accounted for in  
 302 writing from the time of the alleged violation until the  
 303 issuance of any notice of violation or traffic citation.  
 304 Compensation of any witness for the prosecution shall be as  
 305 required in s. 92.143.

306 (2) Neither a notice of violation nor and a traffic  
 307 citation may ~~not~~ be issued under this section for a right-on-red  
 308 violation for failure to stop at a red light if the driver is  
 309 making a right-hand turn in a careful and prudent manner at an  
 310 intersection where right-hand turns are permissible.

311 Section 2. Section 316.075, Florida Statutes, is amended to  
 312 read:

313 316.075 Traffic control signal devices.—

314 (1) Except for automatic warning signal lights installed or  
 315 to be installed at railroad crossings, whenever traffic,  
 316 including municipal traffic, is controlled by traffic control  
 317 signals exhibiting different colored lights, or colored lighted  
 318 arrows, successively one at a time or in combination, only the  
 319 colors green, red, and yellow shall be used, except for special

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320 pedestrian signals carrying a word legend, and the lights shall  
 321 indicate and apply to drivers of vehicles and pedestrians as  
 322 follows:

323 (a) *Green indication.*—

324 1. Vehicular traffic facing a circular green signal may  
 325 proceed cautiously straight through or turn right or left unless  
 326 a sign at such place prohibits either such turn. But vehicular  
 327 traffic, including vehicles turning right or left, shall yield  
 328 the right-of-way to other vehicles and to pedestrians lawfully  
 329 within the intersection or an adjacent crosswalk at the time  
 330 such signal is exhibited.

331 2. Vehicular traffic facing a green arrow signal, shown  
 332 alone or in combination with another indication, as directed by  
 333 the manual, may cautiously enter the intersection only to make  
 334 the movement indicated by such arrow, or such other movement as  
 335 is permitted by other indications shown at the same time, except  
 336 the driver of any vehicle may U-turn, so as to proceed in the  
 337 opposite direction unless such movement is prohibited by posted  
 338 traffic control signs. Such vehicular traffic shall yield the  
 339 right-of-way to pedestrians lawfully within an adjacent  
 340 crosswalk and to other traffic lawfully using the intersection.

341 3. Unless otherwise directed by a pedestrian control signal  
 342 as provided in s. 316.0755, pedestrians facing any green signal,  
 343 except when the sole green signal is a turn arrow, may proceed  
 344 across the roadway within any marked or unmarked crosswalk.

345 (b) *Steady yellow indication.*—

346 1. Vehicular traffic facing a steady yellow signal is  
 347 thereby warned that the related green movement is being  
 348 terminated or that a red indication will be exhibited

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349 immediately thereafter when vehicular traffic shall not enter  
350 the intersection.

351 2. Pedestrians facing a steady yellow signal, unless  
352 otherwise directed by a pedestrian control signal as provided in  
353 s. 316.0755, are thereby advised that there is insufficient time  
354 to cross the roadway before a red indication is shown and no  
355 pedestrian shall start to cross the roadway.

356 (c) *Steady red indication.*—

357 1. Vehicular traffic facing a steady red signal shall stop  
358 before entering the crosswalk on the near side of the  
359 intersection or, if none, then before entering the intersection  
360 and shall remain standing until a green indication is shown;  
361 however:

362 a. The driver of a vehicle which is stopped at a clearly  
363 marked stop line, but if none, before entering the crosswalk on  
364 the near side of the intersection, or, if none then at the point  
365 nearest the intersecting roadway where the driver has a view of  
366 approaching traffic on the intersecting roadway before entering  
367 the intersection in obedience to a steady red signal may make a  
368 right turn, but shall yield the right-of-way to pedestrians and  
369 other traffic proceeding as directed by the signal at the  
370 intersection, except that municipal and county authorities may  
371 prohibit any such right turn against a steady red signal at any  
372 intersection, which prohibition shall be effective when a sign  
373 giving notice thereof is erected in a location visible to  
374 traffic approaching the intersection.

375 b. The driver of a vehicle on a one-way street that  
376 intersects another one-way street on which traffic moves to the  
377 left shall stop in obedience to a steady red signal, but may

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378 then make a left turn into the one-way street, but shall yield  
379 the right-of-way to pedestrians and other traffic proceeding as  
380 directed by the signal at the intersection, except that  
381 municipal and county authorities may prohibit any such left turn  
382 as described, which prohibition shall be effective when a sign  
383 giving notice thereof is attached to the traffic control signal  
384 device at the intersection.

385 2.a. The driver of a vehicle facing a steady red signal  
386 shall stop before entering the crosswalk and remain stopped to  
387 allow a pedestrian, with a permitted signal, to cross a roadway  
388 when the pedestrian is in the crosswalk or steps into the  
389 crosswalk and is upon the half of the roadway upon which the  
390 vehicle is traveling or when the pedestrian is approaching so  
391 closely from the opposite half of the roadway as to be in  
392 danger.

393 b. Unless otherwise directed by a pedestrian control signal  
394 as provided in s. 316.0755, pedestrians facing a steady red  
395 signal shall not enter the roadway.

396 (2) In the event an official traffic control signal is  
397 erected and maintained at a place other than an intersection,  
398 the provisions of this section shall be applicable except as to  
399 those provisions which by their nature can have no application.  
400 Any stop required shall be made at a sign or marking on the  
401 pavement indicating where the stop shall be made, but in the  
402 absence of any such sign or marking the stop shall be made at  
403 the signal.

404 (3) (a) A ~~No~~ traffic control signal device may not ~~shall~~ be  
405 used unless it exhibits ~~which does not exhibit~~ a yellow or  
406 "caution" light between the green or "go" signal and the red or

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407 "stop" signal. Whenever an engineering analysis is undertaken  
 408 for the purpose of evaluating or reevaluating yellow and red  
 409 signal display durations of a new or existing traffic control  
 410 signal, the department and local authorities shall adhere to the  
 411 following:

412 1. The minimum yellow signal display duration on traffic  
 413 control signals shall be based on the posted speed limit plus 10  
 414 percent along with the standards set forth in the Florida  
 415 Department of Transportation's Traffic Engineering Manual. The  
 416 minimum yellow signal display duration shall be 3 seconds for  
 417 traffic control signals on streets with a posted speed limit of  
 418 25 miles per hour or less. The minimum yellow signal display  
 419 duration found after the evaluation or reevaluation under this  
 420 paragraph shall be raised to the nearest half second, not to  
 421 exceed 6 seconds.

422 2. Intersections with a posted speed limit greater than 55  
 423 miles per hour shall have, on approach, a sign posted in  
 424 accordance with the Florida Department of Transportation's  
 425 Traffic Engineering Manual to alert drivers to the traffic  
 426 control signal.

427 (b) ~~A~~ ~~No~~ traffic control signal device may not shall  
 428 display other than the color red at the top of the vertical  
 429 signal, nor ~~may shall~~ it display other than the color red at the  
 430 extreme left of the horizontal signal.

431 (c) To provide additional time before conflicting traffic  
 432 movements proceed, the yellow signal display shall be followed  
 433 by an all red clearance interval delaying the change of opposing  
 434 red light signals. The duration of the clearance interval shall  
 435 be determined by engineering practices as provided for in the

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436 Florida Department of Transportation's Traffic Engineering  
 437 Manual required under s. 316.0745. The duration of a red  
 438 clearance interval may be extended from its predetermined value  
 439 for a given cycle based upon the detection of a vehicle that is  
 440 predicted to violate the red signal indication.

441 (4) (a) A violation of subsection (1) or subsection (2) ~~this~~  
 442 ~~section~~ is a noncriminal traffic infraction, punishable pursuant  
 443 to chapter 318 as either a pedestrian violation or, if the  
 444 infraction resulted from the operation of a vehicle, as a moving  
 445 violation. However, a citation for a violation of subparagraph  
 446 (1)(c)1. committed at an intersection where the traffic signal  
 447 device does not meet all requirements under subsection (3) is  
 448 unenforceable, and the court, clerk of the court, designated  
 449 official, or authorized operator of a traffic violations bureau  
 450 shall dismiss the citation without penalty or assessment of  
 451 points against the license of the person cited.

452 (b) Intersections with traffic infraction detectors must  
 453 meet the requirements of this section by December 31, 2013.

454 (c) All intersections with traffic infraction detectors  
 455 installed after December 31, 2013, must meet the requirements of  
 456 this section upon installation of the traffic infraction  
 457 detector.

458 (d) All other intersections must meet the requirements of  
 459 this section by December 31, 2014.

460 (e) A local governmental entity that violates this section  
 461 shall be fined \$500 per violation, which shall be remitted to  
 462 the Department of Revenue for deposit into the Brain and Spinal  
 463 Cord Injury Trust Fund.

464 (f) In addition to the fine listed in paragraph (e), all

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465 citations issued at a nonconforming intersection over the  
466 preceding 60 days shall be dismissed and all fine amounts paid  
467 shall be refunded. For purposes of this paragraph, the 60-day  
468 period shall begin on, and include, the date the traffic  
469 infraction detector was found to be in violation of this  
470 section.

471 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

*Meeting Date*

Topic Traffic control

Bill Number SB 1342

Name Paul Henry

Amendment Barcode 824056  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 698

Phone 850-629-9550

*Street*

Monticello FL 32345

E-mail realid@liberty2010.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic TRAFFIC CONTROL

Bill Number 1342  
(if applicable)

Name GREG BROWN

Amendment Barcode 824056  
(if applicable)

Job Title COLONEL

Address 2008 E. 8TH AV  
Street

Phone 813 2470987

TAMPA FL 33605  
City State Zip

E-mail GBrown@HCSo.Tampa.FL13

Speaking:  For  Against  Information

Representing FLORIDA SHERIFF'S ASSOC + HILLSBOROUGH COUNTY SHERIFF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13  
Meeting Date

Topic Red Light Cameras

Bill Number 1342  
*(if applicable)*

Name ERIC POOLE

Amendment Barcode 824056  
*(if applicable)*

Job Title Asst Leg Director

Address 100 Munroe  
Street

Phone 922 4300

Tallahassee FL 32301  
City Amendment State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Florida Assoc. Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/21/13  
Meeting Date

Topic 1342

Bill Number 1342  
*(if applicable)*

Name Casey Cook

Amendment Barcode 824056  
*(if applicable)*

Job Title Legislative Advocate

Address Po Box 1757  
Street

Phone 850 701 3701

Tallahassee FL 32302  
City State Zip

E-mail ccook@flcities.com

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
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3/21/13  
Meeting Date

L

Topic TRAFFIC CONTROL

Bill Number 1342  
(if applicable)

Name Major Chris Connell

Amendment Barcode 824056  
(if applicable)

Job Title Tallahassee Police Dept.

Address 234 E 7th Avenue

Phone 850-891-4301

Street  
Tallahassee, FL 32303  
City State Zip

E-mail chris.connell@talgov.com

Speaking:  For  Against  Information

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
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3/21/13

*Meeting Date*

Topic Traffic control

Bill Number SB 1342  
*(if applicable)*

Name Paul Henry

Amendment Barcode 342468  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 698

Phone 850-629-9550

*Street*

Monticello FL 32345

E-mail realid@liberty2010.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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3-21-13

Meeting Date

Topic TRAFFIC CONTROL

Bill Number 1342  
(if applicable)

Name GREG BROWN

Amendment Barcode 342468  
(if applicable)

Job Title COLONEL

Address 2008 E. 8TH AV  
Street

Phone 813 2470987

TAMPA FL 33605  
City State Zip

E-mail GBROWN@HCSD.TAMPA.FL.US

Speaking:  For  Against  Information

Representing FLORIDA SHERIFF'S ASSOC. + HILLSBOROUGH COUNTY SHERIFF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/21/13  
Meeting Date

Topic Red Light Cameras Bill Number 1342  
(if applicable)  
Name ERIC POOLE Amendment Barcode 342468  
(if applicable)  
Job Title Asst Leg  
Address 100 Monroe St Phone 922 4300  
Street  
Tallahassee FL E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information  
*Amendment*

Representing Florida Assoc. Counties

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
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(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic 1342

Bill Number 1342  
*(if applicable)*

Name Casey Cook

Amendment Barcode 342468  
*(if applicable)*

Job Title Legislative Advocate

Address PO Box 1757  
*Street*

Phone 850 701 3701

Tallahassee FL 32302  
*City State Zip*

E-mail ccook@flcities.com

Speaking:  For  Against  Information

Representing Florida League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

THE FLORIDA SENATE  
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3/21/13

Meeting Date

CL  
AA

Topic Traffic Control

Bill Number 1342  
(if applicable)

Name Major Chris Connell

Amendment Barcode 342468  
(if applicable)

Job Title Tallahassee Police Dept.

Address 234 E 7th Avenue

Phone 850 ~~891~~ 891-4301

Tallahassee, FL 32303  
Street City State Zip

E-mail chris.connell@talgov.com

Speaking:  For  Against  Information

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
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3/21/13

Meeting Date

342468

Clements Amend to

Bill Number

1342

Amend

(if applicable)

Topic

Traffic Control Devices

Name

Kathy Russell

Amendment Barcode

(if applicable)

Job Title

Dir of Gov Relations

Address

400 S Orange Ave

Street

Phone

407 383 2075

Orlando

City

FL

State

32801

Zip

E-mail

Speaking:

For

Against

Information

Representing

City of Orlando

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

W/D

3/21/13

Meeting Date

Topic Traffic control

Bill Number SB 1342

Name Paul Henry

Amendment Barcode 913514  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 698

Phone 850-629-9550

Street

Monticello FL 32345

E-mail realid@liberty2010.org

City

State

Zip

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13  
Meeting Date

Topic TRAFFIC CONTROL

Bill Number 1342  
*(if applicable)*

Name Major Chris Connell

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Tallahassee Police Dept

Address 234 E 7<sup>th</sup> Avenue

Phone 850-891-4301

Tallahassee, FL 32303  
Street City State Zip

E-mail chris.connell@talgov.com

Speaking:  For  Against  Information

Representing FLORIDA POLICE CHIEFS ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

*Meeting Date*

Topic Traffic control

Bill Number SB 1342  
*(if applicable)*

Name Paul Henry

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 698

Phone 850-629-9550

*Street*

Monticello FL 32345

E-mail realid@liberty2010.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic Red Light Cameras

Bill Number 1342  
*(if applicable)*

Name Becki Forsell

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 4508 Stone Henge Road

Phone 813-420-7708

Street

Tampa

FL

33624

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/21/13

Meeting Date

Topic Rod Light Cameras

Bill Number 1342 (if applicable)

Name DAVID SIGERSON

Amendment Barcode (if applicable)

Job Title

Address 2410 VAN BUREN ST Street

Phone 954 336 3544

City Huel FL State Zip

E-mail

Speaking: [X] For [ ] Against [ ] Information

Representing City of Margate

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**Florida Senate**  
**VOTING — DISCLOSURE OF CONFLICT**

Pursuant to Senate Rule 1.39, a Senator must abstain from voting on any matter that the Senator knows would provide him or herself with a special private gain or loss, and must disclose the nature of the interest in the matter. Even if he or she may vote, the Senator must still disclose the nature of any interest in a matter if the interest would inure to the special private gain or loss of certain, specified persons or entities listed in Rule 1.39.

**DISCLOSURE OF CONFLICT**

3/21/2013

*Date*

Pursuant to Senate Rule 1.39, I am disclosing that certain provisions in  
SB 1342

(Bill Number; Appointment; Suspension)

824056 and 342468

(Amendment Barcode)

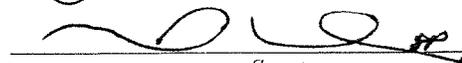
provide a special private gain or loss to (circle one):

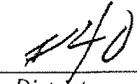
1. Myself;
- ② A principal by whom I or my spouse, parent, or child is retained or employed;
3. A parent organization or subsidiary of a corporate principal by which I am retained or employed; or
4. An immediate family member or business associate of mine.

The nature of the interest and the persons or entities involved are specified below.

American Traffic Solutions is a traffic control device company represented  
by a law firm with which I am affiliated. The above bill and its amendments  
may economically impact American Traffic Solutions based on their  
proportional share of traffic control device business in Florida.

As established by Senate Rule, I may may not (circle one) vote on this matter.

  
\_\_\_\_\_  
*Senator*

  
\_\_\_\_\_  
*District*

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

**BILL:** CS/SB 1104

**INTRODUCER:** Transportation Committee and Senator Brandes

**SUBJECT:** Environment

**DATE:** March 22, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Fav/CS</b>
2.			EP	
3.			AP	
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:**

CS/SB 1104 revises various provisions relating to mitigation for environmental impacts of transportation projects; revises an exemption relating to public information systems located on water management district property; revises provisions relating to Florida Department of Transportation (FDOT) purchases of plant materials for roadside landscaping; and revises the responsibilities of FDOT, a county, or a city to improve or maintain a road that provides access to property within the state park system;.

This bill substantially amends the following sections of the Florida Statutes: 335.06, 373.4137, and 373.618.

**II. Present Situation:**

*Environmental Mitigation for Transportation Projects*

Under existing law, FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to water management districts (WMDs) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is

ultimately approved by the Department of Environmental Protection (DEP). The ability to exclude a project from the mitigation plan is provided to FDOT, a participating transportation authority, or a WMD.

More specifically s. 373.4137, F.S., enacted in 1996,<sup>1</sup> created mitigation requirements for specified transportation projects. Historically, the statute directed FDOT and transportation authorities<sup>2</sup> to fund, and the WMD to develop and implement, mitigation plans to mitigate these impacts. In 2012, HB 599<sup>3</sup> modified the statute to reflect that adverse impacts may be offset by the use of mitigation banks or any other option that satisfies state and federal requirements. “Other” mitigation options include FDOT’s payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory created by FDOT reflecting habitats that would be adversely impacted by transportation projects listed in the next three years of FDOT’s tentative work program. FDOT provides funding in its work program to DEP or WMDs for its mitigation requirements. To fund the programs, the statute directs DOT and the authorities to pay \$75,000, as adjusted by a calculation using the CPI, per impacted acre.<sup>4</sup>

The statute provides that WMD-developed mitigation plans should use sound ecosystem management to address significant water resource needs and focus on activities of DEP and WMDs in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. WMDs must also consider the purchase of credits from public and private mitigation banks when such purchase provides equal benefit to water resources and is the most cost effective option. Before each transportation project is added to the WMD mitigation plan, FDOT must investigate the use of mitigation bank credits considering cost-effectiveness, time saved, transfer of liability and long-term maintenance. The WMD mitigation plans are annually updated to reflect the most recent FDOT work program and transportation authority project list and may be amended throughout the year. Each update and amendment of the mitigation plan is submitted to the governing board of the WMD or its designee for approval. Final approval of the mitigation plan rests with DEP.

FDOT and the participating expressway authorities are required to transfer funds to pay for mitigation of that year’s projected impact acreage resulting from projects identified in the inventory. Quarterly, the projected impact acreage and costs are reconciled with the actual impact acreage, and costs and the balances are adjusted.

Current law provides for exclusion of specific transportation projects from the mitigation plan at the discretion of FDOT, participating transportation authorities, and the WMDs.

#### *Water Management District Public Information Systems*

SB 1986, passed by the 2012 Florida Legislature<sup>5</sup> and approved by the Governor, authorizes public information systems to be located on property owned by water management districts,

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<sup>1</sup>Ch. 96-238-L.O.F.

<sup>2</sup>The statute applies to transportation authorities created in ch. 348 or 349, F.S.

<sup>3</sup>Ch. 2012-174, L.O.F.

<sup>4</sup>The current cost per acre is \$107,457.

<sup>5</sup>The provisions specific to water management district public information systems were inserted into the budget conforming bill by the conference committee amendment.

when certain terms and conditions are met. The system must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. The law expressly prohibits use of water management district funds to pay the cost to acquire, develop, construct, operate, or manage a public information system and requires that any necessary funds for a public information system be paid for and collected from private sponsors who may display commercial messages.

Current s. 479.02, F.S., charges FDOT with the duty to “administer and enforce the provisions of this chapter and the agreement between the state and the United States Department of Transportation relating to the size, lighting, and spacing of signs in accordance with Title 1 of the Highway Beautification Act of 1965 and Title 23, United State Code, and federal regulations in effect as of the effective date of this act.” The federal-state agreement and s. 479.07, F.S., with limited exception, prohibit a person from erecting, operating, using, or maintaining any sign *on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system*<sup>6</sup> without first obtaining a permit for the sign and paying an annual fee.

The italicized phrase above is further defined in that section to mean “a sign located within the controlled area (*i.e.*, 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary highway system outside an urban area) which is visible from any portion of the main-traveled way (*i.e.*, the traveled way of a highway on which through traffic is carried; and the traveled way of each of the separate roadways for traffic in opposite directions, in the case of a divided highway; but not such facilities as frontage roads, turning roadways which specifically include on-ramps or off-ramps to the interstate highway system) of such system.”<sup>7</sup>

Certain signs, commonly referred to as “on-premise” signs, are expressly exempted by s. 479.16, F.S., from the requirement to obtain a permit, if the signs comply with the provisions of s. 479.11(4)-(8), F.S. However, that section expressly specifies that the following types of messages shall not be considered information regarding government services, activities, events, or entertainment:

- Messages which specifically reference any commercial enterprise;
- Messages which reference a commercial sponsor of any event;
- Personal messages; and,
- Political campaign messages.

To the extent that any water management district public information system is not located within a “controlled area,” the provisions of SB 1986 have no effect resulting from the requirements of ch. 479, F.S. However, to the extent that any public information system is located within a “controlled area” and contains commercial messages or corporate sponsorship, such system

<sup>6</sup> Also includes the national highway system pursuant to 23 U.S.C. 131(t) and s. 479.01(9), F.S.

<sup>7</sup> See ss. 479.01(6) and (13), F.S.

violates both the federal-state agreement and certain provisions of ch. 479, F.S., which potentially subjects FDOT to an annual loss of 10% of federal highway funding as a result of loss of control of outdoor advertising.

#### *Highway Beautification*

FDOT is currently charged with the duty of enhancing environment benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for implementation and maintenance of roadside conservation, enhancement, and stabilization programs.<sup>8</sup> In carrying out this duty, FDOT has for some time been statutorily directed to purchase all plant materials from Florida Commercial nursery stock in this state on a uniform competitive basis. This direction, however, conflicts with the provisions of federal regulation. Specifically, 23 C.F.R. s. 635.409 provides:

“No requirement shall be imposed and no procedure shall be enforced by any State transportation department in connection with a project which may operate:

“(a) To require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or material shipped from or prepared, made or produced in any State, territory or possession of the United States; or

“(b) To prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under the policy of the [United States] Department of Transportation as evidenced requirements and procedures prescribed by the FHWA Administrator to carry out such policies.”

On March 11, 2013, FDOT received an email<sup>9</sup> from the Federal Highway Administration Florida Division Office advising that “...in-state material preferences are prohibited. Therefore, this specification will have to be revised for federally funded projects.” Failure to comply with federal requirements for purchases of plant material for roadside landscaping may subject FDOT to a significant federal funds penalty, generally 10 percent of annual highway constructions funds.

#### *Access Roads to State Parks*

FDOT is currently required to maintain any road that provides access to property within the state park system if the road is a part of the State Highway System.<sup>10</sup> If the access road is part of the county road or city street system, the appropriate local government is required to maintain the road.

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

#### *Environmental Mitigation for Transportation Projects*

The bill amends s. 373.4137, F.S., to provide that mitigation take place in an efficient, timely, and cost-effective manner. Development of environmental impact inventories for transportation projects proposed by FDOT or a transportation authority is required as follows:

<sup>8</sup> Section 334.044(26), F.S.

<sup>9</sup> On file in the Senate Transportation Committee.

<sup>10</sup> Section 335.06, F.S.

- By July 1 of each year, FDOT or a participating transportation authority<sup>11</sup> must submit to the WMDs a list of its projects in its adopted work program, an environmental impact inventory of habitat impacts, and the proposed amount of mitigation needed to offset the impacts. The environmental impact inventory must be based on the rules adopted pursuant to part IV of ch. 373, F.S.<sup>12</sup>, s. 404 of the Clean Water Act<sup>13</sup> and FDOT's plan of construction for transportation projects in the next three years of the tentative work program. FDOT or a transportation authority may also include in the inventory the habitat impacts and proposed amount of mitigation needed for any future transportation project. FDOT and each transportation authority may use current year funds to fund mitigation activities for future projects.
- The environmental impact inventory must (along with the currently required habitat impacts, including location, acreage, and type), describe the proposed amount of mitigation needed based on the functional loss as determined through the Uniform Mitigation Assessment Method (UMAM)<sup>14</sup> (under which the potential number of mitigation credits needed for the impacted site are identified), and identify the proposed mitigation option, in addition to currently required descriptions of state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

FDOT is required to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a water management district mitigation plan, taking into account certain factors. To implement the mitigation option identified in the environmental impact inventory, FDOT may:

- purchase credits for current and future use directly from a mitigation bank,
- purchase mitigation services through the WMDs or the DEP,
- conduct its own mitigation, or
- use other mitigation options that meet state and federal requirements.

Funding for the identified mitigation option in the inventory must be included in FDOT's work program.<sup>15</sup> FDOT is required to include funding for the identified mitigation option as described in the inventory in its work program, and the amount programmed corresponds to an estimated cost per mitigation credit of \$150,000 multiplied by the projected number of credits identified in the inventory.<sup>16</sup> This authority and direction replaces a process under which FDOT is directed to identify funds in an escrow account for the current fiscal year for the benefit of the WMDs to fund development and implementation of mitigation plans for transportation project impacts.

<sup>11</sup> A transportation authority established pursuant to ch. 348 or ch. 349 may choose to participate in the program per s. 373.4137(2)(a), F.S.

<sup>12</sup> Part IV of Ch. 373, F.S., relates to the management and storage of surface waters.

<sup>13</sup> 33 USC s. 1344

<sup>14</sup> UMAM is adopted in ch. 62-345, F.A.C. Information on UMAM is available at: <http://www.dep.state.fl.us/water/wetlands/mitigation/umam.htm> (Last visited February 18, 2013).

<sup>15</sup> FDOT's work program is developed pursuant to s. 339.135, F.S.

<sup>16</sup> FDOT is also directed to adjust this amount every two years based on the average cost per UMAM credit paid through this section.

For mitigation implemented by the WMDs or DEP, the amount paid each year must be based on mitigation services provided by a WMD or DEP pursuant to an approved WMD mitigation plan. The WMDs or DEP may request payment no sooner than 30 days before the date the funds are needed to pay for implementation of the permitted mitigation meeting the requirements of law. Each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The subject year's programming of funds must be adjusted to reflect the mitigation as permitted. If the WMD excludes a project from an approved WMD mitigation plan, cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory, or if the proposed mitigation does not meet state and federal requirements, FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. Upon final payment for mitigation of a transportation project as permitted, FDOT's or the participating transportation authority's obligation is satisfied, and the WMD or DEP, as appropriate, has continuing responsibility for the mitigation project.

Beginning with the March 2014 WMD plans, each WMD or DEP is required to invoice FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory. When the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD shall exclude that purchase from the mitigation plan, and FDOT must purchase the bank credits. For mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or DEP is required to invoice FDOT at a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the inventory. The cost per acre must be adjusted by a calculation using the CPI. When implementing the mitigation activities in the approved mitigation plan, the WMD must maintain records of the costs incurred, including without limitation costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet federal requirements

To prepare and implement mitigation plans to be adopted by the WMDs before March 1, 2013, for transportation impacts based on the July 1, 2012, environmental impact inventory, the funds identified in FDOT's work program or participating transportation authorities' escrow accounts must correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the inventory, adjusted by the CPI (the amount paid under current law). Payment is limited to mitigation activities identified in the first year of the 2013 mitigation plan and for which the transportation project is permitted and is in FDOT's adopted work program, or equivalent for a transportation authority. The WMD must similarly maintain records of the costs incurred in implementing the mitigation. To the extent monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation to offset the permitted transportation impacts, these funds must be refunded to FDOT or the participating transportation authority. This provision expires June 30, 2014.

With respect to the annually required development of mitigation plans, each WMD is directed to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation meetings state and federal requirements. The water management district mitigation plan must identify the site where the WMD will mitigate, the scope of the mitigation activities at each mitigation site, and the functional gain at each mitigation site as determined through the UMAM. The bill also requires the plan to describe

how the mitigation offsets the impacts of each transportation project as permitted, and provide a schedule for the mitigation services. The bill removes current direction to the WMDs to consider the purchase of credits from public or private mitigation banks as part of determining the activities to be included in the annual mitigation plans. The bill also removes the requirement that for each transportation project with a funding request for the next fiscal year, the mitigation plan must include an explanation of why a mitigation bank was or was not chosen as a mitigation option.

The WMDs must again maintain similar records of payments received and costs incurred for implementing mitigation services.. And again, any overpayments must be refunded to FDOT or a participating transportation authority. As under current law, the mitigation plan must be submitted to the WMD's governing board for review and approval. The bill requires that the WMD provide a copy of the draft mitigation plan to DEP at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by DEP.

The current authorization, upon the election of FDOT, a transportation authority, or the appropriate WMD, to exclude specific projects from the mitigation plan is limited; *i.e.*, FDOT or a participating authority is prohibited from excluding a transportation project from the mitigation plan when mitigation is scheduled in the current fiscal year, except if the transportation project is removed from FDOT's work program or a transportation authority's funding plan, the mitigation cannot be timely permitted to offset the impacts of an FDOT project identified in the inventory, or the proposed mitigation does not meet state and federal requirements.. If a project is removed from the work program or the mitigation plan, costs incurred by the WMD prior to removal are eligible for reimbursement. FDOT is required to exclude a project from the mitigation plan when the currently required investigation of using credits from a permitted bank results in the conclusion that the use of credits from a permitted mitigation bank promotes efficiency, timeliness in project delivery, cost effectiveness, and transfer of liability for success and long-term maintenance.

In an effort to ensure that mitigation requirements are met for the impacts identified by the environmental impact inventory for which the WMD will implement mitigation, the bill directs the WMD to comply with all federal permitting requirements in developing and implementing the mitigation plan. The bill adds to WMD authority to deviate from the approved mitigation plan during the federal permitting process to comply with federal permitting requirements a duty to provide notice and coordinate with FDOT or the participating authority. The bill also requires consideration to be given to mitigation banks and other available mitigation options before amending the mitigation plan to include new projects.

#### *Water Management District Public Information Systems*

The bill amends s. 373.618, F.S., to provide that a public information system located on water management district property that is subject to the Highway Beautification Act of 1965 must be approved by FDOT and the Federal Highway Administration if such approval is required by federal law and regulation under the agreement between the state and the USDOT governing outdoor advertising, thereby eliminating a potential annual loss of 10% of federal highway funding as a result of loss of control of outdoor advertising.

*Highway Beautification*

The bill amends s. 334.044, F.S., to provide that FDOT shall purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation, thereby eliminating a potential annual loss of 10% of federal highway funding as a result of violating federal law. The exception would not apply to wholly state-funded purchases.

*Access Roads to State Parks*

The bill amends s. 335.06, F.S., authorizing FDOT to improve and maintain roads that are part of the county road system or city street system if the roads provide access to a state park. Counties and cities remain responsible for maintaining the roads if FDOT does not.

**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:

FDOT authority to improve and maintain roads to state parks may facilitate public access and use of the parks.

Private mitigation banks may experience increased opportunities for participation in mitigation of transportation project environmental impacts.

## C. Government Sector Impact:

Section 1: FDOT's potential annual loss of 10% of federal highway funding resulting from violation of federal law prohibiting in-state preferences is eliminated.

Section 2: The costs of a selected project to improve or maintain an off-system road that provides access to a state park would be included in FDOT's work program budget submitted annually to the Legislature for approval. Maintenance of access to state parks facilitates state park revenues.

Section 3: The costs to mitigate for the environmental impacts of transportation projects are included in FDOT work program budget submitted annually to the Legislature for approval.

Section 4: FDOT's potential annual loss of 10% of federal highway funding as a result of loss of control of outdoor advertising is eliminated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Transportation on March 21, 2013:**

The committee adopted two amendments and incorporated them into the original bill as a committee substitute. The amendments:

- provides an exception from the current requirement that FDOT purchase all landscaping plant materials from Florida commercial nursery stock on a uniform competitive basis where such purchases are prohibited by federal law;
- require FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a water management district plan;
- include the purchase of mitigation services through a WMD or DEP in FDOT's available mitigation options;
- direct FDOT to include funding in its work program for mitigation identified in the environment impact inventory at an estimated cost per mitigation credit of \$150,000 multiplied by the projected number of credits in the inventory;
- replace FDOT authority to reassign funds if the associated transportation project is excluded from a WMD plan or if the mitigation will no longer be implemented by DEP with authority to use the associated funds to purchase mitigation bank credits or any other mitigation option that satisfies state and federal requirements if:
  - the WMD excludes the project from an approved WMD mitigation plan,
  - the WMD cannot timely permit a mitigation site, or
  - the proposed mitigation does not meet state and federal requirements.
- require a WMD or DEP, beginning with the March 2014 WMD plans, to invoice FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory; require a WMD to exclude a project from the mitigation plan if a WMD identifies the use of mitigation bank credits to offset an FDOT impact, and require FDOT in such instance to purchase the bank credits;

- require, for mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or DEP to invoice FDOT at a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the inventory, adjusted by the CPI;
- require each WMD annual mitigation plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation meeting state and federal requirements and eliminate specifying in the plan the cost per mitigation credit; and
- require the WMDs to maintain specified records of costs incurred and payments received for providing mitigation services.

B. Amendments:

None.



386694

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 39 and 40  
insert:

Section 1. Subsection (26) of section 334.044, Florida Statutes, is amended to read:

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

(26) To provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation,



386694

13 enhancement, and stabilization programs. No less than 1.5  
14 percent of the amount contracted for construction projects shall  
15 be allocated by the department on a statewide basis for the  
16 purchase of plant materials. Department districts may not expend  
17 funds for landscaping in connection with any project that is  
18 limited to resurfacing existing lanes unless the expenditure has  
19 been approved by the department's secretary or the secretary's  
20 designee. To the greatest extent practical, a minimum of 50  
21 percent of the funds allocated under this subsection shall be  
22 allocated for large plant materials and the remaining funds for  
23 other plant materials. Except as prohibited by applicable  
24 federal law or regulation, all plant materials shall be  
25 purchased from Florida commercial nursery stock in this state on  
26 a uniform competitive bid basis. The department shall develop  
27 grades and standards for landscaping materials purchased through  
28 this process. To accomplish these activities, the department may  
29 contract with nonprofit organizations having the primary purpose  
30 of developing youth employment opportunities.

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

32 And the title is amended as follows:

33 Delete line 3

34 and insert:

35 334.044, F.S.; providing an exclusion from provisions  
36 requiring that all plant materials for highway  
37 landscaping be purchased from Florida commercial  
38 nursery stock in this state on a uniform competitive  
39 bid basis when prohibited by federal law or  
40 regulation; amending s. 335.06, F.S.; revising the  
41 responsibilities of the



396914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2013	.	
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The Committee on Transportation (Brandes) recommended the following:

**Senate Amendment**

Delete lines 57 - 445  
and insert:

373.4137 Mitigation requirements for specified  
transportation projects.-

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the



396914

13 Legislature that mitigation to offset the adverse effects of  
14 these transportation projects be funded by the Department of  
15 Transportation and be carried out by the use of mitigation banks  
16 and any other mitigation options that satisfy state and federal  
17 requirements in an efficient, timely, and cost-effective manner.

18 (2) Environmental impact inventories for transportation  
19 projects proposed by the Department of Transportation or a  
20 transportation authority established pursuant to chapter 348 or  
21 chapter 349 shall be developed as follows:

22 (a) By July 1 of each year, the Department of  
23 Transportation, or a transportation authority established  
24 pursuant to chapter 348 or chapter 349 which chooses to  
25 participate in the program, shall submit to the water management  
26 districts a list of its projects in the adopted work program and  
27 an environmental impact inventory of habitat impacts and the  
28 proposed amount of mitigation needed to offset impacts as  
29 described in paragraph (b). The environmental impact inventory  
30 must be based on habitats addressed in the rules adopted  
31 pursuant to this part, and s. 404 of the Clean Water Act, 33  
32 U.S.C. s. 1344, and which may be impacted by the Department of  
33 Transportation ~~its~~ plan of construction for transportation  
34 projects in the next 3 years of the tentative work program. The  
35 Department of Transportation or a transportation authority  
36 established pursuant to chapter 348 or chapter 349 may also  
37 include in its environmental impact inventory the habitat  
38 impacts and the proposed amount of mitigation needed for ~~of~~ any  
39 future transportation project. The Department of Transportation  
40 and each transportation authority established pursuant to  
41 chapter 348 or chapter 349 may fund any mitigation activities



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42 for future projects using current year funds.

43 (b) The environmental impact inventory must ~~shall~~ include a  
44 description of ~~these~~ habitat impacts, including ~~their~~ location,  
45 acreage, and type; the proposed amount of mitigation needed  
46 based on the functional loss as determined through the Uniform  
47 Mitigation Assessment Method (UMAM) adopted in Chapter 62-345,  
48 F.A.C.; identification of the proposed mitigation option; state  
49 water quality classification of impacted wetlands and other  
50 surface waters; any other state or regional designations for  
51 these habitats; and a list of threatened species, endangered  
52 species, and species of special concern affected by the proposed  
53 project.

54 (c) Before projects are identified for inclusion in a water  
55 management district mitigation plan as described in subsection  
56 (4), the Department of Transportation must consider using  
57 credits from a permitted mitigation bank. The Department of  
58 Transportation must consider availability of suitable and  
59 sufficient mitigation bank credits within the transportation  
60 project's area, ability to satisfy commitments to regulatory and  
61 resource agencies, availability of suitable and sufficient  
62 mitigation purchased or developed through this section, ability  
63 to complete existing water management district or Department of  
64 Environmental Protection suitable mitigation sites initiated  
65 with Department of Transportation mitigation funds, and ability  
66 to satisfy state and federal requirements including long-term  
67 maintenance and liability.

68 (3) (a) To implement the mitigation option ~~fund development~~  
69 ~~and implementation of the mitigation plan for the projected~~  
70 ~~impacts~~ identified in the environmental impact inventory



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71 described in subsection (2), the Department of Transportation  
72 may purchase credits for current and future use directly from a  
73 mitigation bank; purchase mitigation services through the water  
74 management districts or the Department of Environmental  
75 Protection; conduct its own mitigation; or use other mitigation  
76 options that meet state and federal requirements. ~~shall identify~~  
77 funds quarterly in an escrow account within the State  
78 Transportation Trust Fund for the environmental mitigation phase  
79 of projects budgeted by Funding for the identified mitigation  
80 option as described in the environmental impact inventory shall  
81 be included in the Department of Transportation's work program  
82 developed pursuant to s. 339.135. ~~for the current fiscal year.~~  
83 The escrow account shall be maintained by the Department of  
84 Transportation for the benefit of the water management  
85 districts. Any interest earnings from the escrow account shall  
86 remain with the Department of Transportation. The amount  
87 programmed each year by the Department of Transportation and  
88 participating transportation authorities established pursuant to  
89 chapter 348 or chapter 349 shall correspond to an estimated cost  
90 per credit of \$150,000 multiplied by the projected number of  
91 credits identified in the environmental impact inventory  
92 described in subsection (2). This estimated cost per credit will  
93 be adjusted every two years by the Department of Transportation  
94 based on the average cost per UMAM credit paid through this  
95 section.

96 (b) Each transportation authority established pursuant to  
97 chapter 348 or chapter 349 that chooses to participate in this  
98 program shall create an escrow account within its financial  
99 structure and deposit funds in the account to pay for the



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100 environmental mitigation phase of projects budgeted for the  
101 current fiscal year. The escrow account shall be maintained by  
102 the authority for the benefit of the water management districts.  
103 Any interest earnings from the escrow account shall remain with  
104 the authority.

105 (c) For mitigation implemented by the water management  
106 district or the Department of Environmental Protection, as  
107 appropriate, the amount paid each year shall be based on  
108 mitigation services provided by the water management districts  
109 or Department of Environmental Protection pursuant to an  
110 approved water management district plan, as described in  
111 subsection (4). ~~Except for current mitigation projects in the~~  
112 ~~monitoring and maintenance phase and except as allowed by~~  
113 ~~paragraph (d),~~ The water management districts or the Department  
114 of Environmental Protection, as appropriate, may request payment  
115 a transfer of funds from an escrow account no sooner than 30  
116 days before the date the funds are needed to pay for activities  
117 associated with development or implementation of the permitted  
118 mitigation meeting the requirements pursuant to this part, 33  
119 U.S.C. s. 1344, and 33 C.F.R. s. 332, in the approved mitigation  
120 plan described in subsection (4) for the current fiscal year.  
121 including, but not limited to, design, engineering, production,  
122 and staff support. Actual conceptual plan preparation costs  
123 incurred before plan approval may be submitted to the Department  
124 of Transportation or the appropriate transportation authority  
125 each year with the plan. The conceptual plan preparation costs  
126 of each water management district will be paid from mitigation  
127 funds associated with the environmental impact inventory for the  
128 current year. The amount transferred to the escrow accounts each



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129 ~~year by the Department of Transportation and participating~~  
130 ~~transportation authorities established pursuant to chapter 348~~  
131 ~~or chapter 349 shall correspond to a cost per acre of \$75,000~~  
132 ~~multiplied by the projected acres of impact identified in the~~  
133 ~~environmental impact inventory described in subsection (2).~~  
134 ~~However, the \$75,000 cost per acre does not constitute an~~  
135 ~~admission against interest by the state or its subdivisions and~~  
136 ~~is not admissible as evidence of full compensation for any~~  
137 ~~property acquired by eminent domain or through inverse~~  
138 ~~condemnation. Each July 1, the cost per acre shall be adjusted~~  
139 ~~by the percentage change in the average of the Consumer Price~~  
140 ~~Index issued by the United States Department of Labor for the~~  
141 ~~most recent 12-month period ending September 30, compared to the~~  
142 ~~base year average, which is the average for the 12-month period~~  
143 ~~ending September 30, 1996. Each quarter, the projected amount of~~  
144 ~~mitigation acreage of impact shall be reconciled with the actual~~  
145 ~~amount of mitigation needed for acreage of impact of projects as~~  
146 ~~permitted, including permit modifications, pursuant to this part~~  
147 ~~and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The~~  
148 ~~subject year's programming ~~transfer~~ of funds shall be adjusted~~  
149 ~~accordingly to reflect the mitigation acreage of impacts as~~  
150 ~~permitted. The Department of Transportation and participating~~  
151 ~~transportation authorities established pursuant to chapter 348~~  
152 ~~or chapter 349 are authorized to transfer such funds from the~~  
153 ~~escrow accounts to the water management districts to carry out~~  
154 ~~the mitigation programs. Environmental mitigation funds that are~~  
155 ~~identified for or maintained in an escrow account for the~~  
156 ~~benefit of a water management district may be released if the~~  
157 ~~associated transportation project is excluded in whole or part~~



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158 ~~from the mitigation plan. For a mitigation project that is in~~  
159 ~~the maintenance and monitoring phase, the water management~~  
160 ~~district may request and receive a one-time payment based on the~~  
161 ~~project's expected future maintenance and monitoring costs. If~~  
162 ~~the water management district excludes a project from an~~  
163 ~~approved water management district mitigation plan, cannot~~  
164 ~~timely permit a mitigation site to offset the impacts of a~~  
165 ~~Department of Transportation project identified in the~~  
166 ~~environmental impact inventory, or if the proposed mitigation~~  
167 ~~does not meet state and federal requirements, the Department of~~  
168 ~~Transportation may use the associated funds for the purchase of~~  
169 ~~mitigation bank credits or any other mitigation option that~~  
170 ~~satisfies state and federal requirements. Upon final~~  
171 ~~disbursement of the final maintenance and monitoring payment for~~  
172 ~~mitigation of a transportation project as permitted, the~~  
173 ~~obligation of the Department of Transportation or the~~  
174 ~~participating transportation authority is satisfied and the~~  
175 ~~water management district or the Department of Environmental~~  
176 ~~Protection, as appropriate, will have continuing responsibility~~  
177 ~~for the mitigation project. , the escrow account for the project~~  
178 ~~established by the Department of Transportation or the~~  
179 ~~participating transportation authority may be closed. Any~~  
180 ~~interest earned on these disbursed funds shall remain with the~~  
181 ~~water management district and must be used as authorized under~~  
182 ~~this section.~~

183 (d) Beginning with the March 2014 water management district  
184 mitigation plans, in the 2005-2006 fiscal year, each water  
185 management district or the Department of Environmental  
186 Protection, as appropriate, shall invoice the Department of



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187 Transportation for mitigation services to offset only the  
188 impacts of a Department of Transportation project identified in  
189 the environmental impact inventory, including planning, design,  
190 construction, maintenance and monitoring, and other costs  
191 necessary to meet requirements pursuant to this section, 33  
192 U.S.C. s. 1344, and 33 C.F.R. s. 332. ~~be paid a lump-sum amount~~  
193 of \$75,000 per acre, adjusted as provided under paragraph (c),  
194 for federally funded transportation projects that are included  
195 on the environmental impact inventory and that have an approved  
196 mitigation plan. Beginning in the 2009-2010 fiscal year, each  
197 water management district shall be paid a lump-sum amount of  
198 \$75,000 per acre, adjusted as provided under paragraph (c), for  
199 federally funded and nonfederally funded transportation projects  
200 that have an approved mitigation plan. All mitigation costs,  
201 including, but not limited to, the costs of preparing conceptual  
202 plans and the costs of design, construction, staff support,  
203 future maintenance, and monitoring the mitigated acres shall be  
204 funded through these lump-sum amounts. When the water management  
205 district identifies the use of mitigation bank credits to offset  
206 a Department of Transportation impact, the water management  
207 district shall exclude that purchase from the mitigation plan,  
208 and the Department of Transportation must purchase the bank  
209 credits.

210 (e) For mitigation activities occurring on existing water  
211 management district or Department of Environmental Protection  
212 mitigation sites initiated with Department of Transportation  
213 mitigation funds prior to July 1, 2013, the water management  
214 district or Department of Environmental Protection shall invoice  
215 the Department of Transportation or a participating



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216 transportation authority at a cost per acre of \$75,000  
217 multiplied by the projected acres of impact as identified in the  
218 environmental impact inventory. The cost per acre shall be  
219 adjusted by the percentage change in the average of the Consumer  
220 Price Index issued by the United States Department of Labor for  
221 the most recent 12-month period ending September 30, compared to  
222 the base year average, which is the average for the 12-month  
223 period ending September 30, 1996. When implementing the  
224 mitigation activities necessary to offset the permitted impacts  
225 as provided in the approved mitigation plan, the water  
226 management district shall maintain records of the costs incurred  
227 in implementing the mitigation. The records must include, but  
228 are not limited to, costs for planning, land acquisition,  
229 design, construction, staff support, long-term maintenance and  
230 monitoring of the mitigation site, and other costs necessary to  
231 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.  
232 (f) For purposes of preparing and implementing the  
233 mitigation plans to be adopted by the water management districts  
234 by March 1, 2013, for impacts based on the July 1, 2012,  
235 environmental impact inventory, the funds identified in the  
236 Department of Transportation's work program or participating  
237 transportation authorities' escrow accounts shall correspond to  
238 a cost per acre of \$75,000 multiplied by the project acres of  
239 impact as identified in the environmental impact inventory. The  
240 cost per acre shall be adjusted by the percentage change in the  
241 average of the Consumer Price Index issued by the United States  
242 Department of Labor for the most recent 12-month period ending  
243 September 30, compared to the base year average, which is the  
244 average for the 12-month period ending September 30, 1996.



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245 Payment as provided under this paragraph is limited to those  
246 mitigation activities which are identified in the first year of  
247 the 2013 mitigation plan and for which the transportation  
248 project is permitted and is in the Department of  
249 Transportation's adopted work program, or equivalent for a  
250 transportation authority. When implementing the mitigation  
251 activities necessary to offset the permitted impacts as provided  
252 in the approved mitigation plan, the water management district  
253 shall maintain records of the costs incurred in implementing the  
254 mitigation. The records must include, but are not limited to,  
255 costs for planning, land acquisition, design, construction,  
256 staff support, long-term maintenance and monitoring of the  
257 mitigation site, and other costs necessary to meet the  
258 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332. To the  
259 extent monies paid to a water management district by the  
260 Department of Transportation or a participating transportation  
261 authority exceed the amount expended by the water management  
262 districts in implementing the mitigation to offset the permitted  
263 impacts, these funds must be refunded to the Department of  
264 Transportation or participating transportation authority. This  
265 paragraph expires June 30, 2014.

266 (4) Before March 1 of each year, each water management  
267 district shall develop a mitigation plan to offset only the  
268 impacts of transportation projects in the environmental impact  
269 inventory for which a water management district is implementing  
270 mitigation that meets the requirements of this section, 33  
271 U.S.C. s. 1344, and 33 C.F.R. s. 332. The water management-  
272 district mitigation plan must be developed<sup>7</sup> in consultation with  
273 the Department of Environmental Protection, the United States



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274 Army Corps of Engineers, the Department of Transportation,  
275 participating transportation authorities established pursuant to  
276 chapter 348 or chapter 349, and other appropriate federal,  
277 state, and local governments, and other interested parties,  
278 including entities operating mitigation banks, ~~shall develop a~~  
279 ~~plan for the primary purpose of complying with the mitigation~~  
280 ~~requirements adopted pursuant to this part and 33 U.S.C. s.~~  
281 ~~1344.~~ In developing such plans, the water management districts  
282 shall use sound ecosystem management practices to address  
283 significant water resource needs and consider ~~shall focus on~~  
284 activities of the Department of Environmental Protection and the  
285 water management districts, such as surface water improvement  
286 and management (SWIM) projects and lands identified for  
287 potential acquisition for preservation, restoration, or  
288 enhancement, and the control of invasive and exotic plants in  
289 wetlands and other surface waters, to the extent that the  
290 activities comply with the mitigation requirements adopted under  
291 this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. The  
292 water management district mitigation plan shall identify each  
293 site where the water management district will mitigate for a  
294 transportation project. For each mitigation site, the water  
295 management district shall provide the scope of the mitigation  
296 services, provide the Functional Gain as determined through the  
297 UMAM per Chapter 62-345, F.A.C., describe how the mitigation  
298 offsets the impacts of each transportation project as permitted,  
299 and provide a schedule for the mitigation services. ~~In~~  
300 ~~determining the activities to be included in the plans, the~~  
301 ~~districts shall consider the purchase of credits from public or~~  
302 ~~private mitigation banks permitted under s. 373.4136 and~~



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303 ~~associated federal authorization and shall include the purchase~~  
304 ~~as a part of the mitigation plan when the purchase would offset~~  
305 ~~the impact of the transportation project, provide equal benefits~~  
306 ~~to the water resources than other mitigation options being~~  
307 ~~considered, and provide the most cost-effective mitigation~~  
308 ~~option.~~ The water management districts shall maintain records of  
309 costs incurred and payments received for providing these  
310 services. Records must include, but are not limited to,  
311 planning, land acquisition, design, construction, staff support,  
312 long-term maintenance and monitoring of the mitigation site, and  
313 other costs necessary to meet the requirements of 33 U.S.C. s.  
314 1344 and 33 C.F.R. s. 332. To the extent monies paid to a water  
315 management district by the Department of Transportation or a  
316 participating transportation authority exceed the amount  
317 expended by the water management districts in providing the  
318 mitigation services to offset the permitted transportation  
319 project impacts, these monies shall be refunded to the  
320 Department of Transportation or participating transportation  
321 authority. The mitigation plan shall be submitted to the water  
322 management district governing board, or its designee, for review  
323 and approval. At least 14 days before approval by the governing  
324 board, the water management district shall provide a copy of the  
325 draft mitigation plan to the Department of Environmental  
326 Protection and any person who has requested a copy. Subsequent  
327 to governing board approval, the mitigation plan must be  
328 submitted to the Department of Environmental Protection for  
329 approval. The plan may not be implemented until it is submitted  
330 to and approved, in part or in its entirety, by the Department  
331 of Environmental Protection.



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332       ~~(a) For each transportation project with a funding request~~  
333 ~~for the next fiscal year, the mitigation plan must include a~~  
334 ~~brief explanation of why a mitigation bank was or was not chosen~~  
335 ~~as a mitigation option, including an estimation of identifiable~~  
336 ~~costs of the mitigation bank and nonbank options and other~~  
337 ~~factors such as time saved, liability for success of the~~  
338 ~~mitigation, and long term maintenance.~~

339       (a) ~~(b)~~ Specific projects may be excluded from the  
340 mitigation plan, in whole or in part, and are not subject to  
341 this section upon the election of the Department of  
342 Transportation, a transportation authority if applicable, or the  
343 appropriate water management district. Neither the Department of  
344 Transportation nor a participating transportation authority  
345 shall exclude a transportation project from the mitigation plan  
346 when mitigation is scheduled for implementation by the water  
347 management district in the current fiscal year, except when the  
348 transportation project is removed from the Department of  
349 Transportation's work program or transportation authority  
350 funding plan, the mitigation cannot be timely permitted to  
351 offset the impacts of a Department of Transportation project  
352 identified in the environmental impact inventory or the proposed  
353 mitigation does not meet state and federal requirements. If a  
354 project is removed from the work program or the mitigation plan,  
355 costs expended by the water management district prior to removal  
356 are eligible for reimbursement by the Department of  
357 Transportation or participating transportation authority.

358       (b) ~~(c)~~ When determining which projects to include in or  
359 exclude from the mitigation plan, the Department of  
360 Transportation shall investigate using credits from a permitted



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361 mitigation bank before those projects are submitted for  
362 inclusion in a water management district mitigation ~~the~~ plan.  
363 ~~The investigation shall consider the cost-effectiveness of~~  
364 ~~mitigation bank credits, including, but not limited to, factors~~  
365 ~~such as time saved, transfer of liability for success of the~~  
366 ~~mitigation, and long-term maintenance.~~ The Department of  
367 Transportation shall exclude a project from the mitigation plan  
368 when the investigation undertaken pursuant to this paragraph  
369 results in the conclusion that the use of credits from a  
370 permitted mitigation bank promotes efficiency, timeliness in  
371 project delivery, cost-effectiveness, and transfer of liability  
372 for success and long-term maintenance.

373 (5) The water management district shall ensure that  
374 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33  
375 C.F.R. s. 332 are met for the impacts identified in the  
376 environmental impact inventory for which the water management  
377 district will implement mitigation described in subsection (2),  
378 by implementation of the approved mitigation plan described in  
379 subsection (4) to the extent funding is provided by the  
380 Department of Transportation, or a transportation authority  
381 established pursuant to chapter 348 or chapter 349, if  
382 applicable. In developing and implementing the mitigation plan,  
383 the water management district shall comply with federal  
384 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33  
385 C.F.R. s. 332. During the federal permitting process, the water  
386 management district may deviate from the approved mitigation  
387 plan in order to comply with federal permitting requirements  
388 upon notice and coordination with the Department of  
389 Transportation or participating transportation authority.



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390           (6) The water management district mitigation plans shall be  
391 updated annually to reflect the most current Department of  
392 Transportation work program and project list of a transportation  
393 authority established pursuant to chapter 348 or chapter 349, if  
394 applicable, and may be amended throughout the year to anticipate  
395 schedule changes or additional projects which may arise. Before  
396 an amendment of the mitigation plan to include new projects, the  
397 Department of Transportation shall consider mitigation banks and  
398 other available mitigation options that meet state and federal  
399 requirements. Each update and amendment of the mitigation plan  
400 shall be submitted to the governing board of the water  
401 management district or its designee for approval. However, such  
402 approval shall not be applicable to a deviation as described in  
403 subsection (5).

404           (7) Upon approval by the governing board of the water  
405 management district and the Department of Environmental  
406 Protection ~~or its designee~~, the mitigation plan shall be deemed  
407 to satisfy the mitigation requirements under this part for  
408 impacts specifically identified in the environmental impact  
409 inventory described in subsection (2) and any other mitigation  
410 requirements imposed by local, regional, and state agencies for  
411 these same impacts. The approval of the governing board of the  
412 water management district ~~or its designee~~ and the Department of  
413 Environmental Protection shall authorize the activities proposed  
414 in the mitigation plan, and no other state, regional, or local  
415 permit or approval shall be necessary.

416           (8) This section shall not be construed to eliminate the  
417 need for the Department of Transportation or a transportation  
418 authority established pursuant to chapter 348 or chapter 349 to



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419 comply with the requirement to implement practicable design  
420 modifications, including realignment of transportation projects,  
421 to reduce or eliminate the impacts of its transportation  
422 projects on wetlands and other surface waters as required by  
423 rules adopted pursuant to this part, or to diminish the  
424 authority under this part to regulate other impacts, including  
425 water quantity or water quality impacts, or impacts regulated  
426 under this part that are not identified in the environmental  
427 impact inventory described in subsection (2).

428 ~~(9) The process for environmental mitigation for the impact~~  
429 ~~of transportation projects under this section shall be available~~  
430 ~~to an expressway, bridge, or transportation authority~~  
431 ~~established under chapter 348 or chapter 349. Use of this~~  
432 ~~process may be initiated by an authority depositing the~~  
433 ~~requisite funds into an escrow account set up by the authority~~  
434 ~~and filing an environmental impact inventory with the~~  
435 ~~appropriate water management district. An authority that~~  
436 ~~initiates the environmental mitigation process established by~~  
437 ~~this section shall comply with subsection (6) by timely~~  
438 ~~providing the appropriate water management district with the~~  
439 ~~requisite work program information. A water management district~~  
440 ~~may draw down funds from the escrow account as provided in this~~  
441 ~~section.~~

By Senator Brandes

22-01325-13

20131104\_\_

1 A bill to be entitled  
 2 An act relating to the environment; amending s.  
 3 335.06, F.S.; revising the responsibilities of the  
 4 Department of Transportation, a county, or a  
 5 municipality to improve or maintain a road that  
 6 provides access to property within the state park  
 7 system; amending s. 373.4137, F.S.; providing  
 8 legislative intent that mitigation be implemented in a  
 9 manner that promotes efficiency, timeliness, and cost-  
 10 effectiveness in project delivery; revising the  
 11 criteria of the environmental impact inventory;  
 12 revising the criteria for mitigation of projected  
 13 impacts identified in the environmental impact  
 14 inventory; requiring the Department of Transportation  
 15 to include funding for environmental mitigation for  
 16 its projects in its work program; revising the process  
 17 and criteria for the payment by the department or  
 18 participating transportation authorities of mitigation  
 19 implemented by water management districts or the  
 20 Department of Environmental Protection; revising the  
 21 requirements for the payment to a water management  
 22 district or the Department of Environmental Protection  
 23 of the costs of mitigation planning and implementation  
 24 of the mitigation required by a permit; revising the  
 25 payment criteria for preparing and implementing  
 26 mitigation plans adopted by water management districts  
 27 for transportation impacts based on the environmental  
 28 impact inventory; adding federal requirements for the  
 29 development of a mitigation plan; providing for

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30 transportation projects in the environmental  
 31 mitigation plan for which mitigation has not been  
 32 specified; revising a water management district's  
 33 responsibilities relating to a mitigation plan;  
 34 amending s. 373.618, F.S.; revising the outdoor  
 35 advertisement exemption criteria for a public  
 36 information system; providing an effective date.

37  
 38 Be It Enacted by the Legislature of the State of Florida:

39  
 40 Section 1. Section 335.06, Florida Statutes, is amended to  
 41 read:

42 335.06 Access roads to the state park system.—~~A Any~~ road  
 43 that which provides access to property within the state park  
 44 system must ~~shall~~ be maintained by the department if the road is  
 45 a part of the State Highway System and may be improved and  
 46 maintained by the department if the road is part of a county  
 47 road system or city street system. If the department does not  
 48 maintain a county or city road that is a part of the county road  
 49 system or the city street system and that provides access to the  
 50 state park system, the road must ~~or shall~~ be maintained by the  
 51 appropriate county or municipality ~~if the road is a part of the~~  
 52 ~~county road system or the city street system.~~

53 Section 2. Section 373.4137, Florida Statutes, is amended  
 54 to read:

55 373.4137 Mitigation requirements for specified  
 56 transportation projects.—

57 (1) The Legislature finds that environmental mitigation for  
 58 the impact of transportation projects proposed by the Department

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59 of Transportation or a transportation authority established  
 60 pursuant to chapter 348 or chapter 349 can be more effectively  
 61 achieved by regional, long-range mitigation planning rather than  
 62 on a project-by-project basis. It is the intent of the  
 63 Legislature that mitigation to offset the adverse effects of  
 64 these transportation projects be funded by the Department of  
 65 Transportation and be carried out by the use of mitigation banks  
 66 and any other mitigation options that satisfy state and federal  
 67 requirements in an efficient, timely, and cost-effective manner.

68 (2) Environmental impact inventories for transportation  
 69 projects proposed by the Department of Transportation or a  
 70 transportation authority established pursuant to chapter 348 or  
 71 chapter 349 shall be developed as follows:

72 (a) By July 1 of each year, the Department of  
 73 Transportation, or a transportation authority established  
 74 pursuant to chapter 348 or chapter 349 which chooses to  
 75 participate in the program, shall submit to the water management  
 76 districts a list of its projects in the adopted work program and  
 77 an environmental impact inventory of habitat impacts and the  
 78 proposed amount of mitigation needed to offset impacts as  
 79 described in paragraph (b). The environmental impact inventory  
 80 must be based on habitats addressed in the rules adopted  
 81 pursuant to this part, and s. 404 of the Clean Water Act, 33  
 82 U.S.C. s. 1344, and which may be impacted by the Department of  
 83 Transportation its plan of construction for transportation  
 84 projects in the next 3 years of the tentative work program. The  
 85 Department of Transportation or a transportation authority  
 86 established pursuant to chapter 348 or chapter 349 may also  
 87 include in its environmental impact inventory the habitat

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88 impacts and the proposed amount of mitigation needed for ~~of~~ any  
 89 future transportation project. The Department of Transportation  
 90 and each transportation authority established pursuant to  
 91 chapter 348 or chapter 349 may fund any mitigation activities  
 92 for future projects using current year funds.

93 (b) The environmental impact inventory must ~~shall~~ include a  
 94 description of ~~these~~ habitat impacts, including ~~their~~ location,  
 95 acreage, and type; the proposed amount of mitigation needed  
 96 based on the functional loss as determined through the Uniform  
 97 Mitigation Assessment Method adopted in rule 62-345, F.A.C.,  
 98 which will identify the potential number of mitigation credits  
 99 needed for the impacted site, and the identification of the  
 100 proposed mitigation option, such as permitted mitigation banks,  
 101 mitigation implemented by the water management district, or  
 102 other approved options that satisfy state and federal  
 103 requirements; state water quality classification of impacted  
 104 wetlands and other surface waters; any other state or regional  
 105 designations for these habitats; and a list of threatened  
 106 species, endangered species, and species of special concern  
 107 affected by the proposed project.

108 (3) (a) ~~To mitigate fund development and implementation of~~  
 109 ~~the mitigation plan for the~~ projected impacts identified in the  
 110 environmental impact inventory described in subsection (2), the  
 111 Department of Transportation may purchase credits for current  
 112 and future use directly from a mitigation bank as described in  
 113 subsection (4); mitigate through the water management districts;  
 114 mitigate through the Department of Environmental Protection for  
 115 mitigation on state lands; or conduct its own mitigation. In  
 116 evaluating its mitigation options, the Department of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 117 Transportation shall consider efficiency, timeliness, and cost-  
 118 effectiveness. The proposed mitigation option shall be  
 119 identified in the inventory. Funding of ~~shall identify funds~~  
 120 ~~quarterly in an escrow account within the State Transportation~~  
 121 ~~Trust Fund for the environmental mitigation phase of for the~~  
 122 Department of Transportation projects shall be included in  
 123 budgeted by the department's work program developed pursuant to  
 124 s. 339.135 Department of Transportation for the current fiscal  
 125 year. The escrow account shall be maintained by the Department  
 126 of Transportation for the benefit of the water management  
 127 districts. Any interest earnings from the escrow account shall  
 128 remain with the Department of Transportation.

129 (b) Each transportation authority established pursuant to  
 130 chapter 348 or chapter 349 that chooses to participate in this  
 131 program shall create an escrow account within its financial  
 132 structure and deposit funds in the account to pay for the  
 133 environmental mitigation phase of projects budgeted for the  
 134 current fiscal year. The escrow account shall be maintained by  
 135 the authority for the benefit of the water management districts.  
 136 Any interest earnings from the escrow account must ~~shall~~ remain  
 137 with the authority.

138 (c) The Department of Transportation or the participating  
 139 transportation authorities established pursuant to chapter 348  
 140 or chapter 349 shall pay annually an amount established in  
 141 paragraph (d) for mitigation implemented by the water management  
 142 district or the Department of Environmental Protection, as  
 143 appropriate. Except for current mitigation projects in the  
 144 monitoring and maintenance phase and except as allowed by  
 145 paragraph (d), The water management districts, or the Department

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 146 of Environmental Protection for approved mitigation on its land,  
 147 may request payment a transfer of funds from an escrow account  
 148 no sooner than 30 days before the date the funds are needed to  
 149 pay for activities associated with development or implementation  
 150 of mitigation meeting the requirements pursuant to this part, 33  
 151 U.S.C. s. 1344, and 33 C.F.R. s. 332, in the approved mitigation  
 152 plan described in subsection (4) for the current fiscal year,  
 153 including, but not limited to, design, engineering, production,  
 154 and staff support. Actual conceptual plan preparation costs  
 155 incurred before plan approval may be submitted to the Department  
 156 of Transportation or the appropriate transportation authority  
 157 each year with the plan. The conceptual plan preparation costs  
 158 of each water management district will be paid from mitigation  
 159 funds associated with the environmental impact inventory for the  
 160 current year. The amount transferred to the escrow accounts each  
 161 year by the Department of Transportation and participating  
 162 transportation authorities established pursuant to chapter 348  
 163 or chapter 349 shall correspond to a cost per acre of \$75,000  
 164 multiplied by the projected acres of impact identified in the  
 165 environmental impact inventory described in subsection (2).  
 166 However, the \$75,000 cost per acre does not constitute an  
 167 admission against interest by the state or its subdivisions and  
 168 is not admissible as evidence of full compensation for any  
 169 property acquired by eminent domain or through inverse  
 170 condemnation. Each July 1, the cost per acre shall be adjusted  
 171 by the percentage change in the average of the Consumer Price  
 172 Index issued by the United States Department of Labor for the  
 173 most recent 12-month period ending September 30, compared to the  
 174 base year average, which is the average for the 12-month period

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175 ~~ending September 30, 1996.~~ Each quarter, the projected amount of  
 176 mitigation shown on the water management district mitigation  
 177 plan must ~~acreage of impact shall~~ be reconciled with the actual  
 178 amount of mitigation needed for ~~acreage of impact of~~ projects as  
 179 permitted, including permit modifications, pursuant to this part  
 180 and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The  
 181 subject year's transfer of funds shall be adjusted ~~accordingly~~  
 182 to reflect the mitigation ~~acreage of impacts~~ as permitted. The  
 183 Department of Transportation and participating transportation  
 184 authorities established pursuant to chapter 348 or chapter 349  
 185 are authorized to transfer such funds ~~from the escrow accounts~~  
 186 to the water management districts or the Department of  
 187 Environmental Protection, as appropriate, to carry out ~~the~~  
 188 mitigation for the subject year ~~programs~~. Environmental  
 189 mitigation funds that are identified for mitigation implemented  
 190 by a ~~or maintained in an escrow account for the benefit of a~~  
 191 water management district or the Department of Environmental  
 192 Protection may be reassigned ~~released~~ if the associated  
 193 transportation project is excluded in whole or in part from the  
 194 water management district mitigation plan, or if the mitigation  
 195 will no longer be implemented by the Department of Environmental  
 196 Protection on state lands. ~~For a mitigation project that is in~~  
 197 ~~the maintenance and monitoring phase, the water management~~  
 198 ~~district may request and receive a one-time payment based on the~~  
 199 ~~project's expected future maintenance and monitoring costs.~~ Upon  
 200 final disbursement of the final maintenance and monitoring  
 201 payment for mitigation of a transportation project as permitted,  
 202 the obligation of the Department of Transportation or the  
 203 participating transportation authority is satisfied, and the

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204 water management district or the Department of Environmental  
 205 Protection, as appropriate, will have continuing responsibility  
 206 for the mitigation project, ~~the escrow account for the project~~  
 207 ~~established by the Department of Transportation or the~~  
 208 ~~participating transportation authority may be closed. Any~~  
 209 ~~interest earned on these disbursed funds shall remain with the~~  
 210 ~~water management district and must be used as authorized under~~  
 211 ~~this section.~~  
 212 (d) Beginning with the environmental impact inventory to be  
 213 submitted July 1, 2013, and the related approved mitigation  
 214 plan, the ~~in the 2005-2006 fiscal year, each~~ water management  
 215 district or the Department of Environmental Protection, as  
 216 appropriate, shall be paid for the costs associated to plan and  
 217 implement the mitigation required by a permit which are based on  
 218 the cost of a mitigation credit that is established by this  
 219 section a lump-sum amount of \$75,000 per acre, adjusted as  
 220 provided under paragraph (c), for federally funded  
 221 transportation projects that are included on the environmental  
 222 impact inventory and that have an approved mitigation plan.  
 223 ~~Beginning in the 2009-2010 fiscal year, each~~ water management  
 224 district shall be paid a lump-sum amount of \$75,000 per acre,  
 225 ~~adjusted as provided under paragraph (c), for federally funded~~  
 226 ~~and nonfederally funded transportation projects that have an~~  
 227 ~~approved mitigation plan. Each~~ water management district or the  
 228 Department of Environmental Protection, as appropriate, may be  
 229 paid a lump-sum amount, based on the cost per mitigation credit,  
 230 for a federally funded or nonfederally funded transportation  
 231 project that is in the Department of Transportation work  
 232 program; is permitted; and for which mitigation meeting the

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 233 requirements pursuant to this part, 33 U.S.C. s. 1344, and 33  
 234 C.F.R. s. 332, will be implemented within the current fiscal  
 235 year. For purposes of this section, the cost of a ~~All~~ mitigation  
 236 credit for each mitigation project as established by the water  
 237 management district or the Department of Environmental  
 238 Protection, as appropriate, may include ~~costs, including,~~ but is  
 239 not limited to, the costs of preparing conceptual plans and the  
 240 costs of land acquisition, design, construction, staff support,  
 241 future maintenance, ~~and~~ monitoring of the mitigation site, and  
 242 other costs necessary to meet requirements pursuant to 33 U.S.C.  
 243 s. 1344 and 33 C.F.R. s. 332. If the water management district  
 244 includes the purchase of mitigation bank credits as part of the  
 245 mitigation plan, the cost must be based on the cost per credit  
 246 as established by the mitigation bank ~~mitigated acres shall be~~  
 247 funded through these lump-sum amounts.

(e) For purposes of preparing and implementing the  
 248 mitigation plans to be adopted by the water management districts  
 249 before March 1, 2013, for transportation impacts based on the  
 250 environmental impact inventory of July 1, 2012, the funds  
 251 identified in the Department of Transportation's work program or  
 252 participating transportation authorities' escrow accounts must  
 253 correspond to a cost per acre of \$75,000 multiplied by the  
 254 projected acres of impact as identified in the environmental  
 255 impact inventory. The cost per acre shall be adjusted by the  
 256 percentage change in the average of the Consumer Price Index  
 257 issued by the United States Department of Labor for the most  
 258 recent 12-month period ending September 30, compared to the base  
 259 year average, which is the average for the 12-month period  
 260 ending September 30, 1996. Payment as provided under this  
 261

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 262 paragraph is limited to those mitigation activities that are  
 263 identified in the first year of the 2013 mitigation plan and for  
 264 which the transportation project is permitted and is in the  
 265 Department of Transportation's adopted work program, or the  
 266 equivalent for a transportation authority. When implementing the  
 267 mitigation activities necessary to offset the permitted  
 268 transportation impacts as provided in the approved mitigation  
 269 plan, the water management district shall maintain records of  
 270 the costs incurred in implementing the mitigation. The costs  
 271 must include, but are not limited to, conceptual planning, land  
 272 acquisition, design, construction, staff support, long-term  
 273 maintenance and monitoring of the mitigation site, and other  
 274 costs necessary to meet the requirements of 33 U.S.C. s. 1344  
 275 and 33 C.F.R. s. 332. To the extent moneys paid to a water  
 276 management district by the Department of Transportation or a  
 277 participating transportation authority exceed the amount spent  
 278 by the water management district in implementing the mitigation  
 279 to offset the permitted transportation impacts, the funds shall  
 280 be refunded to the Department of Transportation or the  
 281 participating transportation authority. This paragraph expires  
 282 June 30, 2014.

(4) Before March 1 of each year, each water management  
 283 district, in consultation with the Department of Environmental  
 284 Protection, the United States Army Corps of Engineers, the  
 285 Department of Transportation, participating transportation  
 286 authorities established pursuant to chapter 348 or chapter 349,  
 287 and other appropriate federal, state, and local governments, and  
 288 other interested parties, including entities operating  
 289 mitigation banks, shall develop a plan for the primary purpose  
 290

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291 of complying with the mitigation requirements adopted pursuant  
 292 to this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. In  
 293 developing such plans, the districts shall use sound ecosystem  
 294 management practices to address significant water resource needs  
 295 and shall ~~consider~~ focus on activities of the Department of  
 296 Environmental Protection and the water management districts,  
 297 such as surface water improvement and management (SWIM) projects  
 298 and lands identified for potential acquisition for preservation,  
 299 restoration, or enhancement, and the control of invasive and  
 300 exotic plants in wetlands and other surface waters, to the  
 301 extent that the activities comply with the mitigation  
 302 requirements adopted under this part, ~~and~~ 33 U.S.C. s. 1344, and  
 303 33 C.F.R. s. 332. For transportation projects in the  
 304 environmental impact inventory for which mitigation has not been  
 305 specified, the mitigation plan must identify the site where the  
 306 water management district will mitigate for the transportation  
 307 project, the scope of the mitigation activities at each  
 308 mitigation site, and the functional gain at each mitigation site  
 309 as determined through the uniform mitigation assessment method  
 310 pursuant to rule 62-345, F.A.C.; must describe how the  
 311 mitigation offsets the impacts of each transportation project as  
 312 permitted; must set a schedule for the mitigation activities;  
 313 and must specify the cost per mitigation credit as established  
 314 in (3) (d). The water management districts shall maintain records  
 315 of payments received and costs incurred for implementing  
 316 mitigation activities to offset impacts of permitted  
 317 transportation projects. To the extent moneys paid to a water  
 318 management district by the Department of Transportation or a  
 319 participating transportation authority exceed the amount spent

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320 by the water management districts in implementing the mitigation  
 321 to offset the permitted transportation impacts, the funds shall  
 322 be refunded to the Department of Transportation or the  
 323 participating transportation authority ~~In determining the~~  
 324 ~~activities to be included in the plans, the districts shall~~  
 325 ~~consider the purchase of credits from public or private~~  
 326 ~~mitigation banks permitted under s. 373.4136 and associated~~  
 327 ~~federal authorization and shall include the purchase as a part~~  
 328 ~~of the mitigation plan when the purchase would offset the impact~~  
 329 ~~of the transportation project, provide equal benefits to the~~  
 330 ~~water resources than other mitigation options being considered,~~  
 331 ~~and provide the most cost-effective mitigation option.~~ The  
 332 mitigation plan shall be submitted to the water management  
 333 district governing board, or its designee, for review and  
 334 approval. At least 14 days before approval by the governing  
 335 board, the water management district shall provide a copy of the  
 336 draft mitigation plan to the Department of Environmental  
 337 Protection and any person who has requested a copy. After the  
 338 governing board approves the mitigation plan, the plan must be  
 339 submitted to the department for approval. The plan may not be  
 340 implemented until it is submitted to and approved, in part or in  
 341 its entirety, by the ~~department~~ Department of Environmental  
 342 Protection.  
 343 ~~(a) For each transportation project with a funding request~~  
 344 ~~for the next fiscal year, the mitigation plan must include a~~  
 345 ~~brief explanation of why a mitigation bank was or was not chosen~~  
 346 ~~as a mitigation option, including an estimation of identifiable~~  
 347 ~~costs of the mitigation bank and nonbank options and other~~  
 348 ~~factors such as time saved, liability for success of the~~

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349 ~~mitigation, and long-term maintenance.~~

350 ~~(a)(b)~~ Specific projects may be excluded from the  
 351 mitigation plan, in whole or in part, and are not subject to  
 352 this section upon the election of the Department of  
 353 Transportation, a transportation authority if applicable, or the  
 354 appropriate water management district. The Department of  
 355 Transportation or a participating transportation authority may  
 356 not exclude a transportation project from the mitigation plan if  
 357 mitigation is scheduled for implementation by the water  
 358 management district in the current fiscal year, except if the  
 359 transportation project is removed from the Department of  
 360 Transportation work program or transportation authority funding  
 361 plan. If a project is removed, costs expended by the water  
 362 management districts before removal are eligible for  
 363 reimbursement by the Department of Transportation or the  
 364 participating transportation authority.

365 ~~(b)(e)~~ When determining which projects to include in or  
 366 exclude from the mitigation plan, the Department of  
 367 Transportation shall investigate using credits from a permitted  
 368 mitigation bank before those projects are submitted for  
 369 inclusion in the plan. The investigation shall consider the cost  
 370 ~~cost-effectiveness~~ of mitigation bank credits, including, but  
 371 not limited to, factors such as timeliness ~~time saved~~, transfer  
 372 of liability for success of the mitigation, ~~and~~ long-term  
 373 maintenance, and meeting the requirements of 33 C.F.R. s. 332.  
 374 The Department of Transportation shall exclude a project from  
 375 the mitigation plan if the investigation undertaken pursuant to  
 376 this paragraph results in the conclusion that the use of credits  
 377 from a permitted mitigation bank promotes efficiency, timeliness

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378 in project delivery, and cost-effectiveness.

379 (5) The water management district shall ensure that  
 380 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33  
 381 C.F.R. s. 332 are met for the impacts identified in the  
 382 environmental impact inventory described in subsection (2), by  
 383 implementation of the approved plan described in subsection (4)  
 384 to the extent funding is provided by the Department of  
 385 Transportation, or a transportation authority established  
 386 pursuant to chapter 348 or chapter 349, if applicable. In  
 387 developing and implementing the mitigation plan, the water  
 388 management district shall comply with federal permitting  
 389 requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.  
 390 During the federal permitting process, the water management  
 391 district may deviate from the approved mitigation plan in order  
 392 to comply with federal permitting requirements upon notice and  
 393 coordination with the Department of Transportation or the  
 394 participating transportation authority.

395 (6) The water management district mitigation plans shall be  
 396 updated annually to reflect the most current Department of  
 397 Transportation work program and project list of a transportation  
 398 authority established pursuant to chapter 348 or chapter 349, if  
 399 applicable, and may be amended throughout the year to anticipate  
 400 schedule changes or additional projects which may arise. Before  
 401 amending the mitigation plan to include new projects,  
 402 consideration shall be given to mitigation banks and other  
 403 available mitigation options. Each update and amendment of the  
 404 mitigation plan shall be submitted to the governing board of the  
 405 water management district or its designee for approval. However,  
 406 the ~~such~~ approval is ~~shall~~ not ~~be~~ applicable to a deviation as

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407 described in subsection (5).

408 (7) Upon approval by the governing board of the water  
 409 management district and the Department of Environmental  
 410 Protection or its designee, the mitigation plan shall be deemed  
 411 to satisfy the mitigation requirements under this part for  
 412 impacts specifically identified in the environmental impact  
 413 inventory described in subsection (2) and any other mitigation  
 414 requirements imposed by local, regional, and state agencies for  
 415 these same impacts. The approval of the governing board of the  
 416 water management district or its designee must shall authorize  
 417 the activities proposed in the mitigation plan, and no other  
 418 state, regional, or local permit or approval is shall be  
 419 necessary.

420 (8) This section may shall not be construed to eliminate  
 421 the need for the Department of Transportation or a  
 422 transportation authority established pursuant to chapter 348 or  
 423 chapter 349 to comply with the requirement to implement  
 424 practicable design modifications, including realignment of  
 425 transportation projects, to reduce or eliminate the impacts of  
 426 its transportation projects on wetlands and other surface waters  
 427 as required by rules adopted pursuant to this part, or to  
 428 diminish the authority under this part to regulate other  
 429 impacts, including water quantity or water quality impacts, or  
 430 impacts regulated under this part that are not identified in the  
 431 environmental impact inventory described in subsection (2).

432 ~~(9) The process for environmental mitigation for the impact~~  
 433 ~~of transportation projects under this section shall be available~~  
 434 ~~to an expressway, bridge, or transportation authority~~  
 435 ~~established under chapter 348 or chapter 349. Use of this~~

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436 ~~process may be initiated by an authority depositing the~~  
 437 ~~requisite funds into an escrow account set up by the authority~~  
 438 ~~and filing an environmental impact inventory with the~~  
 439 ~~appropriate water management district. An authority that~~  
 440 ~~initiates the environmental mitigation process established by~~  
 441 ~~this section shall comply with subsection (6) by timely~~  
 442 ~~providing the appropriate water management district with the~~  
 443 ~~requisite work program information. A water management district~~  
 444 ~~may draw down funds from the escrow account as provided in this~~  
 445 ~~section.~~

446 Section 3. Section 373.618, Florida Statutes, is amended to  
 447 read:

448 373.618 Public service warnings, alerts, and  
 449 announcements.—The Legislature believes it is in the public  
 450 interest that each all water management district districts  
 451 created pursuant to s. 373.069 own, acquire, develop, construct,  
 452 operate, and manage public information systems. Public  
 453 information systems may be located on property owned by the  
 454 water management district, upon terms and conditions approved by  
 455 the water management district, and must display messages to the  
 456 general public concerning water management services, activities,  
 457 events, and sponsors, as well as other public service  
 458 announcements, including watering restrictions, severe weather  
 459 reports, amber alerts, and other essential information needed by  
 460 the public. Local government review or approval is not required  
 461 for a public information system owned or hereafter acquired,  
 462 developed, or constructed by the water management district on  
 463 its own property. A public information system is exempt from the  
 464 requirements of chapter 479; however, a public information

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465 system that is subject to the Highway Beautification Act of 1965  
466 must be approved by the Department of Transportation and the  
467 Federal Highway Administration if required by federal law and  
468 federal regulation under the agreement between the state and the  
469 United States Department of Transportation, and federal  
470 regulations enforced by the Department of Transportation under  
471 s. 479.02(1). Water management district funds may not be used to  
472 pay the cost to acquire, develop, construct, operate, or manage  
473 a public information system. Any necessary funds for a public  
474 information system shall be paid for and collected from private  
475 sponsors who may display commercial messages.

476 Section 4. This act shall take effect July 1, 2013.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic Environment/Mitigation Banking

Bill Number 1104  
*(if applicable)*

Name Lori Killinger

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Attorney/lobbyist

Address 315 S. Calhoun St ~~830~~ 830

Phone 850 222 5702

Street

Tallahassee

FL

32301

City

State

Zip

E-mail lkillinge@llw-law.com

Speaking:  For  Against  Information

Representing Florida Association of Mitigation Bankers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

# CourtSmart Tag Report

**Room:** LL 37  
**Caption:** Transportation

**Case:**  
**Judge:**

**Type:**

**Started:** 3/21/2013 10:05:33 AM  
**Ends:** 3/21/2013 11:58:05 AM **Length:** 01:52:33

10:05:35 AM Meeting called to order by Chairman Brandes .  
10:05:39 AM Roll call by Administrative Assistant  
10:05:50 AM Comments by Chairman Brandes  
10:06:11 AM Tab 5 SB 712 explanation by Senator Latvala  
10:07:45 AM Introductions by Senator Latvala  
10:08:08 AM Question from Senator Joyner  
10:08:51 AM Response from Senator Latvala  
10:09:19 AM Comments from Chairman Brandes  
10:09:35 AM Jim Gabbard, Florida Police Chiefs Association waives in support  
10:09:51 AM Comments from Lauren Lofton, Student, St. Petersburg, FL, Operation 10-24  
10:10:32 AM Comments from Chairman Brandes  
10:10:45 AM Closure waived by Senator Latvala  
10:10:54 AM Roll call by Administrative Assistant  
10:11:03 AM SB 712 passes favorably  
10:11:12 AM Additional comments by Senator Latvala  
10:11:45 AM Tab 2 SB 606 explanation by Senator Gibson  
10:12:27 AM Amendment 975722 explained by Senator Gibson  
10:12:49 AM Comments from Chairman Brandes  
10:13:01 AM Amendment 975722 passes  
10:13:15 AM Amendment 713084 explained by Senator Gibson  
10:13:28 AM Amendment 713084 passes  
10:13:39 AM Amendment 816602 explained by Senator Gibson  
10:14:08 AM Amendment 816602 passes  
10:14:21 AM Amendment 635678 explained by Senator Gibson  
10:14:35 AM Amendment 635678 passes  
10:14:44 AM Amendment 848592 explained by Senator Gibson  
10:15:06 AM Amendment 848592 passes  
10:15:23 AM Brad Thoburn, JTA, Vice President Long Range Planning and Capital Programs waives in support  
10:16:05 AM Closure by Senator Gibson  
10:16:10 AM Roll call by Administrative Assistant  
10:16:23 AM Tab 3, SB 632 by Senator Soto  
10:16:39 AM Explanation of SB 632 by Senator Soto  
10:17:41 AM Comments from Chairman Brandes regarding late filed Amendment  
10:17:59 AM Explanation of late filed Amendment 673474 by Senator Evers  
10:19:01 AM Comments from Chairman Brandes  
10:19:15 AM Comments from Mike Prendergast, Executive Director, Florida Department of Veterans Affairs  
10:20:27 AM John Haynes, Chairman, Florida Veterans Foundation waives in support  
10:20:51 AM Question from Senator Clemens  
10:20:58 AM Response from Senator Evers  
10:21:21 AM Additional comments from Senator Clemens

10:21:34 AM Response from Senator Evers  
10:22:09 AM Comments from Chairman Brandes  
10:22:20 AM Amendment adopted  
10:22:31 AM Closure on Bill by Senator Soto  
10:22:51 AM Senator Richter moves to report SB 632 as committee substitute  
10:23:10 AM Roll call by Administrative Assistant  
10:23:17 AM Bill passes favorably  
10:23:25 AM Tab 6, Senator Hukill SB 796  
10:23:41 AM Explanation of SB 796 by Senator Hukill  
10:25:40 AM Question from Senator Evers  
10:25:53 AM Response from Senator Hukill  
10:26:21 AM Additional question from Senator Evers  
10:26:36 AM Response from Senator Hukill  
10:27:07 AM Additional question from Senator Evers  
10:27:18 AM Response from Senator Hukill  
10:27:24 AM Comments from Senator Evers  
10:27:33 AM Response from Senator Hukill  
10:27:44 AM Comments from Senator Evers  
10:28:25 AM Response from Senator Hukill  
10:29:50 AM Follow-up question from Senator Evers  
10:30:10 AM Response from Senator Hukill  
10:31:17 AM Question from Senator Richter  
10:31:39 AM Response from Senator Hukill  
10:31:51 AM Follow-up question from Senator Richter  
10:32:10 AM Response from Senator Hukill  
10:32:47 AM Question from Senator Richter  
10:32:57 AM Response from Senator Hukill  
10:33:08 AM Question from Senator Margolis  
10:33:39 AM Response from Senator Hukill  
10:34:29 AM Additional question from Senator Margolis  
10:34:45 AM Response from Senator Hukill  
10:35:02 AM Follow-up question from Senator Margolis  
10:35:37 AM Response from Senator Hukill  
10:35:57 AM Question from Senator Joyner  
10:36:22 AM Response from Senator Hukill  
10:36:28 AM Follow-up question from Senator Joyner  
10:36:56 AM Response from Senator Hukill  
10:37:29 AM Follow-up question from Senator Joyner  
10:37:40 AM Response from Senator Hukill  
10:37:56 AM Follow-up question from Senator Joyner  
10:38:09 AM Response from Senator Hukill  
10:38:28 AM Comments by Senator Joyner  
10:38:46 AM Response from Senator Hukill  
10:39:32 AM Follow-up question from Senator Joyner  
10:40:09 AM Response from Senator Hukill  
10:41:10 AM Follow-up question from Senator Joyner  
10:41:43 AM Response from Senator Hukill  
10:41:57 AM Additional question from Senator Joyner  
10:42:20 AM Response from Senator Hukill  
10:44:24 AM Follow-up from Senator Joyner  
10:44:56 AM Response from Senator Hukill  
10:45:15 AM Final question from Senator Joyner

**10:45:32 AM** Response from Senator Hukill  
**10:46:43 AM** Question from Senator Thompson  
**10:47:09 AM** Response from Senator Hukill  
**10:48:05 AM** Follow-up question from Senator Thompson  
**10:48:25 AM** Response from Senator Hukill  
**10:49:20 AM** Question from Senator Evers  
**10:49:34 AM** Response from Senator Hukill  
**10:49:40 AM** Follow-up question from Senator Evers  
**10:49:52 AM** Response from Senator Hukill  
**10:50:30 AM** Follow-up question from Senator Evers  
**10:50:39 AM** Response from Senator Hukill  
**10:51:40 AM** Comments/question from Senator Evers  
**10:52:19 AM** Response from Senator Hukill  
**10:52:26 AM** Question from Senator Evers  
**10:53:03 AM** Response from Senator Hukill  
**10:53:19 AM** Comments from Senator Evers  
**10:53:34 AM** Question from Senator Joyner  
**10:54:02 AM** Response from Senator Hukill  
**10:54:32 AM** Follow-up question from Senator Joyner  
**10:57:14 AM** Comments from Chairman Brandes regarding Amendment 144980  
**10:57:36 AM** Explanation of Amendment 144980 by Senator Hukill  
**10:58:18 AM** Amendment adopted  
**10:58:29 AM** Comments on SB 796 by Laura McLeod, Executive Director, Florida Association of DUI Programs  
**11:02:47 AM** Comments from Connie Russell, MADD Florida  
**11:05:36 AM** Question from Senator Margolis  
**11:06:14 AM** Response from Connie Russell  
**11:06:51 AM** Response from Senator Margolis  
**11:07:00 AM** Response from Connie Russell  
**11:08:24 AM** Comments from Daniel Simmons, Lifesaver Technical  
**11:08:45 AM** Comments from Doug Mannheimer, Attorney, Alcohol Countermeasure Systems  
**11:11:14 AM** Christina Allen, MADD Florida waives in support  
**11:11:31 AM** Comments from Senator Hukill  
**11:11:40 AM** Senator Evers moves that SB 796 be TP'd  
**11:11:41 AM** SB 796 TP'd  
**11:12:26 AM** SB 952 explanation by Senator Simmons  
**11:15:03 AM** Amendment 820220 withdrawn  
**11:15:21 AM** Comments from Aicee Mercer, Chairman, Osceola County Expressway Authority  
**11:16:14 AM** Comments from Kathy Russell, City of Orlando waives in support  
**11:16:40 AM** Comments from Chris Dudley  
**11:17:59 AM** Comments from Chairman Brandes  
**11:18:04 AM** Closure on SB 952 by Senator Simmons  
**11:18:23 AM** Roll call by Administrative Assistant  
**11:18:30 AM** SB952 passes favorably  
**11:18:48 AM** Tab 1 SB 274 presented by Chase Daniels  
**11:19:26 AM** Question from Senator Lee  
**11:19:40 AM** Response from Chase Daniels  
**11:20:05 AM** Follow-up question from Senator Lee  
**11:20:12 AM** Response from Chase Daniels  
**11:21:08 AM** Additional question from Senator Lee  
**11:21:39 AM** Response from Chase Daniels  
**11:22:10 AM** Comments from Jorge Aladro, Grandmaster, Masonic Home of Florida and Grand

Lodge of Florida

**11:22:54 AM** Response from Shirlyne Everett in regards to Senator Lee's question  
**11:23:30 AM** Response from Jorge L. Aladro  
**11:23:59 AM** Comments from Chairman Brandes regarding Amendment 673604  
**11:24:21 AM** Amendment 673604 adopted  
**11:24:30 AM** Explanation of Amendment 539103  
**11:24:52 AM** Amendment 539102 adopted  
**11:25:09 AM** Question from Senator Joyner  
**11:25:48 AM** Response from Chase Daniels  
**11:26:07 AM** Stephen Berry, Florida Mason Home waives in support  
**11:26:21 AM** Comments from Senator Lee  
**11:27:39 AM** Comments from Chairman Brandes  
**11:27:45 AM** Chase Daniels waives closure  
**11:27:46 AM** Senator Richter moves for Committee Substitute  
**11:28:00 AM** Roll call by Administrative Assistant  
**11:28:15 AM** Bill reported favorably  
**11:28:23 AM** SB 634 explained by Patrick Weightman on behalf of Senator Simpson  
**11:29:38 AM** Comments from Chairman Brandes  
**11:29:49 AM** Comments from Frank Fabrizio, Florida Police Chiefs Association waives in support  
**11:30:15 AM** Kenneth Vickery, Florida Sheriff's Association waives in support  
**11:30:32 AM** Cary Cooks, Florida League of Cities waives in support  
**11:30:40 AM** Rob Johnson, Legislative Director, Attorney General Pam Bondi waives in support  
**11:30:48 AM** Patrick Weightman waives closure  
**11:30:53 AM** Roll call by Administrative Assistant  
**11:31:12 AM** SB 634 reported favorably  
**11:31:31 AM** Tab 8 1342 by Senator Abruzzo  
**11:31:48 AM** Strike all Amendment 824056 explained by Senator Abruzzo  
**11:33:32 AM** Amendment to the Amendment 342468 explained by Senator Clemens  
**11:34:54 AM** Comments by Paul Henry on the Amendment  
**11:35:32 AM** Greg Brown, Florida Sheriff's Association & Hillsborough County Sheriff waives in opposition  
**11:35:49 AM** Eric Poole, Assistant Legislative Director, Florida Association of Counties waives in support to the Amendment to the Amendment  
**11:35:59 AM** Casey Cook, Florida League of Cities  
**11:36:14 AM** Major Chris Connell, Florida Police Chiefs Association supports Amendment to the Amendment  
**11:36:45 AM** Comments by Kathy Russell, City of Orlando  
**11:38:21 AM** Comments from Senator Richter  
**11:38:34 AM** Comments from Senator Abruzzo  
**11:40:39 AM** Comments from Senator Brandes regarding Amendment to Amendment  
**11:40:59 AM** Amendment adopted  
**11:41:05 AM** Substitute Amendment 913514 by Senator Clemens  
**11:41:22 AM** Comments from Senator Richter  
**11:42:31 AM** Comments from Senator Lee  
**11:44:40 AM** Amendment 913514 withdrawn  
**11:44:58 AM** Comments from Senator Clemens  
**11:45:40 AM** Comments from Chairman Brandes  
**11:45:59 AM** Chris Connell, Florida Police Chiefs Association waives in support  
**11:46:08 AM** Paul Henry waives in opposition  
**11:46:17 AM** Comments from Becki Forsell, Tampa, FL  
**11:50:44 AM** Comments from David Sigerson, City of Margate waives in support  
**11:50:56 AM** Comments from Senator Joyner

**11:53:40 AM** Comments from Chairman Brandes  
**11:53:47 AM** Comments from Senator Abruzzo  
**11:54:50 AM** Senator Richter moves for a Committee Substitute on SB 1342  
**11:54:58 AM** Roll call by Administrative Assistant  
**11:55:05 AM** SB1342 passes favorably  
**11:55:23 AM** Chairman Brandes passes chair to Senator Margolis  
**11:55:31 AM** SB 1104 explained by Chairman Brandes  
**11:55:55 AM** Amendment 386694 explained by Chairman Brandes  
**11:56:09 AM** Comments from Chairman Margolis  
**11:56:15 AM** Amendment 386694 passes  
**11:56:24 AM** Amendment 396914 explained by Chairman Brandes  
**11:56:40 AM** Amendment 396914 passes  
**11:56:50 AM** Lorie Killinger waives in support  
**11:56:58 AM** Comments from Chairman Margolis  
**11:57:03 AM** Closure waived and Senator Brandes moves for a CS  
**11:57:15 AM** Roll call by Administrative Assistant  
**11:57:24 AM** Chair passed back to Chairman Brandes  
**11:57:25 AM** Senator Richter moves to rise  
**11:57:43 AM** Sen. Richter makes motion to make Technical changes  
**11:57:54 AM** Sen. Richter moves to rise

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-21-13

Meeting Date

Topic Ignition Interlock Device

Bill Number 796  
(if applicable)

Name Connie Russell

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title MADD Volunteer

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Tallahassee FL 32308  
City State Zip

E-mail BEARD, connie@gmail.com

Speaking:  For  Against  Information

Representing MADD FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

