

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

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

**MEETING DATE:** Wednesday, February 5, 2014  
**TIME:** 2:00 —4:00 p.m.  
**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 490</b> Garcia (Similar H 401)	Motor Vehicle Liability Policy Requirements; Extending the period during which the policy may be cancelled by the insurer; specifying minimum limits for such policy; deleting a provision requiring an insured who obtains additional coverage to obtain a new 6-month noncancelable policy, etc.  BI      01/14/2014 Favorable TR      02/05/2014 Favorable AP	Favorable Yeas 9 Nays 0
2	<b>SB 616</b> Evers (Similar H 7007)	Public Records/Toll Facilities; Providing an exemption from public records requirements for personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges for the use of toll facilities; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc.  TR      02/05/2014 Favorable GO RC	Favorable 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.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 490

INTRODUCER: Senator Garcia

SUBJECT: Motor Vehicle Liability Policy Requirements

DATE: February 5, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Everette</u>	<u>Eichin</u>	<u>TR</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 490 extends the underwriting period from 30 to 60 days for non-cancellable coverage required to reinstate driving privileges revoked or suspended for failure to maintain required security or driving under the influence (DUI). During the underwriting period the policy is effective but the insurer may cancel the policy. The bill also allows the insured to change the coverage amounts under such policies without requiring the policy to be cancelled, so long as at least the minimum required coverage amounts are maintained.

**II. Present Situation:**

**Motor Vehicle Financial Responsibility Requirements – Motor Vehicle Insurance**

Every owner or registrant of a motor vehicle<sup>1</sup> required to be registered and licensed in this state must maintain financial security continuously throughout the registration or licensing period.<sup>2</sup> Most owners or registrants of a motor vehicle maintain financial security through a motor insurance policy. Under Florida law, each motor vehicle insurance policy must provide Personal Injury Protection (PIP) benefits of \$10,000 and Property Damage (PD) liability coverage of \$10,000/\$20,000.<sup>3</sup>

Each insurer must report the cancellation or nonrenewal of a motor vehicle insurance policy to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days after the processing date or effective date of each cancellation or nonrenewal.<sup>4</sup> The insurer must also

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<sup>1</sup> Other than a motor vehicle used as a school bus defined in s. 1006.25, F.S., or limousine.

<sup>2</sup> S. 627.733(1), F.S.

<sup>3</sup> S. 627.736(1), F.S., and s. 324.022, F.S.

<sup>4</sup> S. 324.0221(1), F.S.

report to the DHSMV the issuance of a motor vehicle insurance policy to a named insured not previously insured by the insurer during that calendar year within 10 days.<sup>5</sup>

### **Noncancelable Motor Vehicle Insurance**

The DHSMV must suspend, after notice and an opportunity to be heard, the registration and driver's license of any owner or registrant of a motor vehicle for failure to maintain a motor vehicle insurance policy providing the minimum required PIP and PD coverage.<sup>6</sup> A suspended driver's license or registration may be reinstated by obtaining the minimum required motor vehicle insurance and upon payment to the DHSMV of a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement during the 3 years following the first reinstatement. A person reinstating her or his insurance must secure noncancelable coverage as described in ss. 324.021(8), 324.023, and 627.7275(2), F.S. and present proof that the coverage is in force and maintain proof of coverage for 2 years.

Every owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence (DUI) under s. 316.193, F.S., must maintain a motor vehicle insurance policy<sup>7</sup> that provides Bodily Injury (BI) liability coverage of \$100,000/\$300,000 and PD coverage of \$50,000.<sup>8</sup> These higher limits must be carried for a minimum of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, F.S., the owner or operator is not subject to this requirement.

A noncancelable insurance policy must be issued for at least 6 months and, as to the minimum coverage requirements, is not cancelable by the insured for any reason or by the insurer after a period not to exceed 30 days during which the insurer must complete underwriting of the policy.<sup>9</sup> After the insurer has completed underwriting the policy within the 30-day period, the insurer must notify the DHSMV that the policy is in full force and effect and the policy is not cancelable for the remainder of the policy period.<sup>10</sup> Coverage is in effect while the insurer is completing the underwriting of the policy.<sup>11</sup>

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

**Section 1** amends s. 627.7275, F.S., extending the underwriting period from 30 to 60 days for non-cancellable coverage required to reinstate driving privileges revoked or suspended for failure to maintain required security or committing a DUI offense. This will allow insurers additional time to properly complete underwriting, during which the insurer may cancel the

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

<sup>6</sup> S. 324.0221(2), F.S.

<sup>7</sup> The owner or operator may, as an alternative to obtaining insurance, furnishing a certificate of self-insurance showing a deposit of at least \$350,000 cash in accordance with s. 324.161, F.S.

<sup>8</sup> S. 324.023

<sup>9</sup> S. 627.7275(2), F.S.

<sup>10</sup> S. 627.7275(2)(b), F.S.

<sup>11</sup> See *id.*

policy. The longer underwriting period will also extend from 30 to 60 days the period of time that lapses before an insurer reports to the DHSMV that noncancelable coverage is in full force and effect and cannot be cancelled.

The bill also allows the insured to change the coverage amounts under such policies without requiring the policy to be cancelled, so long as at least the minimum required coverage amounts are maintained.

**Section 2** provides 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:

None.

C. Government Sector Impact:

The DHSMV estimates that approximately 370 hours of computer programming at a total cost of \$20,800.00, will be needed to implement the changes required by this bill, as follows:

- ISA: 270 hours at \$40.00 per hour for a subtotal of \$10,800.00.
- Contractors: 100 hours at \$100 per hour for a subtotal of \$10,000.00.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 627.7275 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**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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231468

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/05/2014	.	
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	.	
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The Committee on Transportation (Joyner) recommended the following:

**Senate Amendment (with title amendment)**

Before line 12

insert:

Section 1. Subsection (3) of section 316.646, Florida Statutes, is amended to read:

316.646 Security required; proof of security and display thereof.—

(3) A ~~Any~~ person who violates this section commits a nonmoving traffic infraction subject to the penalty provided in



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11 chapter 318 and must ~~shall be required to~~ furnish proof of  
12 security as provided in this section. However, a person may not  
13 be charged under this section if the violation is discovered in  
14 connection with a noncriminal traffic infraction that would not  
15 result in points being imposed upon the person's driver license  
16 under s. 322.27. If a ~~any~~ person charged with a violation of  
17 this section fails to furnish proof at or before the scheduled  
18 court appearance date that security was in effect at the time of  
19 the violation, the court shall, upon conviction, notify the  
20 department to suspend the registration and driver license of  
21 such person. If the court fails to order the suspension of the  
22 person's registration and driver license for a conviction of  
23 this section at the time of sentencing, the department shall,  
24 upon receiving notice of the conviction from the court, suspend  
25 the person's registration and driver license for the violation  
26 of this section. Such license and registration may be reinstated  
27 only as provided in s. 324.0221.

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

30 And the title is amended as follows:

31 Delete line 3

32 and insert:

33 requirements; amending s. 316.646, F.S.; exempting  
34 certain persons from being charged with a nonmoving  
35 traffic infraction for failing to provide proof of  
36 security; amending s. 627.7275, F.S.; extending

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/14

Meeting Date

Topic Motor Vehicle Liability Policies

Bill Number 490

Name Doug Bell

(if applicable)

Job Title

Amendment Barcode

(if applicable)

Address

215 S. Monroe St

Street

Tall

City

FL

State

Zip

Phone 222-3533

E-mail

Speaking:

For

Against

Information

Representing

Progressive

Appearing at request of Chair:  Yes  No

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.

By Senator Garcia

38-00531B-14

2014490\_\_

A bill to be entitled

An act relating to motor vehicle liability policy requirements; amending s. 627.7275, F.S.; extending the period during which the policy may be cancelled by the insurer; specifying minimum limits for such policy; deleting a provision requiring an insured who obtains additional coverage to obtain a new 6-month noncancelable policy; providing an effective date.

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

Section 1. Subsection (2) of section 627.7275, Florida Statutes, is amended to read:

627.7275 Motor vehicle liability.—

(2) (a) Insurers writing motor vehicle insurance in this state shall make available, subject to the insurers' usual underwriting restrictions:

1. Coverage under policies as described in subsection (1) to an any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state if ~~when~~ the driving privileges were revoked or suspended pursuant to s. 316.646 or s. 324.0221 due to the failure of the applicant to maintain required security.

2. Coverage under policies as described in subsection (1), which also provides liability coverage for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of the motor vehicle in an amount not less than the limits described in s. 324.021(7) and conforms to the

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

38-00531B-14

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requirements of s. 324.151, to an any applicant for private passenger motor vehicle insurance coverage who is seeking the coverage in order to reinstate the applicant's driving privileges in this state after such privileges were revoked or suspended under s. 316.193 or s. 322.26(2) for driving under the influence.

(b) The policies described in paragraph (a) shall be issued for ~~a period of~~ at least 6 months and, as to the minimum coverages required under this section, may shall not be cancel ~~cancelable~~ by the insured for any reason or by the insurer after 60 a period not to exceed 30 days, during which period the insurer is completing the ~~must complete~~ underwriting of the policy. After the insurer has completed underwriting the policy within the 30-day period, the insurer shall notify the Department of Highway Safety and Motor Vehicles that the policy is in full force and effect and is the policy shall not be cancelable for the remainder of the policy period. A premium shall be collected and the coverage is shall be in effect for the 60-day 30-day period during which the insurer is completing the underwriting of the policy whether or not the person's driver license, motor vehicle tag, and motor vehicle registration are in effect. Once the noncancelable provisions of the policy become effective, the coverages for bodily injury, property damage, and personal injury protection may not be reduced below the minimum limits required under s. 324.021 or s. 324.023 coverage or risk shall not be changed during the policy period and the premium shall be nonrefundable. If, during the pendency of the 2-year proof-of-insurance period required under s. 324.0221 or during the 3-year proof-of-financial

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

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59 responsibility required under s. 324.131, whichever is  
60 applicable, the insured obtains additional coverage or coverage  
61 for an additional risk or changes territories, the insured must  
62 obtain a new 6-month noncancelable policy in accordance with the  
63 provisions of this section. However, if the insured must obtain  
64 a new 6-month policy and obtains the policy from the same  
65 insurer, the policyholder shall receive credit on the new policy  
66 for any premium paid on the previously issued policy.

67 (c) This subsection controls to the extent of any conflict  
68 with any other section.

69 (d) An insurer issuing a policy subject to this section may  
70 cancel the policy if, during the policy term, the named insured,  
71 or any other operator, who resides in the same household or  
72 customarily operates an automobile insured under the policy, has  
73 his or her driver ~~driver's~~ license suspended or revoked.

74 (e) ~~Nothing in~~ This subsection does not require ~~requires~~ an  
75 insurer to offer a policy of insurance to an applicant if such  
76 offer would be inconsistent with the insurer's underwriting  
77 guidelines and procedures.

78 Section 2. This act shall take effect July 1, 2014.



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

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

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: SB 616

INTRODUCER: Senator Evers

SUBJECT: Public Records/Toll Facilities

DATE: February 5, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Favorable</b>
2.			GO	
3.			RC	

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**I. Summary:**

SB 616 expands an existing public records exemption to apply to personal identifying information held by a municipality, in addition to that held by the Department of Transportation, a county, or an expressway authority, for purposes relating to payment for the use of toll facilities. The bill also removes references to specific payment types; *i.e.*, credit card, charge card, or check, and instead provides that the exemption applies to personal identifying information of individuals that is held for the purpose of paying, prepaying, or collecting tolls and associated charges.

The bill provides that the expanded exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2019, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

**II. Present Situation:**

**Public Records Laws**

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.<sup>1</sup> The records of the legislative, executive, and judicial branches are specifically included in this constitutional provision.<sup>2</sup>

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act<sup>3</sup> guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

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

<sup>3</sup> Chapter 119, F.S.

conditions, and under supervision by the custodian of the public record.<sup>4</sup> Section 119.011(12), F.S., defines “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records.<sup>5</sup>

Only the Legislature may create an exemption to public records requirements.<sup>6</sup> Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>7</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>8</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>9</sup>

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>10</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>11</sup> The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.<sup>12</sup>

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<sup>4</sup> Section 119.07(1)(a), F.S.

<sup>5</sup> See *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)

<sup>6</sup> FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

<sup>7</sup> FLA. CONST., art. I, s. 24(c).

<sup>8</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

<sup>11</sup> Section 119.15(3), F.S.

<sup>12</sup> Section 119.15(6)(b), F.S.

## Electronic Toll Payment

Subject to limited exemptions, current law prohibits persons from using any toll facility without payment.<sup>13</sup> The Department of Transportation (DOT) is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including, but not limited to, rules for the implementation of video or other image billing and variable pricing.<sup>14</sup> The DOT has implemented two programs (SunPass and Toll-By-Plate) for electronic toll collections.

SunPass<sup>15</sup> is an electronic system of toll collection accepted on all Florida toll roads and nearly all toll bridges. SunPass utilizes a prepaid account system and electronic devices called transponders that attach to the inside of a car's windshield. When a car equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's prepaid account. SunPass customers typically fund prepaid accounts using credit cards, debit cards, and checks. SunPass account information includes the license plate number, address, and credit card information.<sup>16</sup>

The Toll-By-Plate<sup>17</sup> program, established by the DOT in 2010, is an image-based system of toll collection. Toll-By-Plate takes a photo of a license plate as a vehicle travels through a Turnpike tolling location and mails a monthly bill for the tolls, including an administrative charge, to the registered owner of the vehicle. Accounts can be set up as pre-paid or post-paid.<sup>18</sup> Accounts may require name, address, email, driver's license number, day time phone number, and credit and debit card numbers.<sup>19</sup>

### *Town of Bay Harbor Islands*

Bay Harbor Islands operates and maintains a tolled drawbridge on the Broad Causeway in Miami-Dade County. Customers may pay the toll in cash at the tollbooth or, similar to SunPass, customers may set up prepaid "Baypass" accounts.<sup>20</sup> Conversion of the system to all-electronic toll payment is currently underway. The DOT and Bay Harbor Islands anticipate entering into an agreement under which the DOT will perform "back-office" toll collection for the municipality.<sup>21</sup> Customers will have the option to pre-pay tolls through pre-paid accounts or through the post-payment Toll-By-Plate program. Bay Harbor Islands will continue to operate and maintain the drawbridge and, in addition to currently held personal identifying information, will hold the personal identifying information of Toll-By-Plate customers.

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<sup>13</sup> See s. 338.155(1), F.S. The exemptions generally include toll employees on official state business, state military personnel on official military business, persons authorizing resolution for bonds to finance the facility, persons using the toll facility as a required detour route, law enforcement officers or persons operating a fire or rescue vehicle when on official business, funeral processions of law enforcement officers killed in the line of duty, and handicapped persons.

<sup>14</sup> Section 338.155(1), F.S.

<sup>15</sup> Rule 14-15.0081, F.A.C.

<sup>16</sup> Information on SunPass is available at: <http://www.floridasturnpike.com/all-electronictolling/SunPass.cfm> (last visited January 23, 2014).

<sup>17</sup> Rule 14-100.005, F.A.C.

<sup>18</sup> Information on toll-by-plate is available at: <http://www.floridasturnpike.com/all-electronictolling/TOLL-BY-PLATE.cfm> (last visited January 23, 2014).

<sup>19</sup> Information on toll-by-plate accounts can be found at:

<https://www.tollbyplate.com/displaySelectCustomerTypeRegisterAccountNewAccount> (last visited January 23, 2014).

<sup>20</sup> Information on Baypass accounts is available at: <https://www.bayharborislands.org:453/baypass.aspx> (last visited January 23, 2014).

<sup>21</sup> Such agreements are authorized pursuant to s. 338.161, F.S.

### **Public Records Exemption: Electronic Payment of Tolls**

Section 338.155(6), F.S., provides that personal identifying information provided to, acquired by, or in the possession of the DOT, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges is exempt from public records requirements. This provision was first adopted in 1996.<sup>22</sup> The exemption does not currently apply to personal identifying information held by a municipality, nor does it protect personal identifying information related to post-payment for the use of toll facilities by Toll-By-Plate customers.

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

The bill amends s. 338.155(6), F.S., to expand the existing public records exemption for personal identifying information held by the Department of Transportation, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges.

Specifically, this bill includes in the exemption personal identifying information held by a municipality. It also removes references to specific payment types and instead provides that the exemption applies to personal identifying information of individuals that is held for the purpose of *paying, prepaying, or collecting tolls and associated charges*. This would include personal identifying information of Toll-By-Plate customers.

The bill provides for repeal of the exemption pursuant to the Open Government Sunset Review Act on October 2, 2018, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

The bill's effective date is July 1, 2014.

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

#### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

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

##### **Vote Requirement**

Section 24(c), Art. I of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly created or

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<sup>22</sup> Chapter 96-178, L.O.F.

expanded public records or public meetings exemption. Because this bill expands a public necessity statement, it requires a two-thirds vote for passage.

### **Public Necessity Statement**

Section 24(c), Art. I of the Florida Constitution requires a public necessity statement for a newly created or expanded public records or public meetings exemption. Because this bill expands a new public records exemption, it includes a public necessity statement.

#### **C. Trust Funds Restrictions:**

None.

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

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

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

This bill could create a minimal fiscal impact on state and local agencies with staff responsible for complying with public records requests as staff could require training related to the expansion of the public records exemption. In addition, agencies could incur costs associated with redaction of the protected information prior to releasing a record. The costs would be absorbed, however, as they are part of the day-to-day responsibilities of an agency.

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

None.

#### **VII. Related Issues:**

##### **Retroactive Application**

The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively.<sup>23</sup> The bill does not contain a provision requiring retroactive application. Therefore, the public records exemption would apply prospectively, but the Toll-By-Plate program began in 2010.

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<sup>23</sup> *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

**VIII. Statutes Affected:**

This bill amends section 338.155 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/14  
Meeting Date

Topic SB 616 Bill Number 616 (if applicable)  
Name Gerard O'Rourke Amendment Barcode \_\_\_\_\_

Job Title Director of Legislative Programs (if applicable)  
Address 605 Sumner St. Phone \_\_\_\_\_  
Tallahassee City FL State E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FOOT

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.

By Senator Evers

2-00358A-14

2014616\_\_

1                                   A bill to be entitled  
 2       An act relating to public records; amending s.  
 3       338.155, F.S.; providing an exemption from public  
 4       records requirements for personal identifying  
 5       information held by the Department of Transportation,  
 6       a county, a municipality, or an expressway authority  
 7       for the purpose of paying, prepaying, or collecting  
 8       tolls and associated administrative charges for the  
 9       use of toll facilities; providing for future  
 10       legislative review and repeal of the exemption under  
 11       the Open Government Sunset Review Act; providing a  
 12       statement of public necessity; providing an effective  
 13       date.  
 14  
 15   Be It Enacted by the Legislature of the State of Florida:  
 16  
 17       Section 1. Subsection (6) of section 338.155, Florida  
 18       Statutes, is amended to read:  
 19       338.155 Payment of toll on toll facilities required;  
 20       exemptions.—  
 21       (6) Personal identifying information ~~held by provided to,~~  
 22       ~~acquired by, or in the possession of~~ the Department of  
 23       Transportation, a county, a municipality, or an expressway  
 24       authority for the purpose of paying, prepaying, or collecting  
 25       tolls and associated administrative charges for the use of using  
 26       ~~a credit card, charge card, or check for the prepayment of~~  
 27       ~~electronic toll facilities charges to the department, a county,~~  
 28       ~~or an expressway authority~~ is exempt from s. 119.07(1) and s.  
 29       24(a), Art. I of the State Constitution. This subsection is

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

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30       subject to the Open Government Sunset Review Act in accordance  
 31       with s. 119.15 and shall stand repealed on October 2, 2019,  
 32       unless reviewed and saved from repeal through reenactment by the  
 33       Legislature.  
 34       Section 2. The Legislature finds that it is a public  
 35       necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
 36       24(a), Article I of the State Constitution, personal identifying  
 37       information of individuals held by the Department of  
 38       Transportation, a county, a municipality, or an expressway  
 39       authority for the purpose of paying, prepaying, or collecting  
 40       tolls and associated administrative charges for the use of toll  
 41       facilities. The exemption puts individuals who pay for tolls by  
 42       TOLL-BY-PLATE, which uses photographic images of the vehicle  
 43       license plate for billing purposes, on equal footing with  
 44       individuals who prepay for tolls by check, debit card, or credit  
 45       card, or who pay for tolls with cash at the toll booth. The  
 46       exemption protects the health and safety of the public by making  
 47       exempt information regarding the location, travel patterns, and  
 48       travel activity of individuals who use the toll road system. The  
 49       exemption protects the anonymity of all individuals on toll  
 50       roads, not just cash customers, regardless of the method they  
 51       use to pay tolls. The exemption also thereby promotes the use of  
 52       the more efficient and effective electronic toll collection  
 53       system, since paying for tolls by TOLL-BY-PLATE or prepaying for  
 54       tolls by check, debit card, or credit card not only saves  
 55       individuals time when passing through the toll facilities,  
 56       compared to individuals who pay for tolls with cash, but also  
 57       costs much less for the state to administer. Further, the  
 58       exemption protects an individual's right to privacy by

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59 prohibiting the public disclosure of private information about  
60 the finances and location of an individual using the toll road  
61 system.

62 Section 3. This act shall take effect upon becoming a law.





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Gaming, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Health  
and Human Services  
Banking and Insurance  
Commerce and Tourism  
Judiciary  
Rules  
Transportation

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

### SENATOR GARRETT RICHTER

*President Pro Tempore*  
23rd District

January 30, 2014

The Honorable Jeff Brandes, Chair  
Transportation Committee, Florida Senate  
410 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Brandes:

Unfortunately due to an unavoidable schedule conflict, I anticipate being late for the Transportation Committee meeting scheduled for 2pm, Wednesday February 5th. I will come to the meeting as soon as possible, but ask for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Kurt Eichin, Staff Director

**REPLY TO:**

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** LL 37  
**Caption:** Senate Transportation

**Case:**  
**Judge:**

**Type:**

**Started:** 2/5/2014 2:05:59 PM  
**Ends:** 2/5/2014 2:15:32 PM **Length:** 00:09:34

**2:06:02 PM** Meeting called to order by Chairman Brandes  
**2:06:05 PM** Roll call by Administrative Assistant, Marilyn Hudson  
**2:06:35 PM** Comments by Chairman Brandes  
**2:06:40 PM** Tab 1, SB 490 by Senator Garcia  
**2:06:59 PM** Explanation of SB 490 by Senator Garcia  
**2:07:16 PM** Comments from Chairman Brandes regarding Amendment 231468  
**2:07:28 PM** Explanation and withdrawal of Amendment 231468 by Senator Joyner  
**2:10:29 PM** Comments from Chairman Brandes regarding withdrawal of Amendment 231468  
**2:10:46 PM** Doug Bell, on behalf of Progressive, waives in support  
**2:11:00 PM** Closure on bill by Senator Garcia  
**2:11:17 PM** Roll call by Administrative Assistant, Marilyn Hudson  
**2:11:34 PM** SB 490 reported favorably  
**2:11:42 PM** Tab 2, Explanation of SB 616 by Senator Evers  
**2:13:04 PM** Comments from Chairman Brandes  
**2:13:20 PM** Gerard O'Rourke, Director of Legislative Programs, Florida Department of Transportation waives in support  
**2:13:33 PM** Senator Evers waives closure  
**2:13:35 PM** Roll call by Marilyn Hudson, Administrative Assistant  
**2:13:43 PM** SB 616 reported favorably  
**2:13:59 PM** Question from Senator Joyner  
**2:14:09 PM** Response from Senator Evers  
**2:14:27 PM** Comments from Chairman Brandes regarding Transportation week at the end of the month  
**2:15:19 PM** Senator Lee moves to rise