

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 1226

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Department of Transportation

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	Fav/CS
2.			ATD	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1226 revises various provisions relating to the Florida Department of Transportation (FDOT). The bill:

- Repeals obsolete language regarding the appointment of FDOT’s inspector general.
- Provides \$15 million in recurring revenue be made available for the Intermodal Logistics Center Infrastructure Support Program.
- Provides a tiered approach, based on the dollar value of the project, regarding the amount of funds FDOT must spend on the purchase of plant materials.
- Increases from three years to ten years the length of time before an inactive prepaid toll account becomes unclaimed property.
- Provides that specified revenues deposited into the State Transportation Trust Fund must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation to fund arterial highway projects.
- Authorizes local governments in specified areas to, subject to specific appropriation, compete for additional funding using the criteria for the Small County Outreach Program to fund projects on roads primarily used for agricultural purposes.
- Requires each public transit provider to annually certify that its budgeted and actual administrative costs are no greater than 20 percent above the state average administrative costs.
- Requires public transit providers to disclose employee compensation and benefits, ridership and performance metrics, and any gifts accepted in exchange for a contract.

- Grants the Florida Rail Enterprise the power and duty to preserve future rail corridors and rights of way.

The bill may have both negative and positive fiscal impacts on private and governmental sectors. See Fiscal Impact Statement for details.

The bill takes effect July 1, 2024.

II. Present Situation:

For ease of readability and organization, the present situation is discussed below with the effect of proposed changes.

III. Effect of Proposed Changes:

Appointment of the Florida Department of Transportation's Inspector General (Section 1)

Present Situation

Florida law establishes an office of inspector general in each state agency, providing a central point of coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government. Florida law provides various duties and responsibility regarding each state agency's inspector general.¹

In 2014, the Legislature transferred the appointment and removal of a Governor's agency inspector general from the agency head to the Governor's Chief Inspector General.² For state agencies under the jurisdiction of the Cabinet or the Governor and Cabinet, the agency head appoints the agency's inspector general. For state agencies under the jurisdiction of the Governor, the Chief Inspector General appoints the agency's inspector general.³ The Florida Department of Transportation (FDOT) is under the Governor's jurisdiction.⁴

Conflicting with the generally applicable requirements regarding the appointment of an inspector general, Florida law also requires the Secretary of Transportation to appoint the FDOT inspector general.⁵

Effect of Proposed Changes

The bill repeals obsolete language regarding the Secretary of Transportation's authority to appoint FDOT's inspector general.

¹ Section 20.055, FS.

² Chapter 2014-144, Laws of Fla.

³ Section 20.055(3)(a)1., F.S.

⁴ See s. 20.23(1)(a), F.S.

⁵ Section 20.23(3)(c), F.S.

Intermodal Logistics Center Infrastructure Support Program (Section 2)

Present Situation

An intermodal logistics center is a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09, F.S.⁶

FDOT's Intermodal Logistics Center Infrastructure Support Program's (program) purpose is to provide funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport, enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities. FDOT may provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.⁷

FDOT must consider, but is not limited to, the following criteria when evaluating projects for program assistance:

- The ability of the project to serve a strategic state interest.
- The ability of the project to facilitate the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues.
- The extent to which the project efficiently interacts with and supports the transportation network.
- A commitment of a funding match.
- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the owner has commitments with private sector businesses planning to locate operations at the intermodal logistics center.
- Demonstrated local financial support and commitment to the project.⁸

FDOT must provide up to 50 percent of project costs for eligible projects, except that for eligible projects in rural areas of opportunity,⁹ where FDOT may provide up to 100 percent of project costs.¹⁰

⁶ Section 311.101(2), F.S. The ports listed in s. 311.09(1), F.S., are Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

⁷ Section 311.101(1), F.S.

⁸ Section 311.101(3), F.S.

⁹ Rural Areas of Opportunity are designated in accordance with s. 288.0656(7)(a), F.S.

¹⁰ Section 311.101(6), F.S.

When the program was created in 2012,¹¹ up to \$5 million per year was made available from the State Transportation Trust Fund (STTF) for the program.¹² This funding expired on July 1, 2020.¹³

Effect of Proposed Changes

The bill provides that, beginning in 2024-2025 fiscal year through the 2029-2030 fiscal year, \$15 million in recurring revenue must be made available from the STTF for the program. FDOT must include projects proposed to be funded in its tentative work program.

FDOT Landscaping Projects (Section 3)

Present Situation

Florida law requires FDOT to allocate, on a statewide basis, at least 1.5 percent of the amount contracted for construction projects for the purchase of plant materials. To the greatest extent practical, at least 50 percent of the funds allocated to purchase plant materials must be allocated for large plant materials and the remaining funds for other plant materials. Except as prohibited by applicable federal law or regulation, FDOT must purchase all plant materials from Florida commercial nursery stock on a uniform competitive bid basis. FDOT must develop grades and standards for landscaping materials purchased through this process.¹⁴

Effect of Proposed Changes

The bill provides a tiered amount of appropriated funds which are to be allocated for the purchase of plant materials as follows:

Projects With Contracted Amounts of:	Allocated Percentage	Number of Projects FY 2024-2025 ¹⁵
\$50,000,000 or less	1.5 percent	652
\$50,000,001 to \$100,000,000	1.0 percent	8
\$100,000,001 to \$250,000,000	0.75 percent	6
\$250,000,001 to \$500,000,000	0.50 percent	4
\$500,000,001 or more	0.25 percent	0

The bill also removes the existing minimum requirement of 1.5 percent of the amount contracted for construction projects, on a statewide basis, be expended for plant materials.

¹¹ Chapters 2012-128 and 2012-174, Laws of Fla.

¹² FDOT’s tentative work program is developed pursuant to s. 339.135(4), F.S.

¹³ See Chapter 2014-216, Laws of Fla.

¹⁴ Section 334.044(26), F.S.

¹⁵ FDOT, *Landscaping Proposal by the Numbers*, December 2023. (on file with Senate Committee on Transportation).

Inactive Prepaid Toll Accounts (Section 4)

Present Situation

FDOT, through the Florida Turnpike Enterprise, operates its electronic prepaid toll program (SunPass), which may be used on most of Florida's toll facilities and is operable on toll facilities in some other states.¹⁶

Under the Florida Disposition of Unclaimed Property Act,¹⁷ except as otherwise provided in that act, all intangible property that is held, issued, or owing in the ordinary course of the holder's business and the owner fails to claim such property for more than five years after the property becomes payable or distributable is presumed unclaimed.¹⁸ Unclaimed property is reported to the Division of Unclaimed Property in Department of Financial Services (DFS).¹⁹

Unclaimed property funds are deposited into the Unclaimed Property Trust Fund. DFS retains funds to make prompt payment of claims and to pay the cost of administering the program. All remaining funds are deposited into the State School Fund.²⁰

Florida law presumes that any prepaid toll account, which has been inactive for three years, is unclaimed property. After three years, DFS must handle the account's disposition in accordance with the Florida's Disposition of Unclaimed Property Act and FDOT must close the prepaid toll account.²¹

Effect of Proposed Changes

The bill increases from three years to ten years the length of time that a prepaid toll account must be inactive prior to it becoming unclaimed property. At the end of ten years, the inactive toll account becomes subject to the Florida Disposition of Unclaimed Property Act.

Use of Moneys in the State Transportation Trust Fund (Sections 5 and 6)

Present Situation

Under Florida law, after the revenue derived from the registration of motor vehicles is distributed as specified and allocated as provided by law, then the remainder of such revenues are deposited into the STTF.²² This amount deposited to the STTF must be used to fund arterial highway²³ projects identified by FDOT and may be used for projects for upgrading arterial highways with

¹⁶ SunPass, *Frequently Asked Questions*, <https://www.sunpass.com/en/support/faq.shtml> (last visited January 23, 2024).

¹⁷ Chapter 717, F.S.

¹⁸ Section 717.102, F.S.

¹⁹ Florida Department of Financial Services, Division of Unclaimed Property, *Why Should I Search for Unclaimed Property*, <https://www.fltreasurehunt.gov/UP-Web/sitePages/About.jsp> (last visited January 23, 2024).

²⁰ Section 717.123(1), F.S.

²¹ Section 338.231(3)(c), F.S.

²² Section 320.20(5)(a), F.S.

²³ Section 334.03(1), F.S., defines the term "arterial road" to mean a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

controlled access facilities²⁴ and constructing controlled access facilities on U.S. 19, north of the Suncoast Parkway.^{25 26}

Florida Department of Transportation Financing Corporation and Service Contract

The Florida Department of Transportation Financing Corporation (corporation) is as a nonprofit corporation established for the purpose of financing or refinancing FDOT projects.²⁷

The corporation may enter into one or more service contracts with FDOT to provide services to the FDOT in connection with projects approved in the work program. FDOT may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature.²⁸ FDOT may enter into a service contract in conjunction with the issuance of debt obligations which provide for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of corporation.²⁹

Effect of Proposed Changes

The bill provides that the remainder of the motor vehicle fee revenues deposited into the STTF, must first be available for appropriation for payments under a service contract entered into with the corporation to fund arterial highway projects. For the corporation's bonding purposes, two or more of such projects in FDOT's approved work program may be treated as a single project.

The bill provides that funds appropriated for payment under a service contract are available after funds pledge for payment on bonds, but before other statutorily required distributions.

Small County Outreach Program (Section 7)

Present Situation

Section 339.2818, F.S., creates the Small County Outreach Program (SCOP) within FDOT. SCOP's purpose of is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads.³⁰

For the purposes of SCOP, the term "small county" means any county that has a population of 200,000 or less as determined by the most recent official estimate pursuant to s. 186.901, F.S.³¹ Currently, 39 counties are eligible for SCOP funding.³²

²⁴ See s. 339.66, F.S.

²⁵ See s. 339.67, F.S.

²⁶ Section 339.0803, F.S.

²⁷ Section 339.0809, F.S.

²⁸ Section 339.0809(4), F.S.

²⁹ Section 339.0809(13), F.S.

³⁰ Section 339.2818(1), F.S.

³¹ Section 339.2818(2), F.S.

³² FDOT, *Small County Outreach Program*, <https://www.fdot.gov/programmanagement/lp/scop/default.shtm> (Last visited February 1, 2024).

Small counties are eligible to compete for SCOP funds for projects on county roads. FDOT must fund 75 percent of the cost of projects on county roads funded under SCOP.³³

The following criteria are used to prioritize road projects for SCOP funding:

- The primary criterion is the physical condition of the road.
- As secondary criteria FDOT may include:
 - Whether a road is used as an evacuation route.
 - Whether a road has high levels of agricultural travel.
 - Whether a road is considered a major arterial route.
 - Whether a road is considered a feeder road.
 - Information as evidenced to FDOT through an established pavement management plan.
 - Other criteria related to the impact of a project on the public road system or on the state or local economy.³⁴

FDOT is authorized to administer contracts on behalf of a county selected to receive funding for a project. All funded projects must be included in FDOT's work program.³⁵

Everglades Agricultural Area

The Everglades Agricultural Area is an approximately 1,160 square-mile area of highly productive agricultural land located south of Lake Okeechobee.³⁶ While most of the Everglades Agricultural Area is in Palm Beach County, this area extends to Martin, Hendry, and Glades counties.³⁷

Peace River Basin

The Peace River Basin encompasses more than 2,300 square miles. Its western boundary includes portions of Hillsborough, Manatee and Sarasota counties and portions of Highlands and Glades counties on the east. The basin includes major portions of Polk, Hardee, DeSoto and Charlotte counties.³⁸

Suwannee River Basin

The Suwannee River Basin, drains over 11,000 square miles of land in Georgia and Florida.³⁹ Florida's portion of basin includes all or a portion of Madison, Suwannee, Columbia, Union, Alachua, Gilchrist, Levy, Dixie, and Lafayette counties.⁴⁰

³³ Section 339.2818(4)(a), F.S.

³⁴ Section 339.175(4)(c), F.S.

³⁵ Section 339.175(5), F.S.

³⁶ Lake Okeechobee Business Alliance, *The Everglades Agricultural Area*, <https://www.lakeoalliance.org/everglades-agricultural-area>, (last visited February 1, 2024). The Everglades Agricultural Area is defined in s. 373.4592(15), F.S.

³⁷ University of Florida, IFAS Extension, *Explore the Everglades Agricultural Area*, <https://nwdistrict.ifas.ufl.edu/ampic2022/2022/07/20/explore-the-everglades-agricultural-area/> (last visited February 1, 2024).

³⁸ Southwest Florida Water Management District, *Peace River Watershed Excursion*, <https://www.swfwmd.state.fl.us/watersheds/peace-river/where-the-river-begins> (last visited February 1, 2024).

³⁹ University of Georgia, River Basin Center, *Suwannee*, <https://rivercenter.uga.edu/resources/river-basins-of-georgia/suwannee/#:~:text=Location%3A%20Suwannee%20River%2C%20Big%20Shoals,land%20in%20Georgia%20and%20Florida>. (last visited February 1, 2024).

⁴⁰ Springs of the Lower Suwannee River Basin, 1999, <https://fcit.usf.edu/florida/maps/pages/9000/f9072/f9072.htm> (last visited February 2, 2024).

Effect of Proposed Changes

The bill provides that subject to specific appropriation, in addition to funds appropriated for SCOP, a local government located either wholly or partially within the Everglades Agricultural Area, the Peace River Basin, or the Suwanee River Basin may compete for additional funding using the SCOP criteria, at up to 100 percent of the project costs for state or county roads used primarily as farm-to-market connections between rural agricultural areas and market distribution centers, excluding capacity improvement projects.

Public Transit Performance and Productivity Measures (Section 8)

Present Situation

A public transit provider is statutorily defined as a public agency providing public transit service, including rail authorities.⁴¹

The term “public transit” is defined to mean the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as “paratransit.”⁴²

Effect of Proposed Changes

The bill defines the term “administrative costs” to include, but are not limited to salaried employee’s compensation and benefits, small business outreach, professional service contracts not directly related to the operation and maintenance of a transit system, and other overhead expenses. The term does not include insurance costs.

The bill defines the term “public transit provider” to mean a public agency providing public transit service, including the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, and the Jacksonville Transportation Authority.

The bill requires each public transit provider to, during a publicly noticed meeting, annually certify that its budgeted and actual administrative costs are not greater than 20 percent above the annual state average of administrative costs. The provider must also disclose all employees’ compensation and benefits, ridership performance and metrics, and any gifts accepted in exchange for contracts.

To support compliance, the bill requires FDOT to determine the state average of administrative costs by calculating the annual administrative costs for all the public transit providers in this state annually by March 1 to inform the provider’s following fiscal year budget.

⁴¹ Section 341.031(3), F.S.

⁴² Section 341.031(6), F.S. Section 341.031(5), F.S., defines the term “paratransit” to mean those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and the provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride” buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.

Florida Rail Enterprise (Section 9)

Present Situation

Sections 341.8201 through 341.842, F.S., contain the Florida Rail Enterprise Act.⁴³ The Florida Rail Enterprise (enterprise) within FDOT must locate, plan, design, finance, construct, maintain, own, operate, administer, and manage Florida's high-speed rail system.^{44 45}

In addition to the powers granted to FDOT, the enterprise has full authority to exercise all powers granted to it under ch. 341, F.S. Authorized powers include, but are not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems in the state.⁴⁶

Effect of Proposed Changes

The bill adds to the enterprises powers and duties by giving it the authority to preserve future rail corridors⁴⁷ and rights of way in coordination with FDOT's planning of the State Highway System.

Effective Date (Section 10)

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴³ Section 341.8201, F.S.

⁴⁴ Section 341.822(1), F.S.

⁴⁵ Section 341.8203(4), F.S., defines the term "high-speed rail system" means any high-speed fixed guideway system for transporting people or goods, which system is, by definition of the United States Department of Transportation, reasonably expected to reach speeds of at least 110 miles per hour, including, but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic levitation system, pneumatic repulsion system, or other system approved by the enterprise. The term includes a corridor, associated intermodal connectors, and structures essential to the operation of the line, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, and rail stations and also includes facilities or equipment used exclusively for the purposes of design, construction, operation, maintenance, or the financing of the high-speed rail system.

⁴⁶ Section 341.822(2)(a), F.S.

⁴⁷ Section 341.301(8), F.S., defines the term "rail corridor" means a linear contiguous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Growers of plant materials may see a reduction in revenues associated with the tiered approach in the amount of funds that FDOT is required to spend on plant material.

The bill provides for \$15 million in recurring funds from the STTF to be made available annually for the Intermodal Logistics Center Infrastructure Support Program. This will result in a positive fiscal impact to intermodal logistics centers and related businesses.

C. Government Sector Impact:

The tiered approach to the amount of funds that FDOT must spend on plant materials may reduce FDOT's costs associated with landscaping and allow those funds to be used for additional construction projects.

The bill may have a positive fiscal impact on the Florida Department of Transportation Financing Corporation as it provides that specified revenues deposited into the STTF must first be available for appropriation for payments under a service contract entered into with the corporation to fund arterial highway projects. This provision may also reduce bond financing costs.

Subject to specific appropriation, the bill authorizes local governments in specified areas to seek financial assistance in paying for projects on state and county roads primarily used for agricultural purposes.

Public transit providers may experience changes in their cost structures associated with complying with provisions in the bill limiting their administrative costs and certifying that their administrative costs are within the limits provided for in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 311.101, 334.044, 338.231, 339.0803, 339.0809, 339.2818, 341.071 and 341.822.

IX. 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 February 6, 2023:**

The committee substitute:

- Requires, beginning in the 2024-2025 fiscal year, \$15 million in recurring revenue from the State Transportation Trust Fund must be made available for the Intermodal Logistics Center Infrastructure Support Program.
- Provides that specified funds deposited into the State Transportation Trust Fund must first be used for the payment of service contracts with the Florida Department of Transportation Financing Corporation.
- Provides that, subject to appropriation, a local government within specified areas may compete for additional funding using the SCOP criteria for state or county roads used primarily for agricultural purposes.
- Revises provisions in the bill regarding the administrative costs of public transit providers to limit administrative costs to 20 percent above the statewide average.
- Requires public transit providers to disclose employee compensation, ridership performance and metrics, and any gifts accepted in exchange for contracts.
- Clarifies the rail corridor provision by providing that the Florida Rail Enterprise is authorized to preserve future rail corridors and rights of way.

B. Amendments:

None.