

<b>Tab 1</b>	<b>SB 78 by Broxson;</b> (Similar to CS/H 00021) Transportation Facility Designations/General Daniel ‘Chappie’ James, Jr.					
533900	D	S	RCS	IS, Broxson	Delete everything after	02/11 03:15 PM
335000	AA	S	RCS	IS, Broxson	Delete L.45 - 46:	02/11 03:15 PM
935644	AA	S	RCS	IS, Cruz	Delete L.51:	02/11 03:15 PM
737782	AA	S	RCS	IS, Hutson	Delete L.51:	02/11 03:15 PM
575022	A	S	WD	IS, Cruz	btw L.20 - 21:	02/11 03:15 PM
<b>Tab 2</b>	<b>SB 502 by Montford (CO-INTRODUCERS) Gainer, Broxson;</b> Emergency Mitigation and Response					
305986	A	S	RCS	IS, Montford	Delete L.167 - 179.	02/11 03:15 PM
<b>Tab 3</b>	<b>SB 520 by Gruters (CO-INTRODUCERS) Rouson, Wright;</b> (Identical to H 01433) Drones					
256804	A	S	RCS	IS, Lee	Delete L.30 - 36.	02/11 03:16 PM
<b>Tab 4</b>	<b>CS/SB 1212 by GO, Gruters;</b> (Similar to H 07049) International Affairs					
<b>Tab 5</b>	<b>CS/SB 1332 by CA, Hooper;</b> (Similar to CS/CS/H 00133) Towing and Immobilizing Vehicles and Vessels					
721446	A	S	RCS	IS, Hooper	Delete L.118 - 258:	02/11 03:16 PM
<b>Tab 6</b>	<b>SB 1484 by Diaz;</b> (Similar to CS/H 01383) Motor Vehicle Manufacturers and Dealers					
829390	A	S	RCS	IS, Diaz	Delete L.88 - 102:	02/12 02:59 PM
<b>Tab 7</b>	<b>SB 1692 by Flores;</b> (Compare to CS/H 00787) Driver Licenses					
939746	A	S	RCS	IS, Flores	Delete L.16:	02/11 03:37 PM
<b>Tab 8</b>	<b>SB 1694 by Flores;</b> (Identical to CS/H 00789) Driver License Fees					
931484	A	S	RCS	IS, Flores	Delete L.11:	02/11 03:37 PM
<b>Tab 9</b>	<b>SB 1738 by Brandes;</b> (Similar to CS/H 00977) Motor Vehicle Dealers					
574662	D	S	RCS	IS, Lee	Delete everything after	02/12 02:59 PM
<b>Tab 10</b>	<b>SPB 7054 by IS;</b> Transportation					

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

**INFRASTRUCTURE AND SECURITY**

**Senator Lee, Chair**  
**Senator Perry, Vice Chair**

**MEETING DATE:** Monday, February 10, 2020

**TIME:** 4:00—6:00 p.m.

**PLACE:** Toni Jennings Committee Room, 110 Senate Building

**MEMBERS:** Senator Lee, Chair; Senator Perry, Vice Chair; Senators Bean, Cruz, Hooper, Hutson, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 78</b> Broxson (Similar CS/H 21)	Transportation Facility Designations/General Daniel 'Chappie' James, Jr.; Providing an honorary designation of a certain transportation facility in specified counties, etc.  IS 02/10/2020 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
2	<b>SB 502</b> Montford	Emergency Mitigation and Response; Establishing the Hurricane Michael Recovery Task Force adjunct to the Division of Emergency Management to make recommendations to the Legislature regarding additional assistance needed in the response to recovery from and mitigation of the effects of Hurricane Michael in certain areas; requiring the task force to review the local, state, and federal activities conducted and the resources provided in such areas, the effectiveness of such efforts, and any additional assistance necessary; subject to the appropriation of funds, creating the Hurricane Housing Recovery Program to provide funds to local governments for certain affordable housing recovery efforts, etc.  IS 02/10/2020 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
3	<b>SB 520</b> Gruters (Identical H 1433)	Drones; Expanding the authorized uses of drones by law enforcement agencies and other specified entities for specified purposes, etc.  CJ 11/12/2019 Favorable IS 02/10/2020 Fav/CS RC	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Infrastructure and Security

Monday, February 10, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 1212</b> Governmental Oversight and Accountability / Gruters (Similar H 7049)	International Affairs; Requiring the Secretary of State to serve as the state protocol officer; requiring that certain organizations provide notice of international travel to the Department of State, rather than the Department of Economic Opportunity; authorizing the Department of State to support the establishment of citizen support organizations for certain purposes; prohibiting the department from allowing a citizen support organization to use certain services, property, or facilities if the organization does not provide equal membership and employment opportunities, etc.  GO 01/27/2020 Fav/CS IS 02/10/2020 Favorable RC	Favorable Yeas 8 Nays 0
5	<b>CS/SB 1332</b> Community Affairs / Hooper (Similar CS/CS/H 133)	Towing and Immobilizing Vehicles and Vessels; Authorizing local governments to enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; prohibiting counties from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; revising requirements regarding notices and signs concerning the towing or removal of vehicles or vessels, etc.  CA 01/21/2020 Fav/CS IS 02/10/2020 Fav/CS RC	Fav/CS Yeas 8 Nays 0
6	<b>SB 1484</b> Diaz (Similar CS/H 1383)	Motor Vehicle Manufacturers and Dealers; Redefining the term "line-make vehicle"; revising a prohibition against certain applicants and licensees competing with franchised motor vehicle dealers in this state, etc.  IS 02/10/2020 Fav/CS JU RC	Fav/CS Yeas 7 Nays 0
7	<b>SB 1692</b> Flores (Compare CS/H 787, CS/H 789, Linked S 1694)	Driver Licenses; Authorizing a person with specified disabilities to have the capital letter "D" placed on his or her driver license under certain circumstances; providing requirements for the placement of such letter on a person's driver license, etc.  IS 02/10/2020 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Infrastructure and Security

Monday, February 10, 2020, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1694</b> Flores (Identical CS/H 789, Compare CS/H 787, Linked S 1692)	Driver License Fees; Providing fees for the placement of a specified letter on the driver license of a person who has a developmental disability, etc.  IS 02/10/2020 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
9	<b>SB 1738</b> Brandes (Similar CS/H 977)	Motor Vehicle Dealers; Revising the definition of the term "rental company" to include motor vehicle dealers without limitation and their leasing and rental affiliates for the purpose of minimum insurance coverage requirements; providing that motor vehicle dealers and their affiliates are immune to causes of action and not vicariously liable for harm to persons or property under certain circumstances, etc.  IS 02/10/2020 Fav/CS BI RC	Fav/CS Yeas 8 Nays 0
Consideration of proposed bill:			
10	<b>SPB 7054</b>	Transportation; Revising the organization of the Department of Transportation; revising uses for distributions made under the State Transportation Trust Fund in specified fiscal years; deleting the scheduled expiration of funding for the Intermodal Logistics Center Infrastructure Support Program; requiring airport protection zoning regulations to require certain permit applicants to submit a final valid determination from the Federal Aviation Administration, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 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 Infrastructure and Security

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BILL: CS/SB 78

INTRODUCER: Infrastructure and Security Committee and Senator Broxson

SUBJECT: Transportation Facility Designations/General Daniel ‘Chappie’ James, Jr.

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	<b>Fav/CS</b>
2.			ATD	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 78 creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17<sup>th</sup> Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the “General Daniel ‘Chappie’ James, Jr., Bridge.”
- The portion of Bloxham Cutoff Road/S.R. 67 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as “J.D. Turner Highway.”
- Bridge Numbers 880050, 880052, and 880053 between Wabasso and Wabasso Beach in Indian River County as the “A,B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway In Hillsborough County as “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as “Julius ‘July’ Perry Memorial Highway.”
- The portion of I-95 between the Florida state line in Nassau County and S.W. 32<sup>nd</sup> Road in Miami-Dade County as “Purple Heart Memorial Highway.”

- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as “John C. Gainous Memorial Highway.”
- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”

The bill directs the Florida Department of Transportation (FDOT) to erect suitable markers.

The estimated cost to the FDOT to install the designation markers required under this bill is \$31,000, which the FDOT is expected to absorb within existing resources. See Section V, “Fiscal Impact Statement,” for details.

The bill takes effect July 1, 2020.

## **II. Present Situation:**

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.<sup>1</sup>

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.<sup>2</sup>

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before installation of the markers.<sup>3</sup>

### **General Daniel “Chappie” James, Jr.**

General Daniel ‘Chappie’ James, Jr., was born in 1920 in Pensacola, Florida, near the Pensacola Naval Air Station, where he developed the desire to fly. He attended the Tuskegee Institute in

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<sup>1</sup> Section 334.071(1), F.S.

<sup>2</sup> Section 334.071(2), F.S.

<sup>3</sup> Section 334.071(3), F.S.

Alabama in 1937, making a name for himself as an athlete and campus leader. In July of 1943, he earned his commission as a Second Lieutenant and became one of the famed Tuskegee Airmen. He received the Distinguished Flying Cross for valor in 1949 for his rescue of a fellow pilot after experiencing a flame-out 50 feet above the ground and crashing. He flew 101 combat missions during the Korean War. Rising rapidly in rank, he attained Major in 1952 and Lieutenant Colonel in 1956.

In June of 1967, Colonel James became Vice Wing Commander of the Eighth Tactical Fighter Wing in Thailand, flying 78 combat missions over North Vietnam; and in 1969, he assumed command of Wheelus Air Force Base in Libya, following Muammar Khadafy's coup. President Nixon nominated him for Brigadier General in 1970. He then served as Deputy Assistant Secretary of Defense, Public Affairs, and later as Principal Deputy Assistant Secretary of Defense, Public Affairs, in 1973. In August of 1975, he was assigned as Commander in Chief, North American Air Defense Command, at which time he was promoted to the rank of Four-Star General. Aside from his aerial skills, General James was recognized for his ethics of achievement, hard work, and self-reliance. General James passed away on February 25<sup>th</sup>, 1978.<sup>4</sup>

### **J.D. Turner**

J.D. Turner lived in Wakulla County from 1948 until his death in 1995. He served honorably in WWII, earning numerous campaign medals, and was a strong advocate of veterans, serving as Commander of the Wakulla VFW and of the local American Legion Post. Mr. Turner was involved in numerous civic and community service organizations, including as President of the Chamber of Commerce, Chairman of the Local American Red Cross Civil Defense, Member of the Wakulla Senior Citizens Council Board of Directors, and founding board member of Keep Wakulla Beautiful. Mr. Turner also served for 23 years as a Florida Highway Patrol Auxiliary Officer, for 20 years as a Wakulla County Commissioner, and strongly supported Wakulla County youth. Mr. Turner was instrumental in seeking legislative support for the construction of State Road 267 from U.S. 98 in Wakulla County to S.R. 20 in Leon County.<sup>5</sup>

### **A.B. Michael**

A.B. Michael moved to the Indian River region in 1886 and was a strong proponent of Indian River Citrus, having started his own citrus grove on Orchid Isle in 1902. He later became manager and president of Deerfield Groves in 1917, helped manage American Fruit Growers from 1919 to 1946, assisted in forming the Indian River Citrus League in the 1930's, and served on the Florida Citrus Commission from 1945 to 1949. Due to his achievements and dedication to the industry, Florida Citrus Mutual refers to A.B. Michael as the "Dean of the Florida Citrus Industry."<sup>6</sup>

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<sup>4</sup> See the National Aviation Hall of Fame website available at <https://www.nationalaviation.org/our-enshrinees/james-jr-daniel/> (last visited August 22, 2019).

<sup>5</sup> See the resolution of the Wakulla County Board of County Commissioners in support of the designation (on file in the Senate Infrastructure and Security Committee).

<sup>6</sup> See email to committee staff dated October 3, 2019 (on file in the Senate Committee on Infrastructure and Security).

**Master Police Officer Lois Marrero**

A 19-year veteran of the Tampa Police Department and the first department female officer killed in the line of duty, Master Police Officer Lois Marrero was gunned down by a fleeing bank robbery suspect. On July 6, 2001, Officer Marrero was on foot checking an apartment complex for the suspect when he opened fire, mortally wounding her. The suspect fled into a nearby apartment, took hostages, and then committed suicide several hours later during a standoff. An accomplice to the robbery was sentenced to life in prison on June 23, 2003.<sup>7</sup>

**Officer James Ronco**

The son of Italian immigrants, Officer James Ronco on May 27, 1916, arrested a female prisoner after she escaped from the police station. While he was transporting her to jail, the prisoner, later determined to be under the influence of heroin and cocaine, grabbed Officer Ronco's gun and shot him once. Officer Ronco regained control of his weapon and fired three shots, killing the prisoner, before he died.<sup>8</sup>

**Captain Joseph M. Berkson**

Army Captain Joseph M. Berkson was aboard a helicopter charged with a mission near Quang Tri City in Vietnam. When the helicopter was shot down, it was in the midst of North Vietnamese Army forces and it was not possible to recover the crewmen, who were classed as Missing in Action. Seven weeks later, on July 20, 1972, friendly forces were able to reach the wreckage and recover the remains. However, it was not until May 22, 1973, that it could be confirmed that all five men aboard had died in the crash.<sup>9</sup>

Gold Star families are immediate relatives of U.S. Armed Forces members who died in battle or in support of certain military activities. These relatives can be parents, sons, daughters, brothers, sisters or other loved ones.<sup>10, 11</sup>

**Sergeant Tracy Vickers**

Trooper Vickers served the citizens of Florida, with the Florida Highway Patrol, for more than four years. He was in the 131st recruit class in Tallahassee, from March 23, 2015 to September 30, 2015. He was also a Navy Veteran. Trooper Vickers died in the line of duty as a result of a

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<sup>7</sup> See the Officer Down Memorial Page available at <https://www.odmp.org/officer/15726-officer-lois-marie-marrero> (last visited October 2, 2019).

<sup>8</sup> See the City of Tampa website available at <https://www.tampagov.net/police/info/honoring-our-heroes/james-ronco> and the Officer Down Memorial Page available at <https://www.odmp.org/officer/11486-police-officer-james-ronco> (both last visited October 2, 2019).

<sup>9</sup> Find a Grave, *Captain Joseph Michael 'Joey' Berkson*, available at <https://www.findagrave.com/memorial/92443412/joseph-michael-berkson> (last visited February 9, 2020).

<sup>10</sup> See *What Is A Gold Star American Family* available at <https://learningenglish.voanews.com/a/what-is-a-gold-star-american-family-and-how-are-they-important-for-the-military/3446219.html> (last visited February 9, 2020).

<sup>11</sup> See also Palm Beach Daily News, *Memorial would honor families of fallen soldiers* available at <https://www.palmbeachdailynews.com/news/20190816/memorial-would-honor-families-of-fallen-soldiers> (last visited February 9, 2020).

crash on Friday, September 27, 2019 when his patrol car struck a construction truck in Orange County. At the time of his death, he was 31.<sup>12</sup>

### **Julius “July” Perry**

In 1920, Mr. Perry and another man of African-American descent, Mose Norman, attempted to vote in the November elections in Ocoee but were denied the right. A riot ensued, and lives, homes, and businesses were lost. Mr. Perry was captured and brought to Orlando by Orange County deputy sheriffs, where he was jailed. A mob later took him out of the jail and hung him. His body was buried in Greenwood Cemetery in an unmarked grave. The position of his grave was remembered through the years and in the fall of 2002, a marker was finally placed on his grave site.<sup>13</sup>

### **Purple Heart Memorial Highway**

The Purple Heart is awarded to members of the U.S. Armed Forces who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.<sup>14</sup>

### **Willis V. Rowan**

Willis V. Rowan served in World War II as a 2nd Lieutenant in the Army Air Force and was killed in action. At the time of his death, on October 14, 1943, he was 25 years old.<sup>15</sup>

### **John C. Gainous**

John C. Gainous was killed in action in Vietnam. The Veterans of Foreign Wars Post 10069 in Highland View is named in his memory. At the time of his death, on May 18, 1967, he was 20 years old.<sup>16</sup>

### **Deputy Donald Ray Cook**

On December 3, 1988, off-duty Escambia County Deputy Sheriff Donald Cook learned of a high-speed law enforcement pursuit of armed robbery suspects coming into Escambia County from Santa Rosa County. Deputy Cook responded and set up a road block on I-10, where he exited his vehicle. As the pursuit continued toward the road block, Deputy Cook was struck by a vehicle and killed.<sup>17</sup>

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<sup>12</sup> Department of Highway Safety and Motor Vehicles (DHSMV), *FHP Memorial: Tracy Vickers*, available at [/tracy-vickers/](#) (last visited February 6, 2020).

<sup>13</sup> Find A Grave, *July Perry*, available at <https://www.findagrave.com/memorial/10917526/july-perry> (last visited on February 6, 2020).

<sup>14</sup> The Military Order of the Purple Heart website, <https://www.purpleheart.org/about-the-purple-heart/> (last visited Oct.23, 2019).

<sup>15</sup> <https://www.findagrave.com/memorial/99877556/willis-v-rowan> (Last visited Nov. 12, 2019).

<sup>16</sup> Find A Grave. *John C. Gainous*, available at <https://www.findagrave.com/memorial/100183488/john-c-gainous> (last visited February 6, 2020).

<sup>17</sup> See NorthEscambia.com, *Escambia Commission Votes for Renaming Part of I-10 For Deputy Killed 30 Years Ago*, available at <http://www.northescambia.com/2020/02/escambia-commission-votes-for-renaming-part-of-i-10-for-deputy-killed-30-years-ago> (last visited February 9, 2020).

**Trooper Joseph Bullock**

Trooper Bullock served the citizens of Florida, with the Florida Highway Patrol, nearly 19 years, assigned to Troop L, Fort Pierce, for his entire career. He was also an Air Force Veteran. Trooper Bullock died in the line of duty while attempting to assist an apparently disabled vehicle on February 5, 2020, when one of the occupants of the vehicle shot and killed him.<sup>18</sup>

**Bart D. Broxson**

Bart D. Broxson had served as the Santa Rosa County Sheriff for three years when, on December 24, 1959, his patrol car was struck head-on by a reckless driver on State Road 87 near Holley. Sheriff Broxson was 57 at the time of his death and was survived by his wife and 11 children.<sup>19</sup>

**John R. Broxson**

John R. Broxson was the fifth oldest of Bart and Annie Rachel Broxson's 11 children. He served as the Santa Rosa County Sheriff following his father's death in 1959. He also served in the Florida House of Representatives from 1962-1964; in the Florida Senate from 1966 – 1972, and was elected as a Santa Rosa County Commissioner in 2004. Mr. Broxson passed away in 2019 at the age of 87.<sup>20</sup>

**John B. Coxwell**

John B. Coxwell was a prominent Jacksonville business and civic leader and philanthropist. He was the Chairman of the Board of J.B. Coxwell Contracting, Inc.; served as the head of the Florida Transportation Builder's Association in 2004; and was one of the founders and supporters of Seamark Ranch, a home for abused or neglected children. Mr. Coxwell passed away on November 14, 2017, at the age of 78.<sup>21</sup>

**III. Effect of Proposed Changes:**

CS/SB 78 creates the following road and bridge designations:

- The Pensacola Bay Bridge between 17<sup>th</sup> Avenue in Escambia County and Baybridge Drive in Santa Rosa County as the "General Daniel 'Chappie' James, Jr., Bridge."
- The portion of Bloxham Cutoff Road/S.R. 67 between U.S. 98 in Wakulla County and S.R. 20 in Leon County as "J.D. Turner Highway."

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<sup>18</sup> FLHSMV, *FHP, FLHSMV Mourn the Loss of Trooper Joseph Bullock*, available at <https://www.flhsmv.gov/2020/02/05/fhp-flhsmv-mourn-the-loss-of-trooper-joseph-bullock/> and MilitaryTimes, *State Trooper, an Air Force veteran, killed assisting motorist in Florida*, available at <https://www.militarytimes.com/news/your-military/2020/02/06/state-trooper-an-air-force-veteran-killed-assisting-motorist-in-florida/> (both last visited February 9, 2020).

<sup>19</sup> Officer Down Memorial Page available at <https://www.odmp.org/officer/24008-sheriff-bart-dell-broxson> (last visited February 9, 2020).

<sup>20</sup> Pensacola News Journal, *Longtime Santa Rosa figure, former legislator John Broxson*, available at <https://www.pnj.com/story/news/2019/12/10/longtime-santa-rosa-county-politician-john-broxson-dies-age-87/4380817002/> (last visited February 9, 2020).

<sup>21</sup> Legacy.com, *John Benjamin Coxwell*, available at <https://www.legacy.com/obituaries/timesunion/obituary.aspx?pid=187260817> (last visited February 10, 2020).

- Bridge Numbers 880050, 880052, and 880053 between Wabasso and Wabasso Beach in Indian River County as the “A.B. Michael Bridges.”
- The portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway In Hillsborough County as “Master Police Officer Lois Marrero Memorial Highway.”
- The portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County as “Officer James Ronco Memorial Highway.”
- Bridge number 930361 on S.R. A1A/Jack Nicklaus Driver in Palm Beach County as “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson.”
- The portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County as the “Sergeant Tracy Vickers Memorial Expressway.”
- The portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County as “Julius ‘July’ Perry Memorial Highway.”
- The portion of I-95 between the Florida state line in Nassau County and S.W. 32<sup>nd</sup> Road in Miami-Dade County as “Purple Heart Memorial Highway.”
- The portion of U.S. 98 between C.R. 386 and Pine Street in Gulf County as “Willis V. Rowan Memorial Highway.”
- The portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County as “John C. Gainous Memorial Highway.”
- The portion of I-10 between U.S. 29/S.R. 95 and S.R. 291 in Escambia County as the “Deputy Donald Ray Cook Memorial Highway.”
- The portion of I-95 between mile markers 105 and 110 in Martin County as the “Trooper Joseph Bullock Memorial Highway.”
- The portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County as the “Bart D. and John R. Broxson Parkway.”
- The portion of U.S. 90/Beaver Street between Chaffee Road and U.S. 301 in Duval County as the “John B. Coxwell Memorial Highway.”

The bill directs the FDOT to erect suitable markers for the described designation.

The bill takes effect July 1, 2020.

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

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

None.

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

None.

**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:**

None.

**C. Government Sector Impact:**

The estimated cost to erect the designation markers required under this bill is \$31,000, based on the assumption that a minimum of two markers<sup>22</sup> are required at a cost to the FDOT of no less than \$500 each. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events. The FDOT is expected to absorb the estimated cost within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

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<sup>22</sup> However, given the length of the description for the “Purple Heart Memorial Highway,” the FDOT is expected to erect two signs (one in each direction) for the 12 counties traversed. See email to House committee staff, October 29, 2019 (on file in the Senate Infrastructure and Security Committee). The 12 counties are Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Martin, Palm Beach, Broward, and Miami-Dade. Since four bridge structures are identified in the description for the “A.B. Michael Bridges,” the FDOT is expected to erect a total of eight signs, one for each bridge approach. See email to Senate Infrastructure and Security Committee staff, October 1, 2019 (on file in the Senate Infrastructure and Security Committee). Because a portion of State Road 438 in the “Julius ‘July’ Perry Memorial Highway” designation is co-designated with State Road 437/H.M. Bowness Road, the FDOT is expected to erect four signs. (Telephone conversation with FDOT staff, February 10, 2020.) The total number of signs for these 3 designations is 36. Add to that 26 signs, two each for the remaining designations in the bill, for a grand total of 62 signs.



**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 Infrastructure and Security on February 10, 2020:**

The committee substitute incorporates additional designations for:

- “J.D. Turner Highway” in Leon County.
- “A.B. Michael Bridges” in Indian River County.
- “Master Police Officer Lois Marrero Memorial Highway” in Hillsborough County.
- “Officer James Ronco Memorial Highway” in Hillsborough County.
- “Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson” in Palm Beach County.
- “Sergeant Tracy Vickers Memorial Expressway” in Orange County.
- “Julius ‘July’ Perry Memorial Highway” in Orange County.
- “Purple Heart Memorial Highway” in Miami-Dade County.
- “Willis V. Rowan Memorial Highway” in Gulf County.
- “Deputy Donald Ray Cook Memorial Highway” in Escambia County.
- “Trooper Joseph Bullock Memorial Highway” in Martin County.
- “Bart D. and John R. Broxson Parkway” in Santa Rosa County.
- “John B. Coxwell Memorial Highway” in Duval County.

- B. **Amendments:**

None.



533900

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Broxson)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Transportation facility designations; Department  
of Transportation to erect suitable markers.—

(1) The Pensacola Bay Bridge (bridge numbers 480-289 and  
480-290) on U.S. 98/S.R. 30 over the Pensacola Bay between 17th  
Avenue in Escambia County and Baybridge Drive in Santa Rosa  
County is designated as the "General Daniel 'Chappie' James,



533900

Jr., Bridge."

(2) Bloxham Cutoff Road/S.R. 267 between U.S. 98 in Wakulla County and S.R. 20 in Leon County is designated as "J.D. Turner Highway."

(3) Notwithstanding any law to the contrary, bridge numbers 880050, 880051, 880052, and 880053 between Wabasso and Wabasso Beach in Indian River County are designated as the "A.B. Michael Bridges."

(4) That portion of W. Kennedy Boulevard between Lois Avenue and Dale Mabry Highway in Hillsborough County is designated as "Master Police Officer Lois Marrero Memorial Highway."

(5) That portion of E. Laurel Street between N. Orange Avenue and N. Morgan Street in Hillsborough County is designated as "Officer James Ronco Memorial Highway."

(6) Bridge number 930361 on S.R. A1A/Jack Nicklaus Drive in Palm Beach County is designated as "Gold Star Family Memorial Bridge, dedicated to Army Captain Joseph M. Berkson."

(7) That portion of S.R. 408/Spessard L. Holland East-West Expressway between S. Crystal Lake Drive and S. Semoran Boulevard in Orange County is designated as the "Sergeant Tracy Vickers Memorial Expressway."

(8) That portion of S.R. 438 between Winters Landing Drive and Clarke Road in Orange County is designated as "Julius 'July' Perry Memorial Highway."

(9) That portion of I-95 between the Florida state line in Nassau County and S.W. 32nd Road in Miami-Dade County is designated as "Purple Heart Memorial Highway."

(10) That portion of U.S. 98 between C.R. 386 and Pine



533900

Street in Gulf County is designated as "Willis V. Rowan Memorial Highway."

(11) That portion of U.S. 98 between Pine Street and C.R. 382/Industrial Road in Gulf County is designated as "John C. Gainous Memorial Highway."

(12) That portion of I-10 between C.R. 95A/North Palafox Street and S.R. 297/Pine Forest Road in Escambia County is designated as the "Deputy Donald Ray Cook Memorial Highway."

(13) That portion of I-95 between mile markers 105 and 110 in Martin County is designated as the "Trooper Joseph Bullock Memorial Highway."

(14) The Department of Transportation is directed to erect suitable markers designating the transportation facilities as described in this section.

Section 2. This act shall take effect July 1, 2020.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to transportation facility designations; providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.



335000

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Broxson)  
recommended the following:

**Senate Amendment to Amendment (533900)**

Delete lines 45 - 46  
and insert:

(12) That portion of I-10 between U.S. 29/S.R. 95 and S.R.  
291 in Escambia County is



935644

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Cruz) recommended the following:

**Senate Amendment to Amendment (533900)**

Delete line 51

and insert:

(14) That portion of S.R. 281 between U.S. 90 and U.S. 98 in Santa Rosa County is designated as the "Bart D. and John R. Broxson Parkway."

(15) The Department of Transportation is directed to erect



737782

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Hutson)  
recommended the following:

**Senate Amendment to Amendment (533900)**

Delete line 51  
and insert:

(14) That portion of U.S. 90/Beaver Street between Chaffee  
Road and U.S. 301 in Duval County is designated as the "John B.  
Coxwell Memorial Highway."

(15) The Department of Transportation is directed to erect



575022

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Cruz) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 20 and 21  
insert:

Section 2. Bart D. and John R. Broxson Parkway designated;  
Department of Transportation to erect suitable markers.—

(1) That portion of S.R. 281 between U.S. 90 and U.S. 98 in  
Santa Rosa County is designated as the "Bart D. and John R.  
Broxson Parkway."

(2) The Department of Transportation is directed to erect





575022

suitable markers designating the Bart D. and John R. Broxson  
Parkway as described in subsection (1).

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

And the title is amended as follows:

    Delete lines 3 - 4

and insert:

    designations; providing honorary designations of  
    certain transportation facilities in specified  
    counties;

By Senator Broxson

1-00159A-20

202078\_\_

A bill to be entitled

An act relating to transportation facility designations; providing an honorary designation of a certain transportation facility in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.

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

Section 1. General Daniel "Chappie" James, Jr., Bridge designated; Department of Transportation to erect suitable markers.-

(1) The Pensacola Bay Bridge (bridge numbers 480-289 and 480-290) on U.S. 98/S.R. 30 over the Pensacola Bay between 17th Avenue in Escambia County and Baybridge Drive in Santa Rosa County is designated as the "General Daniel 'Chappie' James, Jr., Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the General Daniel "Chappie" James, Jr., Bridge as described in subsection (1).

Section 2. This act shall take effect July 1, 2020.

**From:** [Price, Cindy](#)  
**To:** [Hudson, Marilyn](#)  
**Subject:** Email for SB 78 documents part 1  
**Date:** Monday, February 10, 2020 10:20:21 AM  
**Attachments:** [image007.png](#)  
[image008.png](#)  
[image002.png](#)

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**From:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Sent:** Tuesday, October 1, 2019 11:13 AM  
**To:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Cc:** Kotyk, John <[John.Kotyk@dot.state.fl.us](mailto:John.Kotyk@dot.state.fl.us)>  
**Subject:** RE: SB 342 - A.B. Michael Bridges

Cindy,

Since 4 bridges are identified in the bill, the department would place a **total of 8 signs**, one for each bridge approach.

Total estimated fiscal impact would be \$4,000 (\$500 per sign).

Thanks,  
Amanda

Amanda Marsh, CPM  
Office of Legislative Programs  
Florida Department of Transportation  
Office (850) 414-4575 Direct (850) 414-5207  
[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)



---

**From:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Sent:** Tuesday, October 1, 2019 8:31 AM  
**To:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Subject:** RE: SB 342 - A.B. Michael Bridges

Thanks!

---

**From:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Sent:** Tuesday, October 1, 2019 8:24 AM  
**To:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Subject:** RE: SB 342 - A.B. Michael Bridges

Hey Cindy,

Checking on this one, should get some clarification soon.

Thanks,  
Amanda

**Amanda Marsh, CPM**  
Office of Legislative Programs  
Florida Department of Transportation  
Office (850) 414-4575 Direct (850) 414-5207  
[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)



---

**From:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Sent:** Monday, September 30, 2019 2:47 PM  
**To:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Cc:** Kotyk, John <[John.Kotytk@dot.state.fl.us](mailto:John.Kotytk@dot.state.fl.us)>  
**Subject:** SB 342 - A.B. Michael Bridges

<b>EXTERNAL SENDER: Use caution with links and attachments.</b>
---

Amanda: Would you please check with your folks to see how many signs the FDOT intends to install? I just need to know for fiscal impact purposes. (Of course, please let us know if you have any comments on this one. I think we worked on it a while back...)

Thank you!

<http://www.flsenate.gov/Session/Bill/2020/342/BillText/Filed/PDF>

Cindy  
487-5223

**From:** [Price, Cindy](#)  
**To:** [Hudson, Marilyn](#)  
**Subject:** SB 78 footnoted document  
**Date:** Monday, February 10, 2020 10:34:34 AM  
**Attachments:** [image001.png](#)

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**From:** DiMarco, Frank <DiMarco.Frank@flsenate.gov>  
**Sent:** Thursday, October 3, 2019 3:13 PM  
**To:** Price, Cindy <PRICE.CINDY@flsenate.gov>  
**Subject:** A.B. Michael Bridge Paragraph

Hi Cindy,

I received this write up on Mr. Michael today and wanted to pass it along to you. Let me know if there is anything else you need.

*"A.B. Michael moved to the Indian River region in 1886 and was a strong proponent of Indian River Citrus having started his own citrus grove on Orchid Isle in 1902. He later became manager and president of Deerfield Groves in 1917; helped manage American Fruit Growers from 1919 to 1946; helped form the Indian River Citrus League in the 1930's; and served on the Florida Citrus Commission from 1945 to 1949. Due to his achievements and dedication to the industry, Florida Citrus Mutual refers to A.B. Michael as the "Dean of the Florida Citrus Industry". "*

Thanks,

**Frank DiMarco**

Legislative Assistant II

**Senator Debbie Mayfield, District 17**

District Office:

900 E Strawbridge Ave

Melbourne, FL 32901

(321) 409-2025

Tallahassee Office:

Senate Office Building

404 S. Monroe Street Suite 322

Tallahassee, FL 32399





**From:** [Price, Cindy](#)  
**To:** [Hudson, Marilyn](#)  
**Subject:** SB 78 footnoted document  
**Date:** Monday, February 10, 2020 10:37:38 AM  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[image008.png](#)  
[Purple Heart Memorial Highway \(FL\).pdf](#)

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**From:** Marsh, Amanda <Amanda.Marsh@dot.state.fl.us>  
**Sent:** Tuesday, October 29, 2019 9:20 AM  
**To:** Johnson, Stephanie <Stephanie.Johnson@myfloridahouse.gov>  
**Cc:** Alston, Torey <Torey.Alston@dot.state.fl.us>; Kotyk, John <John.Kotyk@dot.state.fl.us>; Vickers, Rob <Rob.Vickers@myfloridahouse.gov>  
**Subject:** RE: HB 433-Purple Heart Memorial Highway

Hi Stephanie,

The Department has reviewed HB0433 which designates all of I-95. Below is suggested revised language that includes termini.

That portion of I-95 between Florida-Georgia border in Nassau County and SW 32nd RD in Miami-Dade County is designated as "Purple Heart Memorial Highway."

Please note the 12 counties included:

Nassau  
Duval  
St. Johns  
Flagler  
Volusia  
Brevard  
Indian River  
St. Lucie  
Martin  
Palm Beach  
Broward  
Miami-Dade

If the intent is to have signs at each county line, each county would be required to pass a local resolution to have their portion of I-95 designated. The estimated fiscal impact to the Department is \$12,000 (\$500 per sign x 24 signs).

I hope to have you the list of Purple Heart Designations today.  
Thank you,

Amanda

**Amanda Marsh, CPM**

Office of Legislative Programs

Florida Department of Transportation

Office (850) 414-4575 Direct (850) 414-5207

[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)



---

**From:** Marsh, Amanda

**Sent:** Wednesday, October 23, 2019 2:38 PM

**To:** Johnson, Stephanie <[Stephanie.Johnson@myfloridahouse.gov](mailto:Stephanie.Johnson@myfloridahouse.gov)>; Kotyk, John <[John.Kotytk@dot.state.fl.us](mailto:John.Kotytk@dot.state.fl.us)>

**Subject:** RE: HB 433-Purple Heart Memorial Highway

Stephanie,

We are reviewing. I'll check into the Purple Heart list.

Thanks,

Amanda

**Amanda Marsh, CPM**

Office of Legislative Programs

Florida Department of Transportation

Office (850) 414-4575 Direct (850) 414-5207

[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)



---

**From:** Johnson, Stephanie <[Stephanie.Johnson@myfloridahouse.gov](mailto:Stephanie.Johnson@myfloridahouse.gov)>

**Sent:** Wednesday, October 23, 2019 2:05 PM

**To:** Kotyk, John <[John.Kotytk@dot.state.fl.us](mailto:John.Kotytk@dot.state.fl.us)>

**Cc:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>

**Subject:** HB 433-Purple Heart Memorial Highway

<b>EXTERNAL SENDER:</b> Use caution with links and attachments.
---



HB 433 designates I-95 as the Purple Heart Memorial Highway. Please have your folks review the proposed designation and since it is so long, provide a fiscal for the appropriate number of markers. Also, I know that there are other Purple Heart designations. May I please also get a list of said designations.

Thanks,

Stephanie Johnson  
Policy Analyst  
Transportation & Infrastructure Subcommittee  
Florida House of Representatives  
(850) 717-5470  
[Stephanie.johnson@myfloridahouse.gov](mailto:Stephanie.johnson@myfloridahouse.gov)

**From:** [Price, Cindy](#)  
**To:** [Hudson, Marilyn](#)  
**Subject:** SB 78 footnoted document  
**Date:** Monday, February 10, 2020 10:38:50 AM  
**Attachments:** [image007.png](#)  
[image008.png](#)  
[image002.png](#)

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**From:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Sent:** Tuesday, October 1, 2019 11:13 AM  
**To:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Cc:** Kotyk, John <[John.Kotyk@dot.state.fl.us](mailto:John.Kotyk@dot.state.fl.us)>  
**Subject:** RE: SB 342 - A.B. Michael Bridges

Cindy,

Since 4 bridges are identified in the bill, the department would place a **total of 8 signs**, one for each bridge approach.

Total estimated fiscal impact would be \$4,000 (\$500 per sign).

Thanks,  
Amanda

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**Sent:** Tuesday, October 1, 2019 8:31 AM  
**To:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
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**To:** Price, Cindy <[PRICE.CINDY@flsenate.gov](mailto:PRICE.CINDY@flsenate.gov)>  
**Subject:** RE: SB 342 - A.B. Michael Bridges

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**Sent:** Monday, September 30, 2019 2:47 PM  
**To:** Marsh, Amanda <[Amanda.Marsh@dot.state.fl.us](mailto:Amanda.Marsh@dot.state.fl.us)>  
**Cc:** Kotyk, John <[John.Kotytk@dot.state.fl.us](mailto:John.Kotytk@dot.state.fl.us)>  
**Subject:** SB 342 - A.B. Michael Bridges

<b>EXTERNAL SENDER: Use caution with links and attachments.</b>
---

Amanda: Would you please check with your folks to see how many signs the FDOT intends to install? I just need to know for fiscal impact purposes. (Of course, please let us know if you have any comments on this one. I think we worked on it a while back...)

Thank you!

<http://www.flsenate.gov/Session/Bill/2020/342/BillText/Filed/PDF>

Cindy  
487-5223

## **RESOLUTION 2019-\_\_\_\_\_**

### **A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF WAKULLA COUNTY, FLORIDA, IN SUPPORT OF RENAMING BLOXHAM CUTOFF ROAD (SR 267 FROM US HWY. 98 TO US HWY. 20) TO J.D. TURNER HIGHWAY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, J.D. Turner moved to Wakulla County in 1948 and made many contributions to the County until his death in 1995; and

**WHEREAS**, J.D. Turner served his Country honorably in WWII, earning numerous campaign medals including the Battlefield Bronze Star; and

**WHEREAS**, J.D. Turner was a strong advocate of veterans having served as Commander of the Wakulla VFW and was also Commander of the local American Legion Post; and

**WHEREAS**, J.D. Turner was inducted into the Florida Veterans' Hall of Fame Class of 2018; and

**WHEREAS**, J.D. Turner was involved in numerous civic and community service organizations including President of the Chamber of Commerce, Chairman of the Local American Red Cross Civil Defense, Wakulla Senior Citizens Council Board of Directors, and Founding Board Member of Keep Wakulla County Beautiful; and

**WHEREAS**, J.D. Turner faithfully served as a Florida Highway Patrol Auxiliary for 23 years and achieved the rank of Lieutenant Colonel, the highest auxiliary rank in the State of Florida; and

**WHEREAS**, J.D. Turner served as County Commissioner in Wakulla County for 20 years, and who is the only person in Wakulla County history to have served for 20 years. J.D. Turner never missed a County Commission meeting in his tenure as a Commissioner; and

**WHEREAS**, J.D. Turner strongly supported the youth of Wakulla County serving as committee chairman of the local chapter of the Boy Scouts of America, 4-H advisory board member, President of the Youth Fair Association, founding member of the Wakulla Swine show, President of the Crawfordville PTA; and

**WHEREAS**, J.D. Turner was instrumental in lobbying the Florida Legislature to fund and build State Road 267 from US Highway 98 to US Highway 20; and

**WHEREAS**, J.D. Turner was a man who loved his community and who made a lasting imprint; and

**WHEREAS**, Wakulla County acknowledges and will be forever grateful for the contributions made to the County by J.D. Turner;

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of Wakulla County, Florida, that:

**SECTION 1. RECITALS.** The above recitals are true and correct and are hereby incorporated herein by reference.

**SECTION 2.** The Board supports renaming Bloxham Cutoff Road (SR 267 from US Hwy. 98 to US Hwy. 20) to J.D. Turner Highway.

**SECTION 3. EFFECTIVE DATE.** This Resolution shall become effective upon its approval.

**DONE AND ADOPTED** in Wakulla County, Florida, by a vote of \_\_\_\_\_ to \_\_\_\_\_ this 19<sup>th</sup> day of August 2019.

**BOARD OF COUNTY COMMISSIONERS  
OF WAKULLA COUNTY, FLORIDA**

---

Charles Hess, Chairman

**ATTEST:**

---

Brent X. Thurmond, Ex Officio  
Clerk to the Board

**APPROVED AS TO FORM:**

---

Heather Encinosa, Esq.  
County Attorney

**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 Infrastructure and Security

---

BILL: CS/SB 502

INTRODUCER: Infrastructure and Security Committee, Senator Montford and others

SUBJECT: Emergency Mitigation and Response

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.			ATD	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 502 is a bill relating to Emergency Mitigation and Response, the CS:

- Creates a Hurricane Michael Recovery Task Force to review local, state and federal activities related to disaster response, recovery and mitigation and to make recommendations regarding additional assistance needs;
- Requires the Division of Emergency Management (DEM) to conduct an after-action report on shelter operations during Hurricane Michael;
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate the DEM reimbursement process with respect to requests for reimbursement under federal disaster programs;
- Creates the Hurricane Housing Recovery Program within the Florida Housing Finance Corporation (FHFC) to respond to housing needs after hurricanes; and
- Creates the Public Facilities Hurricane Restoration Cash Flow Loan Program to allow local governments and school boards to apply for a cash flow loan to repair or restore damaged facilities.

The CS has a nonrecurring fiscal impact of \$585,000 from the General Revenue Fund.

The provisions of the CS take effect upon becoming law.

## II. Present Situation:

### Task Force Requirements under Section 20.03, Florida Statutes

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed one year or created by specific statutory enactment for a time not to exceed three years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of the task force terminates upon the completion of its assignment.

### Statewide Public Emergency Shelters

Sections 1013.372(2) and 252.385(2)(b), F.S., requires the DEM to prepare a Statewide Emergency Shelter Plan<sup>1</sup> (the Plan). The Plan is a guide for local emergency planning and provides advisory assistance to school districts contemplating construction of educational facilities and the need to provide public shelter space within those facilities. The Plan is submitted to the Governor and Cabinet for approval by January 31 of each even-numbered year and must:

- Identify the general location and square footage of existing general population (GP) and special needs shelter (SpNS) space, by Regional Planning Council (RPC) regions;
- Identify the general location and square footage of needed shelters by RPC regions for the next five years;
- Provide information on the availability of shelters that accept pets;
- Identify the types of facilities which should be constructed to comply with the public shelter design criteria; and
- Recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within those public facilities.

With publication of the 2006 Plan, the DEM began monitoring the status of the statewide inventory of SpNS. Historically, SpNS had been included in total population hurricane evacuation shelter demand estimates and hurricane evacuation shelter capacities. Given the findings from the 2004 hurricane season where about half of the designated SpNS were located in facilities that did not meet the same minimum hurricane safety criteria as GP shelters, the DEM was asked to separate the two shelter types and monitor progress towards improving SpNS hurricane safety, client capacity and provision of standby electric power supported air-conditioning.<sup>2</sup> With the exception of Region 10 (South Florida), all other regions in Florida have a deficit status for SpNS space based on 2018 and 2023 demand estimates.<sup>3</sup>

---

<sup>1</sup> Division of Emergency Management, *2018 Statewide Emergency Shelter Plan*, <https://www.floridadisaster.org/dem/response/infrastructure/statewide-emergency-shelter-plan/> (last visited February 5, 2020).

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

<sup>3</sup> *Id.* at Figure 2-2.

### **Community Development Block Grant – Disaster Recovery Program (CDBG-DR)**

“When the President declares a major disaster, Congress may appropriate funds to the U.S. Department of Housing and Urban Development (HUD) when there are significant unmet needs for long-term recovery.”<sup>4</sup> The appropriation is limited to providing the assistance in the most impacted and distressed areas. “Each CDBG-DR award/allocation method is published in a Federal Register Notice, which also contains information on:

- Eligible Recovery Activities;
- Program Requirements, including distribution of funds to be spent in low and moderate income communities; and
- Appropriation Specific Waivers and Alternative Requirements.”<sup>5</sup>

Traditionally CDBG-DR grants support a variety of disaster recovery activities including housing redevelopment and rebuilding, business assistance, economic revitalization, and infrastructure repair.

Once awarded funds, the state develops an “action plan” of recovery efforts to address the impacts of the disaster; the initial action plan also includes evaluation of “unmet needs” for which additional funding could be provided.<sup>6</sup> The action plan must include a citizen participation plan which describes how the public will be informed and engaged throughout the grant’s lifecycle.<sup>7</sup> Funds must be used within six years of the executed agreements between the HUD and the Department of Economic Opportunity (DEO).

In Florida, the DEO formulates the use of funds by taking comment from the public and local communities to develop the plan. The needs of the impacted communities and the limitations in the Federal Register notice will set the action plan for use of the funds.

#### ***2016 Hurricanes Hermine and Matthew***<sup>8</sup>

In January 2017, the DEO was awarded \$58.6 million in CDBG-DR funds by the HUD to address damages from Hurricanes Hermine and Matthew. In August 2017, HUD awarded an additional \$59.3 million to address additional unmet needs remaining from the hurricanes. The total award for CDBG-DR for the 2016 hurricanes is \$117.9 million. The DEO’s action plan for all funds was approved June 1, 2018 (original execution was June 20, 2017).

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<sup>4</sup> U.S. Department of Housing and Urban Development, *Fact Sheet: Community Development Block Grant Disaster Recovery (CDBG-DR)*, <https://www.hudexchange.info/resources/documents/CDBG-DR-Fact-Sheet.pdf>; see also HUD, *CDBG-DR Overview Presentation*, <https://www.hudexchange.info/resources/documents/CDBG-Disaster-Recovery-Overview.pdf> (last visited February 5, 2020). For a comparison of the traditional CDBG program and the DR program, see HUD, *CDBG and CDBG-DR: A Comparison*, <https://www.hudexchange.info/resources/documents/CDBG-and-CDBG-DR-Comparison.pdf> (last visited February 5, 2020).

<sup>5</sup> HUD, *Fact Sheet*.

<sup>6</sup> “Unmet needs” are the recovery needs of the impacted communities that remain or are “unmet” after the disaster or the initial action plan is developed.

<sup>7</sup> HUD, *Fact Sheet*.

<sup>8</sup> DEO, *Community Development Block Grant – Disaster Recovery Program*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited February 5, 2020).



### ***2017 Hurricane Irma***<sup>9</sup>

In September 2017, the DEO was awarded \$616 million in CDBG-DR grants to address damage from Hurricane Irma. In April 2018, HUD awarded an additional \$157,676,000 to address additional unmet needs remaining from Hurricane Irma. The total award for CDBG-DR for the 2017 hurricane is \$773 million. The DEO's action plan for all funds was approved in March 2019 (original execution was in June 2018).

Congress appropriated and the HUD also awarded an additional \$634 million for "mitigation" in February 2018; however, no Federal Register notice has been issued for these funds at this time.<sup>10</sup>

### ***2018 Hurricane Michael***

At this time, Congress has not appropriated any CDBG-DR funds related to Hurricane Michael. There have been bills filed and heard in Congress, but none have passed yet.<sup>11</sup>

### **Affordable Housing**

The two primary state housing assistance programs are the State Housing Initiatives Partnership (SHIP)<sup>12</sup> and the State Apartment Incentive Loan (SAIL)<sup>13</sup> programs. The SHIP program provides funds to eligible local governments, allocated using a population-based formula, to address local housing needs as adopted in the Local Housing Assistance Plan. Eligible local government entities must develop and adopt local housing assistance plans that include, but are not limited to, strategies and incentives for the construction, rehabilitation, repair, or financing of affordable housing production.<sup>14</sup> The SAIL program provides low interest loans on a competitive basis as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.<sup>15</sup> This funding often serves to bridge the gap between the primary financing and the total cost of the development. SAIL program funds are available to individuals, public entities, and not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very-low-income individuals and families.<sup>16</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> HUD, *HUD Awards \$28 Billion in CDBG-DR Funds*, April 11, 2018, <https://www.hudexchange.info/news/hud-awards-28-billion-in-cdbg-dr-funds/> (last visited February 5, 2020).

<sup>11</sup> See H.R. 268 – Supplemental Appropriations Act, 2019 (116<sup>th</sup> Congress); S. 811 – Additional Supplemental Appropriations for Border Security and Disaster Relief, 2019 (116<sup>th</sup> Congress); and H.R. 2157 (116<sup>th</sup> Congress – Supplemental Appropriations Act, 2019.

<sup>12</sup> Sections 420.907-9079, F.S.

<sup>13</sup> Section 420.5087, F.S.

<sup>14</sup> Section 420.9071(14), (15), & (16), F.S. These local housing plans must also align with the requirements for housing under the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Chapter 163, Part II, F.S.

<sup>15</sup> Section 420.5087, F.S.

<sup>16</sup> Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at: <https://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited February 5, 2020).

## **Housing Hurricane Recovery Programs**

Following the 2004 hurricane season, a statewide Hurricane Housing Work Group was created to recommend how best to leverage funding recommended by the Governor for hurricane housing recovery needs. The work group recommended, and the Legislature subsequently funded, the Hurricane Housing Recovery Program (HHRP) and the Rental Recovery Loan Program (RRLP). As a result of the work group's recommendation, the 2005 Legislature appropriated \$250 million for housing recovery: \$208 million for the HHRP and another \$42 million for the RRLP. With those resources, and an additional \$93 million appropriation in 2006 for hurricane rental funding, the FHFC states that it assisted over 10,000 families with the HHRP and created over 1,600 units with the RRLP.<sup>17</sup> These same programs were utilized again following the 2018 Hurricane Season for recovery needs in the Panhandle as a result of Hurricane Michael.<sup>18</sup>

### ***Hurricane Housing Recovery Program***

The Hurricane Housing Recovery Program was created as a local housing recovery program and modeled after the existing State Housing Incentive Program (SHIP) aimed at assisting homeowners with post-hurricane recovery efforts. The HHRP funds were distributed to local governments using a need-based formula to allow local communities to evaluate and address needs as appropriate.<sup>19</sup>

### ***Rental Recovery Loan Program***

The Rental Recovery Loan Program was created to provide affordable rental units needed to promote the housing recovery needs of local communities. Modeled in part after the State Apartment Incentive Loan (SAIL) Program, the RRLP program allowed the state to leverage existing federal rental financing programs to provide units that served a range of incomes, including extremely low income households, throughout the areas impacted by the hurricanes.

## **Budget Stabilization Fund**

Budget stabilization funds, also known as rainy day funds, “allow states to set aside surplus revenue for times of unexpected revenue shortfall or budget deficit.” The fund is a tool to mitigate revenue volatility.<sup>20</sup> Florida's fund consists of five percent of net revenue collections for the General Revenue Fund for the last completed fiscal year, and the principal balance cannot exceed ten percent of the net revenue collections for the General Revenue Fund for the last completed fiscal year.<sup>21</sup> Any expenditure from the fund must be repaid pursuant to a restoration schedule that provides for making five equal annual transfers from the General Revenue Fund, beginning the third fiscal year following the year in which the expenditure was made or a restoration schedule as provided by the Legislature by law.

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<sup>17</sup> Florida Housing Finance Corporation, *Bill Analysis for SB 1328 (2018)*, p. 3, January 10, 2018. Chapter 2006-69, L.O.F.

<sup>18</sup> Florida Housing Finance Corporation, *Bill Analysis for SB 502 (2020)*, p. 2, November 6, 2019.

<sup>19</sup> Florida Housing Finance Corporation, Hurricane Housing Work Group, *Recommendations to Assist in Florida's Long Term Housing Recovery Efforts*, February 2005,

<http://elderaffairs.state.fl.us/doea/notices/feb05/HHWG%20Report%20final.pdf> (last visited February 5, 2020).

<sup>20</sup> Tax Policy Center (Urban Institute and Brookings Institution), *Budget Stabilization Funds – How States Save for a Rainy Day*, November 28, 2017, <https://www.taxpolicycenter.org/publications/budget-stabilization-funds/full> (last visited February 5, 2020).

<sup>21</sup> Section 215.32(2)(c), F.S.

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

#### **Hurricane Michael Recovery Task Force (Section 1)**

The CS creates the Hurricane Michael Recovery Task Force, a task force as defined in s. 20.03, F.S., established adjunct to the DEM to make recommendations to the Legislature regarding additional assistance needed in the response to the recovery from, and the mitigation of the effects of, Hurricane Michael in the areas designated in the federal disaster declaration DR-4399.<sup>22</sup> The task force must review the local, state, and federal activities conducted and the resources provided in such areas, the effectiveness of such efforts, and any additional assistance necessary.

The task force must consist of the following seven members:

- One member representing the business community, who will serve as chair, appointed by the Governor;
- One member representing agricultural interests, appointed by the commissioner of the Department of Agriculture and Consumer Services;
- One member representing the fishing industry, appointed by the Fish and Wildlife Conservation Commission;
- One member representing emergency response, appointed by the director of the DEM;
- One member representing housing interests, appointed by the executive director of the DEO;
- One public school superintendent representing education interests, appointed by the Commissioner of Education; and
- One county commissioner representing local government interests, appointed by the Governor.

Members will serve at the pleasure of their appointing official. Any vacancy must be filled in the same manner as the original appointment. A member of the Legislature or a registered lobbyist may not be appointed to the task force. Members will serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, F.S., in the performance of their duties and responsibilities under this section.

The task force will report its findings and make specific recommendations for further response, recovery, and mitigation to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

The task force is dissolved not later than May 15, 2021.

#### **Hurricane Michael After Action Report (Section 2)**

The CS directs the DEM to examine the latest available Statewide Emergency Shelter Plan prepared pursuant to ss. 252.385 and 1013.372, F.S., to determine, based on the number of people who evacuated during Hurricane Michael, whether there is sufficient capacity of GP

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<sup>22</sup> Designated Counties: Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Taylor, Wakulla, and Washington.

hurricane evacuation shelter space and of special needs hurricane evacuation shelter space in the applicable RPC regions.

The report must include basic information for each shelter activated during Hurricane Michael, including:

- Shelter type (GP, special needs, or pet friendly);
- Name;
- Address; and
- Maximum occupant capacity.

Additionally, the report must provide functional data for each shelter, including:

- Number of persons served at each shelter throughout the event;
- Timeline for opening and closing each shelter; and
- Whether each shelter had sufficient:
  - Staff;
  - Security;
  - Transportation;
  - Equipment;
  - Lavatories;
  - Sanitation;
  - Feeding capabilities;
  - Capacity; and
  - Standby or emergency power.

The report also must identify any unmet needs at each shelter and must indicate whether each shelter met or exceeded the American Red Cross Standards for Hurricane Evacuation Shelter Selection (ARC 4496),<sup>23</sup> which address risks associated with:

- Surge inundation;
- Rainfall flooding;
- High winds; and
- Hazardous materials.

The report must also identify any shelter not activated for Hurricane Michael and the basis for the determination not to activate it, such as the inability of the shelter to withstand a certain level of hurricane impact.

The report must be completed and presented to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

The CS also appropriates nonrecurring funds in the sum of \$85,000 from the General Revenue Fund for the 2020-2021 fiscal year to the DEM to prepare an after-action report on the shelter operations that took place during Hurricane Michael.

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<sup>23</sup> Available at the Florida Division of Emergency Management website at <https://portal.floridadisaster.org/shelters/External/Current/2018%20SRR/Appendices/Appendix%20C.pdf> (last visited February 5, 2020).

**OPPAGA Evaluation of DEM Reimbursement Process (Section 3)**

The CS appropriates nonrecurring funds in the sum of \$500,000 from the General Revenue Fund for the 2020-2021 fiscal year to the OPPAGA, to contract with a third party for the evaluation of the reimbursement process of the DEM with respect to requests for reimbursement under federal disaster programs. At a minimum, the study must make recommendations for process improvements or changes that:

- Increase transparency for entities seeking reimbursement;
- Create efficiency in processing claims for reimbursement; and
- Reduce the time between the impact of a storm and the ultimate reimbursement from the federal government.

The report must be completed and submitted to the President of the Senate and Speaker of the House of Representatives by January 30, 2021.

**Hurricane Housing Recovery Program (Section 4)**

The CS creates s. 420.57, F.S., subject to the appropriation of funds by the Legislature for that purpose, the Hurricane Housing Recovery Program is created, to provide funds to local governments for their affordable housing recovery efforts, similar to the State Housing Initiatives Partnership Program as set forth in ss. 420.907-420.9079, F.S. The FHFC will administer the program, which is subject to appropriation of funds. Notwithstanding ss. 420.9072 and 420.9073, F.S., the FHFC will allocate resources to local governments according to a need-based formula that reflects housing damage estimates and population effects resulting from hurricanes.

An eligible local government must submit a strategy outlining proposed recovery actions, household income levels, and the number of residential units to be served and an associated funding request. Program funds must be used to serve households with incomes of up to 120 percent of area median income, except that at least 30 percent of program funds must be reserved for households with incomes of up to 50 percent of area median income and an additional 30 percent of program funds must be reserved for households with incomes of up to 80 percent of area median income. Program funds must be used for each of the following purposes:

- At least 65 percent must be used for homeownership.
- Up to 15 percent may be used for administrative expenses to ensure the expeditious use of funds.
- Up to one-quarter of one percent may be used by the FHFC for compliance monitoring.

Subject to the appropriation of funds by the Legislature for that purpose, the Rental Recovery Loan Program is created to provide funds to build additional rental housing due to impacts to the affordable housing stock and changes to the population resulting from hurricanes. The FHFC will administer the program. The program is intended to allow the state to leverage additional federal rental financing similar to the State Apartment Incentive Loan Program as described in s. 420.5087, F.S.

Each participating local government must submit to the FHFC an annual report on its use of funds from the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

The FHFC will compile the reports and submit them to the President of the Senate and the Speaker of the House of Representatives.

The FHFC may adopt rules to administer these programs.

### **Public Facilities Hurricane Restoration Cash Flow Loan Program (Section 5)**

The CS establishes for the 2020-2021 fiscal year a Public Facilities Hurricane Restoration Cash Flow Loan Program. Counties, municipalities, and district school boards that need assistance with cash flow in order to make timely payments to contractors and suppliers in restoring their county, municipal, or educational facilities damaged by a named hurricane or tropical storm during the 2018 hurricane season may apply to the DEO for a cash flow loan.

The amount of the loan may not exceed the amount the county, municipality, or district school board needs to meet timely payments to contractors and suppliers for the restoration of damaged facilities. To be eligible for a cash flow loan, a county, municipality, or district school board must meet all of the following requirements:

- Have one or more county, municipal, or educational facilities damaged or destroyed by a named hurricane or tropical storm during the 2018 hurricane season;
- Have an agreement to pay contractors or suppliers for the restoration of the damaged facilities, but have insufficient cash flow to make timely payments;
- Agree to repay, from funds received from insurance claims, Federal Emergency Management Agency payments, or other fund sources, the full amount of the funds received from the cash flow loan program; and
- Agree that if repayment is not made in a timely manner, the DEO must withhold future distribution of public capital outlay funds, or other fixed capital outlay funds, until repayment is received by the DEO.

The DEO must provide information and instructions for applying for a cash flow loan and administer the loans in accordance with the act. The DEO must distribute loan funds based on the county or municipal governing body's or district superintendent's certification of the amount needed for payments that are due within the following 30 days. All funds repaid will be deposited unallocated into the Budget Stabilization Fund within 30 days after receipt by the DEO.

The DEM must notify the DEO when payments from the Federal Emergency Management Agency for a named hurricane or tropical storm during the 2018 hurricane season have been distributed to a county, municipality, or district school board that has received a public facilities hurricane restoration cash flow loan.

### **Effective Date (Section 6)**

The provisions of the CS take effect upon becoming law.

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

None.

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

None.

**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:**

Individuals in need of housing assistance in areas impacted by hurricanes may benefit from the creation of the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

**C. Government Sector Impact:**

The CS provides \$585,000 in nonrecurring appropriations from the General Revenue Fund as follows:

- Hurricane Michael After Action Report - \$85,000; and
- OPPAGA Evaluation of DEM Reimbursement Process - \$500,000.

Both the Hurricane Housing Recovery Program and the Rental Recovery Loan Program are subject to appropriation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The FHFC provided the following additional comments:<sup>24</sup>

- Lines 224-226 are inconsistent with section 420.5087, F.S. and the State Apartment Incentive Loan (SAIL) program as the recipients of these funds are not local governments. This language should be removed from the bill; and
- Line 196-198 requires program funds to be used to serve households with incomes up to 120 percent of area median income. If the intent is to mirror the requirements of the State Housing Initiatives Partnership (SHIP) program in ss. 420.907-420.9079, F.S., this should be amended to read “incomes up to 140 percent...”

**VIII. Statutes Affected:**

This CS creates the following sections of the Florida Statutes: 420.57

**IX. Additional Information:**

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute removes the requirement to update the statewide and regional hurricane evacuation studies and the corresponding \$500,000 appropriation.

- B. **Amendments:**  
  
None.

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

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<sup>24</sup> Florida Housing Finance Corporation, *Bill Analysis for SB 502 (2020)*, p. 6, November 6, 2019.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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The Committee on Infrastructure and Security (Montford)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 167 - 179.

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

And the title is amended as follows:

Delete lines 34 - 40.

By Senator Montford

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1 A bill to be entitled  
 2 An act relating to emergency mitigation and response;  
 3 establishing the Hurricane Michael Recovery Task Force  
 4 adjunct to the Division of Emergency Management to  
 5 make recommendations to the Legislature regarding  
 6 additional assistance needed in the response to  
 7 recovery from and mitigation of the effects of  
 8 Hurricane Michael in certain areas; requiring the task  
 9 force to review the local, state, and federal  
 10 activities conducted and the resources provided in  
 11 such areas, the effectiveness of such efforts, and any  
 12 additional assistance necessary; providing for the  
 13 membership of the task force; providing requirements  
 14 for and restrictions on membership; providing for  
 15 certain reimbursement; requiring the task force to  
 16 report its findings and to make specified  
 17 recommendations to the Legislature and the Governor by  
 18 a specified date; providing for dissolution of the  
 19 task force by a specified date; providing an  
 20 appropriation to the Division of Emergency Management  
 21 from the General Revenue Fund to prepare an after-  
 22 action report on the shelter operations that took  
 23 place during Hurricane Michael, subject to certain  
 24 requirements; requiring that the report be submitted  
 25 to the Legislature and the Governor by a specified  
 26 date; providing an appropriation to the Office of  
 27 Program Policy Analysis and Government Accountability  
 28 from the General Revenue Fund to contract with a third  
 29 party for the evaluation of the reimbursement process

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30 of the Division of Emergency Management with respect  
 31 to requests for reimbursement under federal disaster  
 32 programs, subject to certain requirements; requiring  
 33 that the report be submitted to the Legislature by a  
 34 specified date; providing an appropriation to the  
 35 Division of Emergency Management from the General  
 36 Revenue Fund to competitively procure a consultant to  
 37 make recommendations for the update of the statewide  
 38 and regional hurricane evacuation studies, subject to  
 39 certain requirements; requiring that the report be  
 40 submitted to the Legislature and Governor by a  
 41 specified date; creating s. 420.57, F.S.; subject to  
 42 the appropriation of funds, creating the Hurricane  
 43 Housing Recovery Program to provide funds to local  
 44 governments for certain affordable housing recovery  
 45 efforts; requiring that the Florida Housing Finance  
 46 Corporation administer the program and allocate  
 47 resources to local governments that meet certain  
 48 criteria; specifying requirements for receiving and  
 49 using funds; requiring participating local governments  
 50 to submit a certain annual report to the corporation;  
 51 requiring the corporation to compile the reports and  
 52 submit them to the Legislature and the Governor;  
 53 subject to the appropriation of funds, creating the  
 54 Rental Recovery Loan Program to provide funds to build  
 55 additional rental housing due to specified impacts;  
 56 requiring the corporation to administer the program;  
 57 providing intent for the program; requiring  
 58 participating local governments to submit a certain

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annual report to the corporation; requiring the corporation to compile the reports and submit them to the Legislature and the Governor; authorizing the corporation to adopt rules; creating the Public Facilities Hurricane Restoration Cash Flow Loan Program for the purpose of assisting counties, municipalities, and district school boards in making timely payments in restoring certain facilities; providing eligibility requirements for receiving a cash flow loan; requiring that the Department of Economic Opportunity provide certain information and instructions, administer the loans, distribute loan funds, and deposit repaid funds into the Budget Stabilization Fund, subject to certain requirements; requiring the Division of Emergency Management to notify the Department of Economic Opportunity when certain federal payments have been distributed; providing an effective date.

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

Section 1. The Hurricane Michael Recovery Task Force, a task force as defined in s. 20.03, Florida Statutes, is established adjunct to the Division of Emergency Management to make recommendations to the Legislature regarding additional assistance needed in the response to the recovery from, and the mitigation of the effects of, Hurricane Michael in the areas designated in the federal disaster declaration DR-4399. The task force shall review the local, state, and federal activities

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conducted and the resources provided in such areas, the effectiveness of such efforts, and any additional assistance necessary.

(1) The task force must consist of the following seven members:

(a) One member representing the business community, who shall serve as chair, appointed by the Governor.

(b) One member representing agricultural interests, appointed by the commissioner of the Department of Agriculture and Consumer Services.

(c) One member representing the fishing industry, appointed by the Fish and Wildlife Conservation Commission.

(d) One member representing emergency response, appointed by the director of the Division of Emergency Management.

(e) One member representing housing interests, appointed by the executive director of the Department of Economic Opportunity.

(f) One public school superintendent representing education interests, appointed by the Commissioner of Education.

(g) One county commissioner representing local government interests, appointed by the Governor.

(2) Members shall serve at the pleasure of their appointing official. Any vacancy must be filled in the same manner as the original appointment. A member of the Legislature or a registered lobbyist may not be appointed to the task force. Members shall serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, Florida Statutes, in the performance of their duties and responsibilities under this section.

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(3) The task force shall report its findings and make specific recommendations for further response, recovery, and mitigation to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020. The task force is dissolved not later than May 15, 2021.

Section 2. For the 2020-2021 fiscal year, the sum of \$85,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Division of Emergency Management to prepare an after-action report on the shelter operations that took place during Hurricane Michael. The division shall examine the latest available statewide emergency shelter plan prepared pursuant to ss. 252.385 and 1013.372, Florida Statutes, to determine, based on the number of people who evacuated during Hurricane Michael, whether there is sufficient capacity of general population hurricane evacuation shelter space and of special needs hurricane evacuation shelter space in the applicable regional planning council regions. The report must include basic information for each shelter activated during Hurricane Michael, including the shelter type (general population, special needs, or pet friendly), name, address, and maximum occupant capacity. Additionally, the report must provide functional data for each shelter, including the number of persons served at each shelter throughout the event, the timeline for opening and closing each shelter, and whether each shelter had sufficient staff, security, transportation, equipment, lavatories, sanitation, feeding capabilities, capacity, and standby or emergency power. The report also must identify any unmet needs at each shelter and must indicate whether each shelter met or exceeded the American Red Cross Standards for Hurricane Evacuation Shelter

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Selection (ARC 4496). Finally, the report must identify any shelter not activated for Hurricane Michael and the basis for the determination not to activate it, such as the inability of the shelter to withstand a certain level hurricane impact. The report must be completed and presented to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

Section 3. For the 2020-2021 fiscal year, the sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Office of Program Policy Analysis and Government Accountability to contract with a third party for the evaluation of the reimbursement process of the Division of Emergency Management with respect to requests for reimbursement under federal disaster programs. At a minimum, the study must make recommendations for process improvements or changes that increase transparency for entities seeking reimbursement, create efficiency in processing claims for reimbursement, and reduce the time between the impact of a storm and the ultimate reimbursement from the federal government. The report must be completed and submitted to the President of the Senate and Speaker of the House of Representatives by January 30, 2021.

Section 4. For the 2020-2021 fiscal year, the sum of \$500,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Division of Emergency Management to competitively procure a consultant to make recommendations for the update of the statewide and regional hurricane evacuation studies. The consultant must recommend consistent manners and methodologies to be used in the evacuation studies, including the modeling of storm surge. The consultant must coordinate with

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emergency management partners and the regional planning councils. A report of the findings and recommendations must be completed and submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2020.

Section 5. Section 420.57, Florida Statutes, is created to read:

420.57 Hurricane recovery programs.—

(1) (a) Subject to the appropriation of funds for that purpose by the Legislature, the Hurricane Housing Recovery Program is created to provide funds to local governments for affordable housing recovery efforts, similar to the State Housing Initiatives Partnership Program as set forth in ss. 420.907-420.9079. The Florida Housing Finance Corporation shall administer the program. Notwithstanding ss. 420.9072 and 420.9073, the corporation shall allocate resources to local governments according to a need-based formula that reflects housing damage estimates and population effects resulting from hurricanes. An eligible local government must submit a strategy outlining proposed recovery actions, household income levels, and the number of residential units to be served and an associated funding request. Program funds must be used to serve households with incomes of up to 120 percent of area median income, except that at least 30 percent of program funds must be reserved for households with incomes of up to 50 percent of area median income and an additional 30 percent of program funds must be reserved for households with incomes of up to 80 percent of area median income. Program funds must be used as specified for each of the following purposes:

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1. At least 65 percent must be used for homeownership.

2. Up to 15 percent may be used for administrative expenses to ensure the expeditious use of funds.

3. Up to one-quarter of 1 percent may be used by the corporation for compliance monitoring.

(b) Each participating local government shall submit to the corporation an annual report on its use of funds from the Hurricane Housing Recovery Program. The corporation shall compile the reports and submit them to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

(2) (a) Subject to the appropriation of funds by the Legislature for that purpose, the Rental Recovery Loan Program is created to provide funds to build additional rental housing due to impacts to the affordable housing stock and changes to the population resulting from hurricanes. The corporation shall administer the program. The program is intended to allow the state to leverage additional federal rental financing similar to the State Apartment Incentive Loan Program as described in s. 420.5087.

(b) Each participating local government shall submit to the corporation an annual report on its use of funds from the Rental Recovery Loan Program. The corporation shall compile the reports and submit them to the President of the Senate, the Speaker of the House of Representatives, and the Governor.

(3) The corporation may adopt rules to administer this section.

Section 6. (1) There is established for the 2020-2021 fiscal year a Public Facilities Hurricane Restoration Cash Flow

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233 Loan Program. Counties, municipalities, and district school  
 234 boards that need assistance with cash flow in order to make  
 235 timely payments to contractors and suppliers in restoring  
 236 county, municipal, or educational facilities damaged by a named  
 237 hurricane or tropical storm during the 2018 hurricane season may  
 238 apply to the Department of Economic Opportunity for a cash flow  
 239 loan. The amount of the loan may not exceed the amount the  
 240 county, municipality, or district school board needs to meet  
 241 timely payments to contractors and suppliers for the restoration  
 242 of damaged facilities. To be eligible for a cash flow loan, a  
 243 county, municipality, or district school board must meet all of  
 244 the following requirements:

245 (a) Have one or more county, municipal, or educational  
 246 facilities damaged or destroyed by a named hurricane or tropical  
 247 storm during the 2018 hurricane season.

248 (b) Have an agreement to pay contractors or suppliers for  
 249 the restoration of the damaged facilities, but have insufficient  
 250 cash flow to make timely payments.

251 (c) Agree to repay, from funds received from insurance  
 252 claims, Federal Emergency Management Agency payments, or other  
 253 fund sources, the full amount of the funds received from the  
 254 cash flow loan program.

255 (d) Agree that if repayment is not made in a timely manner,  
 256 the Department of Economic Opportunity must withhold future  
 257 distribution of public capital outlay funds, or other fixed  
 258 capital outlay funds, until repayment is received by the  
 259 department.

260 (2) The Department of Economic Opportunity shall provide  
 261 information and instructions for applying for a cash flow loan

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262 and administer the loans in accordance with this act. The  
 263 department shall distribute loan funds based on the county or  
 264 municipal governing body's or district superintendent's  
 265 certification of the amount needed for payments that are due  
 266 within the following 30 days. All funds repaid must be deposited  
 267 unallocated into the Budget Stabilization Fund within 30 days  
 268 after receipt by the department.

269 (3) The Division of Emergency Management shall notify the  
 270 Department of Economic Opportunity when payments from the  
 271 Federal Emergency Management Agency for a named hurricane or  
 272 tropical storm during the 2018 hurricane season have been  
 273 distributed to a county, municipality, or district school board  
 274 that has received a public facilities hurricane restoration cash  
 275 flow loan.

276 Section 7. This act shall take effect upon becoming a law.

**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 Infrastructure and Security

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BILL: CS/SB 520

INTRODUCER: Infrastructure and Security, Senator Gruters and others

SUBJECT: Drones

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	<b>Favorable</b>
2.	Proctor	Miller	IS	<b>CS/Fav</b>
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 520 expands the possibilities for drone use by law enforcement agencies by creating additional exceptions for drone use found in s. 934.50(4), F.S. The new exceptions will allow law enforcement agencies to use drones to:

- Gain an aerial perspective of a crowd of 50 or more persons;
- Assist with traffic management, except that the agency may not issue a traffic infraction based on images or video captured by a drone; and
- Facilitate evidence collection at a crime scene or traffic crash scene.

The CS is effective July 1, 2020.

**II. Present Situation:**

A drone, also called Unmanned Aerial Vehicle (UAV) and Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.<sup>1</sup>

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<sup>1</sup> Section 934.50(2), F.S.

Drones range in size from wingspans of six inches to 246 feet and can weigh from approximately four ounces to over 25,600 pounds.<sup>2</sup> They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.<sup>3</sup> Drones can be equipped with infrared cameras,<sup>4</sup> and "LADAR" (laser radar).<sup>5</sup> In 2011, it was reported that the U.S. Army contracted with two corporations to develop facial recognition and behavioral recognition technologies for drone use.<sup>6</sup>

### Federal Aviation Authority

In February 2012, Congress passed the Federal Aviation Authority (FAA) Modernization and Reform Act of 2012 (Act), which required the FAA to safely open the nation's airspace to drones by September 2015.<sup>7</sup> The FAA regulates the use of drones as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security, but views considerations such as privacy beyond the scope of FAA authority.<sup>8</sup>

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.<sup>9</sup> The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.<sup>10</sup>

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<sup>2</sup> 14 CFR Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, February 6, 2007.

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

<sup>4</sup> Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf) (last viewed February 4, 2020). Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. *Best Infrared Drones (Buying Guide)*, Spire Drones, available at <https://buythebestdrone.com/best-infrared-drones/> (last viewed February 4, 2020).

<sup>5</sup> The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-lidar*, available at <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last viewed February 4, 2020).

<sup>6</sup> Popular Science, Clay Dillow, *Army Developing Drones That Can Recognize Your Face From a Distance*, September 28, 2011, available at [pops.ci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind](http://pops.ci.com/technology/article/2011-09/army-wants-drones-can-recognize-your-face-and-read-your-mind) (last viewed February 4, 2020). See also PoliceOne.com, 2017 Guide to Emerging Technologies, Val Van Brocklin, *Facial recognition technology and a 'reasonable expectation of privacy'*, May 16, 2017, available at <https://www.policeone.com/emerging-tech-guide/articles/facial-recognition-technology-and-a-reasonable-expectation-of-privacy-cxdrWsBRCu8Dieb/> (last viewed February 4, 2020).

<sup>7</sup> Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, Congressional Research Service, April 3, 2013, available at [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf) (last viewed February 4, 2020).

<sup>8</sup> 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016.

<sup>9</sup> *Id.*

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



### ***FAA Drone Airspace Restrictions***

The FAA has designated generally restricted airspace including drone flight around and over sports stadiums and wildfires at specified times or under specified conditions. Drone operators must educate themselves on these restrictions prior to flying.<sup>11</sup>

### ***FAA Drone Operational Restrictions***

The following are among the operational restrictions in the 2016 FAA regulation:

- Small unmanned aircraft may not operate over any persons not directly participating in the operation, not under a covered structure, and not inside a covered stationary vehicle;<sup>12</sup>
- Maximum altitude of 400 feet above ground level (AGL) or, if higher than 400 feet AGL, remain within 400 feet of a structure; and
- Daylight-only operations or civil twilight (30 minutes before official sunrise to 30 minutes after official sunset, local time) with appropriate anti-collision lighting.<sup>13</sup>

Both the Lakeland Police Department and the Polk County Sheriff's Office have obtained waivers of the daylight-only operational restriction from the FAA, as has St. Johns County Fire Rescue.<sup>14</sup>

### ***Proposed Rule***

The FAA announced a new proposed regulation for the use of drones on January 18, 2019.<sup>15</sup> The proposal appears to provide avenues that would allow drone operators to routinely fly over people and fly at night.<sup>16</sup>

The proposed regulation creates a risk-assessment model based upon the weight of the drone, and the design of the drone, with an eye toward any mitigation the drone design presents to prohibit serious injury or property damage should the drone make contact with a person or

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<sup>11</sup> It is a federal crime, punishable by up to 12 months in prison, to interfere with firefighting efforts on public lands. Congress has authorized the FAA to impose a civil penalty of up to \$20,000 against any drone pilot who interferes with wildfire suppression, law enforcement or emergency response operations. FAA, Unmanned Aircraft Systems, *Airspace Restrictions*, available at [https://www.faa.gov/uas/where\\_to\\_fly/airspace\\_restrictions/#wildfires](https://www.faa.gov/uas/where_to_fly/airspace_restrictions/#wildfires) (last viewed February 4, 2020).

<sup>12</sup> The term "over" refers to the flight of the small unmanned aircraft directly over any part of a person. For example, a small UAS that hovers directly over a person's head, shoulders, or extended arms or legs would be an operation over people. Similarly, if a person is lying down, for example at a beach, an operation over that person's torso or toes would also constitute an operation over people. An operation during which a small UAS flies over any part of any person, regardless of the dwell time, if any, over the person, would be an operation over people. 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016.

<sup>13</sup> *Id.*

<sup>14</sup> Certificates of Waiver 107W-2018-16741 (dated November 28, 2018), 107W-2018-16274 (dated November 6, 2018); and 107W-2019-03646 (dated August 8, 2019), FAA, Unmanned Aircraft Systems, *Part 107 Waivers Issued*, available at [https://www.faa.gov/uas/commercial\\_operators/part\\_107\\_waivers/waivers\\_issued/](https://www.faa.gov/uas/commercial_operators/part_107_waivers/waivers_issued/) (last viewed February 4, 2020).

<sup>15</sup> Department of Transportation, Office of the Secretary, FAA, 14 CFR Part 107, Notice of Proposed Rulemaking, *Operation of Small Unmanned Aircraft Systems over People*, Comments due on or before April 15, 2019, Federal Register, Vol 84, 3732, February 13, 2019.

<sup>16</sup> *Id.*

property on the ground.<sup>17</sup> The process of the FAA accepting public comment on the proposal, and then drafting a final regulation began on February 13, 2019, and is not yet complete.<sup>18</sup>

### **Law Enforcement Use of Drones in Florida – Section 934.50, F.S.**

A law enforcement agency is defined in s. 934.50, F.S., as a lawfully established state or local public agency that is responsible for the prevention and detection of crime, local government code enforcement, and the enforcement of penal, traffic, regulatory, game, or controlled substance laws.<sup>19</sup>

The Florida Sheriff's Association estimates that 12 sheriff's offices have drones.<sup>20</sup> Of the 139 police departments that responded to the question regarding whether their department has at least one drone, 32 said they do have a drone and 10 responded that they plan to obtain a drone.<sup>21</sup>

Section 934.50(3)(b), F.S., provides that a real property owner, tenant, occupant, invitee, or licensee of the property is presumed to have a reasonable expectation of privacy from drone surveillance<sup>22</sup> of the property or the owner, tenant, occupant, invitee, or licensee by another person, state agency,<sup>23</sup> or political subdivision,<sup>24</sup> if he or she cannot be seen by persons at ground level who are in a place they have a legal right to be.<sup>25</sup>

Section 934.50, F.S., prohibits law enforcement agencies from using a drone to gather evidence or other information, with certain exceptions.<sup>26</sup> Evidence obtained or collected by a law enforcement agency using a drone is not admissible in a criminal prosecution in any court of law in this state unless it is permitted under one of the statute's exceptions.<sup>27</sup> An aggrieved party may

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Section 934.50(2)(d), F.S.

<sup>20</sup> E-mail from Florida Sheriff's Association Deputy Executive Director of Operations dated January 28, 2019 (on file with the Senate Committee on Infrastructure and Security).

<sup>21</sup> E-mail from Florida Police Chiefs Association Executive Director dated January 29, 2019 (on file with the Senate Committee on Infrastructure and Security).

<sup>22</sup> Surveillance is defined in s. 934.50(2)(e), F.S.: With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or with respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

<sup>23</sup> A state agency, as defined in s. 11.45, F.S., is a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

<sup>24</sup> A political subdivision is defined in s. 11.45, F.S., as a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

<sup>25</sup> Section 934.50(3)(b), F.S. *See also* s. 934.50(5)(b)-(d) F.S., providing for compensatory damages, injunctive relief, attorney fees, and punitive damages for a violation of s. 934.50(3)(b), F.S.

<sup>26</sup> Section 934.50(3)(a), F.S.

<sup>27</sup> Section 934.50(6), F.S.

initiate a civil action against a law enforcement agency to obtain all appropriate relief in order to prevent or remedy a violation of s. 934.50, F.S.<sup>28</sup>

The exceptions in s. 934.50(4), F.S., for law enforcement agencies using drones to gather evidence and other information are as follows:

- The U.S. Secretary of Homeland Security determines that credible intelligence exists indicating a high risk of a terrorist attack by an individual or organization and the drone is used to counter the risk;
- The law enforcement agency first obtains a search warrant authorizing the use of a drone; or
- The law enforcement agency has reasonable suspicion that swift action is necessary to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect or the destruction of evidence, or to achieve purposes including, but not limited to, facilitating the search for a missing person.<sup>29</sup>

### **Weaponized Drones Prohibited in Florida**

In Florida, s. 330.411, F.S., prohibits a person from possessing or operating an unmanned aircraft or unmanned aircraft system as defined in s. 330.41, F.S., with an attached weapon, firearm, explosive, destructive device, or ammunition as defined in s. 790.001, F.S.<sup>30</sup> North Dakota is the only state that allows law enforcement agencies to utilize weaponized drones. The weapons are limited to the non-lethal variety such as tear gas, rubber bullets, beanbags, pepper spray, and tasers.<sup>31</sup>

### **Use of Drones for Law Enforcement Investigations**

Several jurisdictions outside Florida, including the Massachusetts State Police and the Lake County Police in Illinois, are reported to be using drones to assist in more efficient and timely traffic crash investigations.<sup>32</sup> The North Carolina Department of Transportation and North Carolina State Highway Patrol demonstrated in a research project that some advantages to using drones in traffic crash investigations include faster processing and clearing of the scene and opening the road to traffic flow more quickly than traditional evidence-gathering methods.<sup>33</sup>

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<sup>28</sup> Section 934.50(5)(a), F.S.

<sup>29</sup> Section 934.50(4)(a)-(c), F.S. There are additional exceptions to the prohibition on the use of drones that are not law enforcement agency related. These exceptions can be found in s. 934.50(4)(d)-(j), F.S.

<sup>30</sup> Section 330.41(2)(c), F.S., defines an unmanned aircraft system as a drone and its associated elements, including communication links and the components used to control the drone which are required for the pilot in command to operate the drone safely and efficiently. Section 330.41(2)(b), F.S., specifies that drone has the same meaning as s. 934.50(2), F.S.

<sup>31</sup> North Dakota House Bill 1328 (2015), available at <https://www.legis.nd.gov/assembly/64-2015/documents/15-0259-05000.pdf?20150501154934> (last viewed February 4, 2020).

<sup>32</sup> *How drones help Lake County police investigate crashes, get roads open faster*, Daily Herald, May 7, 2017, available at <http://www.dailyherald.com/news/20170506/how-drones-help-lake-county-police-investigate-crashes-get-roads-open-faster> (last viewed February 4, 2020).

<sup>33</sup> “Research shows that documenting a collision scene using photogrammetry and UAS can be advantageous, especially in terms of speed and cost. With a combination of advanced imaging software and the latest UAS technology, we find that the North Carolina State Highway Patrol (NCSHP) can rapidly map collision scenes and simultaneously gather more information than legacy technologies. Indeed, large scenes can be documented in less than 30 minutes.” *Collision Scene Reconstruction & Investigation Using Unmanned Aircraft Systems*, Division of Aviation, UAS Program Office, N.C. Department of Transportation, August 2017, available at <https://www.ncdot.gov/divisions/aviation/Documents/ncshp-uas-mapping-study.pdf> (last viewed February 4, 2020).

In addition to quickly and efficiently clearing traffic crash scenes, drone technology has enhanced crime scene documentation using a process called orthomosaic photography that can recreate a crime scene in 3-D.<sup>34</sup>

Drones can also be used by law enforcement to more efficiently do jobs such as searching for evidence. For example, the San Bernardino Police Department used a drone to successfully search a large field for a gun thrown by a suspect who was being pursued.<sup>35</sup> The San Bernardino police chief emphasized the cost benefit in deploying a drone versus assembling a team to look for the gun in that situation.<sup>36</sup>

### **Tactical Uses for Drones**

Some have suggested that drones could be used to gain a tactical advantage in active shooter situations like that which occurred in Las Vegas in 2017 at the outdoor music festival at which 58 people were killed and more than 500 injured.<sup>37</sup> For example, Brian Levin, director of The Center for the Study of Hate and Extremism at California State University-San Bernardino opines that a “drone could have provided real-time intelligence and surveillance to what’s going on” during the Las Vegas incident.<sup>38</sup> In an article written for the International Journal of Aviation, Aeronautics, and Aerospace, Ryan Wallace and Jon Loffi, analyzed the law enforcement response to the Las Vegas shooting, concluding that had a drone been accessible to the Las Vegas Police it may have provided life-saving reconnaissance and shooter distraction.<sup>39</sup>

### **Crowd Control and Monitoring for Public Safety**

According to a December 2017 news article, the Las Vegas Police Department planned to use drones to monitor New Year’s Eve revelers on the Strip on December 31, 2017. The department decided to use drones to monitor crowds from an aerial view, which would help police better position barricades and other pedestrian control devices. Additionally, the department intended to use the drones to identify suspicious packages, track any unusual activity, and check hotel

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<sup>34</sup> Mesa County, Colorado, Sheriff’s Office unmanned aircraft program director, Ben Miller, envisions the 3-D crime scene preservation technique as a real aid in cold cases. The Huffington Post, Michelle Fredrickson, *Drones Add a New Dimension to Crime Scene Investigations*, October 24, 2014 (updated December 6, 2017), available at [https://www.huffingtonpost.com/pro-journal/drones-add-a-new-dimension\\_b\\_6033392.html](https://www.huffingtonpost.com/pro-journal/drones-add-a-new-dimension_b_6033392.html) (last viewed February 4, 2020).

<sup>35</sup> National Police Foundation, Jarrod Burguan, San Bernardino Police Chief, *Drones help augment a police department’s capabilities to fight crime*, available at <https://www.policefoundation.org/drones-help-augment-a-police-departments-capabilities-to-fight-crime/> (last viewed February 4, 2020).

<sup>36</sup> *Id.*

<sup>37</sup> Las Vegas Review-Journal, Nicole Raz, *Las Vegas police drones will monitor New Year’s Eve crowds*, December 27, 2017, available at <https://www.reviewjournal.com/entertainment/new-years-eve-in-vegas/las-vegas-police-drones-will-monitor-new-years-eve-crowds/> (last viewed February 4, 2020).

<sup>38</sup> *Id.* See also Wallace, Ryan and Loffi, Jon, *How Law Enforcement Unmanned Aircraft Systems (UAS) Could Improve Tactical Response to Active Shooter Situations: The Case of the 2017 Las Vegas Shooting*, Vol. 4, Article 7, International Journal of Aviation, Aeronautics, and Aerospace, October 9, 2017, available at <https://commons.erau.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1198&context=ijaa> (last viewed February 4, 2020).

<sup>39</sup> *Id.*

windows to try to detect anyone who might try to recreate the mass shooting incident that occurred in the city just a few months earlier.<sup>40</sup>

Likewise, New York City had planned to have a camera-equipped drone in the sky during the 2018 New Year's Eve celebration, but "relegated to a cordoned-off area and tethered to a building" to prevent injury should the drone fall. Inclement weather prevented the drone operation.<sup>41</sup>

As stated above, the FAA, which regulates the use of drones and other aircraft in the national airspace, has restricted drone flight over persons, however at least one local governmental authority has recently had that restriction waived by the FAA.<sup>42</sup> The same model drone (Vantage Robotics Snap) was used by CNN to obtain a waiver from the FAA due to the safety features of the drone, which has the ability to break apart upon impact.<sup>43</sup>

### III. Effect of Proposed Changes:

The CS adds three exceptions in s. 934.50(4), F.S., which will allow law enforcement agencies to use drones to:

- Assist in crowd control involving a group of 50 people or more;
- Assist with traffic management, except that the agency may not issue a traffic infraction based on images or video captured by a drone; and
- Facilitate the collection of evidence at a crime scene or traffic crash scene.

The term law enforcement agency as used in s. 934.50, F.S., is currently defined in s. 934.50(2)(d), F.S.

The CS is effective July 1, 2020.

### IV. Constitutional Issues:

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

None.

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

None.

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<sup>40</sup> *Supra*, note 37.

<sup>41</sup> The Washington Post, Peter Holley, *The NYPD planned to use drones during Times Square New Year's Eve celebration. Then it started raining*, December 31, 2018, available at [https://www.washingtonpost.com/technology/2018/12/31/nypds-latest-tool-keeping-times-square-revelers-safe-remote-controlled-drone/?utm\\_term=.1a63123ba637](https://www.washingtonpost.com/technology/2018/12/31/nypds-latest-tool-keeping-times-square-revelers-safe-remote-controlled-drone/?utm_term=.1a63123ba637) (last viewed February 4, 2020).

<sup>42</sup> See the section of the Bill Analysis on the FAA above; see also Vantage Robotics News, *Snap Gets FAA Waiver with Rutherford County, Tennessee*, November 19, 2018, available at <https://vantagerobotics.com/news/snap-gets-faa-waiver-rutherford-county-tennessee> (last viewed February 4, 2020).

<sup>43</sup> IEEE Spectrum, David Schneider, *CNN Uses Vantage Robotics' Snap Drone to Win FAA Fly-Over-People Waiver*, October 19, 2018, available at <https://spectrum.ieee.org/autoton/robotics/drones/cnn-uses-vantage-robotics-snap-drone-to-win-faa-fly-over-people-waiver> (last viewed February 4, 2020).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

**Privacy**

Although it is generally understood that a person does not currently have a reasonable expectation of privacy under the circumstances set forth in the CS, with the evolution of technology as it relates to intrusion into a person's privacy interests, the law applying the Fourth Amendment to the U.S. Constitution, too, may evolve.<sup>44</sup>

**Preemption**

The regulation of the national airspace and the aircraft that occupy it is a federal matter.<sup>45</sup> The FAA Chief Counsel issued a document in 2015 about state and local regulation of drones in which he said that state and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework in order to "ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions."<sup>46</sup> However, given the Chief Counsel's acknowledgement that "laws traditionally related to state and local police power - including land use, zoning, privacy, trespass, and law enforcement operations - generally are not subject to federal regulation"<sup>47</sup> it appears that the CS would not be an encroachment into an area exclusively regulated by the federal government.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

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<sup>44</sup> The Fourth Amendment to the U.S. Constitution protects persons from unreasonable searches and seizures by the government. U.S. Const. amend. IV. *See Katz v. United States*, 389 U.S. 347 (1967) finding there is no reasonable expectation of privacy in the public view. *See also Carpenter v. United States*, 138 S.Ct. 2206 (2018) a recent Fourth Amendment case finding a reasonable expectation of privacy in historical cell phone location records.

<sup>45</sup> Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. ss. 40103, 44502, and 44701-44735.

<sup>46</sup> FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, December 17, 2015, available at [https://www.faa.gov/uas/resources/policy\\_library/media/UAS\\_Fact\\_Sheet\\_Final.pdf](https://www.faa.gov/uas/resources/policy_library/media/UAS_Fact_Sheet_Final.pdf) (last viewed February 4, 2020).

<sup>47</sup> *Id.*, citing *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002).

**C. Government Sector Impact:**

The CS allows for new uses for drones by law enforcement agencies under certain circumstances which could result in a cost savings for such agencies. However, nothing in the CS requires law enforcement agencies to spend resources to acquire drones or train personnel to use them.

The Florida Department of Law Enforcement does not anticipate a fiscal impact related to this CS.<sup>48</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This CS substantially amends the following sections of the Florida Statutes: 934.50

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

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute limits the bill's applicability to law enforcement agency activities only.

**B. Amendments:**

None.

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

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<sup>48</sup> Florida Department of Agriculture and Consumer Services, 2020 Agency Bill Analysis, October 23, 2019; Florida Department of Law Enforcement, 2020 Agency Bill Analysis, October 2019 (on file with the Senate Committee on Infrastructure and Security).



256804

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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The Committee on Infrastructure and Security (Lee) recommended the following:

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

Delete lines 30 - 36.

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

And the directory clause is amended as follows:

Delete lines 11 - 13

and insert:

paragraphs (g) through (m), respectively, new paragraphs (d), (e), and (f) are added to that subsection, and paragraph (a) of





256804

11 subsection (3) of that section is amended, to  
12  
13 ===== T I T L E   A M E N D M E N T =====  
14 And the title is amended as follows:  
15       Delete line 4  
16 and insert:  
17       enforcement agencies for

By Senator Gruters

23-00189-20

2020520\_\_

A bill to be entitled

An act relating to drones; amending s. 934.50, F.S.;  
expanding the authorized uses of drones by law  
enforcement agencies and other specified entities for  
specified purposes; providing an effective date.

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

Section 1. Present paragraphs (d) through (j) of subsection  
(4) of section 934.50, Florida Statutes, are redesignated as  
paragraphs (i) through (o), respectively, paragraph (a) of  
subsection (3) of that section is amended, and new paragraphs  
(d) through (h) are added to subsection (4) of that section, to  
read:

934.50 Searches and seizure using a drone.—

(3) PROHIBITED USE OF DRONES.—

(a) A law enforcement agency may not use a drone to gather  
evidence or other information, except as provided in subsection  
(4).

(4) EXCEPTIONS.—This section does not prohibit the use of a  
drone:

(d) To provide a law enforcement agency with an aerial  
perspective of a crowd of 50 people or more.

(e) To assist a law enforcement agency with traffic  
management; however, a law enforcement agency acting under this  
paragraph may not issue a traffic infraction citation based on  
images or video captured by a drone.

(f) To facilitate a law enforcement agency's collection of  
evidence at a crime scene or traffic crash scene.

Page 1 of 2

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(g) By a state agency or political subdivision for the  
assessment of damage due to a flood, wildfire, or natural  
disaster or for vegetation or wildlife management on publicly  
owned land or water.

(h) By certified fire department personnel to perform tasks  
within the scope and practice authorized under their  
certifications.

Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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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)

2/10/20

Meeting Date

520

Bill Number (if applicable)

Topic Drones

Amendment Barcode (if applicable)

Name Jim Milligan

Job Title Chief

Address 4360 - 55 AV N

Phone 727-526-5650

Street

ST. Pete

City

FL

State

33714

Zip

Email jmilligan@ecofire.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Fire 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.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/10/20

Meeting Date

520

Bill Number (if applicable)

Topic Drones

Amendment Barcode (if applicable)

Name Allie Pass (on behalf of Gary Hester)

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

Address \_\_\_\_\_

Phone 850-566-1979

Street

Tall.

City

FL

State

32308

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/10/2020

*Meeting Date*

520

*Bill Number (if applicable)*

Topic Drones

*Amendment Barcode (if applicable)*

Name Allie Pass

Job Title Government Affairs Coordinator

Address 2167 Mahan Drive

Phone 850-566-1979

*Street*

Tallahassee

Florida

32308

Email apass@flsheriffs.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing The Florida Sheriffs 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.***

S-001 (10/14/14)

**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 Infrastructure and Security

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BILL: CS/SB 1212

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Gruters

SUBJECT: International Affairs

DATE: February 10, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<u><b>Fav/CS</b></u>
2.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<u><b>Favorable</b></u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1212 amends s. 15.01, F.S., to provide that the Secretary of State (the Secretary) shall serve as the state protocol officer (SPO). The bill revises s. 15.182, F.S., such that the Department of State (Department) is the only entity that must receive notice of intent to travel internationally by state-funded musical, cultural, or artistic organizations.

The bill creates s. 288.8165, F.S., allowing the Department to authorize the establishment of citizen support organizations (CSOs) to provide assistance, funding and promotional support for the intergovernmental programs of the Department.

The bill may have a minimal impact on government expenditures in the establishment of CSOs. However, the Department may also experience a slightly positive impact as private resources from CSOs may augment its intergovernmental programs. The private sector may experience an indeterminate fiscal impact in establishing CSOs as well as meeting the audit, transparency and reporting requirements.

The bill takes effect July 1, 2020.

## **II. Present Situation:**

### **The Department of State and the Secretary of State**

The Secretary holds a statutorily created office whose duties are “as provided by law.”<sup>1</sup> The Secretary serves as the head of the Department of State.<sup>2</sup> The Department consists of the following six divisions:

- Division of Elections;
- Division of Historical Resources;
- Division of Corporations;
- Division of Library and Information Services;
- Division of Cultural Affairs; and
- Division of Administration.<sup>3</sup>

The Secretary is appointed by the Governor, subject to confirmation by the Senate and performs the functions conferred by the State Constitution upon the custodian of state records.<sup>4</sup> Pursuant to Chapter 15, F.S., the Secretary is the custodian of the constitution, the Great Seal of this state, the original statutes, the resolutions of the Legislature, and of all the official correspondence of the Governor.<sup>5</sup> The Department is required to maintain a register and an index of all official letters, orders, communications, messages, documents and other official acts issued or received by the Governor or the Secretary, and record these in a book numbered in chronological order.<sup>6</sup> Before issuing any order or transmission of an official letter, communication or document from the executive office or promulgation of any official act or proceeding, except military orders, the Governor is required to deliver the same or a copy thereof to the Department for recordation.<sup>7</sup>

### **Notice of International Travel**

The Department of Economic Opportunity (DEO) “assist[s] the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities to all Floridians.”<sup>8</sup>

In accordance with s. 15.182, F.S., if a musical, cultural or artistic organization that receives state funding is traveling internationally for a presentation, performance, or other significant public viewing, including an organization associated with a college or university, such an organization is required to notify the DEO of its intention to travel as well as the date, time and location of each appearance. DEO, in conjunction with Enterprise Florida, Inc.<sup>9</sup> (EFI), is required to act as

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<sup>1</sup> FLA. CONST. art. XII, s. 24. The Office of the Secretary of State was created in 1845, under the State Constitution.

<sup>2</sup> Section 20.10(1), F.S. See FLA. CONST. art. XII, s. 24.

<sup>3</sup> Section 20.01(2), F.S.

<sup>4</sup> Section 20.10(1), F.S.

<sup>5</sup> Section 15.01, F.S.

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

<sup>7</sup> *Id.*

<sup>8</sup> Section 20.60, F.S.

<sup>9</sup> Enterprise Florida, Inc., created by s. 288.901, F.S., serves as the state’s economic development organization, operating under a contract with DEO. Enterprise Florida, Inc., is a nonprofit corporation, governed by a board of directors chaired by the Governor.

an intermediary between artistic organizations and Florida businesses to encourage and coordinate joint undertakings, such as the sponsoring of cultural events.<sup>10</sup>

Section 15.182(3), F.S., requires an organization to provide notice to the Department at least 30 days prior to the date international travel is to commence. If the intention to travel internationally is not formed 30 days in advance, notice to the Department shall be given as soon as feasible.<sup>11</sup> Thus, under this section, notice of intent to travel internationally by state-funded organizations must be given to both DEO and the Department. Section 15.182(3), F.S., further requires that the Department take “an active role in informing such groups of the responsibility to notify the [D]epartment [of State] of travel intentions.”

### **The State Protocol Officer**

The Governor, pursuant to s. 288.012(7), F.S., may designate a SPO who shall be housed within the Executive Office of the Governor. The SPO is required to develop maintain, publish, and distribute the state protocol manual.<sup>12</sup> The SPO is responsible for consular operations and the sister city and sister state program as well as serving as a liaison with foreign, federal and other international organizations and with local governments.<sup>13</sup> The SPO must maintain consular relations between the state and all foreign governments doing business in Florida and has the duty to ensure all federal treaties regarding foreign privileges and immunities are properly observed by monitoring U.S. laws and directives.

Additionally, the SPO is required to:

- Establish a viable system of registration for foreign government officials residing or having jurisdiction in the state;<sup>14</sup>
- Maintain and systematically update a current and accurate list of all such foreign governmental officials, consuls, or consulates;
- Issue certificates to such foreign governmental officials after verification pursuant to proper investigations through U.S. Department of State sources and the appropriate foreign government;
- Verify entitlement to sales and use tax exemptions pursuant to U.S. Department of State guidelines and identification methods;
- Verify entitlement to issuance of special motor vehicle license plates by the Department of Highway Safety and Motor Vehicles to honorary consuls or such other officials representing foreign governments who are not entitled to issuance of special Consul Corps license plates by the U.S. Government;
- Establish a system of communication to provide all state and local law enforcement agencies with information regarding proper procedures relating to the arrest or incarceration of a foreign citizen;

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<sup>10</sup> Section 15.182(2), F.S.

<sup>11</sup> Section 15.182(3), F.S.

<sup>12</sup> Section 288.012(7), F.S.

<sup>13</sup> Section 288.816(1), F.S.

<sup>14</sup> This provisions instructs that an emphasis shall be placed on maintaining active communication between the SPO and the U.S. Department of State in order to be currently informed regarding foreign governmental personnel stationed in, or with official responsibilities for, Florida. Active dialogue shall also be maintained with foreign countries which historically have had dealings with Florida in order to keep them informed of the proper procedure for registering with the state.



- Request the Department of Law Enforcement to provide transportation and protection services when necessary pursuant to s. 943.68, F.S.;
- Coordinate, when necessary, special activities between foreign governments and Florida state and local governments (such as Consular Corps Day, Consular Corps conferences, and various other social, cultural, or educational activities); and
- Notify all newly arrived foreign governmental officials of the services offered by the SPO.<sup>15</sup>

The duties of the SPO also include the operation of the sister city and sister state program and establishing such new programs as needed to further global understanding through the interchange of people, ideas, and culture between Florida and the world. In order to accomplish this purpose, the SPO has the power and authority to:

- Coordinate and carry out activities designed to encourage the state and its subdivisions to participate in sister city and sister state affiliations with foreign countries and their subdivisions;<sup>16</sup>
- Encourage cooperation with and disseminate information pertaining to the Sister Cities International Program and any other program whose object is to promote linkages with foreign countries and their subdivisions;
- Maximize any aid available from all levels of government, public and private agencies, and other entities to facilitate such activities;
- Establish a viable system of registration for sister city and sister state affiliations between the state and foreign countries and their subdivisions. Such system shall include a method to determine that sufficient ties are properly established as well as a method to supervise how these ties are maintained; and
- Maintain a current and accurate listing of all such affiliations.<sup>17</sup>

The SPO serves as a contact for the state with the Florida Washington Office, the Florida Congressional Delegation, and United States Government agencies with respect to laws or policies which may affect the interests of the state in the area of international relations.<sup>18</sup> The SPO is directed to direct all inquiries regarding international economic trade development or reverse investment opportunities to EFI.<sup>19</sup> The SPO serves as a liaison with other states regarding international programs of interest to Florida, and investigates and makes suggestions regarding possible areas of joint action or regional cooperation.<sup>20</sup> The SPO is granted the power and has the duty to encourage the relocation of consular offices and multilateral and international agencies and organizations to Florida.<sup>21</sup>

Under s. 288.816(6), F.S., the DEO and EFI must help to contribute an international perspective to the state's development efforts.

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<sup>15</sup> Section 288.816(2), F.S.

<sup>16</sup> Such activities may include a State of Florida sister cities conference. Section 288.816(3)(a), F.S.

<sup>17</sup> Sister city affiliations shall not be discouraged between the state and any country specified in s. 620(f)(1) of the federal Foreign Assistance Act of 1961 (22 U.S.C.A. Section 2370(f)(1)), as amended, with whom the United States is currently conducting diplomatic relations unless a mandate from the United States Government expressly prohibits such affiliations.

<sup>18</sup> Section 288.816(4), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Section 288.816(5), F.S.

## Citizen Support Organizations

CSOs and direct-support organizations (DSOs) are statutorily created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purposes of a CSO or DSO are prescribed by its enabling statute and, for most, by a written contract with the agency the CSO or DSO was created to support.<sup>22</sup>

Legislature created s. 20.058, F.S., to establish a comprehensive set of transparency and reporting requirements for CSOs created or authorized pursuant to law or executive order and created, approved, or administered by a state agency.<sup>23</sup> Specifically, the law requires each CSO to annually submit, by August 1, the following information related to its organization, mission, and finances to the agency it supports:<sup>24</sup>

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service (IRS) Return of Organization Exempt from Income Tax form (Form 990).<sup>25</sup>

Each agency receiving the above information must make the information available to the public through the agency's website. If the CSO maintains a website, the agency's website must provide a link to that website.<sup>26</sup> Additionally, any contract between an agency and a CSO must be contingent upon the CSO submitting and posting the information.<sup>27</sup> If a CSO fails to submit the required information for two consecutive years, the agency must terminate the contract with the CSO.<sup>28</sup> The contract must also include a provision for ending operations and returning state-issued funds to the state if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.<sup>29</sup>

By August 15 of each year, the agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each CSO.<sup>30</sup>

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<sup>22</sup> Because the bill speaks to the establishment of a CSO, the analysis focuses on CSOs. DSOs are subject to the same transparency and reporting requirements as CSOs.

<sup>23</sup> Chapter 2014-96, Laws of Fla.

<sup>24</sup> Section 20.058(1), F.S.

<sup>25</sup> The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.

<sup>26</sup> Section 20.058(2), F.S.

<sup>27</sup> Section 20.058(4), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 20.058(3), F.S.

A law creating or authorizing the creation of a CSO must state that the creation or authorization for the CSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature. CSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.<sup>31</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 15.01, F.S., to provide that the Secretary shall serve as the SPO and that the Secretary, in consultation with the Governor and other governmental officials, shall develop, maintain, publish, and distribute the state protocol manual.

**Section 2** amends s. 15.182, F.S., to designate the Department as the agency to whom state-funded musical, cultural, or artistic organizations must provide notice of intent to travel internationally.

**Section 3** amends s. 288.816(2), F.S., to remove from the SPO's responsibilities the requirement of (i) issuing certificates to such foreign governmental officials after verification pursuant to proper investigations through U.S. Department of State sources and the appropriate foreign governments; and (ii) verifying entitlement to sales and use tax exemptions pursuant to U.S. Department of State guidelines and identification methods.

The bill also amends s. 288.816(3), F.S., and makes permissive the SPO's role regarding sister city and sister state programs. The bill eliminates the requirement of a system of registration for sister city and sister state affiliations as well as the duty to maintain an accurate listing of all such affiliations.

**Section 4** creates 288.8165, F.S., allowing the Department to authorize the establishment of CSOs to provide assistance, funding and promotional support for intergovernmental programs of the Department. A CSO must be:

- A Florida corporation not for profit incorporated under chapter 617 and approved by the Department;
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of the Department; except that such organization may not receive funds from the Department by grant or gift unless specifically authorized by the Legislature. If the CSO by contract provides fiscal and administrative services to the department for a grant or program that benefits the intergovernmental programs of the department, the organization may be reimbursed or compensated for such services by the Department if the services are a direct benefit to the intergovernmental programs of the Department;
- Determined by the Department to be consistent with the goals of the intergovernmental programs of the Department and in the best interests of the State; and
- Approved in writing (by a letter of agreement from the Secretary) by the Department to operate for the benefit of the intergovernmental programs of the Department.

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<sup>31</sup> Section 20.058(5), F.S.

The Department may allow a CSO to use Department property, facilities, and personnel free of charge if such use is consistent with the approved purpose of that CSO and such use does not unreasonably interfere with the general public's use of Department property. The Department is allowed to prescribe conditions upon a CSO's use of any property, facilities, or personnel and may not permit such use if the CSO does not provide equal membership and employment opportunities to all persons, regardless of race, color, national origin, religion, sex, or age.

The bill specifies that each CSO must provide for an annual audit in accordance with s. 215.981, F.S.

The bill provides for the future repeal of this section on October 1, 2025, unless it is reviewed and saved from repeal by the Legislature.

**Section 5** amends s. 288.012, F.S., to make conforming changes.

**Section 6** provides that the act will take effect on July 1, 2020.

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

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

None.

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

None.

**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:**

The bill may have an indeterminate fiscal impact on the private sector in the establishment of CSOs and in meeting the audit, transparency and reporting requirements.

**C. Government Sector Impact:**

The bill may have a minimal impact on government expenditures in the establishment of CSOs. However, the Department may experience an indeterminate positive fiscal impact as private resources from CSOs may augment the intergovernmental programs of the Department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 15.01, 15.182, 288.816, and 288.012.

This bill creates the following sections of the Florida Statutes: 288.8165

**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 Governmental Oversight and Accountability on January 27, 2020:**

- The committee substitute removes reference to the Office of International Affairs throughout the bill and replaces it with the Department of State and consolidates duplicative notice provisions regarding intent to travel internationally into one provision.
- It also conforms the provisions authorizing the Department to establish CSOs to the requirements for such organizations under s. 20.2551, F.S.

**B. Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;  
and Senator Gruters

585-02628-20

20201212c1

A bill to be entitled

An act relating to international affairs; amending s. 15.01, F.S.; requiring the Secretary of State to serve as the state protocol officer; requiring the Secretary of State to take certain actions relating to the state protocol manual; amending s. 15.182, F.S.; requiring that certain organizations provide notice of international travel to the Department of State, rather than the Department of Economic Opportunity; requiring the Department of State, the Department of Economic Opportunity, and Enterprise Florida, Inc., to work in conjunction for a certain purpose; amending s. 288.816, F.S.; revising the duties of the state protocol officer; authorizing, rather than requiring, the state protocol officer to take certain actions; creating s. 288.8165, F.S.; authorizing the Department of State to support the establishment of citizen support organizations for certain purposes; defining the term "citizen support organization"; prohibiting the department from allowing a citizen support organization to use certain services, property, or facilities if the organization does not provide equal membership and employment opportunities; requiring citizen support organizations to provide for a certain financial audit; providing a scheduled repeal; amending s. 288.012, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

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Section 1. Section 15.01, Florida Statutes, is amended to read:

15.01 Duties.—

(1) The Secretary of State shall serve as the state protocol officer. In consultation with the Governor and other governmental officials, the Secretary of State shall develop, maintain, publish, and distribute the state protocol manual.

(2) The Department of State shall have the custody of the constitution and Great Seal of this state, and of the original statutes thereof, and of the resolutions of the Legislature, and of all the official correspondence of the Governor. The department shall keep in its office a register and an index of all official letters, orders, communications, messages, documents, and other official acts issued or received by the Governor or the Secretary of State, and record these in a book numbered in chronological order. The Governor, before issuing any order or transmission of any official letter, communication, or document from the executive office or promulgation of any official act or proceeding, except military orders, shall deliver the same or a copy thereof to the Department of State to be recorded.

Section 2. Section 15.182, Florida Statutes, is amended to read:

15.182 International travel by state-funded musical, cultural, or artistic organizations; notification to the Department of ~~State Economic Opportunity~~.

(1) If a musical, cultural, or artistic organization that receives state funding is traveling internationally for a

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59 presentation, performance, or other significant public viewing,  
 60 including an organization associated with a college or  
 61 university, such organization shall notify the Department of  
 62 State Economic Opportunity in writing of its intentions to  
 63 travel, together with the date, time, and location of each  
 64 appearance. The notice shall be provided to the department at  
 65 least 30 days prior to the date the international travel is to  
 66 commence or, when an intention to travel internationally is not  
 67 formed at least 30 days in advance of the date the travel is to  
 68 commence, as soon as feasible after forming such travel  
 69 intention. The department shall take an active role in informing  
 70 such artistic organizations of the responsibility to provide  
 71 notice of international travel intentions.

72 (2) The Department of State Economic Opportunity, in  
 73 conjunction with the Department of Economic Opportunity and  
 74 Enterprise Florida, Inc., shall act as an intermediary between  
 75 performing musical, cultural, and artistic organizations and  
 76 Florida businesses to encourage and coordinate joint  
 77 undertakings. Such coordination may include, but is not limited  
 78 to, encouraging business and industry to sponsor cultural  
 79 events, assistance with travel of such organizations, and  
 80 coordinating travel schedules of cultural performance groups and  
 81 international trade missions.

82 ~~(3) An organization shall provide the notification to the~~  
 83 ~~Department of State required by this section at least 30 days~~  
 84 ~~before the date the international travel is to commence or, when~~  
 85 ~~an intention to travel internationally is not formed at least 30~~  
 86 ~~days in advance of the date the travel is to commence, as soon~~  
 87 ~~as feasible after forming such travel intention. The Department~~

585-02628-20

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88 ~~of State shall take an active role in informing such groups of~~  
 89 ~~the responsibility to notify the department of travel~~  
 90 ~~intentions.~~

91 Section 3. Paragraphs (c) and (d) of subsection (2) and  
 92 subsection (3) of section 288.816, Florida Statutes, are amended  
 93 to read:

94 288.816 Intergovernmental relations.—

95 (2) The state protocol officer shall be responsible for all  
 96 consular relations between the state and all foreign governments  
 97 doing business in Florida. The state protocol officer shall  
 98 monitor United States laws and directives to ensure that all  
 99 federal treaties regarding foreign privileges and immunities are  
 100 properly observed. The state protocol officer shall:

101 ~~(c) Issue certificates to such foreign governmental~~  
 102 ~~officials after verification pursuant to proper investigations~~  
 103 ~~through United States Department of State sources and the~~  
 104 ~~appropriate foreign government.~~

105 ~~(d) Verify entitlement to sales and use tax exemptions~~  
 106 ~~pursuant to United States Department of State guidelines and~~  
 107 ~~identification methods.~~

108 (3) The state protocol officer ~~may shall operate the sister~~  
 109 ~~city and sister state program and establish such new programs as~~  
 110 ~~needed to further global understanding through the interchange~~  
 111 ~~of people, ideas, and culture between Florida and the world. To~~  
 112 ~~accomplish this purpose, the state protocol officer shall have~~  
 113 ~~the power and authority to:~~

114 (a) Coordinate and carry out activities designed to  
 115 encourage the state and its subdivisions to participate in  
 116 sister city and sister state affiliations with foreign countries

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20201212c1

and their subdivisions. Such activities may include a State of Florida sister cities conference.

(b) Encourage cooperation with and disseminate information pertaining to the Sister Cities International Program and any other program whose object is to promote linkages with foreign countries and their subdivisions.

(c) Maximize any aid available from all levels of government, public and private agencies, and other entities to facilitate such activities.

~~(d) Establish a viable system of registration for sister city and sister state affiliations between the state and foreign countries and their subdivisions. Such system shall include a method to determine that sufficient ties are properly established as well as a method to supervise how these ties are maintained.~~

~~(e) Maintain a current and accurate listing of all such affiliations. Sister city affiliations shall not be discouraged between the state and any country specified in s. 620(f)(1) of the federal Foreign Assistance Act of 1961, as amended, with whom the United States is currently conducting diplomatic relations unless a mandate from the United States Government expressly prohibits such affiliations.~~

Section 4. Section 288.8165, Florida Statutes, is created to read:

288.8165 Citizen support organizations.—

(1) CITIZEN SUPPORT ORGANIZATIONS.—The Department of State may authorize the establishment of citizen support organizations to provide assistance, funding, and promotional support for the intergovernmental programs of the department. For the purposes

585-02628-20

20201212c1

of this section, a "citizen support organization" means an organization which:

(a) Is a Florida corporation not for profit incorporated under chapter 617 and approved by the Department of State.

(b) Is organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or real or personal property; and make expenditures for the benefit of the intergovernmental programs of the department; except that such organization may not receive funds from the department by grant or gift unless specifically authorized by the Legislature. If the citizen support organization by contract provides fiscal and administrative services to the department for a grant or program that benefits the intergovernmental programs of the department, the organization may be reimbursed or compensated for such services by the department if the services are a direct benefit to the intergovernmental programs of the department.

(c) The department has determined to be consistent with the goals of the intergovernmental programs of the department and in the best interests of the state.

(d) Is approved in writing by the department to operate for the benefit of the intergovernmental programs of the department. Such approval must be stated in a letter of agreement from the Secretary of State.

(2) USE OF ADMINISTRATIVE SERVICES AND PROPERTY.—

(a) The department may permit a citizen support organization to use department property, facilities, and personnel free of charge. A citizen support organization may use



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department property, facilities, and personnel if such use is consistent with the approved purpose of that citizen support organization and if such use does not unreasonably interfere with the general public's use of department property, facilities, and personnel for established purposes.

(b) The department may prescribe conditions upon the use by a citizen support organization of department property, facilities, or personnel.

(c) The department may not permit the use of any property, facilities, or personnel of the state by a citizen support organization that does not provide equal membership and employment opportunities to all persons regardless of race, color, national origin, religion, sex, or age.

(3) ANNUAL AUDIT.—Each citizen support organization shall provide for an annual financial audit in accordance with s. 215.981.

(4) FUTURE REPEAL.—This section is repealed October 1, 2025, unless reviewed and saved from repeal by the Legislature.

Section 5. Section 288.012, Florida Statutes, is amended to read:

288.012 State of Florida international offices; ~~state protocol officer; protocol manual.~~—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida international offices. The Legislature further

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finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between private businesses and state, local, and international governmental entities.

(1) The department is authorized to:

(a) Establish and operate offices in other countries for the purpose of promoting trade and economic development opportunities of the state, and promoting the gathering of trade data information and research on trade opportunities in specific countries.

(b) Enter into agreements with governmental and private sector entities to establish and operate offices in other countries which contain provisions that may conflict with the general laws of the state pertaining to the purchase of office space, employment of personnel, and contracts for services. When agreements pursuant to this section are made which set compensation in another country's currency, such agreements shall be subject to the requirements of s. 215.425, but the purchase of another country's currency by the department to meet such obligations shall be subject only to s. 216.311.

(2) Each international office shall have in place an operational plan approved by the participating boards or other governing authority, a copy of which shall be provided to the department. These operating plans shall be reviewed and updated each fiscal year and shall include, at a minimum, the following:

(a) Specific policies and procedures encompassing the entire scope of the operation and management of each office.

(b) A comprehensive, commercial strategic plan identifying marketing opportunities and industry sector priorities for the

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country in which an international office is located.

(c) Provisions for access to information for Florida businesses related to trade leads and inquiries.

(d) Identification of new and emerging market opportunities for Florida businesses. This information shall be provided either free of charge or on a fee basis with fees set only to recover the costs of providing the information.

(e) Provision of access for Florida businesses to international trade assistance services provided by state and local entities, seaport and airport information, and other services identified by the department.

(f) Qualitative and quantitative performance measures for each office, including, but not limited to, the number of businesses assisted, the number of trade leads and inquiries generated, the number of international buyers and importers contacted, and the amount and type of marketing conducted.

(3) Each international office shall annually submit to Enterprise Florida, Inc., a complete and detailed report on its activities and accomplishments during the previous fiscal year for inclusion in the annual report required under s. 288.906. In the format and by the annual date prescribed by Enterprise Florida, Inc., the report must set forth information on:

(a) The number of Florida companies assisted.

(b) The number of inquiries received about investment opportunities in this state.

(c) The number of trade leads generated.

(d) The number of investment projects announced.

(e) The estimated U.S. dollar value of sales confirmations.

(f) The number of representation agreements.

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(g) The number of company consultations.

(h) Barriers or other issues affecting the effective operation of the office.

(i) Changes in office operations which are planned for the current fiscal year.

(j) Marketing activities conducted.

(k) Strategic alliances formed with organizations in the country in which the office is located.

(l) Activities conducted with Florida's other international offices.

(m) Any other information that the office believes would contribute to an understanding of its activities.

(4) The Department of Economic Opportunity, in connection with the establishment, operation, and management of any of its offices located in another country, is exempt from the provisions of ss. 255.21, 255.25, and 255.254 relating to leasing of buildings; ss. 283.33 and 283.35 relating to bids for printing; ss. 287.001-287.20 relating to purchasing and motor vehicles; and ss. 282.003-282.00515 and 282.702-282.7101 relating to communications, and from all statutory provisions relating to state employment.

(a) The department may exercise such exemptions only upon prior approval of the Governor.

(b) If approval for an exemption under this section is granted as an integral part of a plan of operation for a specified international office, such action shall constitute continuing authority for the department to exercise the exemption, but only in the context and upon the terms originally granted. Any modification of the approved plan of operation with

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respect to an exemption contained therein must be resubmitted to the Governor for his or her approval. An approval granted to exercise an exemption in any other context shall be restricted to the specific instance for which the exemption is to be exercised.

(c) As used in this subsection, the term "plan of operation" means the plan developed pursuant to subsection (2).

(d) Upon final action by the Governor with respect to a request to exercise the exemption authorized in this subsection, the department shall report such action, along with the original request and any modifications thereto, to the President of the Senate and the Speaker of the House of Representatives within 30 days.

(5) Where feasible and appropriate, international offices established and operated under this section may provide one-stop access to the economic development, trade, and tourism information, services, and programs of the state. Where feasible and appropriate, such offices may also be collocated with other international offices of the state.

(6) The department is authorized to make and to enter into contracts with Enterprise Florida, Inc., to carry out the provisions of this section. The authority, duties, and exemptions provided in this section apply to Enterprise Florida, Inc., to the same degree and subject to the same conditions as applied to the department. To the greatest extent possible, such contracts shall include provisions for cooperative agreements or strategic alliances between private businesses and state, international, and local governmental entities to operate international offices.

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~~(7) The Governor may designate a state protocol officer. The state protocol officer shall be housed within the Executive Office of the Governor. In consultation with the Governor and other governmental officials, the state protocol officer shall develop, maintain, publish, and distribute the state protocol manual.~~

Section 6. This act shall take effect July 1, 2020.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/10/20

Meeting Date

SB 1212

Bill Number (if applicable)

Topic International Affairs

Amendment Barcode (if applicable)

Name Brittany Dover

Job Title Legislative Affairs Director

Address 500 S. Bronough St

Street

Tallahassee

City

FL

State

32399

Zip

Phone (850) 245-6509

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Department of State

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Feb. 10, 2020

Meeting Date

12/2

Bill Number (if applicable)

Topic

International Affairs

Amendment Barcode (if applicable)

Name

Laurel Lee

Job Title

Secretary of State

Address

500 S. Bronough

Phone

(850) 245-6509

Street

Tallahassee

City

State

Zip

Email

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

(The Chair will read this information into the record.)

Representing

Dept. of State

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 (10/14/14)

**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 Infrastructure and Security

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BILL: CS/CS/SB 1332

INTRODUCER: Infrastructure and Security Committee, Community Affairs Committee, and Senator Hooper

SUBJECT: Towing and Immobilizing Vehicles and Vessels

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	<b>Fav/CS</b>
2.	Price	Miller	IS	<b>Fav/CS</b>
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1332 requires counties and municipalities to establish maximum rates for the towing and immobilization of vehicles and vessels and prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or towing businesses. The bill provides that an authorized wrecker operator or tow business may impose and collect an administrative fee or charge against the owner of a vehicle or vessel on behalf of a county or municipality and is only required to remit the fee or charge to the county or municipality after it has been collected. The bill provides that a wrecker operator or towing business who recovers, removes, or stores a vehicle or vessel must have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill exempts certain counties with towing or immobilization licensing, regulatory, or enforcement programs as of January 1, 2020, from the prohibition on imposing a fee or charge on an authorized wrecker operator or a towing business.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. The bill may have an indeterminate fiscal impact on local governments.

The bill takes effect October 1, 2020.

## II. Present Situation:

### County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.<sup>1</sup> After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.<sup>2</sup> Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”<sup>3</sup>

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.<sup>4</sup> If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.<sup>5</sup>

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.<sup>6</sup>

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.<sup>7</sup> An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.<sup>8</sup> In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.<sup>9</sup>

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<sup>1</sup> Section 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

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

<sup>3</sup> Section 323.002(1)(a)-(b), F.S.

<sup>4</sup> Section 323.002(2)(b), F.S.

<sup>5</sup> Section 323.002(2)(c), F.S.

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

<sup>7</sup> *Id.*

<sup>8</sup> Section 323.002(2)(d), F.S.

<sup>9</sup> Section 323.002(2)(c) and (d), F.S.

Unauthorized wrecker operators are also prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.<sup>10</sup>

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.<sup>11</sup> A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.<sup>12</sup>

### **Vehicle Holds, Wrecker Operator Storage Facilities, and Liens**

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.<sup>13</sup> A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.<sup>14</sup>

An officer may also apply a hold when the vehicle is impounded under s. 316.193, F.S., (relating to driving under the influence), or s. 322.34, F.S., (relating to driving with a suspended or revoked license), or when the officer is complying with a court order.<sup>15</sup> The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.<sup>16</sup>

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer time.<sup>17</sup> The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle is held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.<sup>18</sup>

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for

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<sup>10</sup> Section 323.002(2)(a), F.S.

<sup>11</sup> Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

<sup>12</sup> Compare s. 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

<sup>13</sup> Section 323.001(1), F.S.

<sup>14</sup> Section 323.001(4)(a)-(e), F.S.

<sup>15</sup> Section 323.001(4)(f)-(g), F.S.

<sup>16</sup> Section 323.001(5), F.S.

<sup>17</sup> Section 323.001(2), F.S.

<sup>18</sup> Section 323.001(2)(a)-(b), F.S.



a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.<sup>19</sup>

### **Authority for Local Governments to Charge Fees**

Counties and municipalities do not have the authority to levy taxes, other than ad valorem taxes, except as provided by general law.<sup>20</sup> However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.<sup>21</sup> The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by the public at large.<sup>22</sup> On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”<sup>23</sup> Usually, a fee is applied for the use of a service and is tied directly to the cost of providing the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.<sup>24</sup>

### **Fees Related to Towing, Storage, and Wrecker Operators**

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The towing company collects the administrative fee on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the towing company releases the vehicle to the registered owner or lienholder.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.<sup>25</sup> The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and

<sup>19</sup> Section 713.78(2), F.S.

<sup>20</sup> FLA. CONST., art. VII, s. 1(a).

<sup>21</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

<sup>22</sup> *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

<sup>23</sup> *Id.*

<sup>24</sup> See *Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

<sup>25</sup> Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited Jan. 13, 2020).

Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees for receiving the vehicle back, pending the outcome of the hearing; or the owner may leave the vehicle in impound, incurring additional fees; or

- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses a similar process and rate structure.<sup>26</sup>

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.<sup>27</sup>

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.<sup>28</sup> The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to a hearing, the administrative fee is reduced to \$250.

By contrast, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.<sup>29</sup>

Additionally, a county or municipality may require a fee from a towing business to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.<sup>30</sup>

<sup>26</sup> Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, *available at* [https://library.municode.com/fl/bradenton/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH54OFMIPR\\_ARTIVIMMOVE\\_USFAPDRRECR](https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPDRRECR) (last visited Jan. 13, 2020).

<sup>27</sup> Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), *available at* [https://library.municode.com/fl/sweetwater/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH42MOVETR\\_ARTIINGE\\_S\\_42-1IMMOVE](https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S_42-1IMMOVE) (last visited Jan. 13, 2020).

<sup>28</sup> Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, *available at* [https://library.municode.com/fl/winter\\_springs/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH12MOVETR\\_ARTVIMMOVE\\_S12-100IMMOVEUSFACEMICRPATRRE](https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIMMOVE_S12-100IMMOVEUSFACEMICRPATRRE) (last visited Jan. 13, 2020).

<sup>29</sup> City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Committee on Community Affairs).

<sup>30</sup> Miami-Dade County, *Towing License*, *available at* <http://www.miamidade.gov/licenses/towing.asp> (last visited Jan. 13, 2020).

### **Towing from Private Property**

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission.<sup>31</sup> A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:<sup>32</sup>

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.<sup>33</sup>
- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks the return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage before redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel to remove it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel, and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

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<sup>31</sup> Section 715.07(2), F.S.

<sup>32</sup> Section 715.07(2)(a), F.S.

<sup>33</sup> Section 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm when the towing business is in operation and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:<sup>34</sup>

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" is between three and six feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours before the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post a notice, consistent with the requirements in the statute which apply to vehicles,<sup>35</sup> that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of a business or restricts access to a private driveway and the business owner or lessee requests the tow.<sup>36</sup>

A county or municipality may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.<sup>37</sup>

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

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality must establish a maximum rate that may be charged for the towing or immobilization of a vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or a towing business. The bill defines the term

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<sup>34</sup> Section 715.07(2)(a)5, F.S.

<sup>35</sup> These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

<sup>36</sup> Section 715.07(2)(a)5, F.S.

<sup>37</sup> Section 715.07(2)(b), F.S.

“towing business” as a business providing towing services for monetary gains. The prohibition would not impact the ability of the county or municipality to levy a business tax or impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle or vessel to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The administrative fee may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is collected. The bill requires the administrative fee to be included as part of the lien on the vehicle or vessel held by the towing operator.

The prohibition on county ordinances or rules that impose a fee or tax on authorized wrecker operators or towing businesses does not apply to tow or immobilization licensing, regulatory, or enforcement programs in effect on January 1, 2020, in charter counties where:

- 90 percent of the county’s population lives in incorporated municipalities;<sup>38</sup>
- The county contains at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020;<sup>39</sup> or
- The county is a county as defined in s. 125.011(1), F.S.

These counties may continue to operate their existing towing or immobilization licensing, regulatory, or enforcement programs and are authorized to levy an administrative fee for enforcement costs. A county as defined in s. 125.011(1), F.S., is prohibited from imposing any new business tax, fee, or charge that was not in effect on January 1, 2020, on a towing business or authorized wrecker operator.

The bill prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty on the registered owner of a vehicle or vessel or on an authorized wrecker operator when the vehicle or vessel is removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement and does not apply to the continuing operation of towing or immobilization licensing, regulatory, or enforcement programs in grandfathered charter counties.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. This prohibition does not apply to an ordinance or rule adopted before January 1, 2020. The bill requires an authorized wrecker operator or towing business that does not accept credit cards as a form of payment to maintain an operable automatic teller machine for use by the public at its place of business.

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<sup>38</sup> As of April 1, 2018, more than 90 percent of the populations of Broward County and Duval County live in incorporated areas. EDR, *Florida Population Estimates for Counties and Municipalities*, available at:

<http://edr.state.fl.us/Content/population-demographics/data/index-floridaproducts.cfm> (last visited Jan. 16, 2020). Broward County operates a towing or immobilization licensing, regulatory, or enforcement program, while Duval County does not.

<sup>39</sup> As of Oct. 1, 2019, only Palm Beach County has more than 38 municipalities. *See id.* (Palm Beach County has 39 municipalities).

The bill revises the requirement that a tow-away zone notice must be placed within five feet from the public right-of-way line and instead requires the tow-away zone notice be placed within ten feet of the “road,” as defined in s. 334.03(22), F.S.

The bill revises several provisions currently applicable to a person in control of a vehicle or vessel, making these provisions applicable also to those in custody of the vehicle.

The bill takes effect October 1, 2020.

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

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, these requirements do not apply to laws that have an insignificant fiscal impact<sup>40</sup> on local governments, which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.<sup>41, 42</sup>

While local governments appear to benefit from potential revenue increases as a result of some of the bill’s provisions; *e.g.*, the authorized administrative fees charged to vehicle owners and authorized persons, other provisions in the bill prohibit local governments from imposing amounts that may currently be imposed; *e.g.*, requiring local governments to set a maximum fee amount and prohibiting fee collection from authorized wreckers and towing businesses.

The extent to which the potential revenue increases would be offset by the bill’s prohibitions against local government imposition of the specified fees, charges, etc., is indeterminate. Thus, the bill may reduce the authority of municipalities or counties to raise revenue. This reduction may be above the “insignificant impact” ceiling and approval of the bill by each house of the Legislature by a two-thirds vote of its members may be required.

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<sup>40</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 16, 2020)

<sup>41</sup> FLA. CONST. art. VII, s. 18(d).

<sup>42</sup> Based on the Florida Demographic Estimating Conference’s Dec. 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 16, 2020).

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for the private sector, as the bill prohibits county and municipal imposition of the identified fees and charges on authorized wrecker operators or towing businesses, replaced by business taxes that businesses are likely already paying and limited administrative fees that such operators and businesses must remit to the county or municipality (when a vehicle or vessel is towed from public property). These revisions would presumably decrease expenses for such operators and businesses, thereby increasing revenue, in indeterminate amounts. The increase would be offset by costs associated with collecting and remitting the limited administrative fees, but only if an operator or business chooses to do so.

Also, Counties and municipalities will have to limit administrative wrecker and towing fees, which are not to exceed 25 percent of the maximum towing rate. This revision would presumably reduce expenses to owners or authorized persons whose vehicles or vessels are towed from public property, in indeterminate amounts.

**C. Government Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for local governments. The bill prohibits local governments from imposing the identified fees on authorized wrecker operators or towing businesses, but these fees may still be imposed against the owners of the vehicle and vessel being moved. This revision would presumably reduce revenue to local governments in indeterminate amounts or extend the time it takes for local governments to receive remitted fees from wreckers and towing businesses. The authorized reasonable administrative fee assessed against owners or

authorized persons, limited to 25 percent of the maximum towing rate, presumably would not offset the reduction in local government revenue due to the prohibition.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047 and 166.04465 of the Florida Statutes.

**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 Infrastructure and Security on February 10, 2020:**

The committee substitute removes the lienholder of a vehicle or vessel as an entity that may be assessed a charge or fee by a county or city when the vehicle or vessel is towed from public property by a towing business or by an authorized wrecker operator.

**CS by Community Affairs on January 21, 2020:**

The committee substitute:

- Changes the current requirement that tow-away zone notices are placed within “5 feet” from the “public right-of-way line” to require the notices be placed within “10 feet” from the “road” as defined s. 334.03(22), F.S.;
- Removes proposed changes in the bill about attorney fees in connection with the towing of vehicles or vessels from private property; and
- Provides an effective date of October 1, 2020.

- B. **Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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The Committee on Infrastructure and Security (Hooper)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 118 - 258  
and insert:  
person in control of a vehicle or vessel, not to exceed 25  
percent of the maximum towing rate, to cover the cost of  
enforcement, including parking enforcement, by the county when  
the vehicle or vessel is towed from public property. An  
authorized wrecker operator or towing business may impose and  
collect the administrative fee or charge on behalf of the county



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and shall remit such fee or charge to the county only after it is collected.

(3)(a) This section does not apply to a towing or immobilization licensing, regulatory, or enforcement program of a charter county in which at least 90 percent of the population resides in incorporated municipalities, or of a charter county with at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020. This section does not affect a charter county's authority to:

1. Impose and collect towing operating license fees, license renewal fees, license extension fees, expedite fees, storage site inspection or reinspection fees, criminal background check fees, and tow truck decal fees, including decal renewal fees, expedite fees, and decal replacement fees.

2. Impose and collect immobilization operating license fees, license extension fees, license renewal fees, expedite fees, and criminal background check fees.

3. Set maximum rates for the towing or immobilization of vehicles or vessels on private property, including rates based on different classes of towing vehicles, research fees, administrative fees, storage fees, and labor fees; rates for towing services performed or directed by governmental entities; road service rates; winch recovery rates; voluntary expediting fees for vehicle or vessel ownership verification; and to establish conditions in connection with the applicability or payment of maximum rates set for towing or immobilization of vehicles or vessels.

4. Impose and collect such other taxes, fees, or charges otherwise authorized by general law, special law, or county



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ordinance, resolution, or regulation.

(b) A charter county may impose and collect an administrative fee or charge as provided in paragraph (2)(b) but may not impose such fee or charge on a towing business or an authorized wrecker operator. If the charter county imposes such administrative fee or charge, the charter county may authorize a towing business or authorized wrecker operator to impose and collect such fee or charge on behalf of the county, and the towing business or authorized wrecker operator shall remit such fee or charge to the charter county only after it is collected.

(4)(a) Subsection (1) does not apply to a charter county that had a towing licensing, regulatory, or enforcement program in effect on January 1, 2020. However, such charter county may not impose any new business tax, fee, or charge that was not in effect as of January 1, 2020, on a towing business or an authorized wrecker operator.

(b) A charter county may impose and collect an administrative fee or charge as provided in paragraph (2)(b); however, it may not impose that fee or charge upon a towing business or an authorized wrecker operator. If such charter county imposes such administrative fee or charge, such fee or charge must be imposed on the registered owner or other legally authorized person in control of a vehicle or vessel. The fee or charge may not exceed 25 percent of the maximum towing rate to cover the cost of enforcement, including parking enforcement, by the charter county when the vehicle or vessel is towed from public property. The charter county may authorize an authorized wrecker operator or towing business to impose and collect the administrative fee or charge on behalf of the charter county,



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and the authorized wrecker operator or towing business shall remit such fee or charge to the charter county only after it is collected.

(c) For purposes of this subsection, the term "charter county" means a county as defined in s. 125.011(1).

Section 3. Paragraphs (b) and (c) of subsection (1) of section 166.043, Florida Statutes, are amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does ~~shall~~ not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

(c) Counties must establish maximum rates that ~~which~~ may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene, or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker



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service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does ~~shall~~ not apply within such municipality.

Section 4. Section 166.04465, Florida Statutes, is created to read:

166.04465 Rules and ordinances relating to towing services.—

(1) A municipality may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or on a towing business for towing, impounding, or storing a vehicle or vessel. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition set forth in subsection (1) does not affect a municipality's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.043, or s. 205.0535.

(b) Impose and collect a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the municipality when the vehicle or vessel is towed from public property. An authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the



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municipality and shall remit such fee or charge to the  
municipality only after it is collected.

Section 5. Present subsection (4) of section 323.002,  
Florida Statutes, is redesignated as subsection (6), and new  
subsections (4) and (5) are added to that section, to read:

323.002 County and municipal wrecker operator systems;  
penalties for operation outside of system.—

(4) (a) Except as provided in paragraph (b), a county or  
municipality may not adopt or maintain in effect an ordinance or  
rule that imposes a charge, cost, expense, fine, fee, or penalty  
on an authorized wrecker operator, the registered owner or other  
legally authorized person in control of a vehicle or vessel when  
the vehicle or vessel is towed by an authorized wrecker operator  
under this chapter.

(b) A county or municipality may adopt or maintain an  
ordinance or rule that imposes a reasonable administrative fee  
or charge on the registered owner or other legally authorized  
person in control of a vehicle or vessel that is towed by an  
authorized wrecker

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

And the title is amended as follows:

Delete lines 39 - 40

and insert:

or other legally authorized persons in control of  
vehicles or vessels, under certain

By the Committee on Community Affairs; and Senator Hooper

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1 A bill to be entitled  
 2 An act relating to towing and immobilizing vehicles  
 3 and vessels; amending ss. 125.0103 and 166.043, F.S.;  
 4 authorizing local governments to enact rates to tow or  
 5 immobilize vessels on private property and to remove  
 6 and store vessels under specified circumstances;  
 7 requiring counties to establish maximum rates for such  
 8 towing, immobilization, removal, and storage of  
 9 vessels; providing applicability; creating s.  
 10 125.01047, F.S.; prohibiting counties from enacting  
 11 certain ordinances or rules that impose fees or  
 12 charges on authorized wrecker operators or towing  
 13 businesses; defining the term "towing business";  
 14 providing exceptions; authorizing authorized wrecker  
 15 operators or towing businesses to impose and collect a  
 16 certain administrative fee or charge on behalf of the  
 17 county, subject to certain requirements; providing  
 18 applicability; providing construction; prohibiting a  
 19 certain charter county from imposing any new business  
 20 tax, fee, or charge that was not in effect on a  
 21 specified date on a towing business or an authorized  
 22 wrecker operator; providing restrictions and  
 23 requirements on a certain administrative fee or charge  
 24 imposed and collected by such charter county; defining  
 25 the term "charter county"; creating s. 166.04465,  
 26 F.S.; prohibiting municipalities from enacting certain  
 27 ordinances or rules that impose fees or charges on  
 28 authorized wrecker operators or towing businesses;  
 29 defining the term "towing business"; providing

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

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30 exceptions; authorizing authorized wrecker operators  
 31 or towing businesses to impose and collect a certain  
 32 administrative fee or charge on behalf of the  
 33 municipality, subject to certain requirements;  
 34 amending s. 323.002, F.S.; prohibiting counties or  
 35 municipalities from adopting or maintaining in effect  
 36 certain ordinances or rules that impose charges,  
 37 costs, expenses, fines, fees, or penalties on  
 38 authorized wrecker operators or registered owners,  
 39 other legally authorized persons in control, or  
 40 lienholders of vehicles or vessels under certain  
 41 conditions; providing an exception; authorizing  
 42 authorized wrecker operators or towing businesses to  
 43 impose and collect a certain administrative fee or  
 44 charge on behalf of counties or municipalities,  
 45 subject to certain requirements; prohibiting counties  
 46 or municipalities from enacting certain ordinances or  
 47 rules that require authorized wrecker operators to  
 48 accept a specified form of payment; requiring that a  
 49 wrecker operator maintain an operable automatic teller  
 50 machine for use by the public under certain  
 51 circumstances; providing exceptions; providing  
 52 applicability; authorizing certain charter counties to  
 53 impose a charge, cost, expense, fine, fee, or penalty  
 54 on an authorized wrecker operator in connection with a  
 55 certain violation; amending s. 713.78, F.S.;  
 56 authorizing certain persons to place liens on vehicles  
 57 or vessels to recover specified fees or charges;  
 58 amending s. 715.07, F.S.; revising requirements

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

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regarding notices and signs concerning the towing or removal of vehicles or vessels; deleting a requirement that a certain receipt be signed; prohibiting counties or municipalities from enacting certain ordinances or rules that require towing businesses to accept a specified form of payment; requiring that a towing business maintain an operable automatic teller machine for use by the public under certain circumstances; providing applicability; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

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(c) Counties must establish maximum rates that ~~which~~ may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene, or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance does ~~shall~~ not apply within such municipality.

Section 2. Section 125.01047, Florida Statutes, is created to read:

125.01047 Rules and ordinances relating to towing services.—

(1) A county may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or on a towing business for towing, impounding, or storing a vehicle or vessel. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition set forth in subsection (1) does not affect a county's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.033, or s. 205.0535.

(b) Impose and collect a reasonable administrative fee or



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charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county when the vehicle or vessel is towed from public property. An authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the county and shall remit such fee or charge to the county only after it is collected.

(3)(a) This section does not apply to a towing or immobilization licensing, regulatory, or enforcement program of a charter county in which at least 90 percent of the population resides in incorporated municipalities, or of a charter county with at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020. This section does not affect a charter county's authority to:

1. Impose and collect towing operating license fees, license renewal fees, license extension fees, expedite fees, storage site inspection or reinspection fees, criminal background check fees, and tow truck decal fees, including decal renewal fees, expedite fees, and decal replacement fees.

2. Impose and collect immobilization operating license fees, license extension fees, license renewal fees, expedite fees, and criminal background check fees.

3. Set maximum rates for the towing or immobilization of vehicles or vessels on private property, including rates based on different classes of towing vehicles, research fees, administrative fees, storage fees, and labor fees; rates for towing services performed or directed by governmental entities;

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road service rates; winch recovery rates; voluntary expediting fees for vehicle or vessel ownership verification; and to establish conditions in connection with the applicability or payment of maximum rates set for towing or immobilization of vehicles or vessels.

4. Impose and collect such other taxes, fees, or charges otherwise authorized by general law, special law, or county ordinance, resolution, or regulation.

(b) A charter county may impose and collect an administrative fee or charge as provided in paragraph (2)(b) but may not impose such fee or charge on a towing business or an authorized wrecker operator. If the charter county imposes such administrative fee or charge, the charter county may authorize a towing business or authorized wrecker operator to impose and collect such fee or charge on behalf of the county, and the towing business or authorized wrecker operator shall remit such fee or charge to the charter county only after it is collected.

(4)(a) Subsection (1) does not apply to a charter county that had a towing licensing, regulatory, or enforcement program in effect on January 1, 2020. However, such charter county may not impose any new business tax, fee, or charge that was not in effect as of January 1, 2020, on a towing business or an authorized wrecker operator.

(b) A charter county may impose and collect an administrative fee or charge as provided in paragraph (2)(b); however, it may not impose that fee or charge upon a towing business or an authorized wrecker operator. If such charter county imposes such administrative fee or charge, such fee or charge must be imposed on the registered owner or other legally

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authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel. The fee or charge may not exceed 25 percent of the maximum towing rate to cover the cost of enforcement, including parking enforcement, by the charter county when the vehicle or vessel is towed from public property. The charter county may authorize an authorized wrecker operator or towing business to impose and collect the administrative fee or charge on behalf of the charter county, and the authorized wrecker operator or towing business shall remit such fee or charge to the charter county only after it is collected.

(c) For purposes of this subsection, the term "charter county" means a county as defined in s. 125.011(1).

Section 3. Paragraphs (b) and (c) of subsection (1) of section 166.043, Florida Statutes, are amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) ~~The provisions of~~ This section does ~~shall~~ not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, or rates for removal and storage of wrecked or disabled vehicles or vessels from an accident scene or the removal and storage of vehicles or vessels in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel.

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(c) Counties must establish maximum rates that ~~which~~ may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene, or for the removal and storage of vehicles or vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates ~~fees~~ for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance established under s. 125.0103 does ~~shall~~ not apply within such municipality.

Section 4. Section 166.04465, Florida Statutes, is created to read:

166.04465 Rules and ordinances relating to towing services.—

(1) A municipality may not enact an ordinance or rule that would impose a fee or charge on an authorized wrecker operator, as defined in s. 323.002(1), or on a towing business for towing, impounding, or storing a vehicle or vessel. As used in this section, the term "towing business" means a business that provides towing services for monetary gain.

(2) The prohibition set forth in subsection (1) does not affect a municipality's authority to:

(a) Levy a reasonable business tax under s. 205.0315, s. 205.043, or s. 205.0535.

(b) Impose and collect a reasonable administrative fee or

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charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the municipality when the vehicle or vessel is towed from public property. An authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the municipality and shall remit such fee or charge to the municipality only after it is collected.

Section 5. Present subsection (4) of section 323.002, Florida Statutes, is redesignated as subsection (6), and new subsections (4) and (5) are added to that section, to read:

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

(4)(a) Except as provided in paragraph (b), a county or municipality may not adopt or maintain in effect an ordinance or rule that imposes a charge, cost, expense, fine, fee, or penalty on an authorized wrecker operator, the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel when the vehicle or vessel is towed by an authorized wrecker operator under this chapter.

(b) A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, that is towed by an authorized wrecker operator, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is

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towed from public property. An authorized wrecker operator or towing business may impose and collect the administrative fee or charge on behalf of the county or municipality and shall remit such fee or charge to the county or municipality only after it is collected.

(c) A county or municipality may not enact an ordinance or rule that requires an authorized wrecker operator to accept a credit card as a form of payment. However, if an authorized wrecker operator does not accept a credit card, the wrecker operator must maintain an operable automatic teller machine for use by the public at its place of business. This paragraph does not apply to a county or municipality that adopted an ordinance or rule before January 1, 2020, requiring an authorized wrecker operator to accept a credit card as a form of payment.

(5) Subsection (4) does not apply to the towing or immobilization licensing, regulatory, or enforcement program of a charter county described in s. 125.01047(3) or (4). Such charter county may impose a charge, cost, expense, fine, fee, or penalty on an authorized wrecker operator in connection with a violation of the towing or immobilization program requirements as set forth by ordinance, resolution, or regulation.

Section 6. Subsection (2) of section 713.78, Florida Statutes, is amended to read:

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

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

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291 (a) The owner thereof;

292 (b) The owner or lessor, or a person authorized by the

293 owner or lessor, of property on which such vehicle or vessel is

294 wrongfully parked, and the removal is done in compliance with s.

295 715.07;

296 (c) The landlord or a person authorized by the landlord,

297 when such motor vehicle or vessel remained on the premises after

298 the tenancy terminated and the removal is done in compliance

299 with s. 83.806 or s. 715.104; or

300 (d) Any law enforcement agency,

301

302 she or he shall have a lien on the vehicle or vessel for a

303 reasonable towing fee, for a reasonable administrative fee or

304 charge imposed by a county or municipality, and for a reasonable

305 storage fee; except that a no storage fee may not ~~shall~~ be

306 charged if the vehicle or vessel is stored for fewer less than 6

307 hours.

308 Section 7. Subsection (2) of section 715.07, Florida

309 Statutes, is amended to read:

310 715.07 Vehicles or vessels parked on private property;

311 towing.—

312 (2) The owner or lessee of real property, or any person

313 authorized by the owner or lessee, which person may be the

314 designated representative of the condominium association if the

315 real property is a condominium, may cause any vehicle or vessel

316 parked on such property without her or his permission to be

317 removed by a person regularly engaged in the business of towing

318 vehicles or vessels, without liability for the costs of removal,

319 transportation, or storage or damages caused by such removal,

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320 transportation, or storage, under any of the following

321 circumstances:

322 (a) The towing or removal of any vehicle or vessel from

323 private property without the consent of the registered owner or

324 other legally authorized person in control of that vehicle or

325 vessel is subject to strict compliance with the following

326 conditions and restrictions:

327 1.a. Any towed or removed vehicle or vessel must be stored

328 at a site within a 10-mile radius of the point of removal in any

329 county of 500,000 population or more, and within a 15-mile

330 radius of the point of removal in any county of fewer less than

331 500,000 population. That site must be open for the purpose of

332 redemption of vehicles on any day that the person or firm towing

333 such vehicle or vessel is open for towing purposes, from 8:00

334 a.m. to 6:00 p.m., and, when closed, shall have prominently

335 posted a sign indicating a telephone number where the operator

336 of the site can be reached at all times. Upon receipt of a

337 telephoned request to open the site to redeem a vehicle or

338 vessel, the operator shall return to the site within 1 hour or

339 she or he will be in violation of this section.

340 b. If no towing business providing such service is located

341 within the area of towing limitations set forth in sub-

342 subparagraph a., the following limitations apply: any towed or

343 removed vehicle or vessel must be stored at a site within a 20-

344 mile radius of the point of removal in any county of 500,000

345 population or more, and within a 30-mile radius of the point of

346 removal in any county of fewer less than 500,000 population.

347 2. The person or firm towing or removing the vehicle or

348 vessel shall, within 30 minutes after completion of such towing

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or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles or vessels from a particular location.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and

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that the vehicle or vessel is subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, ~~before~~ prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 10 5 feet from the road as defined in s. 334.03(22) ~~public right-of-way line~~. If there are no curbs or access barriers, the signs must be posted not fewer ~~less~~ than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer ~~less~~ than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer ~~less~~ than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not fewer ~~less~~ than 24 hours before ~~prior to~~ the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs before ~~prior to~~ any towing or removal

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of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control or custody of a vehicle or vessel to pay the costs of towing and storage before ~~prior to~~ redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property

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owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control or custody of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(c), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or person in control or custody ~~custodian~~ within 1 ~~one~~ hour after requested. Any vehicle or vessel owner or person in control or custody ~~has agent shall have~~ the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or person in control or custody ~~other legally authorized person~~

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at the time of the redemption may be required from any vehicle or vessel owner ~~or person in control or custody, custodian, or agent~~ as a condition of release of the vehicle or vessel to its owner ~~or person in control or custody~~. A detailed, ~~signed~~ receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(b) These requirements are minimum standards and do not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles or vessels are towed from private property, except that a county or municipality may not enact an ordinance or rule that requires a towing business to accept a credit card as a form of payment. However, if a towing business does not accept a credit card, the towing business must maintain an operable automatic teller machine for use by the public at its place of business. This paragraph does not apply to a county or municipality that adopted an ordinance or rule before January 1, 2020, requiring a towing business to accept a credit card as a form of payment.

Section 8. This act shall take effect October 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20

Meeting Date

1332

Bill Number (if applicable)

Topic

Towing + Immobilizing Vehicles

721446

Amendment Barcode (if applicable)

Name

Candice Ericks

Job Title

Address

205 S. Adams

Street

Phone

954-648-1204

Email

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☐ In Support

☐ Against

(The Chair will read this information into the record.)

Representing

Broward + Palm Beach 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.

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

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

9-18-20

Meeting Date

1332

Bill Number (if applicable)

Topic

Towing

Name

Sandra Mortham

Job Title

Address

6675 Weeping Willow Way

Street

Tall

City

FL

State

32311

Zip

Phone

251-2283

Email

smortham@aol

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL Independent Auto Dealers

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/10/20  
Meeting Date

1332  
Bill Number (if applicable)

Topic Towing

Amendment Barcode (if applicable)

Name Jose Diaz

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

Address 108 E. Jefferson Street  
Street

Phone 850-681-0254

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Professional Wrecker Operators of 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 (10/14/14)

**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 Infrastructure and Security

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BILL: CS/SB 1484

INTRODUCER: Infrastructure and Security Committee and Senator Diaz

SUBJECT: Motor Vehicle Manufacturers and Dealers

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.			JU	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1484 addresses a number of issues related to contractual agreements between motor vehicle manufacturers, distributors and importers, and franchised motor vehicle dealers.

The CS creates new legislative findings that provide, among other things, that the current franchise system is necessary to: promote fair and harmonious relations between motor vehicle manufacturers, importers, distributors, and their dealers; protect fair competition; and to protect consumers.

The CS creates a new definition for the term “line-make vehicle” and provides that a line-make model that has been the subject of a franchise agreement with a dealer may not be sold by a manufacturer, importer, or distributor, other than through its franchised dealers and may not be rebadged or marketed as a new line-make unless the manufacturer, importer, or distributor, offers a franchise of that new line-make to every dealer that was franchised to sell that model before rebadging.

Lastly, the CS prohibits manufacturers from competing with franchised dealers in: the sale or service of vehicles; the sale of parts, accessories, or products; collision repair; or any other

activity related to the line-make sold by a dealer. However, a manufacturer is not prohibited from the sale of parts, accessories, or products if it is through a common entity's<sup>1</sup> brand name.

The CS does not appear to have a significant fiscal impact to state or local government.

The CS has an effective date of July 1, 2020.

## II. Present Situation:

Florida has substantially regulated motor vehicle manufacturers and motor vehicle dealers since before 1950.<sup>2</sup> Initially, the Florida Legislature approached the issue by implementing only consumer protections aimed at preventing consumer abuse by dealers.<sup>3</sup> In 1970, the Legislature passed more comprehensive legislation, embodied in ch. 320, F.S.,<sup>4</sup> which regulates, in part, the contractual relationship between manufacturers and franchised dealers,<sup>5</sup> requires the licensing of manufacturers, and regulates numerous aspects of the contracts between the manufacturers and dealers.

The current statement of intent in s. 320.605, F.S., states it is the Legislature's intent to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers.

### Florida Automobile Dealers Act

A licensee is a manufacturer, factory branch, distributor, or importer, and must be licensed under s. 320.61(1), F.S., to engage in business in Florida. Sections 320.60-320.70, F.S., the "Florida Automobile Dealers Act" (act), primarily regulate the contractual business relationship between franchised dealers and licensees, and provide for the licensure of manufacturers, factory branches, distributors, or importers.<sup>6</sup> The act specifies, in part:

- The conditions and situations under which the Department of Highway Safety and Motor Vehicles (DHSMV) may deny, suspend, or revoke a regulated license;
- The process, timing, and notice requirements for licensees who wish to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a request;
- The procedures a licensee must follow to add a franchised dealership in an area already served by a franchised dealer, the protest process, and the DHSMV's role in these circumstances;

---

<sup>1</sup> Section 320.60(2), F.S., defines "common entity" to mean a person: who is either controlled or owned, beneficially or of record, by one or more persons who also control or own more than 40 percent of the voting equity interests of a manufacturer; or who shares directors or officers or partners with a manufacturer.

<sup>2</sup> Chapter 9157, Laws of Fla. (1923); Chapter 20236, Laws of Fla. (1941).

<sup>3</sup> Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Univ. Law Rev. 1058, 1064 (2002), <https://ir.law.fsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1632&context=lr> (last visited February 6, 2020).

<sup>4</sup> See ch. 70-424, Laws of Fla.

<sup>5</sup> See s. 320.60(11), F.S.

<sup>6</sup> Walter E. Forehand, *supra* FN 3 at 1065.

- The damages that can be assessed against a licensee who is in violation of Florida Statutes; and
- The DHSMV's authority to adopt rules to implement these sections of law.

The act applies to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. Generally, all agreements that are renewed, amended, or entered into subsequent to October 1, 1988, are governed by the act, including amendments to the act, unless the amendment specifically provides otherwise.<sup>7</sup>

In 2009, the DHSMV held in an administrative proceeding that amendments to the act do not apply to dealers whose franchise agreements were signed prior to the effective date of various amendments to the act.<sup>8</sup> The DHSMV has indicated that it will apply this holding to every amendment to the act. This may result in different protections accruing to dealers, depending on when they signed their franchise agreements.

#### Grounds for Denial, Suspension, or Revocation of a License

An application for a manufacturer license may be denied, or a license may be revoked or suspended, on various grounds. Denials, suspensions, or revocations of manufacturer licenses can be based on consumer protection; however, the grounds for acting against licensees arise principally out of their dealings with motor vehicle franchised dealers with whom the licensees have a contractual relationship allowing the dealer to sell and service the licensee's new motor vehicles.<sup>9, 10</sup>

Currently there are 42 different criteria that may cause DHSMV to deny, suspend, or revoke the licensee's license. The criteria cross many topics, including: contractual obligations; coercion or threats; discontinuation, canceling, nonrenewing, modifying, or replacing franchise agreements; requiring changes to a dealer's sales or service facility; reducing the supply of new vehicles or parts to a franchised dealer; audits; disclosure of confidential financial information; failure to pay the dealer; and denying a warranty repair claim.<sup>11</sup>

Specifically, 320.64(23), F.S., provides that a licensee is prohibited from competing (with respect to any activity covered by the franchise agreement) with a franchised motor vehicle dealer of the same line-make located in this state with whom the licensee has entered into a franchise agreement.

"Line-make vehicles" are motor vehicles offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer (such as Ford, General

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<sup>7</sup> Section 320.6992, F.S.

<sup>8</sup> See *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-0935 (Fla. DOAH Dec. 9, 2009). The DHSMV ruled that a 2006 amendment to the Florida Automobile Dealers Act does not apply to a dealer terminated in 2008 because the dealer's franchise agreement was entered into prior to the effective date of the amendment. This Final Order was initially appealed but was later voluntarily dismissed. See also, *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 480 (Bankr. C.D. Cal. 2013).

<sup>9</sup> Section 320.64, F.S.

<sup>10</sup> See s. 320.60(1) (defining "agreement" or "franchise agreement").

<sup>11</sup> *Supra*, note 9.

Motors, or Honda). However, motor vehicles sold or leased under multiple brand names or marks must constitute a single line-make when they are included in a single franchise agreement and every motor vehicle dealer in this state authorized to sell or lease any such vehicles has been offered the right to sell or lease all of the multiple brand names or marks covered by the single franchise agreement.<sup>12</sup>

#### Procedure for Administrative Hearings and Adjudications

A franchised dealer who is directly and adversely affected by the action or conduct of a licensee which is alleged to be in violation of the act, may seek a declaration and adjudication of its rights by either filing a request with DHSMV for a proceeding and administrative hearing, or filing a written objection or notice of protest with DHSMV.<sup>13</sup>

Hearings are held no sooner than 180 days nor later than 240 days from the date a written objection or notice of protest is filed, unless extended with good cause by the administrative law judge.<sup>14</sup>

#### Civil Damages

A motor vehicle franchised dealer who can demonstrate that a violation of, or failure to comply with, any of the provisions of the act by an applicant or licensee will or can adversely and pecuniarily affect the dealer, is entitled to pursue treble damages and attorney's fees in civil court.<sup>15</sup> The licensee has the burden to prove that such violation did not occur upon a prima facie showing by the person bringing the action.<sup>16</sup> In addition, a motor vehicle franchised dealer may make an application to any circuit court of the state for a temporary or permanent injunction, or both, restraining any licensee from violating or continuing to violate any of the provisions of ss. 320.60-320.70, F.S., or from failing or refusing to comply with these statutory requirements.<sup>17</sup>

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

The CS creates a new definition for the term "line-make vehicle" which expands the current definition. The new definition includes all models and types of motor vehicles, regardless of the kind of engine, power plant, or drive train they have; their design; or their intended use or classification, which are offered for retail sale, lease, license, subscription, or any other method of distribution under a common name, trademark, service mark, or brand name of the manufacturer. Additionally, the CS prohibits a line-make model or type that has been the subject of a franchise with a motor vehicle dealer in this state from being sold or otherwise distributed or marketed in any way by an applicant or licensee other than through its franchised motor vehicle dealer, and, thereafter, may not be rebadged or otherwise marketed as a new line-make unless the manufacturer, importer, or distributor of such new line-make offers a franchise of that new line-make to every motor vehicle dealer that was franchised to sell that model or type before rebadging.

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<sup>12</sup> Section 320.60(14), F.S.

<sup>13</sup> Section 320.699(1), F.S.

<sup>14</sup> Section 320.699(2), F.S.

<sup>15</sup> See ss. 320.64, 320.694, and 320.697, F.S.

<sup>16</sup> Section 320.697, F.S.

<sup>17</sup> Section 320.695, F.S.

The CS replaces the Legislative intent with the more expansive Legislative findings below:

The Legislature finds and declares that the distribution, marketing, sale, leasing, rental, or otherwise providing title, use, or possession to consumers and other entities of motor vehicles, replacement parts, accessories, and the servicing and repair thereof in this state vitally affects the general economy of the state and the public safety and welfare of its residents. The Legislature further finds that the motor vehicle franchise system in this state operates within a defined and highly regulated statutory scheme; assures consumers of a well-organized distribution system that supports the availability of new motor vehicles; provides tens of thousands of jobs for the residents of this state; provides a network of quality warranty, repair, and recall facilities; and provides a cost-effective method for the state to police the system through licensing and regulation of the interactions between private sector franchisors and franchisees, and that such regulation is necessary to promote fair and harmonious relations between motor vehicle manufacturers, importers, distributors, and their dealers; to protect fair competition; to protect consumers; and to provide minorities with opportunities for participation as motor vehicle dealers.

The CS amends s. 320.64(23), F.S., to prohibit the licensee from competing (or attempting to compete) with one of its franchised dealers in the sale or service of vehicles; in the sale of replacement parts, accessories, or after-market products; in collision repair; or in any other motor vehicle dealer activity related to the line-make for which the motor vehicle dealer has a franchise agreement with the licensee, except as permitted in s. 320.645, F.S.<sup>18</sup>

The term “sale” includes the sale, leasing, rental, licensing, subscription, or any other transfer to a retail consumer, a wholesaler, or a broker of title, possession, or use of a motor vehicle, replacement parts, or accessories that are in the franchise agreement made with the motor vehicle dealer.

The CS will make it unlawful for manufacturers to sell replacement parts, accessories, or after-market products to a retail consumer, a wholesaler, or a broker of title unless it is through a common entity’s<sup>19</sup> brand name. Additionally, the language appears to prohibit manufacturers from the operation of vehicle subscription programs (subscription services allow consumers to pay a monthly subscription fee to have access to several vehicle models, which they can change at their convenience, and the fee also covers the cost of insurance, maintenance and roadside assistance).<sup>20</sup>

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<sup>18</sup> Provides that a licensee, distributor, manufacturer, or agent of a manufacturer or distributor, or any parent, subsidiary, common entity, or officer or representative of the licensee may engage either directly or indirectly in activities that compete with one of its franchised dealers in select activities (such as operating a motor vehicle dealership, and short-term rental of motor vehicles and industrial and construction equipment) under specific scenarios (such as the transition or sale of a motor vehicle dealership) for short-term periods that do not exceed 12 months.

<sup>19</sup> *Supra*, note 1.

<sup>20</sup> Kyle Hyatt, *Roadshow's guide to car subscription services, an alternative to buying or leasing* (December 27, 2019), cnet.com, available at <https://www.cnet.com/roadshow/news/2020-new-car-subscription-service-guide-buying-leasing-audi-genesis-porsche-volvo/> (last visited February 7, 2020).

The CS has an effective date of July 1, 2020.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The Federal Contracts Clause<sup>21</sup> provides that no state shall pass any law impairing the obligation of contracts. However, the Contracts Clause prohibition must be weighed against the state's inherent power to safeguard its people's interests. Three factors are considered when evaluating a claim that the Contracts Clause has been violated: (1) whether the law substantially impairs a contractual relationship; (2) whether there is a significant and legitimate public purpose for the law; and (3) whether the adjustments of rights and responsibilities of the contracting parties are based upon reasonable conditions and are of an appropriate nature.<sup>22</sup>

Some state laws regulating contracts between automobile manufacturers and franchised dealers have been found to be unconstitutional while other laws have been upheld as constitutional.<sup>23</sup>

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

**A. Tax/Fee Issues:**

None.

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<sup>21</sup> U.S. Const. art I § 10.

<sup>22</sup> *Vesta Fire Ins. Corp. v. State of Fla.*, 141 F.3d 1427, 1433 (11th Cir. 1998).

<sup>23</sup> See *Alliance of Auto. Mfrs., Inc. v. Currey*, 984 F. Supp. 2d 32 (D. Conn. 2013) (upholding state law that revised statutory method for calculating reasonable compensation for vehicle warranty work and prohibited manufacturers from recovering any additional cost of the new method from the dealers); *Arapahoe Motors, Inc. v. Gen. Motors Corp.*, No. CIV.A. 99 N 1985, 2001 WL 36400171, at 13 (D. Colo. Mar. 28, 2001) (the retroactive application of state law would be unconstitutional as it would create a new obligation or impose a new duty upon General Motors).



**B. Private Sector Impact:**

It is unclear whether the CS's provisions will be construed to modify or render unenforceable any existing contract or contract rights. To the extent the agreements between franchised dealers and motor vehicle manufacturers, distributors, and importers change due to compliance with statutory changes in the CS, the parties may be positively or negatively impacted.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This CS substantially amends the following sections of the Florida Statutes: 320.60, 320.605, and 320.64.

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

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute provides that a licensee is prohibited from attempting to compete with a franchised motor vehicle dealer, unless they are temporarily operating a dealership as allowed under current law. Additionally, the amendment provides that nothing prevents a common entity of an applicant or licensee from selling replacement parts, accessories, or after-market products under the common entity's brand name.

**B. Amendments:**

None.



829390

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Diaz) recommended the following:

**Senate Amendment**

Delete lines 88 - 102  
and insert:

(23) The applicant or licensee has competed, ~~or~~ is competing, or has attempted to compete with one of its franchised motor vehicle dealers in the sale or service of vehicles; in the sale of replacement parts, accessories, or after-market products; in collision repair; or in any other motor vehicle dealer activity related to the line-make for which



829390

11 the motor vehicle dealer in this state is a party to a franchise  
12 agreement with the applicant or licensee, except as permitted in  
13 s. 320.645. As used in this section, the term "sale" includes  
14 the sale, leasing, rental, licensing, subscription, or any other  
15 transfer to a retail consumer, a wholesaler, or a broker of  
16 title, possession, or use of a motor vehicle, replacement parts,  
17 or accessories that are the subject of, or covered in the  
18 franchise agreement with, the motor vehicle dealer. Nothing  
19 contained in the foregoing shall prevent a common entity of an  
20 applicant or licensee from selling replacement parts,  
21 accessories, or after-market products under the common entity's  
22 brand name ~~with respect to any activity covered by the~~

By Senator Diaz

36-01535B-20

20201484\_\_

A bill to be entitled

An act relating to motor vehicle manufacturers and dealers; amending s. 320.60, F.S.; redefining the term "line-make vehicle"; amending s. 320.605, F.S.; replacing legislative intent with legislative findings; amending s. 320.64, F.S.; revising a prohibition against certain applicants and licensees competing with franchised motor vehicle dealers in this state; defining the term "sale"; providing an effective date.

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

Section 1. Subsection (14) of section 320.60, Florida Statutes, is amended to read:

320.60 Definitions for ss. 320.61-320.70.—Whenever used in ss. 320.61-320.70, unless the context otherwise requires, the following words and terms have the following meanings:

(14) "Line-make vehicle" includes all models and types of motor vehicles, regardless of the kind of engine, power plant, or drive train they have; their design; or their intended use or classification, which are offered for retail sale, lease, license, subscription, or any other method of distribution under a common name, trademark, service mark, or brand name of the manufacturer of such vehicle. A line-make model or type that has been the subject of a franchise with a motor vehicle dealer in this state may not be sold or otherwise distributed or marketed in any way by an applicant or licensee other than through its franchised motor vehicle dealer, and, thereafter, may not be

Page 1 of 4

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

36-01535B-20

20201484\_\_

rebadged or otherwise marketed as a new line-make unless the manufacturer, importer, or distributor of such new line-make offers a franchise of that new line-make to every motor vehicle dealer that was franchised to sell that model or type before rebadging vehicles are those motor vehicles which are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of same.

However, motor vehicles sold or leased under multiple brand names or marks ~~shall~~ constitute a single line-make when they are included in a single franchise agreement and every motor vehicle dealer in this state authorized to sell or lease any such vehicles has been offered the right to sell or lease all of the multiple brand names or marks covered by the single franchise agreement. However ~~Except~~, such multiple brand names or marks ~~are shall be~~ considered individual franchises for purposes of s. 320.64(36).

Section 2. Section 320.605, Florida Statutes, is amended to read:

320.605 Legislative findings ~~intent~~.—The Legislature finds and declares that the distribution, marketing, sale, leasing, rental, or otherwise providing title, use, or possession to consumers and other entities of motor vehicles, replacement parts, accessories, and the servicing and repair thereof in this state vitally affects the general economy of the state and the public safety and welfare of its residents. The Legislature further finds that the motor vehicle franchise system in this state operates within a defined and highly regulated statutory scheme; assures consumers of a well-organized distribution system that supports the availability of new motor vehicles;

Page 2 of 4

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

36-01535B-20

20201484

provides tens of thousands of jobs for the residents of this state; provides a network of quality warranty, repair, and recall facilities; and provides a cost-effective method for the state to police the system through licensing and regulation of the interactions between private sector franchisors and franchisees, and that such regulation is necessary to promote fair and harmonious relations between motor vehicle manufacturers, importers, distributors, and their dealers; to protect fair competition; to protect consumers; and to provide minorities with opportunities for participation as motor vehicle dealers It is the intent of the Legislature to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers.

Section 3. Subsection (23) of section 320.64, Florida Statutes, is amended to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

Page 3 of 4

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

36-01535B-20

20201484

(23) The applicant or licensee has competed, is competing, or has announced its intention to compete with one of its franchised motor vehicle dealers in the sale or service of vehicles; in the sale of replacement parts, accessories, or after-market products; in collision repair; or in any other motor vehicle dealer activity related to the line-make for which the motor vehicle dealer in this state is a party to a franchise agreement with the applicant or licensee. As used in this subsection, the term "sale" includes the sale, leasing, rental, licensing, subscription, or any other transfer to a retail consumer, a wholesaler, or a broker of title, possession, or use of a motor vehicle, replacement parts, or accessories that are the subject of, or covered in the franchise agreement with, the motor vehicle dealer ~~The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.~~

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or may adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

Section 4. This act shall take effect July 1, 2020.

Page 4 of 4

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)

2/10/20

Meeting Date

1484

Bill Number (if applicable)

829390

Amendment Barcode (if applicable)

Topic Auto Dealers and Manufacturers

Name David Leibowitz

Job Title Secretary and General Counsel

Address 2060 Biscayne Blvd

Street

Miami

City

FL

State

33137

Zip

Phone 305-576-1889

Email davidl@bramanmanagement.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Braman Management 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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2/10/2020

Meeting Date

SB 1484

Bill Number (if applicable)

Topic AUTO DONOR FRANCHISE / LICENSE

Amendment Barcode (if applicable)

Name JEFF PERRY

Job Title DIRECTOR, PUBLIC POLICY

Address 300 RENAISSANCE CENTER

Phone 313 667 0946

Street

DETROIT

MI

48265

Email Jeffrey.Perry@GM.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing General Motors

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

Feb 10, 2020  
Meeting Date

SB 1484  
Bill Number (if applicable)

Topic motor vehicle franchise

Amendment Barcode (if applicable)

Name Diane Carr

Job Title W/ Johnson & Brandon

Address 837 E. Park Ave

Phone 850.210.4024

Street

Tall FL 32301

City

State

Zip

Email diane@teamjb.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing ALLIANCE for Automotive Innovation

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 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020

Meeting Date

1484

Bill Number (if applicable)

Topic MOTION VEHICLE DEALERS + MANUFACTURERS

Amendment Barcode (if applicable)

Name DAVID LEIBOWITZ

Job Title SECRETARY + GENERAL COUNSEL

Address 2060 BISCAYNE BLVD.

Street

MIAMI

City

FL

State

33137

Zip

Phone 305-576-1889

Email david@bramanmanagement.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing BRAMAN MANAGEMENT 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.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/10/2020

Meeting Date

9B1484

Bill Number (if applicable)

Topic Auto Dealer Franchising

Amendment Barcode (if applicable)

Name Fred Baggett

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

Address 101 E. College Ave.

Street

Phone 950 591 0915

Tallahassee

City

FL

State

32301

Zip

Email Baggett@GTLaw.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing Ford Motor Company

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/10/20

Meeting Date

SB 1484

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Ron Book

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

Address 104 W. Jefferson St.

Phone 850-224-3427

Street

TLH

Fla

32301

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Auto NATION

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2-10-20

Meeting Date

1484

Bill Number (if applicable)

Topic Motor Vehicle Dealers

Amendment Barcode (if applicable)

Name Ted Smith

Job Title President

Address 400 N. Meridian ST

Phone 850 224 2580

Street

City

TALLA

State

FL

Zip

32301

Email teds@flada.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Automobile Dealers 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.

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

S-001 (10/14/14)

**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 Infrastructure and Security

---

BILL: CS/SB 1692

INTRODUCER: Infrastructure and Security Committee and Senator Flores

SUBJECT: Driver Licenses

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.			ATD	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1692 provides that upon request the capital letter “D” will be exhibited on the driver license of a person who has a developmental disability if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or their parent or legal guardian, may have the capital letter “D” added to their license upon the surrender of their current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of a fee.

The CS may have an indeterminate negative fiscal impact. See Section V. Fiscal Impact Statement.

The CS provides an effective date of July 1, 2020.

## II. Present Situation:

### Autism Spectrum Disorder

The Center for Disease Control (CDC) estimates that one in 59 children have been identified with Autism Spectrum Disorder (ASD).<sup>1</sup> The CDC defines “Autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. There is often nothing about how people with ASD look that sets them apart from other people, but people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The learning, thinking, and problem-solving abilities of people with ASD can range from gifted to severely challenged. Some people with ASD need a lot of help in their daily lives; others need less.<sup>2</sup>

A diagnosis of ASD now includes several conditions that used to be diagnosed separately: autistic disorder, pervasive developmental disorder not otherwise specified, and Asperger syndrome. These conditions are now all called ASD.<sup>3</sup>

Florida law includes the following definitions:

“Autism” is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.<sup>4</sup>

“Developmental disability” is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>5</sup>

“Autism spectrum disorder” is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder;
- Asperger’s syndrome; and
- Pervasive developmental disorder not otherwise specified.<sup>6</sup>

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<sup>1</sup> Center for Disease Control and Prevention, Autism and Developmental Disabilities Monitoring (ADDM) Network, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 7, 2020).

<sup>2</sup> Center for Disease Control and Prevention, What is Autism Spectrum Disorder?, <https://www.cdc.gov/ncbddd/autism/facts.html> available at (last visited February 7, 2020).

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

<sup>4</sup> Section 393.063(5), F.S.

<sup>5</sup> Section 393.063(12), F.S.

<sup>6</sup> Sections 627.6686(2)(b) and 641.31098(2), F.S.

### **Designations on Driver Licenses**

Currently, the only designations an individual may have voluntarily placed on his or her driver license, are:<sup>7</sup>

- Lifetime sportsman;
- Lifetime Boater;
- Lifetime Freshwater Fishing License;
- Lifetime Saltwater Fishing License;
- Lifetime Hunting Licenses;
- Veteran;
- Insulin Dependent;
- Organ Donor; and
- Deaf/Hard of Hearing.

Other states, including New York and West Virginia, allow symbols on driver licenses and identification cards to represent that an individual holds a certain hunting or fishing license.<sup>8</sup>

### **Replacement Driver Licenses**

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector, otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.<sup>9</sup>

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

The CS provides that upon request by a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, the capital letter “D” will be exhibited on the driver license of a person who has a developmental disability, as defined in s. 393.063, F.S., if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or their parent or legal guardian, may have the capital letter “D” added to their license upon the surrender of their current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter “D” without payment of the fee required in s. 322.21(1)(e), F.S.

The CS has an effective date of July 1, 2020.

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<sup>7</sup> *Id.*

<sup>8</sup> See West Virginia Division of Natural Resources, <http://www.wvdnr.gov/2015news/15news017.shtm> and New York State Department of Environmental Conservation, <http://www.dec.ny.gov/permits/6099.html> (last visited February 7, 2020).

<sup>9</sup> Section 322.21(1)(e), F.S.

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

None.

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

None.

**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:**

SB 1694 establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The CS may have an indeterminate negative fiscal impact, due to the cost to the Tax Collectors and the Department of Highway Safety and Motor Vehicles for replacing a driver license for those choosing to add the capital letter “D” designation prior to the renewal of their driver license, if SB 1694 or similar legislation establishing a fee is not adopted in the same legislative session or an extension thereof and becomes law.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This CS substantially amends the following sections of the Florida Statutes: 322.14

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

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute adds a requirement that a person, or the person's parent or guardian, must first request the "D" designation before it is added to a driver license.

**B. Amendments:**

None.



939746

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
	.	
	.	
	.	

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The Committee on Infrastructure and Security (Flores)  
recommended the following:

**Senate Amendment**

Delete line 16

and insert:

(f)1. Upon request by a person who has a developmental  
disability, or by a parent or guardian of a child or ward who  
has a developmental disability, the capital letter "D" shall be  
exhibited on the

By Senator Flores

39-01374A-20

20201692\_\_

1 A bill to be entitled  
2 An act relating to driver licenses; amending s.  
3 322.14, F.S.; authorizing a person with specified  
4 disabilities to have the capital letter "D" placed on  
5 his or her driver license under certain circumstances;  
6 providing requirements for the placement of such  
7 letter on a person's driver license; providing an  
8 effective date.  
9  
10 Be It Enacted by the Legislature of the State of Florida:  
11  
12 Section 1. Paragraph (f) is added to subsection (1) of  
13 section 322.14, Florida Statutes, to read:  
14 322.14 Licenses issued to drivers.—  
15 (1)  
16 (f)1. The capital letter "D" shall be exhibited on the  
17 driver license of a person who has a developmental disability,  
18 as defined in s. 393.063, if the person, or his or her parent or  
19 legal guardian, presents sufficient proof that the person has  
20 been diagnosed with a developmental disability by a physician  
21 licensed under chapter 458 as determined by the department.  
22 2. Until a person's driver license is next renewed, the  
23 person, or his or her parent or legal guardian, may have the  
24 capital letter "D" added to his or her license upon the  
25 surrender of his or her current license and presentation of  
26 sufficient proof that the person has been diagnosed with a  
27 developmental disability by a physician licensed under chapter  
28 458 as determined by the department. If the applicant is not  
29 conducting any other transaction affecting the driver license, a

Page 1 of 2

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

39-01374A-20

20201692\_\_

30 replacement license may be issued with the capital letter "D"  
31 without payment of the fee required in s. 322.21(1)(e).  
32 Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

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

**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 Infrastructure and Security

---

BILL: CS/SB 1694

INTRODUCER: Infrastructure and Security Committee and Senator Flores

SUBJECT: Driver License Fees

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.			ATD	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1694 establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

SB 1692 is a linked bill that provides that the capital letter “D” will be exhibited on the driver license of a person who has a developmental disability if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

Until a person’s driver license is next renewed, the person, or their parent or legal guardian, may have the capital letter “D” added to their license upon the surrender of their current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a licensed physician.

The CS may have an indeterminate positive fiscal impact. The Revenue Estimating Conference has not yet met regarding the CS.

The CS will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

## II. Present Situation:

### Autism Spectrum Disorder

The Center for Disease Control (CDC) estimates that one in 59 children have been identified with Autism Spectrum Disorder (ASD).<sup>1</sup> The CDC defines “Autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. There is often nothing about how people with ASD look that sets them apart from other people, but people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The learning, thinking, and problem-solving abilities of people with ASD can range from gifted to severely challenged. Some people with ASD need a lot of help in their daily lives; others need less.<sup>2</sup>

A diagnosis of ASD now includes several conditions that used to be diagnosed separately: autistic disorder, pervasive developmental disorder not otherwise specified, and Asperger syndrome. These conditions are now all called ASD.<sup>3</sup>

Florida law includes the following definitions:

“Autism” is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.<sup>4</sup>

“Developmental disability” is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>5</sup>

“Autism spectrum disorder” is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder;
- Asperger’s syndrome; and
- Pervasive developmental disorder not otherwise specified.<sup>6</sup>

---

<sup>1</sup> Center for Disease Control and Prevention, Autism and Developmental Disabilities Monitoring (ADDM) Network, available at <https://www.cdc.gov/ncbddd/autism/addm.html> (last visited February 7, 2020).

<sup>2</sup> Center for Disease Control and Prevention, What is Autism Spectrum Disorder?, <https://www.cdc.gov/ncbddd/autism/facts.html> available at (last visited February 7, 2020).

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

<sup>4</sup> Section 393.063(5), F.S.

<sup>5</sup> Section 393.063(12), F.S.

<sup>6</sup> Sections 627.6686(2)(b) and 641.31098(2), F.S.

### **Designations on Driver Licenses**

Currently, the only designations an individual may have voluntarily placed on his or her driver license, are:<sup>7</sup>

- Lifetime sportsman;
- Lifetime Boater;
- Lifetime Freshwater Fishing License;
- Lifetime Saltwater Fishing License;
- Lifetime Hunting Licenses;
- Veteran;
- Insulin Dependent;
- Organ Donor; and
- Deaf/Hard of Hearing.

Other states, including New York and West Virginia, allow symbols on driver licenses and identification cards to represent that an individual holds a certain hunting or fishing license.<sup>8</sup>

### **Replacement Driver Licenses**

A replacement Class E driver license is \$25. If the replacement license is issued by the tax collector, \$7 is retained by the tax collector, otherwise the \$7 is deposited into the Highway Safety Operating Trust Fund. The remaining \$18 is deposited into the General Revenue Fund.<sup>9</sup>

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

The CS establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

The CS directs the \$2 fee to be deposited in the Highway Safety Operating Trust Fund.

The CS will take effect on the same date that SB 1692 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

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

None.

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<sup>7</sup> *Id.*

<sup>8</sup> See West Virginia Division of Natural Resources, <http://www.wvdnr.gov/2015news/15news017.shtm> and New York State Department of Environmental Conservation, <http://www.dec.ny.gov/permits/6099.html> (last visited February 7, 2020).

<sup>9</sup> Section 322.21(1)(e), F.S.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

Under the 2018 amendment to the Florida Constitution, Article VII, Section 19 requires “a supermajority vote” of 2/3 of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.<sup>10</sup> A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”<sup>11</sup>

The \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability may be a new state fees for purposes of requiring a supermajority vote and a separate bill containing no other subject.

**E. Other Constitutional Issues:**

None.

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

The CS establishes a \$1 fee that will be charged for the addition of the capital letter “D” to be exhibited on a new or renewed driver license, or a fee of \$2 to have the designation added to a replacement driver license, of a person who has a developmental disability, as defined in s. 393.063, F.S.

**B. Private Sector Impact:**

Individuals who choose the addition of the capital letter “D” to be exhibited on their driver license will pay an additional fee of \$1 for a new or renewed driver license, and \$2 for a replacement driver license, in addition to existing fees.

**C. Government Sector Impact:**

The CS may have an indeterminate positive fiscal impact to the Highway Safety Operating Trust Fund and the General Revenue Fund. The Revenue Estimating Conference has not yet met regarding the CS.

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<sup>10</sup> FLA. CONST. art. VII, s. 19(a).

<sup>11</sup> FLA. CONST. art. VII, s. 19(d)(1).

For a new or renewed driver license the \$1 additional fee would be deposited in the General Revenue Fund. For a replacement driver license the \$2 additional fee would be deposited in the Highway Safety Operating Trust Fund.

**VI. Technical Deficiencies:**

The CS needs to further amend s. 322.14(1)(f)1., F.S., to provide that the designation will be added upon the request of the person who has a developmental disability, or their parent or guardian, to correspond to the amended language in CS/SB 1692.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This CS substantially amends the following sections of the Florida Statutes: 322.14

**IX. Additional Information:**

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute links the bill to SB 1692 to provide the fee component for the addition of the “D” designation on a driver license, as well as for linking the effective date to the same date provided in SB 1692 or similar legislation that takes effect, if adopted in the same legislative session or an extension thereof and becomes a law.

- B. **Amendments:**

None.





931484

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2020	.	
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The Committee on Infrastructure and Security (Flores)  
recommended the following:

**Senate Amendment**

Delete line 11  
and insert:  
322.14, Florida Statutes, as created by SB 1692, is amended  
to

Delete line 35  
and insert:  
SB 1692 or similar legislation takes effect, if such



931484

11 | legislation

By Senator Flores

39-01427A-20

20201694\_\_

A bill to be entitled

An act relating to driver license fees; amending s. 322.14, F.S.; providing fees for the placement of a specified letter on the driver license of a person who has a developmental disability; providing a contingent effective date.

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

Section 1. Paragraph (f) of subsection (1) of section 322.14, Florida Statutes, as created by SB \_\_\_, is amended to read:

322.14 Licenses issued to drivers.—

(1)

(f)1. The capital letter "D" shall be exhibited on the driver license of a person who has a developmental disability, as defined in s. 393.063, upon the payment of an additional \$1 fee for the license and if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department.

2. Until a person's driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter "D" added to his or her license upon the surrender of his or her current license, payment of a \$2 fee to be deposited into the Highway Safety Operating Trust Fund, and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department. If

Page 1 of 2

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

39-01427A-20

20201694\_\_

the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter "D" without payment of the fee required in s. 322.21(1)(e).

Section 2. This act shall take effect on the same date that SB \_\_\_ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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

**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 Infrastructure and Security

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BILL: CS/SB 1738

INTRODUCER: Infrastructure and Security Committee and Senator Brandes

SUBJECT: Motor Vehicle Dealers

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	<b>Fav/CS</b>
2.			BI	
3.			RC	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1738 provides:

- Legislative findings that subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine is both unfair and economically disadvantageous to motor vehicle dealers, their leasing and rental affiliates, and state consumers in that it causes dealers and their affiliates to suffer higher insurance costs, which are then passed on to consumers;
- That a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle to a customer whose vehicle is being repaired, serviced, or adjusted by the dealer is immune from any cause of action and is not liable, vicariously or directly, under general law. The motor vehicle dealer or affiliate is granted immunity as long as there is no negligent or criminal wrongdoing on the part of the dealer or affiliate;
- The limits on liability do not apply if there is a replacement vehicle mechanical failure or defect; and
- The limits on liability do not apply unless there is a written rental or use agreement that names the drivers and the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information.

The CS has an effective date of July 1, 2020.

## II. Present Situation:

The court-created dangerous instrumentality doctrine holds an owner strictly liable for injuries caused by another person's negligent use of the owner's property. Specifically, when the owner entrusts a dangerous instrumentality to another person, the owner is responsible for damages caused by the other person. Whether the owner was negligent or at fault is irrelevant. The rationale for holding an innocent person responsible for such damages is that the owner of an instrumentality capable of causing death or destruction should be liable for damages caused by anyone operating it with the owner's consent.<sup>1</sup>

The dangerous instrumentality doctrine originated in English common law and was adopted by the Florida Supreme Court in 1920 in *Southern Cotton Oil Company v. Anderson*, 86 So. 629 (1920).<sup>2</sup> The Court acknowledged the doctrine was originally limited to fire, water, and poisons, but had expanded over time:

It is true that, in the early development of this very salutary doctrine, the dangerous agencies consisted largely of fire, flood, water, and poisons. In *Dixon v. Bell* . . . Lord Ellenborough extended the doctrine to include loaded firearms. With the discovery of high explosives, they were put in the same class. As conditions changed it was extended to include other objects that common knowledge and common experience proved to be as potent sources of danger as those embraced in the earlier classifications. The underlying principle was not changed, but other agencies were included in the classification. Among them are locomotives, push cars, street cars, etc., and it is now well settled that these come within the class of dangerous agencies, and the liability of the master is determined by the rule applicable to them. The reasons for putting these agencies in the class of dangerous instrumentalities apply with equal, if not greater, force to automobiles.<sup>3</sup>

In a 1990 Florida Supreme Court case, a man leased a car from a lessor and then loaned the leased car to a friend. The friend caused a motor vehicle crash in the leased car, killing another person. The victim's estate sued the lessor of the car directly. The Court held that the lessor was liable for the death of the victim under the dangerous instrumentality doctrine, even though the lessor did not cause the accident. The Court acknowledged that the dangerous instrumentality doctrine was "unique to Florida" but justified the doctrine as necessary "to provide greater financial responsibility to pay for the carnage on our roads."<sup>4</sup>

The Second District Court of Appeal has acknowledged that the dangerous instrumentality doctrine creates "real and perceived inequities" and "has drawn its fair share of criticism."<sup>5</sup> Once a court decides that an item is a dangerous instrumentality, an owner of such instrumentality is liable for damages the instrumentality causes, even if the owner was not in control of the instrumentality at the time.

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<sup>1</sup> *Roman v. Bogle*, 113 So. 3d 1011, 1016 (Fla. 5th DCA 2013).

<sup>2</sup> *Id.* at 1014.

<sup>3</sup> *S. Cotton Oil Company v. Anderson*, 86 So. 629, 631 (Fla. 1920).

<sup>4</sup> *Kraemer v. General Motors Acceptance Corp.*, 572 So. 2d 1363, 1365 (Fla. 1990).

<sup>5</sup> *Fischer v. Alessandrini*, 907 So. 2d 569, 570 (Fla. 2d DCA 2005).

Whether an item is a dangerous instrumentality is a question of law depending on several factors, none of which alone is dispositive, including:

- Whether the instrumentality is a motor vehicle.<sup>6</sup>
- Whether the instrumentality is frequently operated near the public, regardless of whether the incident at issue occurred on public property.
- The instrumentality's peculiar dangers relative to other objects that courts have found to be dangerous instrumentalities.
- The extent to which the Legislature has regulated the instrumentality.<sup>7</sup>

If the court decides an item is a dangerous instrumentality, the owner is liable regardless of the facts of the particular case. Over time, Florida courts have expanded the applicability of the doctrine to include automobiles,<sup>8</sup> trucks, buses,<sup>9</sup> tow-motors,<sup>10</sup> golf carts, and other motorized vehicles.<sup>11</sup>

The Florida Legislature has limited the dangerous instrumentality doctrine by providing that a motor vehicle dealer or rental car company that provides a temporary replacement vehicle to a customer for up to ten days acts as the operator of the vehicle and is liable for damages up to \$100,000 per person and \$300,000 per incident for bodily injury and up to \$50,000 for property damage.<sup>12</sup> If the driver of the vehicle is uninsured or has insurance limits of less than \$500,000 combined property damage and bodily injury liability, the motor vehicle dealer or car rental company is liable for up to an additional \$500,000 in economic damages arising out of the use of the vehicle.<sup>13</sup>

In 2005, Congress passed 49 U.S.C. § 30106, commonly known as the Graves Amendment, to prohibit states from imposing vicarious liability on car rental companies.<sup>14</sup> Vicarious liability is “liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate (such as an employee) based on the relationship between the two parties.”<sup>15</sup> To benefit from the Graves Amendment, the “owner” must be “engaged in the business of renting or leasing motor vehicles.” A vehicle “owner” may be the titleholder, lessee, or bailee of the vehicle.<sup>16</sup>

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<sup>6</sup> A motor vehicle is a “wheeled conveyance that does not run on rails and is self-propelled, especially one powered by an internal combustion engine, a battery or fuel-cell, or a combination of these.” *Newton v. Caterpillar Financial Servs. Corp.*, 253 So. 3d 1054, 1056 (Fla. 2018) (quoting Black’s Law Dictionary (10th ed. 2014)).

<sup>7</sup> *Newton*, 253 So. 3d at 1056.

<sup>8</sup> *S. Cotton Oil*, 86 So. at 629, *supra* at FN 3.

<sup>9</sup> *Meister v. Fisher*, 462 So. 2d 1071, 1072 (Fla. 1984).

<sup>10</sup> *Eagle Stevedores, Inc. v. Thomas*, 145 So. 2d 551 (Fla. 3d DCA 1962) (where plaintiff was struck in a dock area by a “tow-motor,” a small motor-operated vehicle, dangerous instrumentality doctrine applied).

<sup>11</sup> *Meister*, 462 So. 2d at 1072.

<sup>12</sup> Section 324.021(9)(b)2. & (c)1., F.S.

<sup>13</sup> *Id*

<sup>14</sup> Auto Rental News, The Graves Amendment: Challenges, Interpretations, Answers, <https://www.autorentalnews.com/156611/the-graves-amendment-challenges-interpretations-and-answers> (last visited February 7, 2020).

<sup>15</sup> Black’s Law Dictionary 427 (3<sup>rd</sup> pocket ed. 2006).

<sup>16</sup> Auto Rental News, *supra* at FN 14.

The Graves Amendment, however, does not protect a rental company from its own negligence or criminal wrongdoing. If an injury is caused by a rental company's negligent or criminal act, the rental company could still be directly liable for its actions or inactions, even if an accident occurs while a renter is driving the vehicle.<sup>17</sup> Federal law supersedes Florida's dangerous instrumentality doctrine when a rental car company rents a car to a driver who negligently injures another person.<sup>18</sup>

In 2011, the Florida Supreme Court held that as it relates to rental car companies the Graves Amendment specifically preempts Florida law<sup>19</sup> and relieves rental car companies, while engaged in the trade or business of renting or leasing motor vehicles, from vicarious liability for harm caused by the driver.<sup>20</sup>

In 2019, the Fourth District Court of Appeal, relying on the Supreme Court's analysis in *Vargas*, held that the Graves Amendment applies to a motor vehicle dealer that provides a customer with a temporary replacement vehicle.<sup>21</sup>

### III. Effect of Proposed Changes:

The CS provides the following legislative findings:

The Legislature finds that absent negligence or criminal conduct by a motor vehicle dealer, or its leasing or rental affiliates, subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine when a temporary replacement vehicle is provided to a consumer is both unfair and economically disadvantageous in that it causes dealers and their leasing or rental affiliates to suffer higher insurance costs, which are then passed on to consumers. Additionally, application of the vicarious liability doctrine in such cases often serves to relieve the actual tortfeasor from liability.

The CS provides that a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle at no charge or at a reasonable daily charge to a service customer whose vehicle is being repaired, serviced, or adjusted by the dealer is immune from any cause of action and is not liable, vicariously or directly, under general law by reason of being the owner of the temporary replacement vehicle for harm to persons or property which arises out of the use or operation of the temporary replacement vehicle by any person named in the rental or use agreement during the period the temporary replacement vehicle has been entrusted to the motor vehicle dealer's service customer. This limitation on liability only applies if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner or its leasing or rental affiliate.

The CS provides that the term "service customer" does not include an employee, an agent, or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate. The CS

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<sup>17</sup> *Id.*

<sup>18</sup> 49 U.S.C. § 30106.

<sup>19</sup> Section 324.021(9)(b)2., F.S.

<sup>20</sup> *Vargas v. Enterprise Leasing Co.*, 60 So.3d 1037 (Fla. 2011).

<sup>21</sup> *Collins v. Auto Partners V, LLC*, 276 So.3d 817 (Fla. 4th DCA 2019).

also provides the limits on liability do not apply if there is a replacement vehicle mechanical failure or defect that is a proximate cause of harm to persons or property which arises out of the use or operation of the temporary replacement vehicle.

The CS further provides the limits on liability do not apply unless there is a written rental or use agreement that names the drivers who will be given possession, control, or use of the temporary replacement vehicle; the rental or use agreement prohibits any person not listed in the agreement from using the temporary replacement vehicle; and the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage required in this state.

The CS provides an effective date of July 1, 2020.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

Motor vehicle dealers may see a reduction in insurance premiums and the cost of potential litigation.



C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This CS substantially amends the following section of the Florida Statutes: 324.021

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

**CS by Infrastructure and Security on February 10, 2020:**

The committee substitute:

- Revises the legislative intent section of the bill to remove references to the federal Graves Amendment and to focus on why dealers should not be vicariously liable for temporary replacement vehicles;
- Removes the provision specifying that notwithstanding any other general law or case law the motor vehicle dealer cannot be held liable (civilly or criminally) if a copy of the driver license and insurance card is obtained; and
- Provides that the bill's limitation on liability only applies if:
  - There is no negligence or criminal acts by the motor vehicle dealer or its leasing or rental affiliates;
  - The customer is not an employee, agent or principal of the motor vehicle dealer or its leasing or rental affiliates;
  - There are no mechanical defect or failure;
  - There is a written rental or use agreement executed naming the drivers; and
  - The motor vehicle dealer, or its leasing or rental affiliates, obtains copies of the driver license and insurance information showing minimum required coverage.

B. Amendments:

None.



574662

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/12/2020	.	
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The Committee on Infrastructure and Security (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. The Legislature finds that absent negligence or criminal conduct by a motor vehicle dealer, or its leasing or rental affiliates, subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine when a temporary replacement vehicle is provided to a consumer is both unfair and



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economically disadvantageous in that it causes dealers and their leasing or rental affiliates to suffer higher insurance costs, which are then passed on to consumers. Additionally, application of the vicarious liability doctrine in such cases often serves to relieve the actual tortfeasor from liability.

Section 2. Paragraph (c) of subsection (9) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(c) *Application*.—

1. The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days. The term "rental company" also includes:

a. A related rental or leasing company that is a subsidiary of the same parent company as that of the renting or leasing company that rented or leased the vehicle.



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b. The holder of a motor vehicle title or an equity interest in a motor vehicle title if the title or equity interest is held pursuant to or to facilitate an asset-backed securitization of a fleet of motor vehicles used solely in the business of renting or leasing motor vehicles to the general public and under the dominion and control of a rental company, as described in this subparagraph, in the operation of such rental company's business.

2. Furthermore, with respect to commercial motor vehicles as defined in s. 627.732, the limits on liability in subparagraphs (b)2. and 3. do not apply if, at the time of the incident, the commercial motor vehicle is being used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is required pursuant to such act to carry placards warning others of the hazardous cargo, unless at the time of lease or rental either:

a. The lessee indicates in writing that the vehicle will not be used to transport materials found to be hazardous for the purposes of the Hazardous Materials Transportation Authorization Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

b. The lessee or other operator of the commercial motor vehicle has in effect insurance with limits of at least \$5,000,000 combined property damage and bodily injury liability.

3.a. A motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate that provides a temporary replacement vehicle at no charge or at a reasonable daily charge to a service customer whose vehicle is being held for repair,



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69 service, or adjustment by the motor vehicle dealer is immune  
70 from any cause of action and is not liable, vicariously or  
71 directly, under general law by reason of being the owner of the  
72 temporary replacement vehicle for harm to persons or property  
73 which arises out of the use or operation of the temporary  
74 replacement vehicle by any person named in the rental or use  
75 agreement during the period the temporary replacement vehicle  
76 has been entrusted to the motor vehicle dealer's service  
77 customer if there is no negligence or criminal wrongdoing on the  
78 part of the motor vehicle owner or its leasing or rental  
79 affiliate.

80 b. For purposes of this subparagraph, the term "service  
81 customer" does not include an employee, an agent, or a principal  
82 of a motor vehicle dealer or a motor vehicle dealer's leasing or  
83 rental affiliate.

84 c. The limits on liability in this subparagraph do not  
85 apply if there is a replacement vehicle mechanical failure or  
86 defect that is a proximate cause of harm to persons or property  
87 which arises out of the use or operation of the temporary  
88 replacement vehicle.

89 d. The limits on liability in this subparagraph do not  
90 apply unless there is a written rental or use agreement that  
91 names the drivers who will be given possession, control, or use  
92 of the temporary replacement vehicle; the rental or use  
93 agreement prohibits any person not listed in the agreement from  
94 using the temporary replacement vehicle; and the motor vehicle  
95 dealer or the motor vehicle dealer's leasing or rental affiliate  
96 obtains from the person receiving the temporary replacement  
97 vehicle a copy of the person's driver license and insurance



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98 information reflecting at least the minimum motor vehicle  
99 insurance coverage required in this state.

100 Section 3. This act shall take effect July 1, 2020.

101  
102 ===== T I T L E A M E N D M E N T =====

103 And the title is amended as follows:

104 Delete everything before the enacting clause  
105 and insert:

106 A bill to be entitled

107 An act relating to motor vehicle dealers; providing  
108 legislative findings; amending s. 324.021, F.S.;  
109 providing that certain motor vehicle dealers and their  
110 leasing or rental affiliates are immune from causes of  
111 action and are not liable for harm to persons or  
112 property under certain circumstances; defining the  
113 term "service customer"; providing exceptions to the  
114 limits on liability; providing an effective date.

By Senator Brandes

24-00544A-20

20201738\_\_

A bill to be entitled

An act relating to motor vehicle dealers; providing legislative findings; amending s. 324.021, F.S.; revising the definition of the term "rental company" to include motor vehicle dealers without limitation and their leasing and rental affiliates for the purpose of minimum insurance coverage requirements; providing that motor vehicle dealers and their affiliates are immune to causes of action and not vicariously liable for harm to persons or property under certain circumstances; providing that motor vehicle dealers and their affiliates are not adjudged liable in civil proceedings or guilty in criminal proceedings under certain circumstances; providing exceptions; providing an effective date.

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

Section 1. The Legislature finds that although the federal Graves Amendment, 49 U.S.C. s. 30106, has eliminated vicarious liability claims against motor vehicle rental and leasing companies for damages or injuries caused by customers during a rental or lease, motor vehicle dealers and their leasing and rental affiliates in the state are still subjected to suits for damages or injuries caused by customers during the customers' operation of temporary replacement vehicles owned, but not being operated, by the motor vehicle dealers and their leasing and rental affiliates. Absent negligence or criminal conduct by a motor vehicle dealer or its leasing or rental affiliates, the

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

24-00544A-20

20201738\_\_

Legislature finds that subjecting motor vehicle dealers and their leasing and rental affiliates to this vicarious liability under the dangerous instrumentality doctrine is both unfair and economically disadvantageous to motor vehicle dealers, their leasing and rental affiliates, and state consumers in that it causes dealers and their affiliates to suffer higher insurance costs, which are then passed on to consumers. Vicarious liability in such cases often serves to relieve the actual tortfeasor from liability.

Section 2. Paragraph (c) of subsection (9) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(c) *Application*.—

1. The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes:

a. ~~only~~ An entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company.

b. ~~The term also includes~~ A motor vehicle dealer, or a

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

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20201738\_\_

59 motor vehicle dealer's leasing or rental affiliate, that  
 60 provides temporary replacement vehicles to its customers for up  
 61 to 10 days. The term "rental company" also includes:

62 c.a. A related rental or leasing company that is a  
 63 subsidiary of the same parent company as that of the renting or  
 64 leasing company that rented or leased the vehicle.

65 d.b. The holder of a motor vehicle title or an equity  
 66 interest in a motor vehicle title if the title or equity  
 67 interest is held pursuant to or to facilitate an asset-backed  
 68 securitization of a fleet of motor vehicles used solely in the  
 69 business of renting or leasing motor vehicles to the general  
 70 public and under the dominion and control of a rental company,  
 71 as described in this subparagraph, in the operation of such  
 72 rental company's business.

73 2. ~~Furthermore,~~ With respect to commercial motor vehicles  
 74 as defined in s. 627.732, the limits on liability in  
 75 subparagraphs (b)2. and 3. do not apply if, at the time of the  
 76 incident, the commercial motor vehicle is being used in the  
 77 transportation of materials found to be hazardous for the  
 78 purposes of the Hazardous Materials Transportation Authorization  
 79 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is  
 80 required pursuant to such act to carry placards warning others  
 81 of the hazardous cargo, unless at the time of lease or rental  
 82 either:

83 a. The lessee indicates in writing that the vehicle will  
 84 not be used to transport materials found to be hazardous for the  
 85 purposes of the Hazardous Materials Transportation Authorization  
 86 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

87 b. The lessee or other operator of the commercial motor

24-00544A-20

20201738\_\_

88 vehicle has in effect insurance with limits of at least  
 89 \$5,000,000 combined property damage and bodily injury liability.

90 3. A motor vehicle dealer, or a motor vehicle dealer's  
 91 leasing or rental affiliate, that provides a temporary  
 92 replacement vehicle at no charge or at a reasonable daily charge  
 93 to a service customer whose vehicle is being repaired, serviced,  
 94 or adjusted by the motor vehicle dealer is immune from any cause  
 95 of action and is not liable, vicariously or otherwise, under  
 96 general law by reason of being the owner of the temporary  
 97 replacement vehicle, for harm to persons or property that arises  
 98 out of the ownership, use, operation, control, or possession of  
 99 the temporary replacement vehicle during the period the  
 100 temporary replacement vehicle is in the use, operation, control,  
 101 or possession of the motor vehicle dealer's service customer, or  
 102 such customer's designee, if there is no negligence or criminal  
 103 wrongdoing on the part of the motor vehicle owner, or its  
 104 leasing or rental affiliate. For purposes of this section, and  
 105 notwithstanding any other provision of general law or existing  
 106 case law, a motor vehicle dealer, or a motor vehicle dealer's  
 107 leasing or rental affiliate, that gives possession, control, or  
 108 use of a temporary replacement vehicle to a motor vehicle  
 109 dealer's service customer may not be adjudged liable in a civil  
 110 proceeding, or guilty in a criminal proceeding, if the motor  
 111 vehicle dealer or the motor vehicle dealer's leasing or rental  
 112 affiliate obtains from the service customer or the customer's  
 113 designee a copy of the customer's driver license and information  
 114 on the required minimum motor vehicle insurance coverage in the  
 115 state. Any subsequent determination that the driver license or  
 116 insurance information provided to the motor vehicle dealer, or



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117 the motor vehicle dealer's leasing or rental affiliate, was in  
118 any way false, fraudulent, misleading, nonexistent, canceled,  
119 not in effect, or invalid does not alter or diminish the  
120 protections provided by this section, unless the motor vehicle  
121 dealer, or the motor vehicle dealer's leasing or rental  
122 affiliate, had actual knowledge thereof at the time possession  
123 of the temporary replacement vehicle was provided to the  
124 customer.

125 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-10-20

Meeting Date

1738

Bill Number (if applicable)

Topic Motor Vehicle Dealers

Name Ted Smith

Job Title President

Address 400 N Meridian St

Street

City

Tallah

State

FL 32301

Zip

Phone 850 224 2580

Email Teds@fada.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Automobile Dealers 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.

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

02.10.20

*Meeting Date*

1738Moti

*Bill Number (if applicable)*

Topic Motor Vehicle Dealers

*Amendment Barcode (if applicable)*

Name William Large

Job Title President

Address 210 South Monroe Street

Phone 850-222-0170

*Street*

Tallahassee

FL

32301

Email William@fljustice.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

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 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

2/10/20

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

1738

Meeting Date

Bill Number (if applicable)

Topic motor vehicle Dealers

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 1300 S Brannough St

Phone 521-1200

Street

Tallahassee

City

State

Zip

Email johnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Chamber of commerce

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/20  
Meeting Date

1738  
Bill Number (if applicable)

Topic Motor Vehicle Dealers

Amendment Barcode (if applicable)

Name Logan McFadden

Job Title Asst VP at APCIA

Address 218 S. Monroes  
Street

Phone 850-681 2615

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing American Property & Casualty 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/10/2020

Meeting Date

1738

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name DAVID LEIBOWITZ

Job Title SECRETARY + GENERAL COUNSEL

Address 2060 BISCAYNE BLVD.

Street

Phone 305-526-1889

MIAMI

City

FL

State

33137

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing BRAMAN MANAGEMENT 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.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/10/20

Meeting Date

SB 1738

Bill Number (if applicable)

Topic

Previous Liability

Amendment Barcode (if applicable)

Name

ROU Book

Job Title

Address

104 W. Jefferson

Phone

Street

Alt

FLC

3230

Email

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Automation

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 (10/14/14)

**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 Infrastructure and Security

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BILL: SB 7054

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Transportation

DATE: February 10, 2020

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller		<b>IS Submitted as Comm. Bill/Fav</b>

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**I. Summary:**

SB 7054 revises a number of transportation-related provisions. Specifically, effective July 1, 2023, the bill:

- Removes the Florida Rail Enterprise (FRE) from within the Florida Department of Transportation's (FDOT) organization, adding responsibility for ensuring general rail safety and coordinating efforts to enhance passenger rail safety to existing duties, and requiring delegation of the current and new rail-related duties to an entity to be named by the FDOT secretary.
- Reallocates to the State Transportation Trust Fund (STTF) \$60 million currently allocated to the FRE from documentary tax stamp funds, to be used for rail projects and rail safety improvements.
- Adds projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state to the FDOT's authorized uses of documentary stamp tax allocations.
- Makes a number of conforming revisions in various sections of law, primarily to replace all occurrences of the term "enterprise" with "department," meaning the FDOT.

In addition, the bill:

- Increases from \$275 to \$350 million the authorized debt service cap on Right-of-Way Acquisition and Bridge Construction Bonds issued to finance or refinance the cost of acquiring real property for state roads, or to finance or refinance the cost of bridge construction.
- Removes the expiration date for the annual \$5 million in funding from the STTF for the Intermodal Logistics Center Infrastructure Support Program.
- Includes provisions modeled after the Move Over Law with respect to road and bridge maintenance or construction vehicles and provides penalties for violations.
- Authorizes portable radar speed display units in advance of a work zone where workers are present for the purpose of road or bridge maintenance or construction on roads with a posted speed limit of 55 miles per hour to display flashing red and blue lights.



- Requires the FDOT to offer a right of first refusal to previous property owners from whom the FDOT acquired property when the FDOT has determined the property is not needed for a transportation facility and in specified instances.
- Revises the date for MPO submission of project priorities for purposes of developing the FDOT's tentative work program and MPO transportation improvement programs.
- Removes the expiration date for LBC chair and vice chair authority to approve amendments to the FDOT's work program that transfer fixed capital outlay appropriations between categories or increase an appropriation category.
- Increases from \$200 to \$295 million the amount of liability insurance required to be purchased by the FDOT for coverage of claims against AMTRAK arising out of the FDOT's passenger rail systems, in accordance with Federal law.
- Repeals the Economic Development Transportation Project program and makes conforming revisions to related statutes.
- Removes obsolete references to a General Revenue service charge from specified collected revenue deposited into the STTF.
- Conforms state law to Federal terminology with respect to a required document submitted by each person applying for a permit to construct or alter an airport obstruction, which documents must be reviewed by the FDOT.

The fiscal impact of the bill is indeterminate. See the "Fiscal Impact Statement" for additional information.

Except as otherwise provided, the bill takes effect July 1, 2020.

## **II. Present Situation:**

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

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

### **FDOT Organization and the Florida Rail Enterprise (Sections 1, 2, 16, and 17)**

#### ***Present Situation***

The FDOT, created in s. 20.23, F.S., as a decentralized agency and headed by the FDOT secretary, is organized into seven geographic districts headed by district secretaries, as well as a turnpike enterprise and a rail enterprise, each of which are headed by an executive director. The FRE executive director reports directly to the FDOT secretary, and the headquarters of the FRE is in Leon County.<sup>1</sup>

As delegated by the FDOT's secretary, the FRE executive director is responsible for developing and operating the high-speed and passenger rail systems established in Ch. 341, F.S.; directing funding for passenger rail systems under s. 341.303, F.S.; and coordinating publicly funded passenger rail operations, including freight rail interoperability issues.

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<sup>1</sup> Section 20.23(4)(a), F.S.

With respect to high-speed rail, the FRE operates pursuant to the Florida Rail Enterprise Act, located in ss. 341.8201-341.842, F.S. The Act, among other powers and duties, requires the FRE to “locate, plan, design, finance, construct, maintain, own, operate, and manage the high-speed rail system in this state.”<sup>2</sup> The FDOT is the only governmental entity authorized to acquire, construct, maintain, or operate the high-speed rail system, except upon specific authorization of the Legislature.<sup>3</sup>

Except as provided in the Consultants’ Competitive Negotiation Act,<sup>4</sup> the FRE is exempt from the FDOT’s policies, procedures, and standards, subject to the FDOT secretary’s authority to apply any such policies, procedures, and standards to the FRE as the secretary deems appropriate.<sup>5</sup>

The FRE, a single budget entity, submits its budget to the Legislature along with the FDOT’s budget. All passenger rail funding is included in the FRE’s budget.<sup>6</sup>

### *Documentary Stamp Tax*

Chapter 201, F.S., provides for the levy of a documentary stamp tax on certain documents, such as deeds; bonds; notes and written obligations to pay money; and mortgages, liens, and other evidence of indebtedness. After required distributions to the Land Acquisition Trust Fund<sup>7</sup> and deducting the General Revenue service charge,<sup>8</sup> the lesser of 24.18442 percent of the remainder of the tax proceeds or \$541.75 million in each fiscal year is deposited in the State Transportation Trust Fund (STTF). From that amount, \$75 million must be deposited into the General Revenue Fund. The remaining amount credited to the STTF must be used for:

- Capital funding for the New Starts Transit Program (New Starts)<sup>9</sup> in the amount of ten percent;
- The Small County Outreach Program (SCOP)<sup>10</sup> in the amount of ten percent;
- The Strategic Intermodal System<sup>11</sup> in the amount of 75 percent after deducting the payments for New Starts and SCOP; and
- The Transportation Regional Incentive Program (TRIP)<sup>12</sup> in the amount of 25 percent after deducting the payments for New Starts and SCOP.

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<sup>2</sup> Section 341.822, F.S.

<sup>3</sup> Section 341.8225, F.S.

<sup>4</sup> The act relates to agency acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services.

<sup>5</sup> Section 20.23(4)(f)2., F.S. Florida’s Turnpike Enterprise (FTE) is likewise exempt, subject to the FDOT secretary’s same authority, under s. 20.23(4)(e)2., F.S.

<sup>6</sup> Section 341.303(6)(a), F.S.

<sup>7</sup> Section 201.15(1) and (2), F.S.

<sup>8</sup> Section 215.20, F.S.

<sup>9</sup> See 49 U.S.C. s. 5309 and s. 341.051, F.S. Generally, the federal law authorizes grants to states and local governmental authorities to assist in financing rail transit and bus rapid transit systems.

<sup>10</sup> Section 339.2818, F.S.

<sup>11</sup> Sections 339.61-339.64, F.S.

<sup>12</sup> Section 339.2819, F.S.

Currently, the first \$60 million of the funds allocated to the TRIP are redirected annually to the FRE for the purposes established in s. 341.303(5), F.S.<sup>13</sup>

### *Rail Funding*

For the 2019-2020 fiscal year, the FRE was authorized one position and a budget of approximately \$266.8 million. Of that amount, \$106.8 million was for public transit development grants, \$154.8 million for rail development grants, and \$3.7 million for intermodal development grants.<sup>14</sup>

Section 341.303(5), F.S., authorizes the FDOT, through the FRE, to use funds allocated to the FRE from documentary stamp taxes to fund:

- Up to 50 percent of the nonfederal share of the costs of any eligible<sup>15</sup> passenger rail capital improvement project.
- Up to 100 percent of planning and development costs related to the provision of a passenger rail system.
- The high-speed rail system.
- Projects necessary to identify or address anticipated impact of increased freight rail traffic resulting from the implementation of passenger rail systems.

### *Effect of Proposed Changes*

**Section 1** of the bill amends s. 20.23, F.S., effective July 1, 2023, removing the statutory reference to the FRE within the FDOT's organization, as well as references to an FRE executive director, its headquarters, and its exemption from FDOT policies, procedures, and standards. Rather than delegating responsibility for rail systems, passenger rail funding, and publicly-funded passenger rail operations to the FRE executive director, the bill authorizes the FDOT secretary to delegate those responsibilities, including responsibility for rail safety, to a departmental entity to be named by the FDOT secretary. The effective date of this and related sections is delayed, consistent with the bill's re-allocation of documentary stamp tax funding, discussed below.

**Section 16** amends s. 341.302, F.S., effective July 1, 2023, relating to the FDOT's development and implementation of a statewide rail program in conjunction with other governmental entities, to remove reference to the FRE. This section of the bill also removes the FDOT duty to promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems, and replaces it with the duty to coordinate the development, general rail safety, and operation of publicly funded passenger rail systems in this state. Responsibility for the high-speed rail system would remain with the FDOT. See the "Conforming Revisions" heading below.

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<sup>13</sup> Section 201.15(4)(a)4., F.S.

<sup>14</sup> Specific Appropriations 1953-1961, 2019 General Appropriations Act, available at <http://www.flsenate.gov/Session/Bill/2019/2500/BillText/er/PDF> (last visited February 1, 2020).

<sup>15</sup> Any project necessary to carry out the FDOT's duties and responsibilities provided in s. 341.302, F.S., that is consistent with the approved local government comprehensive plan of the unit of government of the areas served by the rail service, and that is contained in the adopted work program, is eligible for funding in accordance with the identified participation rates, per s. 341.303(2), F.S.

*Documentary Stamp Tax*

**Section 2** of amends s. 201.15(4)(a)4., F.S., continuing the current reallocation to the FRE of the first \$60 million of funds allocated to the TRIP for three fiscal years, 2020-21, 2021-2022, and 2022-2023. This reallocation to the FRE expires on July 1, 2023. Beginning in the 2023-2024 fiscal year, the bill annually transfers the same \$60 million to the State Transportation Trust Fund to be used for rail projects and rail safety improvements as provided in s. 341.303(5), F.S.

*Rail Funding*

**Section 17** amends s. 341.303(5), F.S., effective July 1, 2023, adding to the FDOT's currently authorized uses of the documentary stamp tax allocations projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state. The bill also repeals subsection (6) of that section to remove designation of the FRE as a single budget entity, direction to submit the FRE budget along with the FDOT's, inclusion of all passenger rail funding in the FRE budget entity, and provisions relating to unexpended funds appropriated or provided for the FRE. Project funding authorized under this section of law would be included in the FDOT's budget.

*Conforming Revisions (Section 18-20 and 23-28)*

Effective July 1, 2023, the bill revises the following sections of the Florida Rail Enterprise Act relating to high-speed rail to conform to the repeal of the FRE and the revised documentary stamp tax funding:

- **Section 18** amends s. 341.8201, F.S., to repeal the short title, citing ss. 341.8201-341.842, F.S., as the "Florida Rail Enterprise Act."
- **Section 19** amends s. 341.8203, F.S., relating to definitions for purposes of ss. 341.822-341.842, F.S., to remove the definition of "Enterprise," meaning the FRE; replace all occurrences of the term "enterprise" with "department," and revise a cross-reference.
- **Section 20** amends s. 341.822, F.S., relating to powers and duties, to remove references to the FRE, replace all occurrences of the term "enterprise" with "department," and revise a cross-reference. Also removed from this section of law is:
  - FRE authority to employ procurement methods available to the FDOT;
  - FRE executive director authority to appoint staff; and
  - Reference to the FRE's conferred powers as supplemental to the existing powers of the FDOT.

The following sections of the Act are also amended to replace all occurrences of the term "enterprise" with "department" and to revise cross-references:

- **Section 23** amends s. 341.825, F.S., relating to communication facilities and permits to construct them within a new or existing high-speed rail system.
- **Section 24** amends s. 341.836, F.S., relating to associated development.
- **Section 25** amends s. 341.838, F.S., relating to authority to charge and collect fares, rents, and fees for use of the high-speed rail system.

- **Section 26** amends s. 341.839, F.S., relating to supplemental and additional powers not subject to approval or consent.
- **Section 27** amends s. 341.840, F.S., relating to tax exemptions.

**Section 28** amends s. 343.58(4), F.S., effective July 1, 2023, relating to FDOT funding for the South Florida Regional Transportation Authority, to prohibit such funding from documentary stamp tax funds dedicated to “State Transportation Trust Fund,” rather than to the FRE.

### **Debt Service Cap on Right-of-Way Acquisition and Bridge Construction Bonds (Section 3)**

#### ***Present Situation***

Section 215.605, F.S., authorizes the issuance of state bonds to finance or refinance the cost of acquiring real property for state roads, or to finance or refinance the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, the Legislature must authorize bonds, which must be issued pursuant to the State Bond Act.<sup>16</sup>

Section 206.46, F.S., authorizes the FDOT to transfer up to seven percent of the revenues deposited into the STTF in each fiscal year into the Right-of-Way Acquisition and Bridge Construction Trust Fund to meet outstanding or proposed bond obligations; or, at a minimum, an amount sufficient to pay for the debt service coverage of outstanding bonds. The annual transfer amount, however, may not exceed that which is necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million. Thus, debt service may not exceed seven percent of the revenues deposited into the STTF or \$275 million, whichever is less.

The FDOT notes that no adjustment has been made to the \$275 million cap since 2007, and that the subject bonds are included in the FDOT’s overall debt assessment, under which the FDOT is required to manage all levels of debt to ensure that no more than 20 percent of total projected available revenues from the STTF.<sup>17</sup> Based on the FDOT’s most recent bond sale and Revenue Estimating Conference projections, the limit on debt service based on the seven-percent-of-revenue threshold would have been \$286.9 million in FY 2019 growing to \$350.6 million in FY 2028 based on revenue of \$5,009.1 million.<sup>18</sup> Additionally, the FDOT advises that under the current statutory limit, the \$275 million cap leaves the FDOT with only about \$100 million of available bonding capacity.

#### ***Effect of Proposed Changes***

**Section 3** of the bill amends s. 206.46, F.S., to increase the maximum debt service coverage level from \$275 million to \$350 million. Thus, under the bill, debt service could not exceed seven percent of the revenues deposited into the STTF or \$350 million, whichever is less.

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<sup>16</sup> Sections 215.57-215.83, F.S.

<sup>17</sup> Section 339.139, F.S.

<sup>18</sup> See the FDOT 2020 Legislative Proposal, *Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap* (on file in the Senate Infrastructure and Security Committee).

## **Intermodal Logistics Center (ILC) Infrastructure Support Program (Section 7)**

### ***Present Situation***

The ILC Infrastructure Support Program within the FDOT provides funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport. The FDOT is authorized to provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.<sup>19</sup>

Section 311.101(3), F.S., provides the following criteria that the FDOT must consider when evaluating projects:

- The ability of the project to serve a strategic state interest and 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, and 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; and the extent to which the owner has commitments, including agreements, with private sector businesses planning to locate operations at the ILC.
- Demonstrated local financial support and commitment to the project.

At least \$5 million per year must be made available from the STTF to fund the program, and the FDOT is directed to provide up to 50 percent of project costs for eligible projects.<sup>20</sup> The minimum funding requirement is currently set to expire on July 1, 2020. The FDOT points to the ILC program as having leveraged local and private funding, enabling completion of 12 unique projects that are geographically dispersed around the state.<sup>21</sup>

### ***Effect of Proposed Changes***

**Section 7** amends s. 311.101(7), F.S., to remove the July 1, 2020, expiration date for the required minimum annual \$5 million from the STTF to fund the ILC program, thereby making the minimum annual funding permanent.

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<sup>19</sup> For purposes of s. 311.101, F.S., creating the program, defines the term “intermodal logistics center” including, but not limited to, an “inland port,” as “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, good distribution, consolidation, or value-added activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09.”

<sup>20</sup> Section 311.101(6) and (7), F.S.

<sup>21</sup> See the FDOT’s 2020 Legislative Proposal, *Intermodal Logistics Center (ILC) Infrastructure Support Program* (on file in the Senate Infrastructure and Security Committee).

## **Road and Bridge Maintenance and Construction Vehicles: Worker and Traveler Safety (Section 10)**

### ***Present Situation***

According to the Centers for Disease Control and Prevention, from 2003 to 2017, 1,844 workers lost their lives at road construction sites. Over that period of time, Texas had the most work deaths at road construction sites with 218, followed by Florida with 132 deaths. Additionally, transportation events accounted for 76 percent of roadway work zone fatal occupational injuries during the period from 2011-2017. In 60 percent of these cases, a vehicle struck a worker in the work zone.<sup>22</sup>

Under the Florida Move Over Law,<sup>23</sup> if an emergency vehicle, a sanitation vehicle, a utility service vehicle, or a wrecker is working along the roadside, every other driver must vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce speed to 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater; or travel at five miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road.<sup>24</sup> However, the Move Over Law does not currently apply to road and bridge maintenance or construction vehicles.

The FDOT advises that maintenance and construction activities on roadways generally require temporary traffic control<sup>25</sup> to provide safety for both workers and others traveling through work zones.<sup>26</sup> However, for short duration work activities that do not require lane or shoulder closures, such as fence repair or tree trimming,<sup>27</sup> advance signs and channeling devices<sup>28</sup> may be omitted due to the risk in setting up the signs and devices.<sup>29</sup>

The FDOT employs additional strategies to reduce work zone fatalities. Among those strategies, the FDOT uses portable radar display units, which are a subset of changeable message signs, and are trailer-mounted regulatory speed limit signs with flashing lights used to inform motorists of a new speed limit for a work zone.<sup>30</sup>

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<sup>22</sup> Centers for Disease Control and Prevention, The National Institute for Occupational Safety and Health, available at <https://www.cdc.gov/niosh/topics/highwayworkzones/default.html> (last visited January 5, 2020).

<sup>23</sup> Section 316.126, F.S.

<sup>24</sup> Section 316.126(1)(b), F.S.

<sup>25</sup> According to the Manual on Uniform Traffic Control Devices, adopted by the FDOT pursuant to direction in s. 316.0745, F.S., “temporary traffic control” refers to the needs and control of all road users, including motorists, bicyclists, and pedestrians within the highway, or on private roads open to public travel, and is an essential part of highway construction, utility work, maintenance operations, and the management of traffic incidents. Temporary traffic control “provides for continuity of the movement of motor vehicle, bicycle, and pedestrian traffic (including accessible passage); transit operations, and access to property and utilities.” See the Manual, Chapter 6A, Section 6A.01, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part6.pdf> (last visited January 5, 2020).

<sup>26</sup> See the FDOT’s 2020 Legislative Proposal, *Move Over Law*, (on file in the Senate Infrastructure and Security Committee).

<sup>27</sup> See the FDOT email to House committee staff, January 31, 2020 (on file in the Senate Infrastructure and Security Committee).

<sup>28</sup> The FDOT notes that “Channelizing devices for temporary traffic control are cones, drums, barricades, etc.” *Id.* A search of the FDOT’s website reveals that these devices are referred to as both “channeling” and “channelizing” devices.

<sup>29</sup> *Supra* note 26.

<sup>30</sup> Federal Highway Administration, *FDOT’s Work Zone Fatality Reduction Strategies*, available at <https://ops.fhwa.dot.gov/wz/workersafety/wzfrwebinar/fl/index.htm> (last visited February 6, 2020). According to the FDOT,

The Manual on Uniform Traffic Control Devices (MUTCD), adopted by the FDOT pursuant to direction in s. 316.0745, F.S., describes portable changeable message signs as temporary traffic control devices installed for temporary use with the flexibility to display a variety of messages, including application where traffic speed is expected to drop substantially.<sup>31</sup> Warning lights used in a temporary traffic control zone, in either a steady burn or a flashing mode, are yellow in color as defined by the MUTCD.<sup>32</sup> In addition, the MUTCD provides that “If a changeable message sign displaying approach speeds is installed, the legend YOUR SPEED XX MPH or such similar legend should be displayed. The color of the changeable message legend should be a yellow legend on a black background or the reverse of these colors.”<sup>33</sup>

Florida law expressly prohibits any vehicle *or equipment*, except police vehicles, to show or display blue lights, with the exception of Department of Corrections vehicles when responding to emergencies.<sup>34</sup> Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles are authorized to display amber lights when in operation or a hazard exist.<sup>35</sup> Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.<sup>36</sup> However, a search of the MUTCD, the national standard for traffic control devices and current Florida law, and of other relevant state statutes, reveals no authorization for the display of flashing red and blue lights on portable radar speed display units.

### ***Effect of Proposed Changes***

**Section 10** creates s. 334.275, F.S., specific to road and bridge maintenance and construction vehicles engaged in the performance of maintenance or construction for a governmental entity,<sup>37</sup> tracking the current Move Over Law. Notwithstanding any other provision of law, if a road or bridge maintenance or construction vehicle displaying warning lights is on the roadside without advanced signs or channeling devices, as soon as it is safe, the driver of every other vehicle is required to vacate the lane closest to the maintenance or construction vehicle when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the maintenance or construction vehicle, except when otherwise directed by a law enforcement officer.

If vacating the closest lane is not safe, the driver of every other vehicle is required to slow to a speed that is 20 miles per hour less than the speed limit when the speed limit is 25 miles per hour

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<sup>31</sup> MUTCD, Section 6F.60, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf> (last visited February 6, 2020).

<sup>32</sup> MUTCD, Section 1A.13 definition of “warning light” available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf> (last visited February 6, 2020).

<sup>33</sup> MUTCD, Section 2B.13, available at <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf> (last visited February 6, 2020).

<sup>34</sup> Section 316.2397(2), F.S.

<sup>35</sup> Section 316.2397(4), F.S.

<sup>36</sup> Section 316.2397(5), F.S.

<sup>37</sup> The bill defines “governmental entity” as the FDOT; any transportation authority created under chs. 343, 348, or 349; publicly owned and used airports; seaports; a county; or a municipality. Section 334.27(1), F.S.



or greater; or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road, with the same law enforcement direction exception.

Every pedestrian using the road right-of-way is required to yield the right-of-way to an authorized road or bridge maintenance or construction vehicle, unless otherwise directed by a law enforcement officer. Additionally, as is the case in the Move Over Law, the bill provides the new section of law does not:

- Diminish or enlarge any rules of evidence or liability in any case involving the operation of a road or bridge maintenance or construction vehicle.
- Relieve the driver of an authorized road or bridge maintenance or construction vehicle from the duty to drive with due regard for the safety of all persons using the highway.

In addition, the bill authorizes portable radar speed display units, in advance of a work zone where workers are present for the purpose of road or bridge maintenance or construction and with a posted speed limit of 55 miles per hour or more, to show or display flashing red and blue lights. This provision appears to be inconsistent with MUTCD requirements adopted pursuant to s. 316.0745, F.S.

The bill requires the Department of Highway Safety and Motor Vehicles to include the requirements of the new section of law in its educational awareness campaign relating to the Move Over Act and in all newly printed driver license educational materials.

A violation of the new section is a noncriminal traffic infraction, punishable pursuant to chapter 318, F.S., as either a moving violation<sup>38</sup> for infractions relating to road or bridge maintenance or construction vehicles, or as a pedestrian violation<sup>39</sup> for pedestrian infractions.

## **Disposal of Real Property (Section 11)**

### ***Present Situation***

The FDOT is authorized to convey any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.<sup>40</sup> In such cases, the FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest. The FDOT must advertise the disposal of property valued by the FDOT at greater than \$10,000.<sup>41</sup>

A sale of unneeded property may not occur at a price less than the FDOT's current estimate of value except that:

- If donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose jurisdiction the property lies may authorize reconveyance of the donated property for no

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<sup>38</sup> Section 318.14(3)(a), F.S., generally imposes a \$60 penalty, plus any applicable court costs or fees.

<sup>39</sup> Section 318.18(1)(a), F.S., imposes a \$15 penalty for all infractions of pedestrian regulations, plus any applicable court costs or fees.

<sup>40</sup> Section 337.25(1) and (4), F.S.

<sup>41</sup> Section 337.25(4), F.S.

consideration to the original donor or the donor's heirs, successors, assigns, or representatives.<sup>42</sup>

- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.<sup>43</sup>
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, the FDOT may negotiate for the sale of such property as replacement housing.<sup>44</sup>
- If the FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks, the FDOT may use the projected maintenance costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.<sup>45</sup>
- If in the FDOT's discretion a sale to a person other than an abutting property owner would be inequitable, the property may be sold to the abutting owner for the FDOT's current estimate of value.<sup>46</sup>

In cases of property to be used for a public purpose, and in cases of property requiring significant costs to be incurred or exposing the FDOT to significant liability risks, as described above, the FDOT is authorized, but not required, to first offer the property ("right of first refusal") to the local government or other political subdivision in whose jurisdiction the property is situated.<sup>47</sup>

### *Effect of Proposed Changes*

**Section 11** amends s. 337.25(4), F.S., requiring the FDOT, notwithstanding any provision of that section to the contrary, to afford a right of first refusal to the previous property owner (the owner from whom the FDOT originally acquired the property) for the FDOT's current estimate of value in cases of property to be used for a public purpose, in cases of property requiring significant costs to be incurred or exposing the FDOT to significant liability risks, and in cases in which the FDOT determines that a sale to any person other than an abutting property owner would be inequitable.

In cases of property to be used for a public purpose, and in cases of property requiring significant costs to be incurred or exposing the FDOT to significant liability risks, the FDOT would be required to offer a right of first refusal to the previous property owner before being authorized to offer the property to the local government or other political subdivision in whose jurisdiction the property is located.

The bill requires the FDOT to offer the previous property owner the right of first refusal in writing, by certified mail or hand delivery, and the offer of the right is effective upon the property owner's receipt. The offer must provide the previous owner a minimum of 30 days to exercise the right. The previous owner must send notice of exercise of the right to the FDOT by

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<sup>42</sup> Section 337.25(4)(a), F.S.

<sup>43</sup> Section 337.25(4)(b), F.S.

<sup>44</sup> Section 337.25(4)(c), F.S.

<sup>45</sup> Section 337.25(4)(d), F.S.

<sup>46</sup> Section 337.25(4)(e), F.S.

<sup>47</sup> *Supra* note 41.

certified mail or hand delivery, effective upon dispatch. Once the right is exercised, the previous owner has 90 days to close on the property.

### **Metropolitan Planning Organization Project Priority Submissions to the FDOT (Sections 12 and 13)**

#### ***Present Situation***

The FDOT's adopted work program is the five-year work program adopted by the FDOT pursuant to s. 339.135, F.S. In developing the adopted work program, each of the FDOT districts submits an annual district work program, which is the five-year listing of transportation projects planned for each fiscal year, to the FDOT's central office for review and development of the tentative work program. The tentative work program is the five-year listing of all transportation projects planned for each fiscal year which is developed by the FDOT's central office based on the district work programs.<sup>48</sup> Each year, a new fifth year is added for purposes of developing the tentative and adopted work programs.

With respect to development of the tentative work program, as outlined in s. 339.135(4), F.S., the district work program is developed cooperatively with the various metropolitan planning organizations (MPOs) around the state and must include, to the maximum extent feasible, the project priorities submitted by the MPOs to the FDOT's districts by October 1 of each year. The FDOT and an MPO may agree in writing to vary the submission date.<sup>49</sup>

The FDOT advises that during a "normal" work program development cycle, submission of MPO project priorities by October 1 allows sufficient time for development of the tentative work program cycle. However, because the Legislature meets beginning in January in even-numbered years,<sup>50</sup> the tentative work program cycle is "compressed" by two months, creating a need for earlier submission of project information. The FDOT notes that no failure to submit a priority list has occurred, but earlier submission has been provided as a courtesy, rather than a mandate.<sup>51</sup>

The MPOs are also required, in cooperation with the state and affected public transportation operators, to develop a transportation improvement program for the area within the jurisdiction of the MPO. Similar to work program development, each MPO is required to submit to the appropriate FDOT district a list of project priorities by October 1 of each year. Again, the FDOT and an MPO may agree in writing to vary the submission date. The MPO-approved lists must be used by the FDOT districts in developing the district work programs.<sup>52</sup>

#### ***Effect of Proposed Changes***

**Section 12 and Section 13**, respectively, amend s. 339.135(4)(c) and s. 339.175(8)(b), F.S., to revise from October 1 to August 1 the deadline for MPOs to submit their project priority lists for

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<sup>48</sup> Section 339.135(1), F.S.

<sup>49</sup> Section 339.135(4)(c), F.S.

<sup>50</sup> Article III, Section 3(b), Florida Constitution.

<sup>51</sup> See the FDOT's 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities* (on file in the Senate Infrastructure and Security Committee).

<sup>52</sup> Section 339.175(8), F.S.

purposes of developing the FDOT's tentative work program and for purposes of development of MPO transportation improvement programs.

## **Work Program Amendments (Section 12)**

### ***Present Situation***

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.<sup>53</sup> However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the Legislative Budget Commission (LBC).

Prior to 2016, if a meeting of the LBC could not be held within 30 days after the FDOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.<sup>54</sup> In 2016, the Legislature repealed the authorization for LBC chair and vice chair approval if the LBC could not meet.<sup>55</sup> In 2019, this authorization was reinstated with an expiration date of July 1, 2020.<sup>56</sup>

### ***Effect of Proposed Changes***

**Section 12** amends s. 339.135(7)(g), F.S., to remove the expiration of authorization for LBC chair and vice chair approval of the identified amendments to the FDOT's adopted work program, thereby making the provision permanent.

## **Passenger Rail Insurance Limits (Section 15)**

### ***Present Situation***

Current law authorizes the FDOT to purchase liability insurance for its rail program, which may not exceed \$200 million, and which may include coverage for the FDOT, certain freight rail operators, the National Railroad Passenger Corporation (AMTRAK), commuter rail service providers, governmental entities, or any ancillary development.<sup>57</sup>

In 1997, Federal law set the amount of passenger rail liability coverage for AMTRAK at \$200 million.<sup>58</sup> In 2015, the federal government required the liability coverage amount to be adjusted to reflect changes based on the consumer price index and required the adjustment every five years.<sup>59</sup> In 2016, the liability coverage amount was increased to \$294.3 million.<sup>60</sup>

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<sup>53</sup> Section 339.135(7), F.S.

<sup>54</sup> Section 339.135(7)(g), F.S. (2015).

<sup>55</sup> Chapter 2016-181, L.O.F., Section 16.

<sup>56</sup> Chapter 2019-116, L.O.F., Section 101.

<sup>57</sup> Section 341.302(7)b), F.S.

<sup>58</sup> 49 U.S.C. s. 28103.

<sup>59</sup> As directed by s. 11415 of the FAST Act.

<sup>60</sup> Federal Register, Vol. 81, No. 6, Monday, January 11, 2016, *Adjustment to Rail Passenger Transportation Liability Cap*, available at [https://www.apta.com/wp-content/uploads/Resources/gap/fedreg/Documents/DOT-OST\\_Adjustment%20to%20Rail%20Passenger%20Transportation%20Liability%20Cap\\_Noticef.pdf](https://www.apta.com/wp-content/uploads/Resources/gap/fedreg/Documents/DOT-OST_Adjustment%20to%20Rail%20Passenger%20Transportation%20Liability%20Cap_Noticef.pdf) (last visited February 6, 2020).

*Effect of Proposed Changes*

**Section 15** amends s. 341.302(17)(b), F.S., increasing the required liability insurance coverage amount for the FDOT's passenger rail systems from \$200 to \$295 million, consistent with the currently required federal rail liability insurance coverage amount .

**Economic Development Transportation Projects (Sections 4, 21, 22, and 29)***Present Situation*

The Economic Development Transportation Project program is an economic incentive program intended to encourage specific businesses to locate, expand, or remain in the state.<sup>61</sup> Under this program, the FDOT, in consultation with the Department of Economic Opportunity (DEO) and Enterprise Florida, Inc., may make and approve expenditures and contract with the appropriate governmental body<sup>62</sup> for the direct costs of eligible transportation projects.<sup>63</sup>

The FDOT, in consultation with the DEO, reviews each transportation project for approval and funding, and the FDOT must approve a project for it to be eligible for funding. The criteria the FDOT must consider in reviewing projects include: the cost per job created or retained, average wages for jobs created, capital investment by the business, local commitment, and local unemployment and poverty rates.<sup>64</sup>

The program is appropriated on a non-recurring basis in the STTF and, according to the FDOT, in the absence of appropriation, the projects have to be deferred or deleted, causing a disruption in the tentative work program.<sup>65</sup>

According to the FDOT, over the recent few years, the program has been underutilized because the Legislature has used a unique budget category for local projects. "Given the local projects are no longer included in and administered under the provision of this program, [FDOT] staff proposes removing [economic development transportation project] requirements from statute. Removal of [the requirements] from statute would release FDOT from having to program associated projects into the 5-year Work Program totaling \$5 million."<sup>66</sup>

*Effect of Proposed Changes*

**Section 14** repeals s. 339.2821, F.S., containing the Economic Development Transportation Project program.

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<sup>61</sup> Section 339.2821, F.S.

<sup>62</sup> Defined in s. 339.2821(1)(b)1., to mean "an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the department for the transportation project."

<sup>63</sup> Section 339.2821(1)(b)2., defines "transportation project" to mean "a transportation facility, as defined in s. 334.03, which the department, in consultation with the Department of Economic Opportunity, deems necessary to facilitate the economic development and growth of the state."

<sup>64</sup> Section 339.2821(2), F.S.

<sup>65</sup> FDOT, Economic Development Transportation Fund Fact Sheet (on file in the Senate Infrastructure and Security Committee). *See also* the FDOT's 2020 Legislative Proposal, *Deletion of Road Fund (SED)* (on file in the Senate Infrastructure and Security Committee.)

<sup>66</sup> FDOT 2020 Legislative Proposal, *supra* note 65.

**Section 21** amends s. 288.0656(7)(a), F.S., relating to the Rural Economic Development Initiative, to remove reference to “transportation projects under s. 339.2821.”

**Section 22** amends s. 339.08(1), F.S., relating to use of moneys in the STTF, to remove authorization to pay the cost of economic development transportation projects in accordance with s. 339.2821.

**Section 29** amends s. 377.809(4)(a), F.S., relating to the Energy Economic Zone Pilot Program, to remove a reference to business eligibility for priority funding under s. 339.2821.

### **Obsolete References to the General Revenue Service Charge (Sections 4, 5, 6, and 8)**

#### ***Present Situation***

Section 215.20(1), F.S., appropriates from revenue deposited into most state trust funds<sup>67</sup> an eight-percent service charge, which represents the estimated pro rata share of the cost of general government. All such appropriations are deposited into the General Revenue Fund.

Section 215.211(1), F.S., however, eliminated the service charge beginning July 1, 2000, for taxes distributed under:

- Section 206.606(1), F.S., relating to the distribution of motor and diesel fuel taxes;
- Section 212.0501(6), F.S., relating to taxes on diesel fuel used in self-propelled off-road equipment for business purposes; and
- Section 319.32(5), F.S., relating to the disposition of fees from certificate of title transactions.

Additionally, s. 215.211(2), F.S., eliminated the service charge beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.

Although the service charge on the specified taxes has been eliminated, references to the service charge remain in statute for the described taxes or fees.

#### ***Effect of Proposed Changes***

**Sections 4, 5, 6, and 8**, respectively, remove the obsolete references to the General Revenue service charge that remain in ss. 206.606(1), 206.608, 212.0501(6), and 319.32, F.S.

### **Airport Zoning Regulations – Technical Revision (Section 9)**

Section 333.03, F.S., requires every political subdivision having an airport hazard area<sup>68</sup> within its territorial limits to adopt, administer, and enforce airport protection zoning regulations for such airport hazard area. That section contains minimum requirements for airport protection zoning regulations, including the requirement for documentation showing compliance with the

<sup>67</sup> Section 215.22, F.S., sets out a list of items and trust funds that are exempt from the service charge.

<sup>68</sup> An “airport hazard” is “an obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.” Section 333.01(3), F.S. An “airport hazard area” is “any area of land or water upon which an airport hazard might be established.” Section 333.01(4), F.S.

federal requirement for notification of proposed construction or alteration of structures and “a valid aeronautical study” submitted by each person applying for a permit for the construction or alteration of any obstruction.

***Effect of Proposed Changes***

**Section 9** amends s. 333.03(1)(c), F.S., to replace the reference to “a valid aeronautical study” with the federal terminology, “a final valid determination of the Federal Aviation Administration.”

The FDOT advises “This revision will advance the agency’s mission by clarifying the federal document to be provided to the FDOT for review and comment on the local government permit application. This is a technical change in language only. It will not change the manner in which we perform these functions.”<sup>69</sup>

**IV. Constitutional Issues:**

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

None. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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

None.

**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.

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<sup>69</sup> See the FDOT’s 2020 Legislative Proposal, *Airport Determination Terminology* (on filed in the Senate Infrastructure and Security Committee.)

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FDOT may incur administrative expenses associated with the removal of the FRE from the FDOT's organization and with the FDOT secretary's naming of a departmental entity to which the secretary must delegate rail responsibilities. However, the amount of any such expenses should be minimal, as the FDOT currently funds the expenses of both the FRE and its Rail Office.

Local governments may lose opportunities to receive conveyance of surplus property from the FDOT without consideration if the previous owner exercise the right of first refusal provided in the bill.

The FDOT may incur unknown expenses associated with purchasing additional rail liability insurance. However, the cost of any such additional insurance is unknown and, under current law, the costs to the FDOT would be shared with any covered freight rail operator, AMTRAK, commuter rail service providers, governmental entities, or ancillary development.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 20.23, 201.15, 206.606, 206.608, 212.0501, 288.0656, 311.101, 319.32, 333.03, 337.25, 339.08, 339.135, 339.175, 341.302, 341.303, 341.8203, 341.822, 341.825, 341.836, 341.838, 341.839, 341.840, 343.58, and 377.809.

This bill creates the following sections of the Florida Statutes: 334.275.

This bill repeals the following sections of the Florida Statutes: 339.2821, 341.8201.

**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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FOR CONSIDERATION By the Committee on Infrastructure and Security

596-02792D-20

20207054pb

1 A bill to be entitled  
 2 An act relating to transportation; amending s. 20.23,  
 3 F.S.; revising the organization of the Department of  
 4 Transportation; revising and providing for the  
 5 delegation of certain responsibilities; revising  
 6 provisions relating to the operation of a rail  
 7 enterprise; amending s. 201.15, F.S.; revising uses  
 8 for distributions made under the State Transportation  
 9 Trust Fund in specified fiscal years; providing for  
 10 the expiration of a specified provision; beginning in  
 11 a specified fiscal year, requiring the allocation of a  
 12 certain amount of funds to the State Transportation  
 13 Trust Fund to be used for rail safety; amending s.  
 14 206.46, F.S.; revising a limitation on an annual  
 15 transfer from the State Transportation Trust Fund to  
 16 the Right-of-Way Acquisition and Bridge Construction  
 17 Trust Fund; amending ss. 206.606, 206.608, and  
 18 212.0501, F.S.; removing a requirement for deduction  
 19 of certain service charges before the distribution of  
 20 certain moneys; amending s. 311.101, F.S.; deleting  
 21 the scheduled expiration of funding for the Intermodal  
 22 Logistics Center Infrastructure Support Program;  
 23 amending s. 319.32, F.S.; removing a requirement for  
 24 deduction of certain service charges before depositing  
 25 fees for a certificate of title into the State  
 26 Transportation Trust Fund; amending s. 333.03, F.S.;  
 27 requiring airport protection zoning regulations to  
 28 require certain permit applicants to submit a final  
 29 valid determination from the Federal Aviation

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30 Administration; creating s. 334.275, F.S.; requiring a  
 31 driver to vacate lanes or reduce vehicle speed on  
 32 certain highways under certain conditions; providing  
 33 an exception; authorizing portable radar speed display  
 34 units to show or display certain lights under  
 35 specified conditions; requiring the Department of  
 36 Highway Safety and Motor Vehicles to include certain  
 37 requirements in its specified educational awareness  
 38 campaign and in driver license educational materials;  
 39 requiring pedestrians using road rights-of-way to  
 40 yield the right-of-way to authorized road or bridge  
 41 maintenance or construction vehicles; providing an  
 42 exception; providing applicability; providing  
 43 construction; providing noncriminal penalties;  
 44 amending s. 337.25, F.S.; requiring the Department of  
 45 Transportation to afford a right of first refusal to  
 46 certain individuals under specified circumstances;  
 47 providing requirements and procedures for the right of  
 48 first refusal; amending s. 339.135, F.S.; conforming  
 49 provisions to changes made by the act; deleting the  
 50 scheduled expiration of provisions relating to  
 51 approval of amendments submitted to the Legislative  
 52 Budget Commission by the department; amending s.  
 53 339.175, F.S.; revising the date by which a  
 54 metropolitan planning organization must submit a list  
 55 of project priorities to the appropriate department  
 56 district; repealing s. 339.2821, F.S., relating to  
 57 economic development transportation projects; amending  
 58 s. 341.302, F.S.; revising the maximum amount of

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liability insurance the department may purchase;  
 revising department responsibilities regarding rail  
 systems; amending s. 341.303, F.S.; revising  
 department funding authority regarding rail systems;  
 conforming provisions to changes made by the act;  
 repealing s. 341.8201, F.S., relating to the "Florida  
 Rail Enterprise Act" short title; amending s.  
 341.8203, F.S.; revising definitions; amending s.  
 341.822, F.S.; requiring the department, rather than  
 the Florida Rail Enterprise, to locate, plan, design,  
 finance, construct, maintain, own, operate,  
 administer, and manage the high-speed rail system in  
 the state; amending ss. 288.0656, 339.08, 341.825,  
 341.836, 341.838, 341.839, 341.840, 343.58, and  
 377.809, F.S.; conforming provisions to changes made  
 by the act; providing effective dates.

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

Section 1. Effective July 1, 2023, paragraphs (a) and (f)  
 of subsection (4) of section 20.23, Florida Statutes, are  
 amended to read:

20.23 Department of Transportation.—There is created a  
 Department of Transportation which shall be a decentralized  
 agency.

(4)(a) The operations of the department shall be organized  
 into seven districts, each headed by a district secretary, and a  
 turnpike enterprise ~~and a rail enterprise, each enterprise~~  
 headed by an executive director. The district secretaries and

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the executive director ~~directors~~ shall be registered  
 professional engineers in accordance with ~~the provisions of~~  
 chapter 471 or the laws of another state, or, in lieu of  
 professional engineer registration, a district secretary or the  
 executive director may hold an advanced degree in an appropriate  
 related discipline, such as a Master of Business Administration.  
 The headquarters of the districts shall be located in Polk,  
 Columbia, Washington, Broward, Volusia, Miami-Dade, and  
 Hillsborough Counties. The headquarters of the turnpike  
 enterprise shall be located in Orange County. ~~The headquarters~~  
~~of the rail enterprise shall be located in Leon County.~~ In order  
 to provide for efficient operations and to expedite the  
 decisionmaking process, the department shall provide for maximum  
 decentralization to the districts.

(f) ~~1-~~ The responsibility for developing and operating the  
 high-speed and passenger rail systems established in chapter  
 341, directing funding for passenger rail systems under s.  
 341.303, ensuring general rail safety, coordinating efforts to  
enhance passenger rail safety in the state, and coordinating  
 publicly funded passenger rail operations in the state,  
 including freight rail interoperability issues, shall be  
 delegated to a departmental entity to be named by the secretary  
~~to the executive director of the rail enterprise, who shall~~  
~~serve at the pleasure of the secretary. The executive director~~  
~~shall report directly to the secretary, and the rail enterprise~~  
~~shall operate pursuant to ss. 341.8201-341.842.~~

~~2. To facilitate the most efficient and effective~~  
~~management of the rail enterprise, including the use of best~~  
~~business practices employed by the private sector, the rail~~

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~~enterprise, except as provided in s. 287.055, shall be exempt from departmental policies, procedures, and standards, subject to the secretary having the authority to apply any such policies, procedures, and standards to the rail enterprise from time to time as deemed appropriate.~~

Section 2. Paragraph (a) of subsection (4) of section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017,

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secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or \$541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, \$75 million for each fiscal year shall be transferred to the General Revenue Fund. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4.a. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.

b. In fiscal years 2020-2021, 2020-2022, and 2022-2023, the first \$60 million of the funds allocated pursuant to this

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175 subparagraph ~~must shall~~ be allocated annually to the Florida  
 176 Rail Enterprise for the purposes established in s. 341.303(5).  
 177 This sub-subparagraph expires July 1, 2023.

178 c. Beginning in the 2023-2024 fiscal year, the first \$60  
 179 million of the funds allocated pursuant to this subparagraph  
 180 must be allocated annually to the State Transportation Trust  
 181 Fund to be used for rail projects and rail safety improvements  
 182 as provided in s. 341.303(5).

183 Section 3. Subsection (2) of section 206.46, Florida  
 184 Statutes, is amended to read:

185 206.46 State Transportation Trust Fund.—

186 (2) Notwithstanding any other ~~provision~~ provisions of law,  
 187 from the revenues deposited into the State Transportation Trust  
 188 Fund a maximum of 7 percent in each fiscal year shall be  
 189 transferred into the Right-of-Way Acquisition and Bridge  
 190 Construction Trust Fund created in s. 215.605, as needed to meet  
 191 the requirements of the documents authorizing the bonds issued  
 192 or proposed to be issued under ss. 215.605 and 337.276 or at a  
 193 minimum amount sufficient to pay for the debt service coverage  
 194 requirements of outstanding bonds. Notwithstanding the 7 percent  
 195 annual transfer authorized in this subsection, the annual amount  
 196 transferred under this subsection shall not exceed an amount  
 197 necessary to provide the required debt service coverage levels  
 198 for a maximum debt service not to exceed ~~\$350~~ \$275 million. Such  
 199 transfer shall be payable primarily from the motor and diesel  
 200 fuel taxes transferred to the State Transportation Trust Fund  
 201 from the Fuel Tax Collection Trust Fund.

202 Section 4. Subsection (1) of section 206.606, Florida  
 203 Statutes, is amended to read:

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204 206.606 Distribution of certain proceeds.—

205 (1) Moneys collected pursuant to ss. 206.41(1)(g) and  
 206 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust  
 207 Fund. Such moneys, after deducting ~~the service charges imposed~~  
 208 ~~by s. 215.20~~, the refunds granted pursuant to s. 206.41, and the  
 209 administrative costs incurred by the department in collecting,  
 210 administering, enforcing, and distributing the tax, which  
 211 administrative costs may not exceed 2 percent of collections,  
 212 shall be distributed monthly to the State Transportation Trust  
 213 Fund, except that:

214 (a) Each fiscal year, \$6.3 ~~\$6.30~~ million shall be  
 215 transferred to the Fish and Wildlife Conservation Commission ~~in~~  
 216 ~~each fiscal year~~ and deposited in the Invasive Plant Control  
 217 Trust Fund to be used for aquatic plant management, including  
 218 nonchemical control of aquatic weeds, research into nonchemical  
 219 controls, and enforcement activities. The commission shall  
 220 allocate at least \$1 million of such funds to the eradication of  
 221 melaleuca.

222 (b) Annually, \$2.5 million shall be transferred to the  
 223 State Game Trust Fund in the Fish and Wildlife Conservation  
 224 Commission and used for recreational boating activities and  
 225 freshwater fisheries management and research. The transfers must  
 226 be made in equal monthly amounts beginning on July 1 of each  
 227 fiscal year. The commission shall annually determine where unmet  
 228 needs exist for boating-related activities, and may fund such  
 229 activities in counties where, due to the number of vessel  
 230 registrations, sufficient financial resources are unavailable.

231 1. A minimum of \$1.25 million shall be used to fund local  
 232 projects to provide recreational channel marking and other

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uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, and other public launching facilities, derelict vessel removal, and other local boating-related activities. In funding the projects, the commission shall give priority consideration to:

a. Unmet needs in counties having populations of 100,000 or fewer.

b. Unmet needs in coastal counties having a high level of boating-related activities from individuals residing in other counties.

2. The remaining \$1.25 million may be used for recreational boating activities and freshwater fisheries management and research.

3. The commission may adopt rules to administer a Florida Boating Improvement Program.

The commission shall prepare and make available on its ~~Internet~~ website an annual report outlining the status of its Florida Boating Improvement Program, including the projects funded, and a list of counties the whose needs of which are unmet due to insufficient financial resources from vessel registration fees.

(c) ~~0.65 percent~~ Of ~~the~~ moneys collected pursuant to s. 206.41(1)(g), 0.65 percent shall be transferred to the Agricultural Emergency Eradication Trust Fund.

(d) Each fiscal year, \$13.4 million in fiscal year 2007-2008 and each fiscal year thereafter of the moneys attributable to the sale of motor and diesel fuel at marinas shall be transferred from the Fuel Tax Collection Trust Fund to the Marine Resources Conservation Trust Fund in the Fish and

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Wildlife Conservation Commission.

Section 5. Section 206.608, Florida Statutes, is amended to read:

206.608 State Comprehensive Enhanced Transportation System Tax; deposit of proceeds; distribution.—Moneys received pursuant to ss. 206.41(1)(f) and 206.87(1)(d) shall be deposited in the Fuel Tax Collection Trust Fund, and, after deducting the ~~service charge imposed in chapter 215 and~~ administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed as follows:

(1) ~~0.65 percent~~ Of the proceeds of the tax levied pursuant to s. 206.41(1)(f), 0.65 percent shall be transferred to the Agricultural Emergency Eradication Trust Fund.

(2) The remaining proceeds of the tax levied pursuant to s. 206.41(1)(f) and all of the proceeds from the tax imposed by s. 206.87(1)(d) shall be transferred into the State Transportation Trust Fund, and may be used only for projects in the adopted work program in the district in which the tax proceeds are collected, and, to the maximum extent feasible, such moneys shall be programmed for use in the county where collected. However, ~~no~~ revenue from the taxes imposed pursuant to ss. 206.41(1)(f) and 206.87(1)(d) in a county may not shall be expended unless the projects funded with such revenues have been included in the work program adopted pursuant to s. 339.135.

Section 6. Subsection (6) of section 212.0501, Florida Statutes, is amended to read:

212.0501 Tax on diesel fuel for business purposes; purchase, storage, and use.—

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(6) All taxes required to be paid on fuel used in self-propelled off-road equipment shall be deposited in the Fuel Tax Collection Trust Fund, ~~to be distributed, after deduction of the general revenue service charge pursuant to s. 215.20,~~ to the State Transportation Trust Fund. The department shall, each month, make a transfer, from general revenue collections, equal to such use tax reported on dealers' sales and use tax returns.

Section 7. Subsection (7) of section 311.101, Florida Statutes, is amended to read:

311.101 Intermodal Logistics Center Infrastructure Support Program.—

(7) ~~Beginning in fiscal year 2014-2015,~~ At least \$5 million per fiscal year shall be made available from the State Transportation Trust Fund for the program. The Department of Transportation shall include projects proposed to be funded under this section in the tentative work program developed pursuant to s. 339.135(4). ~~This subsection expires on July 1, 2020.~~

Section 8. Subsection (5) of section 319.32, Florida Statutes, is amended to read:

319.32 Fees; service charges; disposition.—

(5) (a) Forty-seven dollars of each fee collected, except for fees charged on a certificate of title for a motor vehicle for hire registered under s. 320.08(6), for each applicable original certificate of title and each applicable duplicate copy of a certificate of title, ~~after deducting the service charges imposed by s. 215.20,~~ shall be deposited into the State Transportation Trust Fund. Deposits to the State Transportation Trust Fund pursuant to this paragraph may not exceed \$200

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million in any fiscal year, and any collections in excess of that amount during the fiscal year shall be paid into the General Revenue Fund.

(b) All fees collected pursuant to subsection (3) shall be paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of each fee, except for fees charged on a certificate of title for a motor vehicle for hire registered under s. 320.08(6), for each applicable original certificate of title and each applicable duplicate copy of a certificate of title, ~~after deducting the service charges imposed by s. 215.20,~~ shall be deposited into the State Transportation Trust Fund. All other fees collected by the department under this chapter shall be paid into the General Revenue Fund.

Section 9. Paragraph (c) of subsection (1) of section 333.03, Florida Statutes, is amended to read:

333.03 Requirement to adopt airport zoning regulations.—

(1)

(c) Airport protection zoning regulations adopted under paragraph (a) must, at a minimum, require:

1. A permit for the construction or alteration of any obstruction, ~~+~~
2. Obstruction marking and lighting for obstructions, ~~+~~
3. Documentation showing compliance with the federal requirement for notification of proposed construction or alteration of structures and a final valid determination from the Federal Aviation Administration aeronautical study submitted by each person applying for a permit, ~~+~~
4. Consideration of the criteria in s. 333.025(6), ~~+~~ when determining whether to issue or deny a permit, ~~+~~ and

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5. That approval of a permit not be based solely on the determination by the Federal Aviation Administration that the proposed structure is not an airport hazard.

Section 10. Section 334.275, Florida Statutes, is created to read:

334.275 Road and bridge maintenance and construction vehicle safety.—

(1) Notwithstanding any other provision of law:

(a) If a road or bridge maintenance or construction vehicle displaying warning lights is on the roadside without advanced signs or channeling devices, the driver of every other vehicle, as soon as it is safe, shall vacate the lane closest to the road or bridge maintenance or construction vehicle when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the road or bridge maintenance or construction vehicle, except when otherwise directed by a law enforcement officer. If such movement cannot be safely accomplished, the driver of every other vehicle shall slow to a speed that is 20 miles per hour less than the speed limit when the speed limit is 25 miles per hour or greater; or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road, except when otherwise directed by a law enforcement officer.

(b) Portable radar speed display units in advance of a work zone on roadways with a posted speed limit of 55 miles per hour or more may show or display flashing red and blue lights when workers are present in the work zone for the purpose of road or bridge maintenance or construction.

(2) The Department of Highway Safety and Motor Vehicles

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shall include the requirements of this section in its educational awareness campaign relating to the Move Over Act and in all newly printed driver license educational materials.

(3) Every pedestrian using the road right-of-way shall yield the right-of-way to an authorized road or bridge maintenance or construction vehicle, unless otherwise directed by a law enforcement officer.

(4) This section applies to maintenance or construction being performed for a governmental transportation entity as defined in s. 334.27(1).

(5) This section does not diminish or enlarge any rules of evidence or liability in any case involving the operation of a road or bridge maintenance or construction vehicle.

(6) This section does not relieve the driver of an authorized road or bridge maintenance or construction vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(7) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a moving violation for infractions of paragraph (1)(a) or as a pedestrian violation for infractions of subsection (5).

Section 11. Subsection (4) of section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(4) The department may convey, in the name of the state, any land, building, or other property, real or personal, which was acquired under subsection (1) and which the department has determined is not needed for the construction, operation, and



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407 maintenance of a transportation facility. When such a  
 408 determination has been made, property may be disposed of through  
 409 negotiations, sealed competitive bids, auctions, or any other  
 410 means the department deems to be in its best interest, with due  
 411 advertisement for property valued by the department at greater  
 412 than \$10,000. A sale may not occur at a price less than the  
 413 department's current estimate of value, except as provided in  
 414 paragraphs (a)-(d). The department may afford a right of first  
 415 refusal to the local government or other political subdivision  
 416 in the jurisdiction in which the parcel is situated, except in a  
 417 conveyance transacted under paragraph (a), paragraph (c), or  
 418 paragraph (e). Notwithstanding any provision of this section to  
 419 the contrary, before any conveyance under this subsection may be  
 420 made, except a conveyance under paragraph (a) or paragraph (c),  
 421 the department shall first afford a right of first refusal to  
 422 the previous property owner for the department's current  
 423 estimate of value of the property. The right of first refusal  
 424 must be made in writing and sent to the previous owner via  
 425 certified mail or hand delivery, effective upon receipt. The  
 426 right of first refusal must provide the previous owner with a  
 427 minimum of 30 days to exercise the right in writing and must be  
 428 sent to the originator of the offer by certified mail or hand  
 429 delivery, effective upon dispatch. If the previous owner  
 430 exercises his or her right of first refusal, the previous owner  
 431 has a minimum of 90 days to close on the property.

432 (a) If the property has been donated to the state for  
 433 transportation purposes and a transportation facility has not  
 434 been constructed for at least 5 years, plans have not been  
 435 prepared for the construction of such facility, and the property

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436 is not located in a transportation corridor, the governmental  
 437 entity may authorize reconveyance of the donated property for no  
 438 consideration to the original donor or the donor's heirs,  
 439 successors, assigns, or representatives.

440 (b) If the property is to be used for a public purpose, the  
 441 property may be conveyed without consideration to a governmental  
 442 entity.

443 (c) If the property was originally acquired specifically to  
 444 provide replacement housing for persons displaced by  
 445 transportation projects, the department may negotiate for the  
 446 sale of such property as replacement housing. As compensation,  
 447 the state shall receive at least its investment in such property  
 448 or the department's current estimate of value, whichever is  
 449 lower. It is expressly intended that this benefit be extended  
 450 only to persons actually displaced by the project. Dispositions  
 451 to any other person must be for at least the department's  
 452 current estimate of value.

453 (d) If the department determines that the property requires  
 454 significant costs to be incurred or that continued ownership of  
 455 the property exposes the department to significant liability  
 456 risks, the department may use the projected maintenance costs  
 457 over the next 10 years to offset the property's value in  
 458 establishing a value for disposal of the property, even if that  
 459 value is zero.

460 (e) If, at the discretion of the department, a sale to a  
 461 person other than an abutting property owner would be  
 462 inequitable, the property may be sold to the abutting owner for  
 463 the department's current estimate of value.

464 Section 12. Paragraph (c) of subsection (4) and paragraph

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(g) of subsection (7) of section 339.135, Florida Statutes, are amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(c)1. For purposes of this section, the board of county commissioners shall serve as the metropolitan planning organization in those counties that ~~which~~ are not located in a metropolitan planning organization and shall be involved in the development of the district work program to the same extent as a metropolitan planning organization.

2. The district work program shall be developed cooperatively from the outset with the various metropolitan planning organizations of the state and include, to the maximum extent feasible, the project priorities of metropolitan planning organizations which have been submitted to the district by August ~~October~~ 1 of each year pursuant to s. 339.175(8)(b); however, the department and a metropolitan planning organization may, in writing, cooperatively agree to vary this submittal date. To assist the metropolitan planning organizations in developing their lists of project priorities, the district shall disclose to each metropolitan planning organization any anticipated changes in the allocation or programming of state and federal funds which may affect the inclusion of metropolitan planning organization project priorities in the district work program.

3. Before ~~Prior to~~ submittal of the district work program to the central office, the district shall provide the affected metropolitan planning organization with written justification

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for any project proposed to be rescheduled or deleted from the district work program which project is part of the metropolitan planning organization's transportation improvement program and is contained in the last 4 years of the previous adopted work program. By no later than 14 days after submittal of the district work program to the central office, the affected metropolitan planning organization may file an objection to such rescheduling or deletion. When an objection is filed with the secretary, the rescheduling or deletion may not be included in the district work program unless the inclusion of such rescheduling or deletion is specifically approved by the secretary. The Florida Transportation Commission shall include such objections in its evaluation of the tentative work program only when the secretary has approved the rescheduling or deletion.

(7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(g)1. A ~~Any~~ work program amendment that ~~which~~ also requires the transfer of fixed capital outlay appropriations between categories within the department or the increase of an appropriation category is subject to the approval of the Legislative Budget Commission.

2. If a meeting of the Legislative Budget Commission cannot be held within 30 days after the department submits an amendment to the Legislative Budget Commission, the chair and vice chair of the Legislative Budget Commission may authorize such amendment to be approved pursuant to s. 216.177. ~~This subparagraph expires July 1, 2020.~~

Section 13. Paragraph (b) of subsection (8) of section 339.175, Florida Statutes, is amended to read:

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523 339.175 Metropolitan planning organization.—  
 524 (8) TRANSPORTATION IMPROVEMENT PROGRAM.—Each M.P.O. shall,  
 525 in cooperation with the state and affected public transportation  
 526 operators, develop a transportation improvement program for the  
 527 area within the jurisdiction of the M.P.O. In the development of  
 528 the transportation improvement program, each M.P.O. must provide  
 529 the public, affected public agencies, representatives of  
 530 transportation agency employees, freight shippers, providers of  
 531 freight transportation services, private providers of  
 532 transportation, representatives of users of public transit, and  
 533 other interested parties with a reasonable opportunity to  
 534 comment on the proposed transportation improvement program.  
 535 (b) Each M.P.O. annually shall prepare a list of project  
 536 priorities and shall submit the list to the appropriate district  
 537 of the department by August ~~October~~ 1 of each year; however, the  
 538 department and a metropolitan planning organization may, in  
 539 writing, agree to vary this submittal date. Where more than one  
 540 M.P.O. exists in an urbanized area, the M.P.O.'s shall  
 541 coordinate in the development of regionally significant project  
 542 priorities. The list of project priorities must be formally  
 543 reviewed by the technical and citizens' advisory committees, and  
 544 approved by the M.P.O., before it is transmitted to the  
 545 district. The approved list of project priorities must be used  
 546 by the district in developing the district work program and must  
 547 be used by the M.P.O. in developing its transportation  
 548 improvement program. The annual list of project priorities must  
 549 be based upon project selection criteria that, at a minimum,  
 550 consider the following:  
 551 1. The approved M.P.O. long-range transportation plan.†

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552 2. The Strategic Intermodal System Plan developed under s.  
 553 339.64.  
 554 3. The priorities developed pursuant to s. 339.2819(4).  
 555 4. The results of the transportation management systems.†  
 556 ~~and~~  
 557 5. The M.P.O.'s public-involvement procedures.  
 558 Section 14. Section 339.2821, Florida Statutes, is  
 559 repealed.  
 560 Section 15. Paragraph (b) of subsection (17) of section  
 561 341.302, Florida Statutes, is amended to read:  
 562 341.302 Rail program; duties and responsibilities of the  
 563 department.—The department, in conjunction with other  
 564 governmental entities, including the rail enterprise and the  
 565 private sector, shall develop and implement a rail program of  
 566 statewide application designed to ensure the proper maintenance,  
 567 safety, revitalization, and expansion of the rail system to  
 568 assure its continued and increased availability to respond to  
 569 statewide mobility needs. Within the resources provided pursuant  
 570 to chapter 216, and as authorized under federal law, the  
 571 department shall:  
 572 (17) In conjunction with the acquisition, ownership,  
 573 construction, operation, maintenance, and management of a rail  
 574 corridor, have the authority to:  
 575 (b) Purchase liability insurance, which amount shall not  
 576 exceed \$295 ~~\$200~~ million, and establish a self-insurance  
 577 retention fund for the purpose of paying the deductible limit  
 578 established in the insurance policies it may obtain, including  
 579 coverage for the department, any freight rail operator as  
 580 described in paragraph (a), National Railroad Passenger

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Corporation, commuter rail service providers, governmental entities, or any ancillary development, which self-insurance retention fund or deductible shall not exceed \$10 million. The insureds shall pay a reasonable monetary contribution to the cost of such liability coverage for the sole benefit of the insured. Such insurance and self-insurance retention fund may provide coverage for all damages, including, but not limited to, compensatory, special, and exemplary, and be maintained to provide an adequate fund to cover claims and liabilities for loss, injury, or damage arising out of or connected with the ownership, operation, maintenance, and management of a rail corridor.

Neither the assumption by contract to protect, defend, indemnify, and hold harmless; the purchase of insurance; nor the establishment of a self-insurance retention fund shall be deemed to be a waiver of any defense of sovereign immunity for torts nor deemed to increase the limits of the department's or the governmental entity's liability for torts as provided in s. 768.28. The requirements of s. 287.022(1) shall not apply to the purchase of any insurance under this subsection. The provisions of this subsection shall apply and inure fully as to any other governmental entity providing commuter rail service and constructing, operating, maintaining, or managing a rail corridor on publicly owned right-of-way under contract by the governmental entity with the department or a governmental entity designated by the department. Notwithstanding any law to the contrary, procurement for the construction, operation, maintenance, and management of any rail corridor described in

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this subsection, whether by the department, a governmental entity under contract with the department, or a governmental entity designated by the department, shall be pursuant to s. 287.057 and shall include, but not be limited to, criteria for the consideration of qualifications, technical aspects of the proposal, and price. Further, any such contract for design-build shall be procured pursuant to the criteria in s. 337.11(7).

Section 16. Effective July 1, 2023, section 341.302, Florida Statutes, as amended by this act, is amended to read:

341.302 Rail program; duties and responsibilities of the department.—The department, in conjunction with other governmental entities, ~~including the rail enterprise~~ and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under federal law, the department shall:

(1) Provide the overall leadership, coordination, and financial and technical assistance necessary to ensure ~~assure~~ the effective responses of the state's rail system to current and anticipated mobility needs.

(2) Coordinate the development, general rail safety, and operation of publicly funded passenger ~~Promote and facilitate the implementation of advanced~~ rail systems in this state, ~~including high-speed rail and magnetic levitation systems.~~

(3) Develop and periodically update the rail system plan, on the basis of an analysis of statewide transportation needs.

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(a) The plan may contain detailed regional components, consistent with regional transportation plans, as needed to ensure connectivity within the state's regions, and it shall be consistent with the Florida Transportation Plan developed pursuant to s. 339.155. The rail system plan shall include an identification of priorities, programs, and funding levels required to meet statewide and regional needs. The rail system plan shall be developed in a manner that will ensure ~~assure~~ the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. The rail system plan shall be updated no later than January 1, 2011, and at least every 5 years thereafter, and include plans for both passenger rail service and freight rail service, accompanied by a report to the Legislature regarding the status of the plan.

(b) In recognition of the department's role in the enhancement of the state's rail system to improve freight and passenger mobility, the department shall:

1. Work closely with all affected communities along an impacted freight rail corridor to identify and address anticipated impacts associated with an increase in freight rail traffic due to implementation of passenger rail.

2. In coordination with the affected local governments and CSX Transportation, Inc., finalize all viable alternatives from the department's Rail Traffic Evaluation Study to identify and develop an alternative route for through freight rail traffic moving through Central Florida, including the counties of Polk and Hillsborough, which would address, to the extent

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practicable, the effects of commuter rail.

3. Provide technical assistance to a coalition of local governments in Central Florida, including the counties of Brevard, Citrus, Hernando, Hillsborough, Lake, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Manatee, Sarasota, Seminole, Sumter, and Volusia, and the municipalities within those counties, to develop a regional rail system plan that addresses passenger and freight opportunities in the region, is consistent with the Florida Rail System Plan, and incorporates appropriate elements of the Tampa Bay Area Regional Authority Master Plan, the Metroplan Orlando Regional Transit System Concept Plan, including the SunRail project, and the Florida Department of Transportation Alternate Rail Traffic Evaluation.

(4) As part of the work program of the department, formulate a specific program of projects and financing to respond to identified railroad needs.

(5) Provide technical and financial assistance to units of local government to address identified rail transportation needs.

(6) Secure and administer federal grants, loans, and apportionments for rail projects within this state when necessary to further the statewide program.

(7) Develop and administer state standards concerning the safety and performance of rail systems, hazardous material handling, and operations. Such standards shall be developed jointly with representatives of affected rail systems, with full consideration given to nationwide industry norms, and shall define the minimum acceptable standards for safety and performance.

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697 (8) Conduct, at a minimum, inspections of track and rolling  
 698 stock; train signals and related equipment; hazardous materials  
 699 transportation, including the loading, unloading, and labeling  
 700 of hazardous materials at shippers', receivers', and transfer  
 701 points; and train operating practices to determine adherence to  
 702 state and federal standards. Department personnel may enforce  
 703 any safety regulation issued under the Federal Government's  
 704 preemptive authority over interstate commerce.

705 (9) Assess penalties, in accordance with the applicable  
 706 federal regulations, for the failure to adhere to the state  
 707 standards.

708 (10) Administer rail operating and construction programs,  
 709 which programs shall include the regulation of maximum ~~maxi-mum~~  
 710 train operating speeds, the opening and closing of public grade  
 711 crossings, the construction and rehabilitation of public grade  
 712 crossings, and the installation of traffic control devices at  
 713 public grade crossings, the administering of the programs by the  
 714 department including participation in the cost of the programs.

715 (11) Coordinate and facilitate the relocation of railroads  
 716 from congested urban areas to nonurban areas when relocation has  
 717 been determined feasible and desirable from the standpoint of  
 718 safety, operational efficiency, and economics.

719 (12) Implement a program of branch line continuance  
 720 projects when an analysis of the industrial and economic  
 721 potential of the line indicates that public involvement is  
 722 required to preserve essential rail service and facilities.

723 (13) Provide new rail service and equipment when:

724 (a) Pursuant to the transportation planning process, a  
 725 public need has been determined to exist;

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726 (b) The cost of providing such service does not exceed the  
 727 sum of revenues from fares charged to users, services purchased  
 728 by other public agencies, local fund participation, and specific  
 729 legislative appropriation for this purpose; and

730 (c) Service cannot be reasonably provided by other  
 731 governmental or privately owned rail systems.

732  
 733 The department may own, lease, and otherwise encumber  
 734 facilities, equipment, and appurtenances thereto, as necessary  
 735 to provide new rail services, ~~+~~ or the department may provide  
 736 such service by contracts with privately owned service  
 737 providers.

738 (14) Furnish required emergency rail transportation service  
 739 if no other private or public rail transportation operation is  
 740 available to supply the required service and such service is  
 741 clearly in the best interest of the people in the communities  
 742 being served. Such emergency service may be furnished through  
 743 contractual arrangement, actual operation of state-owned  
 744 equipment and facilities, or any other means determined  
 745 appropriate by the secretary.

746 (15) Assist in the development and implementation of  
 747 marketing programs for rail services and of information systems  
 748 directed toward assisting rail systems users.

749 (16) Conduct research into innovative or potentially  
 750 effective rail technologies and methods and maintain expertise  
 751 in state-of-the-art rail developments.

752 (17) In conjunction with the acquisition, ownership,  
 753 construction, operation, maintenance, and management of a rail  
 754 corridor, have the authority to:

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755 (a) Assume obligations pursuant to the following:

756 1.a. The department may assume the obligation by contract

757 to forever protect, defend, indemnify, and hold harmless the

758 freight rail operator, or its successors, from whom the

759 department has acquired a real property interest in the rail

760 corridor, and that freight rail operator's officers, agents, and

761 employees, from and against any liability, cost, and expense,

762 including, but not limited to, commuter rail passengers and rail

763 corridor invitees in the rail corridor, regardless of whether

764 the loss, damage, destruction, injury, or death giving rise to

765 any such liability, cost, or expense is caused in whole or in

766 part, and to whatever nature or degree, by the fault, failure,

767 negligence, misconduct, nonfeasance, or misfeasance of such

768 freight rail operator, its successors, or its officers, agents,

769 and employees, or any other person or persons whomsoever; or

770 b. The department may assume the obligation by contract to

771 forever protect, defend, indemnify, and hold harmless National

772 Railroad Passenger Corporation, or its successors, and officers,

773 agents, and employees of National Railroad Passenger

774 Corporation, from and against any liability, cost, and expense,

775 including, but not limited to, commuter rail passengers and rail

776 corridor invitees in the rail corridor, regardless of whether

777 the loss, damage, destruction, injury, or death giving rise to

778 any such liability, cost, or expense is caused in whole or in

779 part, and to whatever nature or degree, by the fault, failure,

780 negligence, misconduct, nonfeasance, or misfeasance of National

781 Railroad Passenger Corporation, its successors, or its officers,

782 agents, and employees, or any other person or persons

783 whomsoever.

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784 2. The assumption of liability of the department by

785 contract pursuant to sub-subparagraph 1.a. or sub-subparagraph

786 1.b. may not in any instance exceed the following parameters of

787 allocation of risk:

788 a. The department may be solely responsible for any loss,

789 injury, or damage to commuter rail passengers, ~~or~~ rail corridor

790 invitees, or trespassers, regardless of circumstances or cause,

791 subject to sub-subparagraph b. and subparagraphs 3., 4., 5., and

792 6.

793 b.(I) In the event of a limited covered accident, the

794 authority of the department to protect, defend, and indemnify

795 the freight operator for all liability, cost, and expense,

796 including punitive or exemplary damages, in excess of the

797 deductible or self-insurance retention fund established under

798 paragraph (b) and actually in force at the time of the limited

799 covered accident exists only if the freight operator agrees,

800 with respect to the limited covered accident, to protect,

801 defend, and indemnify the department for the amount of the

802 deductible or self-insurance retention fund established under

803 paragraph (b) and actually in force at the time of the limited

804 covered accident.

805 (II) In the event of a limited covered accident, the

806 authority of the department to protect, defend, and indemnify

807 National Railroad Passenger Corporation for all liability, cost,

808 and expense, including punitive or exemplary damages, in excess

809 of the deductible or self-insurance retention fund established

810 under paragraph (b) and actually in force at the time of the

811 limited covered accident exists only if National Railroad

812 Passenger Corporation agrees, with respect to the limited

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covered accident, to protect, defend, and indemnify the department for the amount of the deductible or self-insurance retention fund established under paragraph (b) and actually in force at the time of the limited covered accident.

3. When only one train is involved in an incident, the department may be solely responsible for any loss, injury, or damage if the train is a department train or other train pursuant to subparagraph 4., but only if:

a. When an incident occurs with only a freight train involved, including incidents with trespassers or at grade crossings, the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees; or

b. When an incident occurs with only a National Railroad Passenger Corporation train involved, including incidents with trespassers or at grade crossings, National Railroad Passenger Corporation is solely responsible for any loss, injury, or damage, except for commuter rail passengers and rail corridor invitees.

4. For the purposes of this subsection:

a. Any train involved in an incident that is neither the department's train nor the freight rail operator's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and the freight rail operator only, but only if the department and the freight rail operator share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a

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freight rail operator train, and the allocation as between the department and the freight rail operator, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident; or

b. Any train involved in an incident that is neither the department's train nor the National Railroad Passenger Corporation's train, hereinafter referred to in this subsection as an "other train," may be treated as a department train, solely for purposes of any allocation of liability between the department and National Railroad Passenger Corporation only, but only if the department and National Railroad Passenger Corporation share responsibility equally as to third parties outside the rail corridor who incur loss, injury, or damage as a result of any incident involving both a department train and a National Railroad Passenger Corporation train, and the allocation as between the department and National Railroad Passenger Corporation, regardless of whether the other train is treated as a department train, shall remain one-half each as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident. The involvement of any other train shall not alter the sharing of equal responsibility as to third parties outside the rail corridor who incur loss, injury, or damage as a result of the incident.

5. When more than one train is involved in an incident:



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871 a.(I) If only a department train and freight rail  
 872 operator's train, or only an other train as described in sub-  
 873 subparagraph 4.a. and a freight rail operator's train, are  
 874 involved in an incident, the department may be responsible for  
 875 its property and all of its people, all commuter rail  
 876 passengers, and rail corridor invitees, but only if the freight  
 877 rail operator is responsible for its property and all of its  
 878 people, and the department and the freight rail operator each  
 879 share one-half responsibility as to trespassers or third parties  
 880 outside the rail corridor who incur loss, injury, or damage as a  
 881 result of the incident; or

882 (II) If only a department train and a National Railroad  
 883 Passenger Corporation train, or only an other train as described  
 884 in sub-subparagraph 4.b. and a National Railroad Passenger  
 885 Corporation train, are involved in an incident, the department  
 886 may be responsible for its property and all of its people, all  
 887 commuter rail passengers, and rail corridor invitees, but only  
 888 if National Railroad Passenger Corporation is responsible for  
 889 its property and all of its people, all National Railroad  
 890 Passenger Corporation's rail passengers, and the department and  
 891 National Railroad Passenger Corporation each share one-half  
 892 responsibility as to trespassers or third parties outside the  
 893 rail corridor who incur loss, injury, or damage as a result of  
 894 the incident.

895 b.(I) If a department train, a freight rail operator train,  
 896 and any other train are involved in an incident, the allocation  
 897 of liability between the department and the freight rail  
 898 operator, regardless of whether the other train is treated as a  
 899 department train, shall remain one-half each as to third parties

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900 outside the rail corridor who incur loss, injury, or damage as a  
 901 result of the incident; the involvement of any other train shall  
 902 not alter the sharing of equal responsibility as to third  
 903 parties outside the rail corridor who incur loss, injury, or  
 904 damage as a result of the incident; and, if the owner, operator,  
 905 or insurer of the other train makes any payment to injured third  
 906 parties outside the rail corridor who incur loss, injury, or  
 907 damage as a result of the incident, the allocation of credit  
 908 between the department and the freight rail operator as to such  
 909 payment shall not in any case reduce the freight rail operator's  
 910 third-party-sharing allocation of one-half under this paragraph  
 911 to less than one-third of the total third party liability; or

912 (II) If a department train, a National Railroad Passenger  
 913 Corporation train, and any other train are involved in an  
 914 incident, the allocation of liability between the department and  
 915 National Railroad Passenger Corporation, regardless of whether  
 916 the other train is treated as a department train, shall remain  
 917 one-half each as to third parties outside the rail corridor who  
 918 incur loss, injury, or damage as a result of the incident; the  
 919 involvement of any other train shall not alter the sharing of  
 920 equal responsibility as to third parties outside the rail  
 921 corridor who incur loss, injury, or damage as a result of the  
 922 incident; and, if the owner, operator, or insurer of the other  
 923 train makes any payment to injured third parties outside the  
 924 rail corridor who incur loss, injury, or damage as a result of  
 925 the incident, the allocation of credit between the department  
 926 and National Railroad Passenger Corporation as to such payment  
 927 shall not in any case reduce National Railroad Passenger  
 928 Corporation's third-party-sharing allocation of one-half under

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929 this sub-subparagraph to less than one-third of the total third  
930 party liability.

931 6. Any such contractual duty to protect, defend, indemnify,  
932 and hold harmless such a freight rail operator or National  
933 Railroad Passenger Corporation shall expressly include a  
934 specific cap on the amount of the contractual duty, which amount  
935 shall not exceed \$200 million without prior legislative  
936 approval, and the department to purchase liability insurance and  
937 establish a self-insurance retention fund in the amount of the  
938 specific cap established under this subparagraph, provided that:

939 a. No such contractual duty shall in any case be effective  
940 nor otherwise extend the department's liability in scope and  
941 effect beyond the contractual liability insurance and self-  
942 insurance retention fund required pursuant to this paragraph;  
943 and

944 b.(I) The freight rail operator's compensation to the  
945 department for future use of the department's rail corridor  
946 shall include a monetary contribution to the cost of such  
947 liability coverage for the sole benefit of the freight rail  
948 operator.

949 (II) National Railroad Passenger Corporation's compensation  
950 to the department for future use of the department's rail  
951 corridor shall include a monetary contribution to the cost of  
952 such liability coverage for the sole benefit of National  
953 Railroad Passenger Corporation.

954 (b) Purchase liability insurance, which amount shall not  
955 exceed \$295 million, and establish a self-insurance retention  
956 fund for the purpose of paying the deductible limit established  
957 in the insurance policies it may obtain, including coverage for

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958 the department, any freight rail operator as described in  
959 paragraph (a), National Railroad Passenger Corporation, commuter  
960 rail service providers, governmental entities, or any ancillary  
961 development, which self-insurance retention fund or deductible  
962 shall not exceed \$10 million. The insureds shall pay a  
963 reasonable monetary contribution to the cost of such liability  
964 coverage for the sole benefit of the insured. Such insurance and  
965 self-insurance retention fund may provide coverage for all  
966 damages, including, but not limited to, compensatory, special,  
967 and exemplary, and be maintained to provide an adequate fund to  
968 cover claims and liabilities for loss, injury, or damage arising  
969 out of or connected with the ownership, operation, maintenance,  
970 and management of a rail corridor.

971 (c) Incur expenses for the purchase of advertisements,  
972 marketing, and promotional items.

973 (d) Without altering any of the rights granted to the  
974 department under this section, agree to assume the obligations  
975 to indemnify and insure, pursuant to s. 343.545, freight rail  
976 service, intercity passenger rail service, and commuter rail  
977 service on a department-owned rail corridor, whether ownership  
978 is in fee or by easement, or on a rail corridor where the  
979 department has the right to operate.

980  
981 Neither the assumption by contract to protect, defend,  
982 indemnify, and hold harmless; the purchase of insurance; nor the  
983 establishment of a self-insurance retention fund shall be deemed  
984 to be a waiver of any defense of sovereign immunity for torts  
985 nor deemed to increase the limits of the department's or the  
986 governmental entity's liability for torts as provided in s.

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768.28. The requirements of s. 287.022(1) shall not apply to the purchase of any insurance under this subsection. ~~The provisions of This subsection shall apply and inure fully as to any other governmental entity providing commuter rail service and constructing, operating, maintaining, or managing a rail corridor on publicly owned right-of-way under contract by the governmental entity with the department or a governmental entity designated by the department. Notwithstanding any law to the contrary, procurement for the construction, operation, maintenance, and management of any rail corridor described in this subsection, whether by the department, a governmental entity under contract with the department, or a governmental entity designated by the department, shall be pursuant to s. 287.057 and shall include, but not be limited to, criteria for the consideration of qualifications, technical aspects of the proposal, and price. Further, any such contract for design-build shall be procured pursuant to the criteria in s. 337.11(7).~~

(18) Exercise such other functions, powers, and duties in connection with the rail system plan as are necessary to develop a safe, efficient, and effective statewide transportation system.

Section 17. Effective July 1, 2023, subsections (5) and (6) of section 341.303, Florida Statutes, are amended to read:

341.303 Funding authorization and appropriations; eligibility and participation.—

(5) FUND PARTICIPATION; ~~FLORIDA RAIL ENTERPRISE.~~—The department ~~may, through the Florida Rail Enterprise, is authorized to~~ use funds provided pursuant to s. 201.15(4) (a) 4. to fund:

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(a) Up to 50 percent of the nonfederal share of the costs of any eligible passenger rail capital improvement project.

(b) Up to 100 percent of planning and development costs related to the provision of a passenger rail system, including, but not limited to, preliminary engineering, revenue studies, environmental impact studies, financial advisory services, engineering design, and other appropriate professional services.

(c) The high-speed rail system.

(d) Projects necessary to identify or address anticipated impacts of increased freight rail traffic resulting from the implementation of passenger rail systems as provided in s. 341.302(3) (b).

(e) Projects necessary to identify or address needed or desirable safety improvements to passenger rail systems in this state.

~~(6) FLORIDA RAIL ENTERPRISE; BUDGET.—~~

~~(a) The Florida Rail Enterprise shall be a single budget entity and shall develop a budget pursuant to chapter 216. The enterprise's budget shall be submitted to the Legislature along with the department's budget. All passenger rail funding by the department shall be included in this budget entity.~~

~~(b) Notwithstanding the provisions of s. 216.301 to the contrary and in accordance with s. 216.351, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated or provided pursuant to this section for the enterprise. Of the unexpended funds certified forward, any unencumbered amounts shall be carried forward. Such funds carried forward shall not exceed 5 percent of the original approved operating budget of the enterprise pursuant to s.~~

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~~216.181(1). Funds carried forward pursuant to this section may be used for any lawful purpose, including, but not limited to, promotional and market activities, technology, and training. Any certified forward funds remaining undisbursed on September 30 of each year shall be carried forward.~~

Section 18. Effective July 1, 2023, section 341.8201, Florida Statutes, is repealed.

Section 19. Effective July 1, 2023, section 341.8203, Florida Statutes, is amended to read:

341.8203 Definitions.—As used in ss. 341.822-341.842 ss. ~~341.8201-341.842~~, unless the context clearly indicates otherwise, the term:

(1) "Associated development" means property, equipment, buildings, or other related facilities which are built, installed, used, or established to provide financing, funding, or revenues for the planning, building, managing, and operation of a high-speed rail system and which are associated with or part of the rail stations. The term includes air and subsurface rights, services that provide local area network devices for transmitting data over wireless networks, parking facilities, retail establishments, restaurants, hotels, offices, advertising, or other commercial, civic, residential, or support facilities.

(2) "Communication facilities" means the communication systems related to high-speed passenger rail operations, including those which are built, installed, used, or established for the planning, building, managing, and operating of a high-speed rail system. The term includes the land; structures; improvements; rights-of-way; easements; positive train control

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systems; wireless communication towers and facilities that are designed to provide voice and data services for the safe and efficient operation of the high-speed rail system; voice, data, and wireless communication amenities made available to crew and passengers as part of a high-speed rail service; and any other facilities or equipment used for operation of, or the facilitation of communications for, a high-speed rail system. Owners of communication facilities may not offer voice or data service to any entity other than passengers, crew, or other persons involved in the operation of a high-speed rail system.

(3) ~~"Enterprise" means the Florida Rail Enterprise.~~

~~(4)~~ "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 department 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.

~~(4)~~ ~~(5)~~ "Joint development" means the planning, managing, financing, or constructing of projects adjacent to, functionally

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related to, or otherwise related to a high-speed rail system pursuant to agreements between any person, firm, corporation, association, organization, agency, or other entity, public or private.

~~(5)(6)~~ "Rail station," "station," or "high-speed rail station" means any structure or transportation facility that is part of a high-speed rail system designed to accommodate the movement of passengers from one mode of transportation to another at which passengers board or disembark from transportation conveyances and transfer from one mode of transportation to another.

~~(6)(7)~~ "Railroad company" means a person developing, or providing service on, a high-speed rail system.

~~(7)(8)~~ "Selected person or entity" means the person or entity to whom the department enterprise awards a contract to establish a high-speed rail system pursuant to ss. 341.822-341.842 ~~ss. 341.8201-341.842~~.

Section 20. Effective July 1, 2023, section 341.822, Florida Statutes, is amended to read:

341.822 Powers and duties.—

(1) The department enterprise shall locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the high-speed rail system in the state.

(2) (a) ~~In addition to the powers granted to~~ The department, ~~the enterprise~~ has full authority to exercise all powers granted to it under this chapter. Powers shall 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

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passenger rail systems in the state.

(b) It is the express intention of ss. 341.822-341.842 ~~ss. 341.8201-341.842~~ that the department enterprise be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the high-speed rail system; to expend funds to publicize, advertise, and promote the advantages of using the high-speed rail system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private, to accomplish these purposes.

(c) The department enterprise shall establish a process to issue permits to railroad companies for the construction of communication facilities within a new or existing public or private high-speed rail system. The department enterprise may adopt rules to administer such permits, including rules regarding the form, content, and necessary supporting documentation for permit applications; the process for submitting applications; and the application fee for a permit under s. 341.825. The department enterprise shall provide a copy of a completed permit application to municipalities and counties where the high-speed rail system will be located. The department enterprise shall allow each such municipality and county 30 days to provide comments to the department enterprise regarding the application, including any recommendations regarding conditions that may be placed on the permit.

(3) ~~The department may~~ The enterprise shall have the authority to employ procurement methods available to the department under chapters 255, 287, 334, and 337, or otherwise in accordance with law. ~~The enterprise may also solicit~~

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proposals and, with legislative approval as evidenced by approval of the project in the department's work program, enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of the high-speed rail system.

~~(4) The executive director of the enterprise shall appoint staff, who shall be exempt from part II of chapter 110.~~

~~(5) The powers conferred upon the department enterprise under ss. 341.822-341.842 ss. 341.8201-341.842 shall be in addition and supplemental to the existing powers of the department, and these powers shall not be construed as repealing any provision of any other law, general or local, but shall supersede such other laws that are inconsistent with the exercise of the powers provided under ss. 341.822-341.842 ss. 341.8201-341.842 and provide a complete method for the exercise of such powers granted.~~

~~(5)(6)~~ Any proposed rail enterprise project or improvement shall be developed in accordance with the Florida Transportation Plan and the work program under s. 339.135.

Section 21. Paragraph (a) of subsection (7) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(7) (a) REDI may recommend to the Governor up to three rural areas of opportunity. The Governor may by executive order designate up to three rural areas of opportunity which will establish these areas as priority assignments for REDI as well as to allow the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development incentive. Such incentives shall include, but are

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not limited to, the Qualified Target Industry Tax Refund Program under s. 288.106, the Quick Response Training Program under s. 288.047, the Quick Response Training Program for participants in the welfare transition program under s. 288.047(8), ~~transportation projects under s. 339.2821~~, the brownfield redevelopment bonus refund under s. 288.107, and the rural job tax credit program under ss. 212.098 and 220.1895.

Section 22. Paragraph (f) of subsection (1) of section 339.08, Florida Statutes, is amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(1) The department shall expend moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget. The use of such moneys shall be restricted to the following purposes:

~~(f) To pay the cost of economic development transportation projects in accordance with s. 339.2821.~~

Section 23. Effective July 1, 2023, subsections (2) and (3), paragraph (b) of subsection (4), and subsection (5) of section 341.825, Florida Statutes, are amended to read:

341.825 Communication facilities.—

(2) APPLICATION SUBMISSION.—A railroad company may submit to the department enterprise an application to obtain a permit to construct communication facilities within a new or existing high-speed rail system. The application shall include an application fee limited to the amount needed to pay the anticipated cost of reviewing the application, not to exceed \$10,000, which shall be deposited into the State Transportation Trust Fund. The application must include the following information:

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- 1219 (a) The location of the proposed communication facilities.  
 1220 (b) A description of the proposed communication facilities.  
 1221 (c) Any other information reasonably required by the  
 1222 department enterprise.  
 1223 (3) APPLICATION REVIEW.—The department enterprise shall  
 1224 review each application for completeness within 30 days after  
 1225 receipt of the application.  
 1226 (a) If the department enterprise determines that an  
 1227 application is not complete, the department enterprise shall,  
 1228 within 30 days after the receipt of the initial application,  
 1229 notify the applicant in writing of any errors or omissions. An  
 1230 applicant shall have 30 days within which to correct the errors  
 1231 or omissions in the initial application.  
 1232 (b) If the department enterprise determines that an  
 1233 application is complete, the department enterprise shall act  
 1234 upon the permit application within 60 days of the receipt of the  
 1235 completed application by approving in whole, approving with  
 1236 conditions as the department enterprise deems appropriate, or  
 1237 denying the application, and stating the reason for issuance or  
 1238 denial. In determining whether an application should be  
 1239 approved, approved with modifications or conditions, or denied,  
 1240 the department enterprise shall consider any comments or  
 1241 recommendations received from a municipality or county and the  
 1242 extent to which the proposed communication facilities:  
 1243 1. Are located in a manner that is appropriate for the  
 1244 communication technology specified by the applicant.  
 1245 2. Serve an existing or projected future need for  
 1246 communication facilities.  
 1247 3. Provide sufficient wireless voice and data coverage and

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- 1248 capacity for the safe and efficient operation of the high-speed  
 1249 rail system and the safety, use, and efficiency of its crew and  
 1250 passengers.  
 1251 (c) The failure to adopt any recommendation or comment may  
 1252 not be a basis for challenging the issuance of a permit.  
 1253 (4) EFFECT OF PERMIT.—  
 1254 (b) A permit may include conditions that constitute  
 1255 variances and exemptions from rules of the department enterprise  
 1256 or any other agency, which would otherwise be applicable to the  
 1257 communication facilities within the new or existing high-speed  
 1258 rail system.  
 1259 (5) MODIFICATION OF PERMIT.—A permit may be modified by the  
 1260 applicant after issuance upon the filing of a petition with the  
 1261 department enterprise.  
 1262 (a) A petition for modification must set forth the proposed  
 1263 modification and the factual reasons asserted for the  
 1264 modification.  
 1265 (b) The department enterprise shall act upon the petition  
 1266 within 30 days by approving or denying the application, and  
 1267 stating the reason for issuance or denial.  
 1268 Section 24. Effective July 1, 2023, section 341.836,  
 1269 Florida Statutes, is amended to read:  
 1270 341.836 Associated development.—  
 1271 (1) The department enterprise, alone or as part of a joint  
 1272 development, may undertake associated developments to be a  
 1273 source of revenue for the establishment, construction,  
 1274 operation, or maintenance of the high-speed rail system. Such  
 1275 associated developments must be consistent, to the extent  
 1276 feasible, with applicable local government comprehensive plans

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and local land development regulations and otherwise be in compliance with ss. 341.822-341.842 ~~ss. 341.8201-341.842~~.

(2) ~~Sections 341.822-341.842~~ ~~Sections 341.8201-341.842~~ do not prohibit the department enterprise, the selected person or entity, or a party to a joint venture with the department enterprise or its selected person or entity from obtaining approval, pursuant to any other law, for any associated development that is reasonably related to the high-speed rail system.

Section 25. Effective July 1, 2023, section 341.838, Florida Statutes, is amended to read:

341.838 Fares, rates, rents, fees, and charges.—

(1) The department enterprise may establish, revise, charge, and collect fares, rates, rents, fees, charges, and revenues for the use of and for the services furnished, or to be furnished, by the system and to contract with any person, partnership, association, corporation, or other body, public or private, in respect thereof. Such fares, rates, rents, fees, and charges shall be reviewed annually by the department enterprise and may be adjusted as set forth in the contract setting such fares, rates, rents, fees, or charges. The funds collected pursuant to this section shall, with any other funds available, be used to pay the cost of designing, building, operating, financing, and maintaining the system and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for.

(2) Fares, rates, rents, fees, and charges established, revised, charged, and collected by the department enterprise pursuant to this section shall not be subject to supervision or

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regulation by any other department, commission, board, body, bureau, or agency of this state other than the department enterprise.

Section 26. Effective July 1, 2023, section 341.839, Florida Statutes, is amended to read:

341.839 Alternate means.—~~Sections 341.822-341.842~~ ~~Sections 341.8201-341.842~~ provide an additional and alternative method for accomplishing the purposes authorized therein and are supplemental and additional to powers conferred by other laws. Except as otherwise expressly provided in ss. 341.822-341.842 ~~ss. 341.8201-341.842~~, none of the powers granted to the department enterprise under ss. 341.822-341.842 ~~ss. 341.8201-341.842~~ are subject to the supervision or require the approval or consent of any municipality or political subdivision or any commission, board, body, bureau, or official.

Section 27. Effective July 1, 2023, section 341.840, Florida Statutes, is amended to read:

341.840 Tax exemption.—

(1) The exercise of the powers granted under ss. 341.822-341.842 ~~ss. 341.8201-341.842~~ will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions. The design, construction, operation, maintenance, and financing of a high-speed rail system by the department enterprise, its agent, or the owner or lessee thereof, as herein authorized, constitutes the performance of an essential public function.

(2) (a) For the purposes of this section, the term "department" ~~"enterprise"~~ does not include agents of the



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~~department enterprise~~ other than contractors who qualify as such pursuant to subsection (7).

(b) For the purposes of this section, any item or property that is within the definition of the term "associated development" in s. 341.8203(1) may not be considered part of the high-speed rail system as defined in s. 341.8203(3) ~~s. 341.8203(4)~~.

(3) (a) Purchases or leases of tangible personal property or real property by the ~~department enterprise~~, excluding agents of the ~~department enterprise~~, are exempt from taxes imposed by chapter 212 as provided in s. 212.08(6). Purchases or leases of tangible personal property that is incorporated into the high-speed rail system as a component part thereof, as determined by the ~~department enterprise~~, by agents of the ~~department enterprise~~ or the owner of the high-speed rail system are exempt from sales or use taxes imposed by chapter 212. Leases, rentals, or licenses to use real property granted to agents of the ~~department enterprise~~ or the owner of the high-speed rail system are exempt from taxes imposed by s. 212.031 if the real property becomes part of such system. The exemptions granted in this subsection do not apply to sales, leases, or licenses by the ~~department enterprise~~, agents of the ~~department enterprise~~, or the owner of the high-speed rail system.

(b) The exemption granted in paragraph (a) to purchases or leases of tangible personal property by agents of the ~~department enterprise~~ or by the owner of the high-speed rail system applies only to property that becomes a component part of such system. It does not apply to items, including, but not limited to, cranes, bulldozers, forklifts, other machinery and equipment,

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tools and supplies, or other items of tangible personal property used in the construction, operation, or maintenance of the high-speed rail system when such items are not incorporated into the high-speed rail system as a component part thereof.

(4) Any bonds or other security, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise out of or are given to secure the repayment of bonds or other security, issued by the ~~department enterprise~~, or on behalf of the ~~department enterprise~~, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state, the counties, and the municipalities and other political subdivisions in the state. This subsection, however, does not exempt from taxation or assessment the leasehold interest of a lessee in any project or any other property or interest owned by the lessee. The exemption granted by this subsection is not applicable to any tax imposed by chapter 220 on interest income or profits on the sale of debt obligations owned by corporations.

(5) When property of the ~~department enterprise~~ is leased to another person or entity, the property shall be exempt from ad valorem taxation only if the use by the lessee qualifies the property for exemption under s. 196.199.

(6) A leasehold interest held by the ~~department enterprise~~ is not subject to intangible tax. However, if a leasehold interest held by the ~~department enterprise~~ is subleased to a nongovernmental lessee, such subleasehold interest shall be deemed to be an interest described in s. 199.023(1)(d), Florida Statutes 2005, and is subject to the intangible tax.

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(7) (a) In order to be considered an agent of the department ~~enterprise~~ for purposes of the exemption from sales and use tax granted by subsection (3) for tangible personal property incorporated into the high-speed rail system, a contractor of the department ~~enterprise~~ that purchases or fabricates such tangible personal property must be certified by the department ~~enterprise~~ as provided in this subsection.

(b)1. A contractor must apply for a renewal of the exemption not later than December 1 of each calendar year.

2. A contractor must apply to the department ~~enterprise~~ on the application form adopted by the department ~~enterprise~~, which shall develop the form in consultation with the Department of Revenue.

3. The department ~~enterprise~~ shall review each submitted application and determine whether it is complete. The department ~~enterprise~~ shall notify the applicant of any deficiencies in the application within 30 days. Upon receipt of a completed application, the department ~~enterprise~~ shall evaluate the application for exemption under this subsection and issue a certification that the contractor is qualified to act as an agent of the department ~~enterprise~~ for purposes of this section or a denial of such certification within 30 days. The department ~~enterprise~~ shall provide the Department of Revenue with a copy of each certification issued upon approval of an application. Upon receipt of a certification from the department ~~enterprise~~, the Department of Revenue shall issue an exemption permit to the contractor.

(c)1. The contractor may extend a copy of its exemption permit to its vendors in lieu of paying sales tax on purchases

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of tangible personal property qualifying for exemption under this section. Possession of a copy of the exemption permit relieves the seller of the responsibility of collecting tax on the sale, and the Department of Revenue shall look solely to the contractor for recovery of tax upon a determination that the contractor was not entitled to the exemption.

2. The contractor may extend a copy of its exemption permit to real property subcontractors supplying and installing tangible personal property that is exempt under subsection (3). Any such subcontractor may extend a copy of the permit to the subcontractor's vendors in order to purchase qualifying tangible personal property tax-exempt. If the subcontractor uses the exemption permit to purchase tangible personal property that is determined not to qualify for exemption under subsection (3), the Department of Revenue may assess and collect any tax, penalties, and interest that are due from either the contractor holding the exemption permit or the subcontractor that extended the exemption permit to the seller.

(d) Any contractor authorized to act as an agent of the department ~~enterprise~~ under this section shall maintain the necessary books and records to document the exempt status of purchases and fabrication costs made or incurred under the permit. In addition, an authorized contractor extending its exemption permit to its subcontractors shall maintain a copy of the subcontractor's books, records, and invoices indicating all purchases made by the subcontractor under the authorized contractor's permit. If, in an audit conducted by the Department of Revenue, it is determined that tangible personal property purchased or fabricated claiming exemption under this section

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does not meet the criteria for exemption, the amount of taxes not paid at the time of purchase or fabrication shall be immediately due and payable to the Department of Revenue, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by chapter 212.

(e) If a contractor fails to apply for a high-speed rail system exemption permit, or if a contractor initially determined by the department enterprise to not qualify for exemption is subsequently determined to be eligible, the contractor shall receive the benefit of the exemption in this subsection through a refund of previously paid taxes for transactions that otherwise would have been exempt. A refund may not be made for such taxes without the issuance of a certification by the department enterprise that the contractor was authorized to make purchases tax-exempt and a determination by the Department of Revenue that the purchases qualified for the exemption.

(f) The department enterprise may adopt rules governing the application process for exemption of a contractor as an authorized agent of the department enterprise.

(g) The Department of Revenue may adopt rules governing the issuance and form of high-speed rail system exemption permits, the audit of contractors and subcontractors using such permits, the recapture of taxes on nonqualified purchases, and the manner and form of refund applications.

Section 28. Effective July 1, 2023, paragraph (b) of subsection (4) of section 343.58, Florida Statutes, is amended to read:

343.58 County funding for the South Florida Regional

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Transportation Authority.-

(4) Notwithstanding any other provision of law to the contrary and effective July 1, 2010, until as provided in paragraph (d), the department shall transfer annually from the State Transportation Trust Fund to the South Florida Regional Transportation Authority the amounts specified in subparagraph (a)1. or subparagraph (a)2.

(b) Funding required by this subsection may not be provided from the funds dedicated to the State Transportation Trust Fund ~~Florida Rail Enterprise~~ pursuant to s. 201.15(4)(a)4.

Section 29. Paragraph (a) of subsection (4) of section 377.809, Florida Statutes, is amended to read:

377.809 Energy Economic Zone Pilot Program.-

(4)(a) Beginning July 1, 2012, all the incentives and benefits provided for enterprise zones pursuant to state law shall be available to the energy economic zones designated pursuant to this section on or before July 1, 2010. In order to provide incentives, by March 1, 2012, each local governing body that has jurisdiction over an energy economic zone must, by local ordinance, establish the boundary of the energy economic zone, specify applicable energy-efficiency standards, and determine eligibility criteria for the application of state and local incentives and benefits in the energy economic zone. However, in order to receive benefits provided under s. 288.106, a business must be a qualified target industry business under s. 288.106 for state purposes. An energy economic zone's boundary may be revised by local ordinance. Such incentives and benefits include those in ss. 212.08, 212.096, 220.181, 220.182, 220.183, 288.106, and 624.5105 and the public utility discounts provided

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1509 in s. 290.007(8). The exemption provided in s. 212.08(5)(c)  
1510 shall be for renewable energy as defined in s. 377.803. For  
1511 purposes of this section, any applicable requirements for  
1512 employee residency for higher refund or credit thresholds must  
1513 be based on employee residency in the energy economic zone or an  
1514 enterprise zone. A business in an energy economic zone may also  
1515 be eligible for funding under ss. 288.047 and 445.003, ~~and a~~  
1516 ~~transportation project in an energy economic zone shall be~~  
1517 ~~provided priority in funding under s. 339.2821.~~ Other projects  
1518 shall be given priority ranking to the extent practicable for  
1519 grants administered under state energy programs.

1520 Section 30. Except as otherwise expressly provided in this  
1521 act, this act shall take effect July 1, 2020.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LEGISLATIVE PROPOSAL**

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**2020  
Proposal**

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Change the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap

- Eliminate \$275 million portion of the Debt Service Cap

**Date Effective:** Upon becoming Law or July 1, 2020, whichever is sooner

**Priority Number:**

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**Policy Analysis**

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**1. Proposal Analysis**

**Current Situation:** Section 206.46(2), F.S., provides two debt service caps for Right of Way Acquisition and Bridge Construction bonds. Debt service on these bonds may not exceed 7 percent of the revenues deposited into the State Transportation Trust Fund (STTF) or \$275 million, whichever is less.

Under the current statutory limit, the \$275 million debt service cap leaves the department with only approximately \$100 million of available bonding capacity (at an interest rate of 5%).

Section 339.139, F.S. - Requires the department to manage all levels of debt to ensure not more than 20 percent of total projected available state and federal revenues are committed to obligations specified in this section. This section provides a prudent cap on the overall debt service allowed within the STTF. The Right of Way Acquisition and Bridge Construction bonds are a part of the department's required overall debt assessment.

**Effect of Proposed Changes:** Eliminates the \$275 million portion of the Debt Service Cap which results in additional bonding capacity to provide flexibility to meet the critical transportation needs of the State.

The ROW & Bridge Bond program was created in 1988. Over the 20-year period, 1988 - 2007, the cap was adjusted 7 times. This translates to an adjustment on average every 3 years. However, no adjustment has been made in over 10 years since 2007. The last two adjustments (in 2002 and 2007) were to the fixed debt service amount to bring it in line with the calculation of 7% of revenues deposited into the STTF. Based on the last bond sale issued (refunding issuance closed on April 4, 2019) and Revenue Estimating Conference projections, the limit on debt service based on 7% of revenue deposited into STTF of \$4,097.9 million would have been \$286.9 million in FY 2019 growing to \$350.6 million in FY 2028 based on revenue of \$5,009.1 million.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:** Additional flexibility and bonding capacity provides additional means to meet the transportation needs and to advance the transportation projects of the State.

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No  
If so, include:

1. Governor's Recommendation.
2. Past Bill Numbers and how they ended up in the process.
3. How this proposal is different, if at all, from previous proposals.

**1(c). Does this proposal represent:**

- ☒ (a) a policy change or  
☐ (b) a technical/non-controversial revision without a fiscal impact.

**2. Would other agencies be significantly impacted by this proposal?** ☐ Yes ☒ No  
If so, have they been consulted?

3. Who is impacted by this proposal? N/A
4. What is the specific impact to individual citizens? None
5. What is the specific impact to businesses? None
6. What is the specific impact to state or local governments? Removing the ROW & Bridge Bond debt cap of \$275 million will provide Florida the flexibility to utilize this program to meet future bridge replacement needs in a timely manner with minimal disruption to capacity-related projects included in the Work Program.
7. What is the position of the affected citizens, businesses, agencies or groups? N/A
8. Does the proposal provide more freedom and less government? No
9. Does this proposal promote open transparent government? No
10. Opposition Summary: No new debt, overall debt cap for the Department of Transportation is too high, etc.
11. Is there a commission, council, task force or board that is created, revised or terminated? ☐ Yes ☒ No  
Name:  
Purpose:  
Number of Members and who appoints them:  
Termination Date:  
Description:  
Bill Section Numbers:  
Summary of Changes:
12. Are there reports and studies required? ☐ Yes ☒ No  
Description:  
Date Due:  
Bill Section Numbers:

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#### Fiscal Analysis

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1. Does the proposal contain a State Government appropriation? ☐ Yes ☒ No  
If so, is it included in the agency's LBR? ☐ Yes ☐ No
  - a. Describe:
  - b. What is the state revenue impact? (first year/annualized)
  - c. What is the state expenditure impact? (first year/annualized)
  - d. How many FTEs will be needed to implement legislation?
  - e. What are the service program costs?
2. Does the proposal contain Local Government revenue or expenditures? No
  - a. What is the local revenue impact? (first year/annualized)
  - b. What is the local expenditure impact? (first year/annualized)

3. Does the proposal contain private sector fiscal impact? No
- a. Does the proposal increase or decrease taxes?
  - b. Does the proposal increase or decrease fees?
  - c. Does the proposal increase or decrease fines?
  - d. What are the impacts of any of these increases or decreases?

Attach Proposed Legislation

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LEGISLATIVE PROPOSAL**

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**2020  
Proposal**

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Intermodal Logistics Center (ILC) Infrastructure Support Program

- A proposal to reauthorize program funding, at least \$5 million per year, for the Intermodal Logistics Center (ILC) Infrastructure Support Program (Section 311.101, Florida Statutes), through July 1, 2025.

**Date Effective:** July 1, 2020

**Priority Number:**

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**Policy Analysis**

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**1. Proposal Analysis**

**Current Situation:** State Transportation Trust Fund program funding for the Intermodal Logistics Center (ILC) Infrastructure Support Program outlined in Section 311.101, Florida Statutes, expires on July 1, 2020.

The purpose of the program is to provide funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport, thereby 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. The department 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.

**Effect of Proposed Changes:** The program has historically been funded from the State Transportation Trust Fund.

As identified in a 2018 Florida Seaport Transportation and Economic Development (FSTED) Council study, fewer business incentives are available or targeted to the transportation and logistics sector, when comparing Florida to nearby states. Other southeastern states often outbid Florida for major employers by offering significant incentives in the form of tax credits, land acquisition and even outright money grants for businesses willing to locate within their state.

As highlighted in the same 2018 study, one of the economic development tools the state of Florida does have, is the ILC program. Since fiscal year 2013, the ILC program has leveraged local and private funding through a 50% matching requirement, to complete 12 unique projects that are geographically disbursed around the state.

Reauthorization of the ILC program will allow the state of Florida to continue to encourage job creation and capital investment, by providing a program to leverage local and private investment to complete infrastructure projects.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:**

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No

If so, include:

1. Governor's Recommendation.
2. Past Bill Numbers and how they ended up in the process.
3. How this proposal is different, if at all, from previous proposals.

**1(c). Does this proposal represent:**

- ☐ (a) a policy change or  
☐ (b) a technical/non-controversial revision without a fiscal impact.



2. Would other agencies be significantly impacted by this proposal? ☐ Yes ☒ No  
If so, have they been consulted?
3. Who is impacted by this proposal?
4. What is the specific impact to individual citizens?
5. What is the specific impact to businesses?
6. What is the specific impact to state or local governments?
7. What is the position of the affected citizens, businesses, agencies or groups?
8. Does the proposal provide more freedom and less government?
9. Does this proposal promote open transparent government?
10. Opposition Summary:
11. Is there a commission, council, task force or board that is created, revised or terminated? ☐ Yes ☒ No  
Name:  
Purpose:  
Number of Members and who appoints them:  
Termination Date:  
Description:  
Bill Section Numbers:  
Summary of Changes:
12. Are there reports and studies required? ☐ Yes ☒ No  
Description:  
Date Due:  
Bill Section Numbers:

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#### Fiscal Analysis

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1. Does the proposal contain a State Government appropriation? ☒ Yes ☐ No  
If so, is it included in the agency's LBR? ☐ Yes ☐ No
  - a. Describe: State Transportation Trust Fund
  - b. What is the state revenue impact? (first year/annualized) Positive returns of greater than 1:1 after project completion and full utilization ramp-up period (e.g., 3 to 5 years).
  - c. What is the state expenditure impact? (first year/annualized) Up to \$5 million per year
  - d. How many FTEs will be needed to implement legislation? 2
  - e. What are the service program costs?
2. Does the proposal contain Local Government revenue or expenditures?
  - a. What is the local revenue impact? (first year/annualized)

- b. What is the local expenditure impact? (first year/annualized)
- 3. Does the proposal contain private sector fiscal impact?
  - a. Does the proposal increase or decrease taxes?
  - b. Does the proposal increase or decrease fees?
  - c. Does the proposal increase or decrease fines?
  - d. What are the impacts of any of these increases or decreases?

**Attach Proposed Legislation**

## LEGISLATIVE PROPOSAL

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2020  
Proposal

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Move Over Law

- The proposed change adds "road and bridge maintenance or construction vehicles" to the Move-Over Law by specifically listing these vehicles in the statute, similar to emergency vehicles, sanitation vehicles, utility vehicles, and wreckers.
- Temporary traffic control is required for maintenance and construction activities to provide safety for the workers and the public traveling through work zones. For short duration work activities, advance signs and channelizing devices may be omitted so the situation is very similar to an emergency vehicle, sanitation vehicle, utility vehicle, and wrecker which are specifically identified in the statute. Advance signs and channelizing devices may be omitted for short duration work activities because there is risk in setting up the signs and devices.

**Date Effective:** July 1, 2020

**Priority Number:**

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Policy Analysis

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**1. Proposal Analysis**

**Current Situation:** Known as the "Move-Over Law," s. 316.126, F.S. requires drivers encountering an emergency vehicle, sanitation vehicle, utility vehicle, or wrecker to either vacate the lane closest to such vehicle or slow down. While it is common for drivers to move over for road and bridge maintenance or construction vehicles, the Move-Over Law does not apply to road and bridge maintenance or construction vehicles because they are not specifically listed in the statute.

**Effect of Proposed Changes:** Drivers will be required to move over or decrease speed in accordance with the Move-Over Law when road and bridge maintenance or construction vehicles are displaying warning lights on the roadside.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:** Providing a safe transportation system is part of the Department's core mission.

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No  
If so, include:

1. Governor's Recommendation.
2. Past Bill Numbers and how they ended up in the process.
3. How this proposal is different, if at all, from previous proposals.

**1(c). Does this proposal represent:**

- ☒ (a) a policy change or  
☐ (b) a technical/non-controversial revision without a fiscal impact.

**2. Would other agencies be significantly impacted by this proposal?** ☒ Yes ☐ No  
If so, have they been consulted? Law enforcement agencies. No.

**3. Who is impacted by this proposal?** Drivers and law enforcement.

**4. What is the specific impact to individual citizens?** Drivers would be required to move over or decrease speed in accordance with the Move-Over Law for road and bridge maintenance or construction vehicles.

**5. What is the specific impact to businesses?** None.

6. What is the specific impact to state or local governments? None.
7. What is the position of the affected citizens, businesses, agencies or groups? Unknown.
8. Does the proposal provide more freedom and less government? No. The proposal adds "road and bridge maintenance or construction vehicles" to the list of vehicles currently in the Move-Over Law.
9. Does this proposal promote open transparent government? Unknown.
10. Opposition Summary: Unknown.
11. Is there a commission, council, task force or board that is created, revised or terminated? ☐ Yes ☒ No

Name:  
Purpose:  
Number of Members and who appoints them:  
Termination Date:  
Description:  
Bill Section Numbers:  
Summary of Changes:

12. Are there reports and studies required? ☐ Yes ☒ No

Description:  
Date Due:  
Bill Section Numbers:

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#### Fiscal Analysis

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1. Does the proposal contain a State Government appropriation? ☐ Yes ☒ No  
If so, is it included in the agency's LBR? ☐ Yes ☐ No
- a. Describe:
- b. What is the state revenue impact? (first year/annualized)
- c. What is the state expenditure impact? (first year/annualized)
- d. How many FTEs will be needed to implement legislation?
- e. What are the service program costs?
2. Does the proposal contain Local Government revenue or expenditures?
- a. What is the local revenue impact? (first year/annualized)
- b. What is the local expenditure impact? (first year/annualized)
3. Does the proposal contain private sector fiscal impact?
- a. Does the proposal increase or decrease taxes? No.
- b. Does the proposal increase or decrease fees? No.

- c. Does the proposal increase or decrease fines?
- d. What are the impacts of any of these increases or decreases?

**Attach Proposed Legislation**

## Price, Cindy

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**From:** Johnson, Stephanie <Stephanie.Johnson@myfloridahouse.gov>  
**Sent:** Wednesday, February 5, 2020 4:16 PM  
**To:** Price, Cindy  
**Subject:** FW: Questions

This should be it.

**From:** Kotyk, John <John.Kotyk@dot.state.fl.us>  
**Sent:** Friday, January 31, 2020 3:43 PM  
**To:** Johnson, Stephanie <Stephanie.Johnson@myfloridahouse.gov>  
**Subject:** Questions

**EXTERNAL EMAIL:** This email originated from outside of the Legislature. USE CAUTION when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Temporary Traffic Control is the devices and personnel that change the road conditions for a work zone or incident.

There are some maintenance activities that do not require lane closures or shoulder closures that require temporary traffic control devices. Activities that don't require temporary traffic control would be activities that are away from the roadway like sometimes fence repair or ditch repair or tree trimming.

Channelizing devices for temporary traffic control are cones, drums, barricades, etc.

### John Kotyk

Deputy Legislative Affairs Director  
Florida Department of Transportation  
Office: [\(850\)414-4575](tel:(850)414-4575)  
Direct: [\(850\)414-4147](tel:(850)414-4147)  
[John.Kotyk@dot.state.fl.us](mailto:John.Kotyk@dot.state.fl.us)



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**2020  
Proposal**

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Advance MPO Deadline to Submit Project Priorities

- The statutes guiding the development of the Tentative Work Program require Metropolitan Planning Organizations (MPO) and other transportation planning organizations to submit their project priority list no later than October 1 of each year. By Legislative action, each even numbered year's legislative session is accelerated to convene in January. This change results in the need to accelerate the Tentative Work Program Development cycle.
- When the cycle is compressed by an earlier session, the department requests partner planning organizations to submit their project priority list on August 1, which is two months sooner than statute. The legislative proposal recommends permanent establishing August 1 as the official submission deadline. A permanent date will alleviate confusion and enable the department to provide better support to partner planning organizations..

**Date Effective:** July 1, 2020

**Priority Number:**

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**Policy Analysis**

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**1. Proposal Analysis**

**Current Situation:** The Tentative Work Program development process outlined in s. 339.135, F.S., requires Metropolitan Planning Organizations (MPO) and transportation planning organizations to submit of their list of priority projects by October 1 (s. 339.135(4)(c)2, F.S.). During a "normal" Work Program (WP) development cycle, this date allows enough time for the project implementation/change process to occur within the Tentative WP cycle.

However, the Legislature has established a January to March session timeframe for even numbered years. The "compressed" legislative cycle shortens the Tentative WP development by two months thereby driving the need for earlier submission of project information. Other statutory development deadlines haven't kept pace with this legislative change.

The department requests their planning organization partners' project priorities be delivered sooner during the compressed development. However some organizations have expressed a desire for clearer and consistent communication. To date, there haven't been any failures to deliver, however this earlier submission of the priority list of projects is provided as a courtesy rather than a mandate.

**Effect of Proposed Changes:** Establishes August 1 as the permanent date for planning organizations to submit their priority list of transportation projects to the department. The change enables the department to better serve its external partners and ensures sufficient time to develop funding scenarios which will be included in the Tentative WP.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:** This change would enable the agency the flexibility to more efficiently and effectively manage department and state resources.

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No  
If so, include:

1. Governor's Recommendation. N/A
2. Past Bill Numbers and how they ended up in the process. N/A
3. How this proposal is different, if at all, from previous proposals. N/A

**1(c). Does this proposal represent:**

- ☒ (a) a policy change or  
☐ (b) a technical/non-controversial revision without a fiscal impact.

2. Would other agencies be significantly impacted by this proposal? ☒ Yes ☐ No  
If so, have they been consulted? Non-binding discussions have taken place but no action to codify the change.
3. Who is impacted by this proposal? Seven Geographic Districts, Work Program and MPOs
4. What is the specific impact to individual citizens? N/A
5. What is the specific impact to businesses? N/A
6. What is the specific impact to state or local governments? N/A
7. What is the position of the affected citizens, businesses, agencies or groups? N/A
8. Does the proposal provide more freedom and less government? Increases flexibility of FDOT to be more responsive to external partners
9. Does this proposal promote open transparent government? N/A
10. Opposition Summary: None Known

11. Is there a commission, council, task force or board that is created, revised or terminated? ☐ Yes ☒ No

Name: N/A  
Purpose: N/A  
Number of Members and who appoints them: N/A  
Termination Date: N/A  
Description: N/A  
Bill Section Numbers: N/A  
Summary of Changes: N/A

12. Are there reports and studies required? ☐ Yes ☒ No

Description: N/A  
Date Due: N/A  
Bill Section Numbers: N/A

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#### Fiscal Analysis

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1. Does the proposal contain a State Government appropriation? ☐ Yes ☒ No  
If so, is it included in the agency's LBR? ☐ Yes ☐ No
- a. Describe: N/A
- b. What is the state revenue impact? (first year/annualized) N/A
- c. What is the state expenditure impact? (first year/annualized) N/A
- d. How many FTEs will be needed to implement legislation? N/A
- e. What are the service program costs? N/A



2. Does the proposal contain Local Government revenue or expenditures? N/A
  - a. What is the local revenue impact? (first year/annualized) N/A
  - b. What is the local expenditure impact? (first year/annualized) N/A
3. Does the proposal contain private sector fiscal impact? N/A
  - a. Does the proposal increase or decrease taxes? N/A
  - b. Does the proposal increase or decrease fees? N/A
  - c. Does the proposal increase or decrease fines? N/A
  - d. What are the impacts of any of these increases or decreases? N/A

Attach Proposed Legislation



## **ECONOMIC DEVELOPMENT TRANSPORTATION FUND**

The Economic Development Transportation Fund (EDTF) is an economic incentive program created to alleviate transportation problems that adversely affect the decision of a specific company to locate, expand or remain in the state of Florida. The program, created in 1980, was transferred to the Florida Department of Transportation (FDOT) on July 1, 2012 with the creation of section 339.2821, Florida Statutes (F.S.).

Section 339.2821, F.S., requires FDOT to enter into contracts with governmental entities for the development of publicly accessible transportation facilities needed to induce a specific company to locate, expand or remain in the state. Eligible projects include but are not limited to safety and capacity improvements to existing roadways; the development of new roads and rail spurs; and certain seaport, airport and spaceport infrastructure improvements.

The policies that govern the operation of the EDTF allow the program to work in concert with Florida's other economic incentive programs to attract high-wage jobs in the industry sectors targeted by the state.

### **APPLICATION SUBMISSION AND REVIEW**

The EDTF is one of 12 incentive programs used by Enterprise Florida (EFI) to attract new high-wage jobs in industry sectors with a strong expectation for future growth.

When a company that operates in a targeted industry sector encounters a transportation impediment that adversely impacts its location or expansion decision, EFI works with the governmental entity in which the impediment is located to prepare an EDTF application for consideration by FDOT.

The initial application is submitted to EFI, which acts on behalf of FDOT to ensure that the project meets Florida's job creation and economic development requirements. The final funding decision is made by FDOT after considering the comments or recommendations provided by EFI, and the Departments of Economic Opportunity and Environmental Protection.

Section 339.2821, F.S., also provides the following criteria which must be considered:

- Cost per job created or retained considering the amount of transportation funds requested;
- Average hourly wages of the jobs created;
- Amount of capital investment to be made by a business;
- Demonstrated local commitment;
- Location of the project in an enterprise zone;
- Location of the project in a spaceport territory;
- Unemployment rate of the surrounding area; and
- Poverty rate of the community.

### **APPROVAL AND GRANT AWARD**

If the EDTF application is approved, the funding award is made to the governmental entity, on behalf of the company the state is trying to recruit. This ensures that all infrastructure funded by the EDTF will be publicly accessible.

Contracts for the disbursement of EDTF funds condition the release of funds on the governmental entity's certification that vertical construction of the company's primary business facility has been achieved. Vertical construction is defined as the installation of the four load bearing walls of the company's main facility. If work on the transportation facility does not begin within four years of the FDOT grant award, the award is terminated in accordance with section 339.2821(4)(f), F.S.

### USE OF FUNDS

EDTF funding can only be used for the direct cost of "transportation facilities" as defined in section 334.03, F.S. The use of EDTF funding for landscaping, environmental mitigation, utility location or relocation, and other indirect costs is therefore prohibited.

### FUNDING AND COMMITMENTS

Funding for the program is appropriated on a non-recurring basis in the State Transportation Trust Fund.

On July 1, 2012, FDOT received 30 EDTF projects spread throughout the state. FDOT also received unexpended balances of appropriations totaling \$46.9 million – \$42.8 million was committed to the 30 projects and the remaining \$4.1 million was available for use by the program. The transferred projects were reviewed to ensure that they were active or likely to become active in the near future. Eight inactive projects were identified and deleted, freeing \$7.03 million for use by the program.

On July 1, 2014, all uncommitted prior year appropriation balances reverted pursuant to section 43 of Chapter 2014-53, Laws of Florida.

The following provides an overview of the EDTF appropriations and commitments under FDOT:

<b>Economic Development Transportation Fund</b>				
	<b>Appropriation After Earmarks</b>	<b>Committed by FDOT</b>	<b># of Projects</b>	<b>Jobs Committed</b>
FY 2012-13	\$19,007,000	\$22,241,795*	14	3,960
FY 2013-14	\$13,016,000	\$13,454,754*	10	4,227
FY 2014-15	\$10,000,000	\$7,545,466	5	86
FY 2015-16	\$2,993,150	\$7,743,150**	2	566
FY 2016-17	\$1,475,000	\$2,331,437**	2	885
FY 2017-18	\$0***	\$0	0	0
<b>Notes:</b>				
* Includes unallocated funds transferred from DEO and funds released from projects that were deleted or completed for less than grant award.				
** Includes end of year balance and funds released from projects completed for less than grant award.				
*** EDTF appropriation category was not authorized in FY 2017-18; therefore, new projects are not anticipated.				

## LEGISLATIVE PROPOSAL

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2020  
Proposal

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Deletion of Road Fund (SED)

- The Economic Development Transportation Fund (EDTF) is one of 12 economic incentive programs used by the State to encourage specific businesses to locate, expand or remain in our state. The program was transferred from the Department of Economic Opportunity to the Florida Department of Transportation (department) on July 1, 2012 with the creation of Section 339.2821, Florida Statutes. The budget category used to make appropriations for projects in the program has not been used by the Legislature in the past several years. Recommend removing the program from statute due to lack of use.

**Date Effective:** July 1, 2020

**Priority Number:**

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Policy Analysis

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**1. Proposal Analysis**

**Current Situation:** FDOT is directed to administer the program known as the Economic Development Transportation Fund in conjunction with other business attraction and retention tools administered by the Department of Economic Opportunity (DEO) and Enterprise Florida (EFI). The program has been underutilized over the last few years as the Legislature has utilized a unique budget category for local projects.

FDOT has continued funding and financing the EDTF program in the 5-Year Work Program. Given the local projects are no longer included in and administered under the provisions of this program, staff proposes removing EDTF requirements from statute.

**Effect of Proposed Changes:** Removal of EDTF language from statute would release FDOT from having to program associated projects into the 5-Year Work Program totalling \$5 million. In the absence of appropriation, the projects have to be deferred or deleted. This causes a disruption in the Tentative Work Program.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:** This change would enable the agency the flexibility to more efficiently and effectively manage department and state resources.

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No  
If so, include:

1. Governor's Recommendation. N/A
2. Past Bill Numbers and how they ended up in the process. N/A
3. How this proposal is different, if at all, from previous proposals. N/A

**1(c). Does this proposal represent:**

- ☒ (a) a policy change or  
☐ (b) a technical/non-controversial revision without a fiscal impact.

**2. Would other agencies be significantly impacted by this proposal?** ☐ Yes ☒ No  
If so, have they been consulted? N/A

**3. Who is impacted by this proposal?** The impact of removing the EDTF requirement from statute poses no additional impact to the State beyond that which is already imposed by lack of funding.

**4. What is the specific impact to individual citizens?** N/A

5. **What is the specific impact to businesses?** The EDTF program specifically targets economic development in Florida. Lack of funding/budget for this program may hinder the development of new or relocation of existing businesses to Florida.
6. **What is the specific impact to state or local governments?** Potential revenue generated by increased economic activity.
7. **What is the position of the affected citizens, businesses, agencies or groups?** N/A
8. **Does the proposal provide more freedom and less government?** N/A
9. **Does this proposal promote open transparent government?** N/A
10. **Opposition Summary:** None Known

11. **Is there a commission, council, task force or board that is created, revised or terminated?** ☐ Yes ☒ No

Name: N/A  
Purpose: N/A  
Number of Members and who appoints them: N/A  
Termination Date: N/A  
Description: N/A  
Bill Section Numbers: N/A  
Summary of Changes: N/A

12. **Are there reports and studies required?** ☐ Yes ☒ No

Description: N/A  
Date Due: N/A  
Bill Section Numbers: N/A

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#### Fiscal Analysis

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1. **Does the proposal contain a State Government appropriation?** ☒ Yes ☐ No  
**If so, is it included in the agency's LBR?** ☒ Yes ☐ No
- a. **Describe:** Per statute, FDOT is required to include the EDTF in the 5-Year Work Program. As such, the appropriation is part of the annual Legislative Budget Request for \$5M.
- b. **What is the state revenue impact? (first year/annualized)** N/A
- c. **What is the state expenditure impact? (first year/annualized)** N/A
- d. **How many FTEs will be needed to implement legislation?** N/A
- e. **What are the service program costs?** N/A
2. **Does the proposal contain Local Government revenue or expenditures?** No
- a. **What is the local revenue impact? (first year/annualized)** N/A
- b. **What is the local expenditure impact? (first year/annualized)** N/A
3. **Does the proposal contain private sector fiscal impact?** No

- a. Does the proposal increase or decrease taxes? N/A
- b. Does the proposal increase or decrease fees? N/A
- c. Does the proposal increase or decrease fines? N/A
- d. What are the impacts of any of these increases or decreases? N/A

**Attach Proposed Legislation**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LEGISLATIVE PROPOSAL**

200-030-05  
LEGISLATIVE PROGRAMS  
05/19  
Page 1 of 3

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**2020  
Proposal**

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**Agency:** Florida Department of Transportation

**Agency Contact Person:** Kevin Thibault, Secretary

**Executive Summary:** Airport Determination Terminology

- Correct terminology in Chapter 333, Florida Statutes regarding description of a federal document required to be submitted with a local government permit application for review by the Department.

**Date Effective:**

**Priority Number:**

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**Policy Analysis**

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**1. Proposal Analysis**

**Current Situation:** S. 333.03(1)(c)3 establishes requirement that local government airport protection zoning regulations must require a "valid aeronautical study" for a local government permit application. The local government must provide a complete copy of the permit application to the Department's Aviation and Spaceports Office for review and comment.

**Effect of Proposed Changes:** The proposed change to S. 333.03(1)(c)3, Chapter 333, Florida Statutes will clarify the statutory language to identify the federal document required to be included in the local government airport protection zoning regulations requirements for a permit.

**1(a). Please describe how this proposal might advance the Governor's agenda or philosophy, the agency's mission, or good government:** This revision will advance the agency's mission by clarifying the federal document to be provided to the Department for review and comment on the local government permit application. This is a technical change in language only. It will not change the manner in which we perform these functions.

**1(b). Has the Legislature considered this proposal in the past?** ☐ Yes ☒ No

If so, include:

1. Governor's Recommendation.
2. Past Bill Numbers and how they ended up in the process.
3. How this proposal is different, if at all, from previous proposals.

**1(c). Does this proposal represent:**

- ☐ (a) a policy change or  
☒ (b) a technical/non-controversial revision without a fiscal impact.

**2. Would other agencies be significantly impacted by this proposal?** ☐ Yes ☒ No

If so, have they been consulted?

**3. Who is impacted by this proposal?** Local governments and the Department.

**4. What is the specific impact to individual citizens?** None

**5. What is the specific impact to businesses?** None

**6. What is the specific impact to state or local governments?** Local governments may need to revise the text of their airport protection zoning regulations

**7. What is the position of the affected citizens, businesses, agencies or groups?** Unknown

**8. Does the proposal provide more freedom and less government?** No change

9. Does this proposal promote open transparent government? Yes

10. Opposition Summary: Do not expect any as this is really a technical correction.

11. Is there a commission, council, task force or board that is created, revised or terminated? ☐ Yes ☒ No

Name:

Purpose:

Number of Members and who appoints them:

Termination Date:

Description:

Bill Section Numbers:

Summary of Changes:

12. Are there reports and studies required? ☐ Yes ☒ No

Description:

Date Due:

Bill Section Numbers:

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### Fiscal Analysis

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1. Does the proposal contain a State Government appropriation? ☐ Yes ☒ No  
If so, is it included in the agency's LBR? ☐ Yes ☐ No

a. Describe:

b. What is the state revenue impact? (first year/annualized)

c. What is the state expenditure impact? (first year/annualized)

d. How many FTEs will be needed to implement legislation?

e. What are the service program costs?

2. Does the proposal contain Local Government revenue or expenditures? No

a. What is the local revenue impact? (first year/annualized)

b. What is the local expenditure impact? (first year/annualized)

3. Does the proposal contain private sector fiscal impact? No

a. Does the proposal increase or decrease taxes?

b. Does the proposal increase or decrease fees?

c. Does the proposal increase or decrease fines?

d. What are the impacts of any of these increases or decreases?



**Attach Proposed Legislation**

# CourtSmart Tag Report

**Room:** EL 110  
**Caption:** Senate Infrastructure and Security Committee

**Type:**  
**Judge:**

**Started:** 2/10/2020 4:03:40 PM  
**Ends:** 2/10/2020 5:46:47 PM  
**Length:** 01:43:08

4:03:39 PM Meeting called to order by Chair Lee  
4:03:42 PM Roll Call by AA, Marilyn Hudson  
4:03:55 PM Quorum present  
4:04:02 PM Comments from Chair Lee  
4:04:11 PM Introduction of Tab 1 by Chair Lee  
4:04:39 PM Explanation of SB 78, Transportation Facility Designations/General Daniel "Chappie" James, Jr. by Senator Broxson  
4:05:41 PM Introduction of Amendment Barcode No. 533900 by Chair Lee  
4:06:07 PM Explanation of Amendment by Senator Broxson  
4:06:26 PM Introduction of Amendment to Amendment Barcode No. 335000 by Chair Lee  
4:06:38 PM Explanation of Amendment by Senator Broxson  
4:06:49 PM Amendment adopted  
4:06:57 PM Introduction of Amendment to Amendment Barcode No. 935644 by Chair Lee  
4:07:08 PM Explanation of Amendment by Senator Cruz  
4:08:58 PM Comments from Senator Broxson  
4:09:51 PM Amendment adopted  
4:10:06 PM Introduction of Amendment Barcode No. 737782 by Chair Lee  
4:10:15 PM Explanation of Amendment by Senator Hutson  
4:11:18 PM Amendment adopted  
4:11:33 PM Closure waived  
4:11:57 PM  
4:12:06 PM  
4:12:10 PM Roll call by AA  
4:12:14 PM CS/SB 78 reported favorably  
4:12:27 PM Introduction of Tab 3 by Chair Lee  
4:12:37 PM Explanation of SB 520, Drones by Senator Gruters  
4:13:11 PM Chair turned to Senator Perry  
4:13:24 PM Introduction of Amendment Barcode No. 256804 by Chair Perry  
4:13:33 PM Explanation of Amendment by Senator Lee  
4:13:42 PM Question from Senator Taddeo  
4:13:55 PM Response from Senator Lee  
4:14:58 PM Closure waived  
4:15:14 PM Amendment adopted  
4:15:23 PM Chair returned to Senator Lee  
4:15:36 PM Question from Senator Perry  
4:15:45 PM Response from Senator Gruters  
4:16:11 PM Follow-up question from Senator Perry  
4:16:22 PM Response from Senator Gruters  
4:16:37 PM Question from Senator Stewart  
4:16:48 PM Response from Senator Gruters  
4:17:12 PM Question from Senator Taddeo  
4:17:21 PM Response from Senator Gruters  
4:18:09 PM Comments from Chair Lee  
4:19:48 PM Allie Pass, The Florida Sheriffs Association waives in support  
4:20:02 PM Allie Pass on behalf of Gary Hester waives in support  
4:20:10 PM Jim Millican, Florida Fire Chiefs Association waives in support  
4:20:21 PM Senator Perry in debate  
4:20:58 PM Senator Taddeo in debate  
4:21:29 PM Senator Gruters in closure  
4:21:44 PM Roll call by AA  
4:21:54 PM CS/SB 520 reported favorably  
4:22:07 PM Introduction of Tab 4 by Chair Lee

4:22:20 PM Explanation of CS/SB 1212, International Affairs by Senator Gruters  
4:22:45 PM Brittany Dover, Department of State waives in support  
4:23:35 PM Closure waived  
4:23:49 PM Roll call by AA  
4:23:53 PM CS/SB 1212 reported favorably  
4:24:02 PM Introduction of Tab 5 by Chair Lee  
4:24:13 PM Explanation of CS/SB 1332 by Senator Hooper  
4:25:11 PM Introduction of Amendment Barcode No. 721446 by Chair Lee  
4:25:24 PM Explanation of Amendment by Senator Hooper  
4:25:51 PM Candice Ericks, Broward & Palm Beach Counties waives in support  
4:26:05 PM Sandra Mortham, Florida Independent Auto Dealers waives in support  
4:26:17 PM Amendment adopted  
4:26:36 PM Question from Senator Taddeo  
4:26:50 PM Response from Senator Hooper  
4:27:15 PM Jose Diaz, Professional Wrecker Operators of Florida waives in support  
4:27:34 PM Closure waived  
4:27:46 PM Roll call by AA  
4:27:53 PM CS/SB 1332 reported favorably  
4:28:04 PM Introduction of Tab 7 by Chair Lee  
4:28:10 PM Explanation of SB 1692 by Senator Flores  
4:28:59 PM Introduction of Amendment Barcode No. 939746 by Chair Lee  
4:29:09 PM Explanation of Amendment by Senator Flores  
4:29:36 PM Question from Senator Hutson  
4:29:58 PM Response from Senator Flores  
4:30:42 PM Closure waived  
4:31:00 PM Amendment adopted  
4:31:13 PM Closure waived  
4:31:19 PM Roll call by AA  
4:31:22 PM CS/SB 1692 reported favorably  
4:31:42 PM Introduction of Tab 8 by Chair Lee  
4:31:49 PM Explanation of SB 1694, Driver License Fees by Senator Flores  
4:31:56 PM Introduction of Amendment Barcode No. 931484 by Chair Lee  
4:32:03 PM Explanation of Amendment by Senator Flores  
4:32:09 PM Amendment adopted  
4:32:17 PM Closure waived  
4:32:20 PM Roll call by AA  
4:32:26 PM CS/SB 1694 reported favorably  
4:32:41 PM Introduction of Tab 2 by Chair Lee  
4:32:48 PM Explanation of SB 502, Emergency Mitigation and Response by Senator Montford  
4:34:16 PM Introduction of Amendment Barcode No. 305986 by Chair Lee  
4:34:31 PM Explanation of Amendment by Senator Montford  
4:34:56 PM Amendment adopted  
4:35:11 PM Closure waived  
4:35:21 PM Roll call by AA  
4:35:26 PM CS/SB 520 reported favorably  
4:35:37 PM Introduction of Tab 9 by Chair Lee  
4:35:46 PM Explanation of SB 1738, Motor Vehicle Dealers by Senator Brandes  
4:36:10 PM Question from Senator Cruz  
4:36:24 PM Response from Senator Brandes  
4:37:05 PM Follow-up question from Senator Cruz  
4:37:19 PM Response from Senator Brandes  
4:37:32 PM Follow-up question from Senator Cruz  
4:37:45 PM Response from Senator Brandes  
4:38:01 PM Chair turned over to Senator Perry  
4:38:11 PM Introduction of Amendment Barcode No. 574662 by Chair Perry  
4:38:27 PM Explanation of Amendment by Senator Lee  
4:40:11 PM Question from Chair Perry  
4:40:19 PM Response from Senator Lee  
4:40:55 PM Speaker Ted Smith, Florida Automobile Dealers Association in support  
4:42:11 PM Question from Senator Cruz  
4:42:22 PM Response from Mr. Smith  
4:43:32 PM Closure by Senator Lee

4:44:34 PM Amendment adopted  
4:45:35 PM Chair returned to Senator Lee  
4:45:46 PM William Large, Florida Justice Reform Institute waives in support  
4:45:52 PM Carolyn Johnson, Florida Chamber of Commerce waives in support  
4:46:02 PM Logan McFadden, American Property & Casualty waives in support  
4:46:07 PM David Leibowitz, Braman Management Association waives in support  
4:46:16 PM Ron Book, AutoNation waives in support  
4:46:28 PM Closure waived  
4:46:33 PM Roll call by AA  
4:46:37 PM CS/SB 1738 reported favorably  
4:46:50 PM Introduction of Tab 10 by Chair Lee  
4:46:56 PM Chair turned over to Senator Perry  
4:47:19 PM Explanation of SPB 7054, Transportation by Cindy Price  
4:55:19 PM Senator Hooper moves that SPB 7054 be submitted as a Committee Bill  
4:55:26 PM Roll call by AA  
4:55:32 PM SPB 7054 reported favorably  
4:55:46 PM Chair returned to Senator Lee  
4:55:54 PM Introduction of Tab 6 by Chair Lee  
4:56:11 PM Chair turned over to Senator Perry  
4:56:20 PM Explanation of SB 1484, Motor Vehicle Manufacturers and Dealers by Senator Diaz  
4:59:16 PM Introduction of Late-filled Amendment Barcode No. 829390 by Chair Perry  
5:00:17 PM Explanation of Amendment by Senator Diaz  
5:00:57 PM David Leibowitz, Braman Management Association waives in support  
5:01:19 PM Amendment adopted  
5:01:30 PM Question from Senator Stewart  
5:01:39 PM Response from Senator Diaz  
5:03:34 PM Speaker Jeff Perry, General Motors in opposition  
5:11:23 PM Speaker Diane Carr, Alliance for Automotive Innovation in opposition  
5:17:18 PM Comments from Chair Perry  
5:17:30 PM Continued comments from Ms. Carr  
5:21:24 PM Question from Senator Cruz  
5:21:36 PM Response from Ms. Carr  
5:23:42 PM Follow-up question from Senator Cruz  
5:24:02 PM Response from Ms. Carr  
5:25:14 PM Speaker David Leibowitz, Braman Management Association in support  
5:34:01 PM Comments from Chair Perry  
5:34:10 PM Continued comments from Mr. Leibowitz  
5:36:42 PM Fred Baggett, Ford Motor Company waives in opposition  
5:36:59 PM Ron Book, AutoNation waives in support  
5:37:05 PM Ted Smith, Florida Automobile Dealers Association waives in support  
5:37:21 PM Senator Hooper in debate  
5:40:24 PM Senator Stewart in debate  
5:40:57 PM Senator Lee in debate  
5:42:50 PM Senator Cruz in debate  
5:44:48 PM Comments from Chair Perry  
5:45:00 PM Senator Diaz in closure  
5:45:32 PM Roll call by AA  
5:45:53 PM CS/SB 1484 reported favorably  
5:46:12 PM Senator Stewart would like to be shown as voting in the affirmative on CS/SB 1738  
5:46:23 PM Senator Bean would like to be shown as voting in the affirmative on SPB 7054  
5:46:28 PM Senator Cruz moves to adjourn, meeting adjourned