

**STORAGE NAME:** h4765a.ca

**DATE:** April 23, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 4765 (PCB TR 98-06)

**RELATING TO:** Transportation

**SPONSOR(S):** Committee on Transportation and Rep. Fuller

**COMPANION BILL(S):** HB 1061 (c), HB 4197 (c), CS/1ST ENG/SB 844 (c), CS/SB 1218 (c), CS/SB 1426 (c), SB 1754 (c), CS/SB 1804 (c), and SB 1958 (c)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) TRANSPORTATION YEAS 9 NAYS 1
  - (2) COMMUNITY AFFAIRS YEAS 7 NAYS 0
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

This bill contains provisions relating to transportation issues in Florida. A number of these provisions are from the Department of Transportation's (DOT) 1998 legislative package, which are intended to improve department operations. In addition, the bill addresses commercial motor vehicle (trucking) issues and other issues related to the Department of Highway Safety and Motor Vehicles (DHS&MV).

The bill also contains provisions resulting from the State Government Function/Activity Review Interim Project. As part of this project, statutory provisions relating to the operations of the DOT and the DHS&MV were reviewed to determine whether the provisions were consistent with each agency's mission. Several functions and activities related to both departments were identified which could be repealed, revised, or realigned.

Some of these provisions result in administrative cost-savings and increased efficiencies which are expected to have an overall positive fiscal impact. Many provisions in the bill have an insignificant fiscal impact. However, one provision has the potential to significantly impact the DOT contract claim process, although the amount of this impact is indeterminate. [See the Fiscal Analysis and Economic Impact Statement under Part III for details].

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Because of the comprehensive nature of the changes contained in this bill the present situation relating to each issue is set out in the Section-by-Section portion of this research document.

B. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the transportation related changes contained in this bill the effect of each proposed change is set out in the Section-by-Section portion of this research document.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

DOT is authorized to determine areas where commercial motor vehicles will not be restricted to using the two right lanes of limited access highways.

DHS&MV is authorized to determine the minimum number of vehicles required to participate in the fleet registration program.

The State Arbitration Board is authorized to hear more construction contract claims.

DOT is authorized to set outdoor advertising permit reinstatement fees up to a maximum of \$300 based on the size of the sign; current law fixes this fee at \$300 for all reinstatements.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Office of Tourism, Trade, and Economic Development assumes regulatory responsibility for welcome centers.

The Department of Community Affairs assumes responsibility for mobile homes and recreational vehicle construction regulation.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The Bureau of Mobile Homes in DHSMV is transferred to the Department of Community Affairs.

Responsibility for the Welcome Centers Operations Office are transferred from DOT to the Office of Tourism, Trade and Economic Development and the Commission on Tourism.

- (2) what is the cost of such responsibility at the new level/agency?

Transferring the Bureau of Mobile Home and Recreational Vehicle Construction from DHS&MV to the Department of Community Affairs should result in some minor administrative savings.

The cost of Welcome Centers Operations Office are currently funded from tourism resources, but the employees are housed administratively in DOT.

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes, owners of vehicles converting to the fleet registration process would pay a one-time \$1.50 fee for each vehicle converted. This defrays the cost of replacing the vehicle's current tag with a fleet tag. New vehicles added to the fleet are also subject to a one-time \$20 issuance fee. However, converting to the fleet registration process is voluntary, with participation at the option of the fleet owner.

A motor vehicle or mobile home owner pays an additional \$1 service charge if the tax collector or licensed tag agent employee uses a printer dispenser machine to issue a validation or mobile home sticker.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

A motor vehicle or mobile home owner would pay an additional \$1 service charge if the tax collector or licensed tag agent employee uses a printer dispenser machine to issue a validation or mobile home sticker.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, beneficiaries of the fleet registration provisions in the bill will pay additional fees to offset DHS&MV's administrative costs for the program.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, the fleet registration provisions of this bill will allow more owners of multiple vehicles to participate in the fleet registration program.

The International Registration Plan exemption for vehicles being repaired or purchased will allow commercial motor vehicle owners from out of state more flexibility in operating in Florida.

The increase in size of small business signs exempted from permitting requirements will give small businesses more options for advertising distance and direction to these businesses in rural areas.

The exemption for forestry and agricultural commercial motor vehicles from local weight restrictions when the local road provides the only access to property, will allow individuals and businesses engaged in forestry and agriculture easier access to affected property.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Commercial motor vehicles would be prohibited from using certain lanes on limited access facilities that currently are available for the vehicles' use.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Sections 206.606, 316.063, 316.0815, 316.091, 316.302, 316.2055, 316.555, 318.18, 320.01, 320.04, 320.055, 320.065, 320.0657, 320.0715, 321.045, 322.08, 322.1615, 332.004, 332.006, 334.0445, 334.065, 335.166, 335.0415, 335.165, 337.11, 337.185, 337.19, 337.403, 338.229, 479.01, 479.07, and 479.16, Florida Statutes.

**E. SECTION-BY-SECTION RESEARCH:**

**Sections 1-2, & 5. Distribution of Fuel Tax Proceeds:** Section 206.606, F.S., provides for the distribution of fuel tax revenues. After deduction of the general revenue service charge of seven percent, fuel tax revenues are first deposited in the Fuel Tax Collection Trust Fund. From these funds, the statute requires the annual transfer of the following amounts:

- ▶ \$7.55 million to the Department of Environmental Protection, with \$1.25 million of this amount going to the Marine Resources Conservation Trust Fund and the remainder goes to the Aquatic Plant Control Trust Fund.
- ▶ \$1.25 million to the State Game Trust Fund in the Game and Freshwater Fish Commission.
- ▶ \$1.5 million to the Board of Regents to be used to fund the Center for Urban Transportation Research (CUTR) at the University of South Florida.

After these deductions and transfers the remaining money is transferred to the State Transportation Trust Fund to fund the state's transportation system.

The bill revises this distribution of fuel tax proceeds. For the current fiscal year, annual off-the-top funding of \$1.5 million to the CUTR is eliminated. Beginning in fiscal year 1999, the annual off-the-top funding of \$7.55 million for the Department of Environmental Protection is eliminated. The bill also makes a conforming change to the s. 334.065, F.S., to revise the advisory board of the CUTR, and to transfer this section to the appropriate place in statutes related to the Board of Regents.

**Sections 3 & 27. Welcome Centers:** When the Department of Commerce was abolished in 1996, Florida's Welcome Centers were transferred to the DOT for administrative and fiscal accountability purposes only. This was done primarily to retain the career service status of Welcome Center employees, with the Commission on Tourism administering the programs and activities of the centers. This bill amends and renumbers s. 335.166, F.S., to transfer Welcome Centers from DOT to the Office of Tourism, Trade, and Economic Development. The bill makes the Commission on Tourism responsible for providing direction to the Welcome Center Office and providing for improvements to Welcome Centers. The bill also repeals s. 335.165, F.S., which has obsolete references to the Department of Commerce.

**Section 4. Expressway And Bridge Authorities/Study:** Chapter 348, F.S., contains provisions creating eight expressway or bridge authorities (four of which are currently active), and authorization for counties to form such authorities by adoption of a local resolution. Currently, only one county (Dade) has created an authority by resolution, but

at least one additional county (Escambia) is considering establishing an authority by local resolution. Because these authorities perform many of the same functions as DOT in planning, developing, financing, constructing, and operating revenue producing transportation facilities, more information is needed about duplication of government functions by the various authorities and DOT. The bill requires the Florida Transportation Commission to report to the Legislature by February 1, 2000, on the role of expressway authorities and the feasibility of transferring existing transportation facilities of expressway and bridge authorities to DOT.

**Section 6. Unattended Motor Vehicles/Obstructing Traffic:** The bill would make the penalty for a violation of s. 316.063, F.S., (duty upon damaging unattended vehicle or other property) consistent with the penalties for other similar violations. Section 316.063, F.S., requires a driver to move a damaged vehicle that is obstructing the flow of traffic in cases where an unattended vehicle or property has been damaged. A violation of this section is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. Sections 316.061 and 316.071, F.S., places similar requirements on drivers of damaged and disabled vehicles that are obstructing the flow of traffic. A violation of either section is considered a noncriminal traffic infraction, punishable by a fine of \$30. This section reduces the penalty for failure to move a damaged vehicle when an unattended vehicle or property is damaged. The penalty is reduced from a second degree misdemeanor to a noncriminal traffic infraction, punishable by a fine of \$30.

**Section 7. Public Transit Buses/Right-of-Way:** A number of transit systems are trying to use "pull-out bays", which are passenger loading areas along the sides of roadways, to get publicly owned transit buses out of the traffic flow when stopping to load passengers. Under current traffic laws, a bus that has pulled into a pull-out bay must wait for all vehicles to pass by before returning to the traffic flow. This makes it difficult for the buses to reenter traffic and continue on its route. This bill creates s. 318.0815, F.S., to provide that the driver of another vehicle must yield the right of way to a publicly owned bus that has signaled and is reentering the traffic flow. However, it is not readily clear if there are any penalties associated with the violation of this provision. The bill also specifically provides that the bus driver is not relieved from the duty to drive with due regard for the safety of all persons using the road.

**Section 8. Commercial Motor Vehicles/Lane Restrictions:** Section 316.091, F.S., provides restrictions for the use of limited access highways related to bicycles, motor driven cycles and animals. Current law does not specifically address lane operating restrictions. The bill provides that a commercial motor vehicle or combination of vehicles with a gross vehicle weight of 26,001 pounds or more or having 3 axles or more, may only be driven in the two right through lanes when on a limited access facility with six or more lanes. The vehicles may operate in other lanes when exiting the facility. The bill also allows commercial motor vehicles to use additional lanes in congested urban areas where the department determines it is necessary for the safe flow of traffic.

**Section 9. Advertising Material Thrown in Motor Vehicles:** Section 316.2055, F.S., makes the act of throwing advertising materials into a vehicle a noncriminal traffic infraction. However, there is no statutory authority for assessing a penalty for a violation of this section. This section classifies the violation of throwing advertising materials into a vehicle as a pedestrian violation, punishable by a fine of \$15.

**Section 10. Forestry and Agricultural Trucks/ Local Weight Restrictions:** Currently s. 316.555, F.S., allows local governments to impose load, weight and speed restrictions on roads under their jurisdiction. Some local governments have imposed weight restrictions that prevent some commercial motor vehicles from operating on the local roads at normal operating weights, and this has created situations where forestry and agricultural products could not be accessed. The bill exempts commercial motor vehicles carrying forestry and agricultural products (including related site management equipment) from county imposed weight restrictions, when a county road provides the only access to the forestry or agricultural property. The bill also limits the exemption, so that it does not apply when a weight restriction has been imposed on a bridge or other structure for safety reasons.

**Section 11. Construction Zones/Speeding Fines:** Section 318.18(c), F.S., provides that the amount of the fine for speeding in posted construction zones is to be double the amount of the usual speeding fine. The bill clarifies this provision to limit the doubling of the fine to when construction personnel are present or operating equipment on or adjacent to the road under construction.

**Sections 12 & 14 - 16. Fleet Registration:** Section 320.065, F.S., provides for the permanent registration of certain vehicles which haul agricultural products. Further, s. 320.0657, F.S., provides that the owner or lessee of 250 or more nonapportioned commercial motor vehicles licensed as passenger vehicles, light trucks, gross vehicle weight trucks, semitrailers, special purpose vehicles or trailers, may register such vehicles as a fleet. Fleet registration offers businesses the convenience of an exemption from carrying a certificate of registration and validation sticker for each vehicle. Currently, to register a fleet of vehicles the owner of the fleet must pay the required regular registration fee for each vehicle plus an annual fee of \$6.

The section also provides that recipients of fleet licence plates must submit an annual audit, prepared by a certified public accountant at the recipients expense, to the DHS&MV. According to DHS&MV, the audit has been a disincentive for companies to join the fleet registration program because the costs for the audit is prohibitive.

Section 320.01, F.S., is amended to provide that "agricultural product" means any food product; agricultural, horticultural, or livestock product; any raw material used in plant food formulation; any plant food used to produce food and fiber. This definition is currently in s. 320.065, F.S., relating to permanent trailer registration (which is repealed in section 7 of the bill); and must be moved to the definition section for purposes of fleet registration.

Section 320.055, F.S., is amended to provide that DHS&MV will implement a system that distributes the fleet registration renewal process throughout the year.

Section 320.0657, F.S., is amended to provide that "fleet" means non-apportioned motor vehicles owned or leased by a company and used for business purposes. The number of vehicles comprising a fleet will be established by DHS&MV.

The bill provides that, in addition to the applicable license tax prescribed for the particular vehicle, the owner or lessee of a fleet of motor vehicles must pay an annual fleet management fee of \$2 per vehicle and a one time license plate manufacturing fee of \$1.50 for each vehicle. If the cost to manufacture the license plate increases, the



department may increase the fee to recoup its costs. If the size of the fleet increases, a \$20 per vehicle issuance fee will be charged which includes the license plate manufacturing fee. Vehicles registered as a fleet are exempt from carrying a certificate of registration, and no annual validation sticker is required.

The bill deletes the requirement for annual audits by recipients of fleet licence plates. However, all recipients of fleet license plates must provide DHS&MV with an annual vehicle reconciliation and must annually surrender all unassigned license plates. Failure to comply may result in fines of up to \$1,000 for each occurrence, or suspension or termination from the fleet program.

The bill provides that if the recipient of fleet license plates fails to properly and timely renew or initially register vehicles in its fleet, DHS&MV may impose a delinquency penalty of \$50 or 10 percent of the delinquent taxes due, whichever is greater, if the failure is for not more than 30 days. An additional 10 percent penalty is assessed for each additional 30 days during the time which the failure continues, not to exceed a total penalty of 100 percent of the registration fee. The penalty may not be less than \$50.

The bill repeals s. 320.065, F.S., dealing with permanent registration for certain trucks which carry agricultural products. Under the bill these trucks may register for fleet license plates.

**Section 13. Registration Service Charge/Printer Dispenser Machines:** Section 320.04(1)(a), F.S., provides that a service charge of up to \$1 may be assessed on each license plate validation sticker and mobile home sticker issued from an *automated vending facility*. The \$1 assessment is retained by DHS&MV in order to provide for such automated vending facilities and machines in tax collector or license tag agent offices. In Attorney General Opinion 97-50, the Attorney General was asked if an AP 2100 Decal Applicator/Printer, or similar device, could be considered an “automated vending facility” and whether the \$1 service charge could be assessed on transactions handled by the printer. The Attorney General determined that the printer could be considered an automated vending facility if used as part of a self-service operation. However, when the machine is operated by a registration clerk for in-person or mail renewals, with the clerk handling transactions by inputting pertinent information, the procedure loses its automated vending character and operates more as a piece of office equipment and is not eligible for the \$1 service charge. The bill amends s. 320.04(1)(a), F.S., to authorize the assessment of the \$1 service charge on transactions processed through a printer dispenser machine by a tax collector or license tag agent employee. This provision should help to further automate the motor vehicle registration process.

**Section 17. International Registration Plan/New Purchase & Repair Exemption:** DHS&MV registers Florida-based commercial motor vehicles under the International Registration Plan (IRP) Program. The IRP is an interstate cooperative agreement for the payment of vehicle registration fees. This enables carriers to register in a single state and put one license plate on each vehicle for the right to travel in all participating jurisdictions. The carrier’s base jurisdiction collects annual fees for all other jurisdictions for which the carrier registers. Each IRP jurisdiction collect the necessary fees for all other IRP jurisdictions through which each carrier will travel and then distributes each state’s share accordingly. Section 320.0715, F.S., sets out the IRP program.

The bill amends this section to exempt vehicles from IRP requirements if it is a newly purchased vehicle being picked-up, or if the vehicle is brought into the state for repairs. The exemption only applies if the vehicle is not loaded and is being operated by its owner. The effect of this exemption is that neither IRP registration nor a trip permit is required for vehicles meeting the exemption's requirements.

**Section 18. Florida Highway Patrol Mission and Program Objectives:** Current law broadly defines the Florida Highway Patrol's (FHP) duties and responsibilities, ranging from patrolling state highways to assisting other state and local law enforcement officers. As a result the FHP has taken on an extensive enforcement role in the state even though the model used to document FHP staffing needs consistently indicates a need for new trooper positions.

The bill creates s. 321.045, F.S., to statutorily establish the mission and program objectives of the FHP. The bill does not change current trooper duties and responsibilities defined in law. Establishing the statewide role and priorities of the FHP will help focus and prioritize the use of limited FHP resources.

**Sections 19 & 20. Bureau of Mobile Home and Recreational Vehicle Construction Transfer:** The bill transfers the Bureau of Mobile Home and Recreational Vehicle Construction from DHS&MV to the Department of Community Affairs. Transferring the Bureau will consolidate two programs that have similar goals and purposes. The DHS&MV's *Mobile Home and Recreational Vehicle Construction Program* inspects manufacturing facilities and dealer lots for compliance with federal and state building codes. In addition, it investigates consumer complaints against mobile home manufacturers and dealers, licenses and tests mobile home installers, trains set-up crews, and trains county officials. The *Manufactured Buildings Program*, within the Department of Community Affairs, ensures that manufactured and modular buildings (not mobile homes) built or marketed in Florida are constructed to meet certain minimum standards.

**Section 21. Driver's License Applications/Voluntary Contributions:** Repeals s. 322.08(7)(c), F.S., which authorizes DHS&MV to accept voluntary contributions on initial driver's license applications on behalf of the Florida Council for the Blind.

**Section 22. Learners Driver's License/Nighttime Driving:** Current law provides that a person holding a learner's driver's license may operate a vehicle only during daylight hours. In order to develop nighttime driving skills, the law allows the beginning driver to operate a vehicle between the hours of 7 p.m. and 10 p.m., 3 months after the issuance of the learner's license. During the winter months some areas of the state get dark before 7 p.m., which creates a period of time from dark until 7 p.m. that beginning drivers may not operate a motor vehicle to develop their nighttime driving skills.

The bill eliminates the restriction that a person holding a learner's license may not operate a vehicle from dark until 7 p.m. and allows an operator with a learner's license to drive from dark until 10 p.m., instead of from 7 p.m. to 10 p.m.

**Section 23. Airports/Space Launch Facilities:** DOT has an aviation program which provides planning, technical and financial assistance to the state's system of airports. The Spaceport Florida Authority is attempting to attract additional commercial space launches and associated operations to Florida. Pursuant to statutory authorization,

DOT has entered into joint participation agreements with the Spaceport to help implement the Spaceport Florida Authority Act.

The bill amends s. 332.004, F.S. to provide that facilities used for landings and takeoffs of reusable launch vehicles and other space vehicles are included in the definition of airports. This will allow these space facilities to become a part of the aviation planning process, as well as make these facilities eligible for transportation funds.

**Section 24. Airports/Economic Development Assistance:** Section 332.006(9), F.S., provides that DOT will assist airports to become fiscally self-supporting by providing money on a matching basis for capital improvements related to economic development. Examples of these improvements include parking areas and industrial park utility systems. In implementing this economic development program, DOT has limited participation to general aviation airports. General aviation airports are airports that do not have regularly scheduled air carriers providing commercial passenger service. This bill clarifies that these economic development funds are available to airports that have no scheduled commercial passenger air service, and to commercial passenger airports that are small-hub or nonhub airports. This change will allow some of the state's smaller airports with passenger service to be eligible for this program.

**Section 25. DOT Model Career Service Plan/Extension:** Current law provides that DOT may implement a model career service personnel plan, but authority for continuing with the plan expires June 30, 1999. The bill continues the plan for an additional fiscal year. This will allow the department time to develop legislative recommendations for making this a permanent program.

**Section 26. Road Jurisdiction/Operation & Maintenance Responsibility:** Under s. 335.0415, F.S., jurisdictional responsibilities, and operations and maintenance (O&M) responsibilities of various governmental entities (DOT, counties, and cities) for public roads was frozen as the responsibilities that existed on July 1, 1995. Due to an effective date of June 11, 1995 for the act that created this section, some local governments have requested clarification regarding the 19 day gap and its effect on O&M responsibilities. The bill amends this section to change the date on which the freeze on transfers of these responsibilities became effective from July 1, 1995 to June 10, 1995.

**Section 28. DOT Contract Supplemental Agreements/Surety Approval:** Section 337.11, F.S., requires DOT to use supplemental agreements to modify the terms of contracts the department enters into with contractors. This section also requires approval by the contractor's surety of any supplemental agreements. According to DOT, this approval by the contractor's surety bonding company is an unnecessary requirement which can delay moving forward on the project.

The bill eliminates the requirement for surety approval of supplemental agreements, and provides that a surety, by providing a bond on a DOT project, agrees to any contract modification without express written consent. According to the transportation building industry, the terms of the contract used by DOT already requires the surety to be responsible for additional work requested by DOT.

**Section 29. State Arbitration Board:** Currently s. 337.185, F.S., creates the State Arbitration Board to help settle construction contract claims between DOT and contractors prior to court litigation. All claims up to \$100,000 must be arbitrated by the

Board, and if the claimant requests, claims up to \$250,000 must be arbitrated by the Board. The Board is made up of three members: one appointed by DOT, one appointed by the contractors, and one appointed by the first two members. The bill raises the limit on claims which must be arbitrated from \$100,000 to \$250,000, and the limit on claims that may be arbitrated from \$250,000 to \$500,000.

The bill also allows DOT to select an alternate or substitute member that may serve for a hearing or for a term. Currently, members of the Board, except the DOT appointed member, may receive compensation of up to \$750 per day. The bill changes this maximum to \$125 per hour up to \$1000 per day. This compensation is paid from fees charged to the requesting party using a sliding scale based on the amount of the claim; this fee may be apportioned by the Board among the parties based on findings of liability. The bill also adjusts this scale to conform to the bill's increases in maximum claim limits.

**Section 30. Contract Claims Suits/DOT Liability:** Article X, Section 13 of the Florida Constitution provides: "Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating." The courts have interpreted this language as providing absolute sovereign immunity to the state and its agencies from actions for breach of contract in the absence of a waiver by legislative enactment or constitutional amendment. In s. 337.19, F.S., the Legislature waived sovereign immunity for suits against DOT based on contract. This section provides that suits against the department may be brought on any claim under contract for work done. This section specifically prohibits lawsuits against DOT when the suit is based on a tort.

The bill modifies this section to provide that DOT would be liable for contract claim damages as would be available in a similar suit against a private individual. This allows additional claims to be made against DOT. The effect of this change on litigation against DOT is unknown and depends on how these changes are interpreted by the courts.

**Section 31. Utility Relocation Contracts/Site Clearing:** Most construction contracts involve utilities located on or along road rights-of-way, with utilities being relocated in many instances. Relocation of these utilities occur in areas where clearing of vegetation and other site preparation is necessary for the road project. Currently, this clearing work is part of the construction contract with the contractor doing the clearing and grubbing and then the utility company relocates the utilities. This sometimes results in delays in construction projects due to scheduling conflicts and lack of coordination between the utility and the road contractor. This bill amends s. 337.403, F.S., to allow DOT to contract directly with the utility company for clearing and grubbing work necessary for utility relocation. This work would occur in advance of road construction, thus avoiding project delays.

**Section 32. Turnpike Bond Covenants/Transfer Restrictions:** Section 338.229, F.S., contains the state's pledge to Turnpike bondholders not to limit DOT's authority to build, maintain, and operate the Turnpike. This section contains other pledges regarding impairing the rights and remedies protecting bondholders. The bill authorizes the DOT to include restrictions on the sale or other transfer of portions of the Turnpike in bond covenants. This will further protect bondholders interests, and should help to maintain the high ratings that Turnpike revenue bonds have been given by bond rating agencies.

**Section 33. Outdoor Advertising/Commercial & Industrial Zones:** Chapter 479, F.S., and the agreement between Florida and the U.S. Department of Transportation prohibits the state from permitting outdoor advertising signs unless located in commercial or industrial areas. DOT is currently required to use the future land use map of local comprehensive plans to determine whether property has been designated for commercial or industrial development. DOT has had difficulty in implementing this provision because of problems with the interpretation of comprehensive plans when the land development regulations are not considered along with the future land use map.

The bill amends s. 479.01, F.S., to allow DOT to consider both land development regulations and future land use maps to determine if commercial or industrial uses are authorized. The bill also clarifies criteria for determining if an area designated for multiple uses is an unzoned commercial or industrial area.

**Section 34. Outdoor Advertising/Permit Reinstatement:** Current law provides that DOT may reinstate an outdoor advertising sign permit that was not renewed because of a good faith error by the permit holder. This reinstatement may only be allowed within 90 days of DOT's notice of sign removal and the permittee must pay a \$300 reinstatement fee.

The bill modifies this reinstatement process to provide that permits may reinstate at any time prior to actual removal of the sign. The bill also changes the fixed fee of \$300, to allow DOT to set reinstatement fees based on the size of the sign, but not to exceed \$300.

**Section 35. Outdoor Advertising/Small Business Signs:** Florida's permitting system to control the erection of signs lists 15 categories of signs that do not require a permit. Signs not exceeding 8 square feet located at a road junction with a state highway denoting the distance and direction to a small business do not require a permit if located in a rural area and a hardship is created for a small business because it is not visible from the road junction with the state highway system. The bill amends this exemption to increase the size allowed for such signs to 16 square feet.

**Section 36. Interagency Building Transfer and Sale:** In 1996, the Legislature passed Chapter 96-423, Laws of Florida, which contained a provision authorizing the sale of a building in Orlando being used by the Department of Business and Professional Regulation (DBPR) as a regional service center.

The bill amends this chapter law to delete authority to dispose of the DBPR building and to authorize the sale of a building occupied by DHS&MV. Proceeds of the sale will go to DOT. The intent of this change is to implement an interagency agreement to allow DOT to purchase the DBPR building, share the building space with DHS&MV, and sell the DHS&MV building.

**Section 37. Effective Date:** Except as otherwise noted above, the act is effective upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<u>EXPENDITURES</u>	<u>1998-99</u>	<u>1999-00</u>
Highway Safety Operating Trust Fund	<u>\$1.53M</u>	<u>-0-</u>

DHS&MV estimates that the first year would require 1.1 million fleet registration license plates at \$1.38 each, and 500 hours of computer programming at \$31.20 per hour to implement the fleet registration provisions of this bill.

2. Recurring Effects:

<u>REVENUES</u>	<u>1998-99</u>	<u>1999-00</u>
Highway Safety Operating Trust Fund	<u>\$1.64M</u>	<u>-0-</u>

DHS&MV estimates that this amount of revenue would be generated if each of the 1.1 million eligible vehicles move to the fleet program and pay the license plate manufacturing fee of \$1.50 per plate. The loss of revenue from these vehicles not paying the advance replacement fee of \$2 per plate will be replaced by a \$2 per plate fleet management fee.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>REVENUES</u>	<u>1998-99</u>	<u>1999-00</u>
Highway Safety Operating Trust Fund	<u>\$1.64M</u>	<u>-0-</u>
 <u>EXPENDITURES</u>		
Highway Safety Operating Trust Fund	<u>\$1.53M</u>	<u>-0-</u>
 <u>NET REVENUE</u>	 <u>\$ .11M</u>	

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Owners of vehicles converting to the fleet registration process would pay a one-time \$1.50 fee for each vehicle converted. This defrays the cost of replacing the vehicle's current tag with a fleet tag. New vehicles added to the fleet are also subject to a one-time \$20 issuance fee. However, participation in the fleet registration process is voluntary at the option of the fleet owner and presumably fleet owners will only register as a fleet if benefits of being in the program offset these fees.

A motor vehicle or mobile home owner would pay an additional \$1 service charge if the tax collector or licensed tag agent employee uses a printer dispenser machine to issue a validation sticker or mobile home sticker.

2. Direct Private Sector Benefits:

Some private vehicle fleet owners will benefit from time-savings and administrative efficiencies resulting from participating in the Fleet registration process.

Owners of commercial motor vehicles registered in other states wishing to bring a vehicle to Florida for repair, or who want to purchase new commercial motor vehicles in Florida will benefit from not having to purchase an IRP registration or trip permit.

To the extent that road construction projects are completed more quickly due to provisions of the bill relating to surety approval of supplemental agreements and utility companies doing clearing work on the right-of-way, the motoring public will benefit from having transportation improvements available sooner.

Authorizing the \$1 service charge on transactions processed by tax collector or license tag agent employees who use printer dispenser machines to issue validation or mobile home stickers should help to further automate the motor vehicle licensing process.

3. Effects on Competition, Private Enterprise and Employment Markets:

Due to the IRP exemption in the bill, Florida will be better able to compete with neighboring states for new sales of commercial motor vehicles and for providing repair services.

**D. FISCAL COMMENTS:**

The provision of the bill relating to lane restrictions for commercial motor vehicles will require DOT to post additional signs along limited access highways of 6 or more lanes. The cost of these new signs is indeterminate, but should not be significant.

Also, the amount of revenue that DHS&MV would receive from the \$1 service charge on validation and mobile home stickers issued through printer dispenser machines is indeterminate because it is unknown how many tax collectors and tag agents would decide to use the printer machine.

The IRP exemption in the bill could cause a reduction in fees that the state receives for out-of-state vehicles being repaired in Florida, and for sales of vehicles in Florida that will be registered in another state. However, it is likely that these repairs and sales are now done in the state where such vehicles are currently registered to avoid the Florida IRP fees.

Transferring the Bureau of Mobile Home and Recreational Vehicle Construction from DHS&MV to the Department of Community Affairs should result in some minor administrative savings. DHS&MV estimates that the program will generate \$1.5 million in revenue for fiscal year 1997-98, of which \$.87 million will be deposited in the General Revenue Fund and \$.66 million will be deposited in the Highway Safety Operating Trust Fund. Expenditures for fiscal year 1997-98 are estimated to be \$1.5 million from the Highway Safety Operating Trust Fund. The Bureau currently has 39 established positions.

The change modifying the types of lawsuits that can be filed against DOT will likely increase litigation for the department. The cost of this litigation is indeterminate and will depend on the number of suits filed by contractors. Likewise the amount of damages that will be paid as a result of this change is unknown. The amount of damages will depend on the number of suits where additional damages are awarded. This will be determined to some extent by how the courts interpret and apply the new statute to suits by contractors against the department.

DOT will receive the money resulting from the sale of the DHS&MV building in Orlando authorized in this bill. The amount of proceeds from this sale will depend on the real estate market and is, therefore, indeterminate. This revenue will be offset by expenditures DOT has contracted to make in the purchase of the DBPR regional service center.

**IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:**

**A. APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require cities and counties to spend money or take action that requires expenditures of money.



**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce revenue raising authority.

**C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the state tax shared with cities and counties.

**V. COMMENTS:**

Section 28 of the bill allows the Department of Transportation and contractors to make modifications in the contract agreement without the contractor's surety's expressed written approval. This seems to raise a third party liability contract issue if the modifications exceed the bond coverage of the department's project. However, the House Transportation Committee staff stated that the Department of Transportation represented that the surety companies doing business with transportation contractors support the provision. Further, the department observes that the bonds on any department project are adequate to cover the cost of any modifications that may occur.

Section 3 assigns the administrative and fiscal accountability responsibilities of the Welcome Centers Operations Office, formerly held by the Department of Transportation, to the Office of Tourism, Trade, and Economic Development (OTTED) in the Governor's Office. As a result, 38 career service employees are transferred to the OTTED. Consequently, the OTTED has raised concerns that these employees may lose their career service employment status. It is also unclear how such a transfer effects any retirement benefits of these employees.

Section 4 provides that the Transportation Commission (commission) is required to report to the Legislature the feasibility of transferring transportation facilities from certain authorities to the Department of Transportation. This charge to the commission appears specific; however, nothing in the section precludes the commission from making a finding that the current authorities adequately serve the state's transportation needs.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

**Committee on Transportation**

This bill was considered by the House Committee on Transportation on March 18, 1998. The following issues were added to the bill by a series of amendments adopted by the committee:

**Amendment 1:** DOT/DHSMV/DBPR Building transfer and sale. Technical amendment to direct proceeds of DHSMV building sale to DOT's Trust Fund.

**Amendment 2:** Forestry & Agricultural Trucks. Exempts these trucks from local weight restrictions on county roads if there is no other access. Exemption does not apply to bridges with weight restrictions for safety reasons.

**Amendment 3:** Buses/Yielding Right-of-way. Provides that other vehicles must yield right-of-way to public transit buses pulling into the traffic flow.

**Amendment 4:** Double Fines/ Construction Zones. Fines for speeding in construction zones would only be doubled if construction personnel is present or operating equipment in the construction zone.

**Amendment 5:** Space Launch Facilities/Airports. Provides that space launch facilities would be considered airports for purposes of DOT aviation program. Limits airport development support to airports without scheduled service and to small-hub and non-hub airports.

**Amendment 6:** Sign Permit Reinstatement. Allows sign permits to be reinstated up to the time the sign is physically removed; revises reinstatement fee so that it will be set by DOT up to \$300 based on size of sign.

**Amendment 7:** DOT Career Service Pilot. Would extend the pilot career service personnel program at DOT until 1999-2000 fiscal year.

**Amendment 8:** Nighttime Driving Learner's License Correction. Currently some areas of the state get dark before 6 p.m. and by law learners can't drive before 7 p.m. This allows an operator with a learner's license to drive until 10 p.m., instead of from 7 p.m. to 10 p.m.

**Amendment 9:** Throwing Advertising Materials into a Motor Vehicle. Classifies the violation of throwing advertising materials into a vehicle as a pedestrian violation. No penalty now.

**Amendment 10:** Failure to Move a Motor Vehicle Obstructing Traffic. Makes the penalty a noncriminal traffic infraction which is consistent with the penalties for other identical violations.

**Amendment 11:** Contract Claims. Makes department liable for such damages as would be available in a similar suit against a private individual.

**Amendment to Amendment 11:** Strikes "liable" and inserts "potentially liable".

**Amendment 12:** Contains substance of PCB TR 98-05, including these issues:

- Revises the distribution of certain fuel tax proceeds ( eliminates off-the-top funding to DEP, Fish & Game, and Center for Urban Transportation Research).
- Establishes the mission and program objectives of the Florida Highway Patrol.
- Transfers the Bureau of Mobile Home and Recreational Vehicle Construction from DHS&MV to the Department of Community Affairs.
- Revises language regarding a funding source and the advisory board of the Center for Urban Transportation Research at the University of South Florida.

- Transfer welcome centers from DOT to the Office of Tourism, Trade, and Economic Development; and make the Commission on Tourism responsible for providing direction to the welcome center office and providing for improvements to welcome centers.
- Requires the Florida Transportation Commission to report in 2000 on the feasibility of transferring transportation facilities of expressway and bridge authorities to DOT.

**Amendment to Amendment 12:** Reinstates the transfer of funds to the Game & Fresh Water Fish Commission.

**Amendment 13:** Deleted changes to s. 316.302, F.S., relating to commercial motor vehicles safety regulations, and enforcement of such regulations by terminal audits.

### **Committee on Community Affairs**

On April 23, 1998, the House Committee on Community Affairs adopted 14 amendments to HB 4765. The committee passed HB 4765 as amended and the amendments are traveling with the bill. A summary of the amendments adopted follows:

**Amendment 1:** Adds the term "Operations" to conform with the bill (this amendment is effectively eliminated with the adoption of amendment 2).

**Amendment 2:** Assigns responsibility for the Welcome Centers Office to the Florida Commission on Tourism (commission), effective July 1, 1999; requires the commission to contract with its direct-support organization to employ all welcome center staff; provides that after such employment, such employees will no longer be state employees after June 30, 1999; clarifies that the welcome center staff must be offered employment with the direct-support organization at the same salary they received at the Department of Transportation; provides that such employees will receive the benefits provided by the direct-support organization; and deletes the provisions 1) requiring the Department of Transportation to be responsible for the administrative and fiscal accounting of the welcome center and the welcome center staff, and 2) the rental car surcharge funding source.

**Amendment 3:** Defines the term "neighborhood vehicle" for the purposes of chapter 316, F.S., relating to state uniform traffic control.

**Amendment 4:** Reduces the number of outstanding parking violations which trigger a requirement that the state county clerks of the traffic bureau report to the Department of Highway Safety and Motor Vehicles from three or more outstanding parking violations to two or more outstanding parking violations

**Amendment 5:** Conforms s. 318.15, F.S., to also allow payment to a tax collector of service fee to reinstate drivers license.

**Amendment 6:** Clarifies that a particular definition of “agricultural products” applies only to chapter 320, F.S.

**Amendment 7:** Corrects a timing problem regarding motor vehicle registration renewal period by changing the renewal period from the 31-day period beginning January 1 to the 31-day period prior to expiration of the registration period.

**Amendment 8:** Allows, under certain conditions, legal suits against the Department of Transportation and provides that no liability may be based on an oral modification of the written contract.

**Amendment 9:** Appropriates \$5,000,000 from the State Transportation Trust Fund for the construction of an interchange on Interstate 4 at Conroy Road for the Orlando Area MPO project.

**Amendment 10:** Provides penalty and procedures for receipt by tax collector of worthless check or draft for driver license or identification card.

**Amendment 11:** Deletes reference to collectible vehicles; revises dates with respect to certain ancient or antique motor vehicles; exempting certain vehicles from the law, and providing for the issuance of license plates to certain ancient or antique firefighting apparatus or motor vehicles.

**Amendment 12:** Allows funds in appropriation Item 1916C of chapter 94-357, Laws of Florida, may be used to purchase land at the Florida Highway Patrol station in Cross City, Dixie County.

**Amendment 13:** Requires the Department of Transportation (department), under certain conditions, to apply \$4.6 million to the Winchester and Englewood Corridor projects; and requires the department, prior to receiving any new federal funds, allocate \$1 million to the Winchester and Englewood Corridor projects as an advance on the \$4.6 million.

**Amendment 14:** Amends s. 320.8325, F.S., requiring the Department of Community Affairs to promulgate rules on manufactured housing installation systems, and requiring the development of certain standards for park trailers. The amendment conforms to the provisions of the bill as introduced which provides for the transfer of the Bureau of Mobile Home and Recreational Vehicle Construction of the Department of Highway Safety and Motor Vehicles to the Department of Community Affairs.

**STORAGE NAME:** h4765a.ca

**DATE:** April 23, 1998

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VII. SIGNATURES:

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John R. Johnston

Thomas E. Duncan

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

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Joan Highsmith-Smith