

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 1368

SPONSOR: Fiscal Policy Committee, Transportation Committee and Senator Webster

SUBJECT: Transportation Department

DATE: March 29, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Hayes</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This Committee Substitute for Committee Substitute for Senate Bill 1368 concerns the operations of the Florida Department of Transportation (FDOT). This bill: moves motor carrier enforcement activities from Assistant Secretary for District Operations and places them under the Assistant Secretary for Transportation Policy; clarifies the Office of Motor Carrier Compliance is an office within the FDOT; adds an additional primary responsibility to the Transportation Commission; creates a new FDOT district in Duval county; updates references to the current safety regulations contained in the Code of Federal Regulations (C.F.R.) to March 1, 2000; changes references to “weight and safety” officers to “law enforcement” officers; specifies a law enforcement officer may remove an unsafe commercial motor vehicle from the road if the vehicle is determined to be unsafe or presents an unduly hazardous operating condition.

The bill: deletes joint submission of airport site approval and license applications; authorizes FDOT to purchase promotional items for use in educating the public and promoting traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety; provides for FDOT to conduct an analysis when determining a maximum lane policy; removes the FDOT’s authority to regulate train operating speeds; authorizes advertisement and award of design build contracts; redefines the period of validity of contractor prequalification; deletes the requirement that FDOT must retain a portion of the amount due a contractor for work the contractor has completed, until completion and final acceptance of the project by FDOT.

Further, the bill: allows the FDOT to incur expenses for paid advertising, marketing and promotion of toll facilities and electronic toll collection products and services; exempts high-occupancy toll lanes and express lanes from the provision no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997; increases the statutory cap of \$50 million for the advancement of local projects not in the adopted work program to \$100 million; deletes the 14 consecutive-day notice requirement and provides that notices for all hearings, after the initial design hearing, must be published twice, with the first notice appearing at

least 15 days, but no later than 30 days, before the hearing; deletes the requirement to develop methodologies for evaluating certain public transit capital projects; and, requires FDOT, by May 1 of each year, to submit to the Department of Environmental Protection and water management districts a copy of its tentative work program instead of the adopted work program.

The bill further: provides refunds to certain motor coaches during idle time; authorizes small ports, with operating revenues of \$5 million or less, to use seaport funding for construction and rehabilitation of their port facilities; deletes the requirement that an automobile transporter must acquire a permit from FDOT to operate a vehicle with of height of 14 feet; includes off-site airport noise mitigation projects in the definition of the term “airport or aviation development project” or “development project”; and provides contractor prequalification by the state is presumed to qualify a contractor to bid on county and Expressway Authority projects and provides an appeal process for contractors when a county or Expressway Authority objects to the prequalification process.

The bill clarifies the use of federal funds related to the Tri-County Rail system.

The bill expands the use of innovative contracting techniques for FDOT to include maintenance contracts.

The bill clarifies the role of Metropolitan Planning Organizations technical advisory committees with regard to school boards to ensure better coordination in planning transportation projects.

The bill provides this act shall take effect upon becoming a law.

This bill substantially amends sections 20.23, 206.8745, 255.20, 311.07, 316.302, 316.515, 316.516, 316.545, 316.610, 330.30, 332.004, 334.044, 335.02, 335.141, 336.025, 336.41, 336.44, 337.025, 341.302, 337.11, 337.14, 337.175, 338.161, 338.165, 339.12, 339.135, 339.155, 339.175, 341.051, 343.56, and 373.4137 of the Florida Statutes.

II. Present Situation:

Section 20.23 (2) (b), F.S., provides the primary functions of the Florida Transportation Commission. The primary functions of the commission are to:

1. Recommend major transportation policies for the Governor's approval, and assure approved policies and any revisions thereto are properly executed.
2. Periodically review the status of the state transportation system including highway, transit, rail, seaport, intermodal development, and aviation components of the system and recommend improvements therein to the Governor and the Legislature.
3. Perform an in-depth evaluation of the annual FDOT budget request, the Florida Transportation Plan, and the tentative work program for compliance with all applicable laws and established FDOT policies. The commission may not consider individual construction projects, but may consider methods of accomplishing the goals of the FDOT in the most effective, efficient, and businesslike manner.

4. Monitor the financial status of the FDOT on a regular basis to assure the FDOT is managing revenue and bond proceeds responsibly and in accordance with law and established policy.
5. Monitor on at least a quarterly basis, the efficiency, productivity, and management of the FDOT, using performance and production standards developed by the commission pursuant to s. 334.045.
6. Perform an in-depth evaluation of the factors causing disruption of project schedules in the adopted work program and recommend to the Legislature and the Governor methods to eliminate or reduce the disruptive effects of these factors.

Section 20.23 (3) (c), F.S., provides the motor carrier enforcement activities of FDOT are designated functions of the Assistant Secretary for District Operations. Further, FDOT's weight, safety and law enforcement agency, the Office of Motor Carrier Compliance, is not statutorily recognized as an office within FDOT.

The section further provides the operations of the FDOT must be organized into eight districts, including a turnpike district, each headed by a district secretary. The headquarters of the districts are located in Polk, Columbia, Washington, Broward, Volusia, Dade, Hillsborough, and Leon Counties. The section provides the turnpike district must be relocated to Orange County in the year 2000. Duval County currently is part of FDOT District 2. The central office for District 2 is located in Lake City, Columbia County, and there is a District 2 urban office located in Jacksonville. A new District 2 central office building is currently under construction in Lake City. The cost of the new building is approximately \$8 million.

Section 206.8745, F.S., provides tax refunds are authorized for diesel fuel consumed for unloading bulk cargo by pumping; for turning a concrete mixer drum; and for compacting solid waste. Requests for these refunds are processed by the Department of Revenue (DOR) as provided by agency rule. Based on industry conducted studies, DOR established fixed guidelines by rule for the portion of diesel fuel purchased which would be subject to refund. For both the concrete mixing industry and the trash compacting industry DOR rules provide that 35 percent of fuel purchased is subject to refund. For the bulk cargo pumping industry DOR rules provide that 10 gallons of fuel purchased for each load is subject to refund.

Section 311.07, F.S., creates the Florida Seaport Transportation and Economic Development Program within the Department of Transportation to finance port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and that will support the interests, purposes, and requirements of ports located in this state.

The section provides funds must be used to fund approved projects on a 50-50 matching basis with any of the qualified deep water ports. Projects eligible for funding by grants under the program are limited to the following port facilities or port transportation projects:

1. Transportation facilities within the jurisdiction of the port.
2. The dredging or deepening of channels, turning basins, or harbors.

3. The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.
4. The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.
5. The acquisition of land to be used for port purposes.
6. The acquisition, improvement, enlargement, or extension of existing port facilities.
7. Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects.
8. Transportation facilities which are not otherwise part of the Department of Transportation's adopted work program.
9. Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan.

Section 316.302, F.S., provides for the adoption of the Federal safety regulations as they existed on March 1, 1999. A statutory update is needed to take into account changes made to the regulations effective March 1, 2000.

Commercial motor vehicles are currently subject to 49 C.F.R., part 385, governing hours of service for both interstate and intrastate commercial motor vehicles, pursuant to section 316.302(1), F.S. However, the FDOT currently has no authority to enforce the compliance provisions for interstate commercial motor vehicles with terminal audits.

Section 316.302(8), F.S., specifies the entities responsible for the enforcement of the traffic laws of the state include agents of the Department of Transportation described in s. 316.545(9), the Florida Highway Patrol, and those employed by a sheriff's office or municipal police department. The FDOT's Motor Carrier Compliance Officers must meet the same qualifications established by law for any other law enforcement officer and are no longer referred to as "weight and safety officers."

The section further provides if a vehicle is determined to be unsafe or presents an unduly hazardous operating condition an officer may give written notice requiring proper repair and adjustments of the vehicle within 14 days. There is currently no provisions for removal of unsafe vehicles from the road in this section.

Section 316.515, F.S., provides no vehicle may exceed a height of 13 feet 6 inches, including the load the vehicle is carrying. However, the section provides an automobile transporter may measure a height not to exceed 14 feet if a permit has been acquired from FDOT.

Section 316.610(3), F.S., provides any commercial motor vehicle registered in this state may request FDOT to inspect its vehicles for a \$25 fee. If the vehicle is found to comply with certain safety equipment requirements, FDOT may issue a safety inspection certificate valid for 6 months. This inspection provision is no longer needed or relevant, and FDOT personnel never actually performed this service.

Section 330.30, F.S., requires joint submission of applications for airport site approval and for an airport license. Airports are not constructed until after site approval, and construction can take up to five years. However, chapter 120 requires an application for a license be acted upon within 90 days of receipt of an application. Thus, current law calls for issuance of a license prior to site approval and a determination that a constructed site complies with all safety and licensing requirements.

Section 332.004, F.S. provides the definition of the term “airport or aviation development project” or “development project” is any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; and the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the airport is located. The definition does not include off-site airport noise mitigation projects.

Section 334.044, F.S., provides for the powers and duties of the FDOT. The FDOT has been notified by the State Comptroller’s Office that reimbursement of funds expended to purchase promotional items will not be allowed without specific statutory authority for such purchases. Current law does not authorize FDOT to purchase marketing items to promote traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety.

Section 335.02, F.S., provides FDOT may establish standards for lanes on the State Highway System and the Florida Intrastate Highway System.

Sections 335.141 (3) and 341.302 (10), F.S., authorizes FDOT to regulate the speed limit of railroad traffic. In the 1993 decision CSX Transportation v. Easterwood, the U.S. Supreme Court held regulations adopted by the U.S. Secretary of Transportation under the Federal Railroad Safety Act regarding maximum train speeds covered the same subject matter as the relevant state law and, therefore, preempted state authority to regulate train speeds. Thus, the FDOT’s authority to regulate train operating speeds has been preempted by federal law.

Section 336.025, F.S., provides for the levy of a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county. The section provides the tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

The section further provides counties may utilize such funds only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan, including the construction of new roads, or the reconstruction or resurfacing

of existing paved roads. Such funds may not be used for routine maintenance of roads or paving graded roads.

Sections 336.41, 336.44, 255.20, 349.04, F.S., provide for the contracting authority of counties and expressway authorities. Currently, counties and expressway authorities may require persons interested in bidding on projects to be certified as qualified to perform the work before they may bid on the project. Such prequalification requirements can differ depending on the county or expressway authority, and many counties and expressway authorities do not recognize prequalification to bid on projects for the state as sufficient certification to bid on county or expressway authority contracts. Further, expressway authorities are specifically exempt from chapter 120, F.S., the Administrative Procedures Act.

Section 337.025, F.S., provides for innovative highway projects. The section authorizes FDOT to establish a program for highway projects demonstrating innovative techniques of highway construction which may include state-of-the-art technology for pavement, safety, and other aspects of highway construction; innovative bidding and financing techniques; and other techniques that have the potential to reduce project life cycle costs. The department is limited to no more than \$120 million in contracts annually for the purposes authorized by this section.

Section 337.11 (7) (a), F.S., provides for design-build contracting. The paragraph provides if the FDOT Secretary determines it is in the best interests of the public, the FDOT may combine the design and construction phases of a facility into a single contract. However, subsection (3) (c) provides no advertisement for bids may be published and no bid solicitations notice may be provided until all right-of-way for the project has been purchased.

Section 337.14, F.S., provides the prequalification and application requirements for contractors who wish to bid on FDOT contracts in excess of \$250,000. Subsection (4) provides if the applicant is found to possess the prescribed qualifications, FDOT must issue the applicant a certificate of qualification which is valid for 16 months. According to FDOT, more than half of all prequalification renewal applications are received between December 31 and April 30 of each year, with the bulk of the applications being received in late March and through April, just prior to the usual peak bid letting months of May and June. The applications must be processed within 30 days of receipt, creating a tremendous workload on the FDOT and concerns on the part of contractors relating to potential loss of bid opportunities during peak months.

Section 337.175, F.S., provides FDOT must provide in its construction contracts for retaining a portion of the amount due a contractor for work the contractor has completed, until completion and final acceptance of the project by FDOT. The section further provides a contractor may substitute securities, certificates of deposit, or irrevocable letters of credit approved by the FDOT comptroller in lieu of retainage.

Section 338.161, F.S., authorizes FDOT to advertise and promote electronic toll collections. FDOT is not currently authorized to advertise and promote toll facilities in general.

Section 338.165 (6), F.S., provides no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997.

Section 339.12 (4), F.S., authorizes FDOT to enter into an agreement with a governmental entity for a project or project phase not included in the adopted work program if the project is a high priority of the governmental entity. The total amount of such an agreement may not exceed \$50 million.

Section 339.135 (4), F.S., provides for the funding and developing of the tentative work program. The subsection further provides the tentative work program must specifically identify advanced right-of-way acquisition projects and must separately allocate funds for advanced right-of-way acquisition phases in each fiscal year as provided in s. 337.276, F.S. However, the 1996 Legislature amended s. 337.276, F.S., and removed the requirement that a majority of right of way bond proceeds be used to support the construction phase of projects planned 3 to 4 years from the date of acquisition, and removed the requirements that the remaining bond proceeds be spent on right of way for projects with construction phases planned a minimum of 5 years from acquisition.

Section 339.155 (6), F.S., provides the FDOT must notify all affected property owners of a scheduled initial design hearing for a project 20 days prior to holding the hearing. For each subsequent hearing FDOT must publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the affected area.

Section 341.051 (5) (b), F.S., requires the FDOT to develop a major capital investment policy which must include policy criteria, guidelines and evaluation methodologies for the expenditure or commitment of state funds for public transit capital projects. Development of such policy criteria and evaluation methodologies was a federal requirement for certain transit projects. However, the necessity for such policy criteria and evaluation methodologies has been eliminated by changes in federal law regarding the evaluation of such projects and the federally required methodologies have never been developed.

Section 343.56, F.S., provides that no state funds shall be used to pay the principal or interest of any bonds issued to finance or refinance any portion of the Tri-County Rail system, and all such bonds shall contain a statement on their face to this effect.

Section 347.4137, F.S., provides FDOT must, by May 1 of each year, submit to the Department of Environmental Protection and water management districts a copy of its adopted work program. However, the work program is adopted on July 1 of each year.

Section 339.175, F.S., provides authority and policy direction for metropolitan planning organizations, M.P.O.'s. The section requires M.P.O.'s to develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

III. Effect of Proposed Changes:

Section 20.23, F.S., is amended to move motor carrier enforcement activities from Assistant Secretary for District Operations and place it under the Assistant Secretary for Transportation Policy, and to clarify the Office of Motor Carrier Compliance in an office within the FDOT.

The section is also amended to add an additional primary responsibility to the Transportation Commission. The bill requires the commission to recommend to the Governor and the Legislature improvements to the FDOT's organization in order to streamline and optimize the efficiency of the FDOT. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The bill authorizes the commission to retain experts as necessary to conduct this study, and the FDOT is responsible for the expenses of such experts.

Section 20.23, F.S., is further amended to create a new FDOT district in Duval county.

This bill amends s. 206.8745, adding a new subsection (8) which provides that diesel fuel purchased in Florida and consumed by the engine of a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund. "Qualified motor coach" is defined in the bill to mean a privately owned vehicle designed to carry nine or more passengers with a gross vehicle weight of at least 33,000 pounds, which is used exclusively for transporting passengers for compensation and which has the capacity to measure diesel fuel consumed in Florida during idling, separate from diesel fuel consumed to propel the vehicle in Florida, by way of an on-board computer.

The bill allows the purchaser to make one refund claim per calendar year. The refund claim shall be submitted prior to April 1 of the year subsequent to the year in which the tax was paid, and after December 31, 2000. The purchaser must submit original or copies of original purchase invoices showing the taxes paid, or in lieu of original invoices, a purchaser may submit a schedule of purchases containing the information required by s. 206.41(5)(b)1. The purchaser must remit as an offset to the refund, sales tax due under chapter 212 based on the purchase price of the fuel, net of the state tax refunded. The bill authorizes DOR to adopt rules to implement this provision.

Section 311.07, F.S., is amended to authorize small ports, with operating revenues of \$5 million or less, to use seaport funding for construction and rehabilitation of their port facilities as defined in s. 315.02, F.S. Port facilities are defined by s. 315.02, F.S., to include harbor, shipping, and port facilities, and improvements of every kind, nature, and description, including, but without limitation, channels, turning basins, jetties, breakwaters, public landings, wharves, docks, markets, parks, recreational facilities, structures, buildings, piers, storage facilities, including facilities that may be used for warehouse, storage, and distribution of cargo transported or to be transported through an airport or port facility, public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more or any combination thereof and any extension, addition, betterment or improvement of any thereof.

Section 316.302(2)(b), F.S., is amended to update the reference to the current safety regulations contained in the Code of Federal Regulations (C.F.R.) to March 1, 2000.

Section 316.302(5) F.S., is amended to add 49 C.F.R., part 385, regulating hours of service for commercial motor vehicles, to the FDOT's current enforcement authority.

Section 316.302(8), F.S., is amended to change references to "weight and safety" officers to "law enforcement" officers to conform this subsection to section 316.640, F.S. The section is further amended to specify a law enforcement officer may remove an unsafe commercial motor vehicle from the road if the vehicle is determined to be unsafe or present an unduly hazardous operating condition.

Sections 316.516 (1), 316.545 (1), and 316.545 (9), F.S., are amended to change references to "weight and safety" officers to "law enforcement" officers to conform these subsections to section 316.640, F.S., and to each other. Section 316.545 (9), F.S., is further amended to specify the primary purpose of the Motor Carrier Compliance law enforcement officers are the enforcement of weight, load, safety, commercial motor vehicle registration, and fuel tax compliance laws.

Section 316.515, F.S., is amended to delete the requirement that an automobile transporter must acquire a permit from FDOT to operate a vehicle with of height of 14 feet. This provision does not authorize automobile transporters to operate a vehicle with a height in excess of 14 feet.

Section 316.610 (3) is deleted. This inspection provision is no longer needed or relevant.

Section 330.30, F.S., is amended to delete joint submission of site approval and license applications and provide for licensing upon completing a favorable airport inspection report indicating compliance with all license requirements.

Section 332.004, F.S., is amended to include off-site airport noise mitigation projects in the definition of the term "airport or aviation development project" or "development project".

Section 334.044(5), F.S., is amended to authorize FDOT to purchase promotional items for use in educating the public and promoting traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety.

Section 335.02, F.S., is amended to provide that, in determining the number of lanes for any project, FDOT must evaluate all alternatives and seek to achieve the highest degree of efficient mobility for corridor users. In conducting the analysis, FDOT must give consideration to the following factors consistent with sound engineering principles:

- (a) Overall economic importance of the corridor as a trade or tourism corridor;
- (b) Safety of corridor users, including the importance of the corridor for evacuation purposes;
- (c) Cost-effectiveness of alternative methods of increasing the mobility of corridor users;
- (d) Current and projected traffic volumes on the corridor;
- (e) Multimodal alternatives;
- (f) Use of intelligent transportation technology in increasing the efficiency of the corridor;
- (g) Compliance with state and federal policies related to clean-air environmental impacts, growth management, livable communities, and energy conservation;
- (h) Addition of special-use lanes, such as exclusive truck lanes, high-occupancy-vehicle toll lanes, and exclusive interregional traffic lanes;

- (i) Availability and cost of rights-of-way, including associated costs, and the most effective use of existing rights-of-way;
- (j) Regional economic and transportation objectives, where articulated;
- (k) The future land use plan element of local government comprehensive plans, as appropriate, including designated urban infill and redevelopment areas;
- (l) The traffic circulation element, if applicable, of local government comprehensive plans, including designated transportation corridors or public transportation corridors; and
- (m) The approved metropolitan planning organization's long-range transportation plan, as appropriate.

The bill further provides this provision does not preclude a number of lanes in excess of 10 lanes, but an additional factor which must be considered before FDOT may determine the number of lanes should be more than 10 is the capacity to accommodate, in the future, alternative forms of transportation within existing or potential rights-of-way.

Section 335.141(3), F.S., is repealed and s. 341.302(10), F.S., is amend to remove the FDOT's authority to regulate train operating speeds. The FDOT's authority to regulate train speeds has been preempted by federal law.

Section 336.025, F.S., is amended to provide counties may utilize specified local option gas tax funds to pave existing graded roads only when undertaken in part to relieve or mitigate existing or potential adverse environmental impacts.

Sections 336.41, 336.44, 255.20, and 337.14, F.S., are amended to provide that contractor prequalification by the state is presumed to qualify a contractor to bid on county and Expressway authority projects. The bill also provides that a county or Expressway Authority may establish an appeal process to overcome that presumption with de novo review based on the record below to the circuit court. The bill further exempts chapter 336, F.S., (contracts on county roads) from chapter 255, F.S., contracting requirements.

Section 337.025, F.S., is amended to authorize highway maintenance projects to be included in the innovative highway program.

Section 337.11(7)(a), F.S., is amended to authorize advertisement and award of design build contracts notwithstanding the current requirement that title to all necessary rights-of-way must have vested in the state prior to advertisement for bids. However, no construction activities may begin until title to all necessary rights-of-way have been vested in the state or a local governmental entity and any railroad crossing or utility agreements have been executed.

Section 337.14 (4), F.S., is amended to define the period of validity of contractor prequalification as not exceeding 18 months (rather than 16) from the ending date of the audited financial statement that accompanies the application for prequalification. This proposal would extend the period of qualification to provide additional time for submission of applications while ensuring compliance with application processing requirements.

Section 337.175, F.S., is amended to delete the requirement that FDOT must retain a portion of the amount due a contractor for work the contractor has completed, until completion and final

acceptance of the project by FDOT. This proposal allows FDOT discretion concerning retainage requirements for contractors.

Section 338.161(1), F.S., is amended to allow the FDOT to incur expenses for paid advertising, marketing and promotion of toll facilities and electronic toll collection products and services.

Section 338.165 (6), F.S., is amended to exempt high-occupancy toll lanes and express lanes from the provision no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997.

Section 339.12(4)(c), F.S., is amended to increase the statutory cap of \$50 million for the advancement of local projects not in the adopted work program to \$100 million. This increase will allow more local government entities to advance their highest priority transportation needs.

Section 339.135, F.S., is amended to delete a requirement which requires the tentative work program to specifically identify advanced right-of-way projects and separately allocate funds for such projects.

Section 339.155(6), F.S., is amended to delete the 14 consecutive-day notice requirement and provide that notices for all hearings, after the initial design hearing, must be published twice, with the first notice appearing at least 15 days, but no later than 30 days, before the hearing. This change will bring the state notification process in line with federal requirements.

Section 341.051(5)(b), F.S., is repealed to delete the requirement to develop methodologies for evaluating certain public transit capital projects. The necessity for such evaluation methodologies has been eliminated by changes in federal law regarding the evaluation of such projects.

Section 343.56, F.S., is amended to authorize the use of certain federal funds to pay principle and interest on bonds related to the Tri-County Rail system.

Section 347.4137, F.S., is amended require FDOT, by May 1 of each year, to submit to the Department of Environmental Protection and water management districts a copy of its tentative work program instead of the adopted work program. The work program is adopted on July 1 of each year.

Section 339.175, F.S., is amended to provide that M.P.O.'s technical advisory committee is responsible for considering safe access to schools in its review of transportation project priorities, long-range transportation plans, and transportation improvement programs. Local school boards must provide the appropriate M.P.O. with information concerning future school sites and in the coordination of transportation service.

This section is also amended to require certain M.P.O.'s Chairmen's Coordinating Committee to effectively coordinate the planning of transportation projects within contiguous M.P.O. areas. The bill requires a formal conflict resolution process be initiated for disputed projects and provides for a penalty of withholding a percentage of state funds related to disputed projects that are not resolved to the satisfaction of the committee.

The bill provides this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

There will be an estimated loss of \$1million in fuel tax revenue to the State Transportation Trust Fund of the Department of Transportation and an estimated loss of \$700,000 in fuel tax revenue to county and municipal governments as a result of the estimated fuel consumed by qualified motor coaches that would be subject to refund authorized by the bill.

B. Private Sector Impact:

The motor coach industry with the capacity to measure diesel fuel consumed in Florida during idling, separate from diesel fuel consumed to propel the vehicle in Florida, by way of an on-board computer, will benefit from the estimated \$1.7 million in refunds of fuel taxes paid on diesel fuel consumed while a motor coach's engine is idling.

C. Government Sector Impact:

The bill requires the Transportation Commission to recommend to the Governor and the Legislature improvements to the FDOT's organization in order to streamline and optimize the efficiency of the FDOT. The bill authorizes the commission to retain experts as necessary to conduct this study, and the FDOT is responsible for the expenses of such experts. The amount needed to retain such experts is estimated to range between \$100,000 to \$250,000.

The bill requires the addition of a ninth FDOT district in Duval County. According to FDOT, the creation of a new district would require 15 Select Exempt Service and Senior Management Services positions as well as 77 Career Service positions totaling approximately \$5.2 million in salary and benefits and \$1 million for operating costs. The central office for District 2 is located in Lake City, Columbia County, and there is a District 2 urban office located in Jacksonville. A new District 2 central office building is currently under construction in Lake City at a cost of approximately \$8 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
