SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 2056

SPONSOR: Governmental Oversight and Productivity Committee, Transportation Committee, and Senator Sebesta

SUBJECT: Transportation Department

DATE: April 25, 2001 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAuliffe	Meyer	TR	Favorable/CS
2.	Wilson	Wilson	GO	Favorable/CS
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

The CS/CS includes numerous transportation issues, ranging from substantive law changes to technical fixes.

Among its substantive revisions of transportation-related statutes are:

- Streamlining airport registration and eliminating airport license fees;
- Raising the Florida Department of Transportation's (the "FDOT") bond cap and dollar thresholds for amendments to the Five Year Work Program;
- Allowing the FDOT to include right-of-way services and road enhancement projects in design-build contracts;
- Directing local governments and expressway/bridge authorities to accept bids from transportation contractors who are prequalified by the FDOT;
- Directing outdoor advertisers who, by zoning ordinances, are required to remove their billboards be paid monetary compensation;
- Eliminating solicitation of funds at highway rest areas, welcome centers and similar facilities along the State Highway System;
- Permitting the FDOT employees to bid for departmental activities.

The CS/CS also deletes a number of responsibilities – including regulation of train speeds – which the Florida Statutes assign to the FDOT, but which actually are governed by federal law. This CS/CS has a minimal fiscal impact on the FDOT.

The CS/CS further:

Deletes unnecessary instructions on the Secretary's responsibilities and to whom the Secretary may delegate, the tasks assigned to other DOT officers and supervisors, and obsolete references in general.

Provides that transportation facilities designated as part of the Florida Intrastate Highway System needed to serve new development must be in place or under actual construction no more than 5 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Removes the exemption for Community Improvement Authorities from s. 287.055, F.S., (the Consultants' Competitive Negotiation Act) for professional architectural, engineering, landscape architectural, or land surveying services, or for the procurement of design-build contracts.

Raises the threshold amounts for a "continuing contract" for projects in which construction costs do not exceed $1 million (from $500,000), for study activity when the fee for such professional service does not exceed $50,000 (from $25,000).

Provides that all moneys derived from the Florida Seaport Transportation and Economic Development Program must be expended in accordance with s. 287.057, F.S. (providing regulations for the procurement of commodities or contractual services), and 287.055, F.S. Further, the exemption for seaports subject to competitive negotiation requirements of a local governing body is repealed.

Authorizes seaports to expend funds for promotional activities such as meals, hospitality, and entertainment of persons in the interest of promoting and engendering goodwill toward its port facilities.

Includes off-airport noise mitigation projects in the definition of an "airport or aviation development project" or "development project."

Provides that an exemption from the Development of Regional Impact for airports or airport-related or aviation-related development, and petroleum storage facility.

Establishes within the FDOT the Safe Paths to Schools Program to consider the planning and construction of bicycle and pedestrian way to provide safe transportation for children from neighborhoods to schools, to parks, and to the state's greenway and trails system.

Provides that for public-private transportation facilities.

Provides that the turnpike will no longer be the eighth FDOT district, lead by a district secretary, but will be the turnpike enterprise, lead by an executive director. The section is amended to provide the responsibility for the turnpike system will be delegated by the FDOT secretary to the executive director of the turnpike enterprise. The Secretary is authorized to exempt the turnpike enterprise from FDOT rules and authorize the turnpike enterprise to employ procurement methods available to the private sector. Redefines economic feasibility for turnpike project as well as other streamlining provisions.

Provides that, effective January 1, 2004, any county with a population of 50,000 or more that dedicates at least 50 percent or more of the proceeds from the county's one-cent local option sales tax to improvements to the state transportation system, or to local projects that directly upgrade the state transportation system will receive funds from the FDOT which average the amount received from the FDOT over the previous ten-year period.

Increases the total amount project agreements may not exceed from $100 million to $150 million for local contributions to projects outside of the work program.

Provides that the first 5 years of the adopted work program for facilities designated as part of the Florida Intrastate Highway System is a commitment of the state.

Revises the Transportation Outreach Program advisory council membership, and requires the council to develop a comprehensive ranking and scoring system for project selection.

Provides that the qualifications, terms of office, and obligations and rights of the members of the Miami-Dade County Expressway Authority will be determined by the Miami-Dade County Commission.

Allows expressway authorities to utilize the process developed for FDOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

Authorizes the Orlando-Orange County Expressway Authority to issue its own bonds, and reissue bonds for certain projects. The bonds do not pledge the full faith and credit of the state.

Authorizes governmental entities to enter into agreements with billboard owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen.

Authorizes municipalities and counties to enter into relocation agreements with outdoor advertising sign owners. Provides that no municipality, county, or governmental entity may remove or alter a lawfully erected sign along the interstate, federal-aid primary or other highway system without first paying just compensation through eminent domain proceedings. Provides that for an arbitration process.

The CS/CS would take effect upon becoming law.

This CS/CS amends sections 20.23, 163.3180, 189.441, 206.46, 255.20, 287.055, 311.09, 315.031, 316.302, 316.3025, 316.515, 316.535, 316.545, 320.03, 330.27, 330.29, 330.30, 330.35, 330.36, 331.308, 332.004, 333.06, 380.06, 334.044, 334.193, 334.30, 335.141, 341.302, 336.41, 336.44, 337.025, 337.107, 337.11, 337.14, 337.401, 338.165, 338.22, 338.221, 338.2215, 338.2216, 338.223, 338.227, 338.2275, 338.234, 338.235, 338.239, 338.241, 338.251, 553.80, 339.08, 339.12, 339.135, 339.137, 348.0003, 348.0012, 348.754, 348.7543, 348.7544, 348.755, 348.765, 373.4137, 475.011, 479.15, 479.25, 496.425, 496.425, and 768.28; creates sections 70.20, 335.066, and 496.4256; and repeals sections 316.3027, 316.610 (3), and 341.051 (5)(b) of the Florida Statutes.

II. Present Situation:

FDOT Organization

Section 20.23, F.S., provides for the organizational structure of FDOT. The department has one of the most detailed statutory descriptions of any state agency, in terms of internal organization, the duties and responsibilities of agency officers, and FDOT reporting requirements. According to FDOT staff there are no plans to reorganize the agency, but as staffing and other changes occur through outsourcing efforts and efficiencies, amending s. 20.23, F.S., provides the Secretary the flexibility needed to address these changes.

Concurrency

Section 163.3180 (2)(c), F.S., provides that transportation facilities needed to serve new development must be in place or under actual construction no more than 3 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Community Improvement Authority

Section 189.441, F.S., exempts Community Improvement Authorities from s. 287.055, F.S., (the "Consultants' Competitive Negotiation Act") for professional architectural, engineering, landscape architectural, or land surveying services, or for the procurement of design-build contracts.

Right-of-Way Bonds

Section 206.46 (2), F.S., provides that in each fiscal year, seven percent of the revenues deposited into the State Transportation Trust Fund must be transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund. However such funds may not exceed $135 million. According to FDOT, the current program consumes all capacity and reaches the $135 million debt service cap by fiscal year 2005. Passage of CS/CS/SB 862 during the 2000 Legislative Session increased the annual State Transportation Revenue and therefore, increased the amount available for transfer under the seven percent requirement.

Contractor Prequalification

Section 255.20, F.S., provides that for local bids and contracts for local public construction projects. The section provides that counties, municipalities, special districts or other political subdivisions may establish by ordinance or resolution procedures for conducting the bidding process. Typically, any construction project with a cost in excess of $200,000, and any electrical project costing more than $50,000, must be competitively awarded. However, s. 255.20, F.S., lists 10 types of projects where a competitive award is not required, such as emergency repair of facilities damaged by hurricanes, riots, or other "sudden unexpected turn of events."

Section 255.20, F.S., also includes a basic definition and framework for the competitive award process, but allows local governmental entities to establish specific procedures for conducting the process. This has resulted in differences among counties, cities, and other local governmental

entities in bidding and in contractor qualification requirements. Currently, a contractor may be prequalified to bid on projects for FDOT, but may be subject to additional prequalification requirements to bid on a county, municipal, or expressway authority project.

Sections 336.41 and 336.44, F.S., provides that each county is required to competitively bid transportation projects, except in emergency situations and for projects that either do not exceed $250,000 or 5 percent of the county's share of the 2-cents-gallon constitutional fuel tax, whichever is greater.

Continuing Contracts

Section 287.055, F.S., defines a "continuing contract" as a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm where the firm provides that professional services to the agency for projects in which construction costs do not exceed $500,000, for study activity when the fee for such professional service does not exceed $25,000, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause.

Seaports

Section 311.09 (12), F.S., provides that all moneys derived from the Florida Seaport Transportation and Economic Development Program must be expended in accordance with s. 287.057, F.S. (providing regulations for the procurement of commodities or contractual services). However, the section provides that seaports subject to competitive negotiation requirements of a local governing body are exempt from that section.

Section 315.031, F.S., provides that for the promoting and advertisement of port facilities. The section does not explicitly authorize seaports to expend funds for promotional activities such as meals, hospitality, and entertainment.

Commercial Motor Vehicles

Section 316.302(1)(b), F.S., provides that for the adoption of specified federal safety regulations, as they existed on March 1, 1999. A statutory update is needed to take into account changes made to the regulations published on October 1, 2000.

Section 316.3025, F.S., provides that a $50 penalty for a violation of s. 316.3027, F.S., regarding the display of commercial vehicle identification.

Section 316.3027, F.S., requires commercial motor vehicles to be identified by displaying the name of the owner or motor carrier, city or town of domicile, and vehicle unit number. This section duplicates federal safety regulations (49 C.F.R. s. 390.21) currently adopted by reference in section 316.302, F.S., and also contains some conflicting requirements, causing confusion for owners and carriers seeking to comply with the law.

Section 316.515(2), F.S., provides that no vehicle may exceed a height of 13 feet and six inches, inclusive of the load carried on the vehicle. However, an automobile transporter is authorized to reach heights of up to 14 feet with a permit issued by FDOT.

Section 316.535, F.S., regulates the weights of trucks, based on their axle spacing. During the 2000 legislative session, s. 316.540, F.S.**,** was identified as an obsolete section of law and repealed. However, upon further review in the interim, FDOT came to the conclusion that one subsection in the repealed law was necessary, because without it, there would be no weight limits on concrete mixers, septic tank pump trucks, dump trucks and other "special use trucks" that do not comply with the standard axle spacing. Section 316.545, F.S., must also be amended to correct a related cross-reference.

Section 316.610(3), F.S., provides that any person, firm, or corporation owning or operating a commercial motor vehicle registered in this state may request FDOT to inspect its vehicles for a $25 fee. This inspection service is no longer needed or relevant, and FDOT never actually performed the service.

Airports

Chapter 330, F.S., governs the state regulation of public and private airports. Airports, airlines and aircraft are primarily regulated by the Federal Aviation Administration. FDOT's general responsibilities include licensing and inspecting public and private airports; reviewing airport siting plans; and providing funds for expansion or improvements. Florida has 20 commercial service airports, a total of 131 public airports, and in excess of 230 privately operated airports, heliports and seaplane landing areas.

Section 332.004, F.S., provides that a definition for an "airport or aviation development project" or "development project." The definition does not currently include off-airport noise mitigation projects.

Airport Zoning and Developments of Regional Impact

Section 333.06, F.S., provides that airport-zoning requirements. There is currently no provision requiring airports to prepare a master plan and submit that plan to affected local governments.

Chapter 380, F.S., includes the Development of Regional Impact (DRI) program, enacted as part of the Florida Environmental Land and Water Management Act of 1972. The DRI Program is a vehicle that provides that state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and in Rule 28-24, F.A.C.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a substantial likelihood of additional regional impact, or any type of regional impact constitutes a "substantial deviation" which requires further DRI review and requires a new or amended local development order. The statute sets out criteria for determining when certain changes are to be

considered substantial deviations without need for a hearing, and provides that all such changes are considered cumulatively.

The section provides that a new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates is considered a substantial deviation. However, if an airport is located in two counties, a 10-percent lengthening of an existing runway or a 20-percent increase in the number of gates of an existing terminal is the applicable criteria.

Section 380.0651, F.S., provides that the following airport construction projects are considered a DRI:

- A new commercial service or general aviation airport with paved runways.
- A new commercial service or general aviation paved runway.
- A new passenger terminal facility.

    - Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport is not considered a DRI.
    - Any airport development project, which is proposed for safety, repair, or maintenance reasons alone and which would not have the potential to increase or change existing types of aircraft activity is not a DRI. Renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not considered a DRI.

Promotional Items and Permit Delegation

Section 334.044(5), F.S., authorizes the FDOT to purchase promotional items as part of public information and education campaigns, for the promotion of traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety. The FDOT is not currently authorized to purchase promotional items for the Florida Scenic Highways Program.

Section 334.044(15), F.S., authorizes the FDOT to regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of manmade changes to adjacent properties. The subsection requires the FDOT to accept a surface water management permit issued by a water management district, by the Department of Environmental Protection, by a delegated local government, or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan, provided such issuance is based on requirements equal to or more stringent than those of the FDOT. However, each water management district's rule criteria has been developed by considering the specific needs, concerns, and characteristics of the region they regulate. Such criteria, even in cases where the criteria is not equal to or more stringent than the criteria of the FDOT, is often adequate and reasonable to accomplish protection of the state

right-of-way. The FDOT is not currently authorized to enter into a permit delegation agreement with local governments to issue such drainage permits.

Public-Private Transportation Facilities

Section 334.30, F.S., was created in 1991 to allow for the development of private transportation facilities, such as toll roads or passenger rail service, that would serve to reduce burdens on public highway systems. The private entity developing the transportation facility would be able to charge tolls or fares for its use, under agreement with the FDOT, and the FDOT could regulate the amount charged, if the proposal was determined to be too unreasonable to users. No state funds were to be expended on these projects, except those with an "overriding state interest," in which case the FDOT had the discretion to exercise eminent domain and other powers to assist in such projects, and any maintenance, law enforcement, or other services provided by the FDOT had to be fully reimbursed by the private entity.

According to the FDOT, this section of law has never been used. However, the FDOT has recently received a series of unsolicited trial proposals from the Toll Road Corporation of America for an "I-95 Reversible HOT Lane System" in Miami that may be a candidate for this program, if certain legislative changes are made. The proposed project involves the construction of reversible toll lanes in the median of I-95 from its intersection with State Road 112 to north of the Golden Glades Interchange. Typically, HOT (high-occupancy toll) lanes attract motorists willing to pay a fee to use them, because traffic flows quicker.

Regulation of Train Speeds

Sections 335.141(3) and 341.302, F.S., authorize the FDOT to regulate train-operating speeds. In a 1993 decision known as *CSX Transportation v, Easterwood*, 507 U.S. 658 (1993) 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.

Design-Build and Fast Response Contracts

Section 337.107, F.S., authorizes the FDOT to enter into contracts for right-of-way services on transportation corridors and facilities. The section provides that right-of-way services include negotiation and acquisition services appraisal services, demolition and removal of improvements, and asbestos-abatement services. Section 337.11(7)(a), F.S., authorizes FDOT to combine the design and construction phases of a building, a major bridge, or a rail corridor project into a single contract (design-build contract). However, the FDOT is not currently authorized to include right of way services in a design-build contract or to use a design-build contract on enhancement projects.

Section 337.11(6)(c), F.S., authorizes the FDOT to contract for maintenance and construction without customary advertisement and bidding when there is a legitimate basis related to public concern, economy, or improved operations or safety, and rapid completion of the work is paramount. The FDOT has successfully utilized such contracting to rapidly implement safety

improvements or effect last-minute changes on construction projects. Current law caps the amount of a Fast Response contract at $60,000. According to the FDOT, due to routine increases in construction and maintenance costs, the $60,000 limit is too low to accommodate modest improvements, such as signal installations and median opening modifications.

Relocation Agreements

Section 337.401(2), F.S., provides that no utility may be installed, located, or relocated within the right-of-way unless authorized by a written permit. The current plans production process for the FDOT projects require a high level of coordination, resulting in agreements (Relocation Schedules and Agreements) between the FDOT and contractors which are specific to the needs of each project and which frequently contain requirements that exceed those found in the standard permit. If a Schedule and Agreement are available as part of the contract for a given the FDOT project, contractors have better information by which to calculate and submit their bids. In such instances, no technical reason exists for requiring an additional permitting process. Further, the permit document is sometimes treated by the courts as having superior authority over project agreements, resulting in contractor claims and legal conflicts.

Turnpike Enterprise

Section 20.23, F.S., provides that the turnpike is the eighth FDOT district, lead by a district secretary, and the district office is located in Orange County.

Section 337.11, F.S., provides that no advertisement for bids may be published and no bid solicitation notice may be provided until title to necessary rights-of-way and easements for the construction of a project has been secured.

Section 338.22, F.S., creates the Florida Turnpike Law.

Section 338.221, F.S., defines "economically feasible" for a turnpike project to mean:

- For a proposed turnpike project, that, as determined by FDOT before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the debt service on the bonds by the end of the 5th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 15th year of operation. In implementing this paragraph, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.
- For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

The section provides that the definitions do not prohibit the pledging of revenues from the entire turnpike system to bonds issued to finance or refinance a turnpike project or group of turnpike projects.

Section 338.223, F.S., provides that federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust fund, or used in determining the economic feasibility of the proposed project. The section also provides that the maximum net loan amount for operating or maintenance loans in any fiscal year are 0.5 percent of the state transportation tax revenues.

Section 338.2275, F.S., provides that the FDOT may not advertise for bids for contracts for the construction of any turnpike project prior to obtaining the required environmental permits.

Section 338.234, F.S., provides that the FDOT may grant concessions or sell services or products along the turnpike system, which benefit the traveling public. Services and products authorized include, but are not limited to, the sale of motor fuel, towing and maintenance services; the sale of food with attendant nonalcoholic beverages; the sale of state lottery tickets by authorized retailers; the granting of concessions for amusement devices which operate by the application of skill, not including games of chance or other illegal gambling games; the sale of Florida citrus, goods promoting the state or handmade goods produced within the state; the granting of concessions for equipment which provides that travel information or tickets, reservations, or other related services; and the granting of concessions which provide banking and other business services. The FDOT may also provide information centers on the plazas for the benefit of the public. The section further provides that the FDOT may provide an opportunity for governmental agencies to hold public events at turnpike plazas, which educate the traveling public as to safety, travel, and tourism.

Section 338.235, F.S., authorizes the FDOT to enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, nonexclusive, and nondiscriminatory basis, turnpike property and other turnpike structures, for the placement of wireless facilities by any wireless provider of mobile services as defined in 47 U.S.C. s. 153(n) or s. 332(d), and any telecommunications company as defined in s. 364.02, F.S., when it is determined to be practical and feasible to make such property or structures available.

The section further provides that the FDOT may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The FDOT and a wireless provider may negotiate the reduction or elimination of a fee in consideration of service provided to the department by the wireless provider. All such fees collected by the department shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used to construct, maintain, or support the system.

Section 338.239, F.S., provides that the Florida Highway Patrol (FHP) is vested with the power and charged with the duty to enforce the rules promulgated by the FDOT concerning traffic infractions. Expenses incurred by FHP patrolling the turnpike system mainline will be reimbursed to the Department of Highway Safety and Motor Vehicles by the FDOT.

Section 338.241, F.S., provides that the budget for the turnpike system must be planned to provide for cash reserve at the end of each fiscal year of not less than 10 percent.

Section 338.251, F.S., provides that for the Toll Facilities Revolving Trust Fund. The section authorizes the FDOT to advance funds for certain revenue producing projects to expressway authorities. Repayment of such an advance must be out of the initial bond issue revenue or, at the discretion of the expressway authority, begin no later than 7 years after the date of the advance. The turnpike in not authorized to participate in the Toll Facilities Revolving Trust Fund.

Section 553.80, F.S., provides that for the enforcement of construction regulations and provides that certain exemptions.

Rulemaking Authority

Section 339.08(1), F.S., currently provides that the FDOT must, by rule, provide for the expenditure of the moneys in the STTF accruing to the FDOT, in accordance with its annual budget. Section 339.08(2), F.S., specifies the purposes to which the use of such moneys must be restricted, yet FDOT is directed to promulgate a rule to restrict such usage to the purposes specified. The rule has never been developed, as it is unnecessary. As indicated, subsection (2) already provides that sufficient guidance to FDOT regarding restrictions placed on STTF expenditures. In addition, expenditures from the STTF are annually approved by the Legislature through the General Appropriations Act.

Local Aid

Section 339.12(4)(a), F.S., authorizes any governmental entity to aid in any project or project phase included in the adopted work program by contributions to the FDOT of cash, bond proceeds, time warrants, or other goods or services of value. The total amount of project agreements may not exceed $100 million. The section requires the FDOT to "reimburse" counties or municipalities for expenditures made on projects on the State Highway System.

Work Program Amendments

Section 339.135(7), F.S., provides that when the FDOT proposes an amendment to the adopted work program which: deletes any project or project phase; adds a project estimated to cost over $150,000; advances or defers to another fiscal year, a right-of-way phase, a construction phase, or a public transportation project phase estimated to cost over $500,000; and advances or defers to another fiscal year, any preliminary engineering phase or design phase estimated to cost over $150,000, then the FDOT must seek approval from the Governor, and notify the chairs of the legislative transportation committees, each member of the Legislature who represents a district affected by the proposed amendment, each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment. The threshold amounts for amendments to the Adopted Work Program were established in 1989 and were never indexed for inflation. According to the FDOT, these increased threshold amounts would more accurately reflect current day costs.

The section further provides that the first 3 years of the adopted work program is a commitment of the state to under take transportation projects that local governments may rely on for planning purposes.

Transportation Outreach Program

Section 339.137, F.S., creates the Transportation Outreach Program (TOP) dedicated to funding transportation projects of a high priority based on the prevailing principles of preserving the existing transportation infrastructure; enhancing Florida's economic growth and competitiveness; and improving travel choices to ensure mobility.

The section creates the TOP advisory council to annually make recommendations to the Legislature on prioritization and selection of economic growth projects. The council shall consist of:

- Two representatives of private interests who are directly involved in or affected by any mode of transportation or tourism chosen by the Speaker of the House of Representatives.
- Two representatives of private interests who are directly involved in or affected by any mode of transportation or tourism chosen by the President of the Senate.
- Three representatives of private or governmental interests who are directly involved in or affected by any mode of transportation or tourism chosen by the Governor.

Terms for council members are for 2 years, and each member is allowed one vote.

Projects recommended for funding under TOP must be submitted to the Governor and the Legislature as a separate section of the FDOT's tentative work program. Final approval of the Transportation Outreach Program is made by the Legislature through the General Appropriations Act. Program projects approved by the Legislature must be included in the department's adopted work program.

The section further provides that funding for projects under the program through an allocation from the State Transportation Trust Fund a minimum of $60 million each year. This allocation of funds is in addition to any funding provided to this program by any other provision of law.

Public Transit

Section 341.051 (5)(b), F.S., requires the FDOT to develop a major capital investment policy, which includes policy criteria and guidelines for the expenditure or commitment of state funds for public transit capital projects. According to FDOT, the necessity for specific state evaluations methodologies has been eliminated by changes in federal law regarding the evaluation of such projects. Federal law requires an extensive alternative analysis and evaluation process to qualify for and receive federal funding. The FDOT participates in this federally designed process, which includes consideration of the methods and policies referenced in s. 341.051 (5)(b), F.S.

Miami-Dade Expressway Authority

Section 348.0003, F.S., provides that the membership of the Miami-Dade Expressway Authority consists of up to 13 members. Seven voting members are appointed by the governing body of Miami-Dade County Commission, two of which may be elected officials residing in the county. Five members of the authority are appointed by the Governor.

Environmental Mitigation

In 1996, the Legislature created s. 373.4137, F.S., detailing a process by which the FDOT could pay a per-acre sum of money to DEP and WMDs to perform mitigation to offset the adverse environmental impacts of road projects. Currently, FDOT, DEP and the WMDs match up transportation projects with wetlands impacts, and develop environmental impact inventories for each WMD region of the state. Based on a current $75,000 per acre of impact cost, FDOT makes quarterly deposits in a special escrow account within the State Transportation Trust Fund, and DEP can withdraw funds from it to pay for the mitigation projects within the basins overseen by each WMD. Much of the funds have been spent over the years to acquire and preserve lands from future development. This program provides that regional, long-range mitigation planning, which has proven to be more effective than project-by-project mitigation. Expressway authorities are not currently authorized to participate in this program.

Orlando-Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963; it's first project, the Beeline Expressway (State Road 528) opened to traffic four years later. Comprising the system are 90 total centerline miles, 11 main toll plazas, 42 ramp toll plazas, and 186 total toll lanes. More than 186 million motorists used the toll lanes in fiscal year 2000. OOCEA has adopted a 2025 Expressway Master Plan that includes expansions of the current system to better link with I-4, adding new lanes, and upgrading its toll plazas.

OOCEA's 2000 Annual Report indicated that for the seventh year in a row, the expressway authority experienced double-digit traffic and revenue growth. For example, total system revenues grew from $112.4 million in 1999 to $125.55 million in 2000. Forty-eight percent of the expressway authority's 2000 revenues were earmarked to pay debt service.

Pursuant to state laws, bonds for OOCEA's projects are issued by the State Board of Administration's Division of Bond Finance on behalf of the authority.

Real Estate Brokers

Section 475.011, F.S., provides that for exemptions to the regulations on ch. 475, F.S., regulating real estate brokers. Current law requires a principal of each firm be registered as a broker, and each employee handling acquisition activities must be a Florida licensed broker or salesperson. According to the FDOT, this acts as a barrier to right-of-way acquisition consultants bringing right-of-way personnel to Florida to serve the needs of the state and local governments and limits consultant availability. The FDOT states there is a national shortage of qualified right-of-way acquisition professionals available to consultants, and the result is consulting firms seek work in other states that do not have the licensing restrictions required in Florida, and the pool available qualified right-of-way acquisition professionals in Florida is limited.

Billboards

Chapter 479, F.S., governs billboards and other forms of outdoor advertising along the state highway system. Advertising companies and other owners of outdoor signs must be licensed by the FDOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions relate to the FDOT's duties and authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal–aid primary highway system, which includes state roads. Federal dollars helped build or maintain these roads; therefore, the FDOT must adhere to federal guidelines, as first expressed in the Highway Beautification Act of 1965, or face the loss of ten percent of the state's federal highway funds.

There are many billboards throughout Florida that were lawfully erected, but are now classified as "non-conforming," because the zoning, land-use, lighting and similar regulations have changed since they were permitted. If the FDOT or a local government orders the removal of a legally erected, but now nonconforming, sign along the interstate or a federal-aid primary highway, it must pay the billboard owner monetary compensation as required by the Highway Beautification Act as amended in 1978.

Florida's local governments are not required to pay monetary compensation to billboard owners when they remove, or force the removal of, legal but nonconforming signs along local roads through zoning ordinances. Currently, approximately 44 Florida counties or municipalities have ordinances that specify amortization schedules and/or removal provisions for non-conforming signs. An "amortization schedule" is a set period of time during which it is assumed the value of a billboard depreciates, and the billboard owner can recoup its investment in the billboard. A typical time frame for amortization is five to seven years. For example, a local government would not owe monetary compensation for the removal of a billboard that has been in use past the amortization period.

The Florida Supreme Court has not addressed the issue of amortization of legally erected, but non-conforming, outdoor signs, which must be removed. However, the Fifth District Court of Appeals has ruled local governments are not constitutionally required to monetarily compensate billboard owners, and may amortize nonconforming signs, as long as the amortization period is reasonably long enough to allow the sign owner to recoup his investment.[1]

Chapter 479, F.S., does address ways to accommodate billboard owners whose signs are affected by highway beautification projects, such as planting of vegetation. However, the chapter does not address the issue of other types of obstructions, such as concrete sound barriers along highways and roads, intended to reduce the noise level in nearby neighborhoods.

Solicitation of Funds

Section 496.425, F.S., regulates solicitation of funds by charitable and other organizations. Section 496.425, F.S., contains specific regulations on solicitation of funds within airports, railroad and bus stations, ports, rest areas, and similar facilities. For example, a soliciting

[1] See, *Lamar Advertising Associates, Ltd. v. Daytona Beach*, 450 So. 2d 1145, 1150 (Fla. 5th DCA 1984).

organization must obtain a permit from the entity responsible for the transportation facility. Once common, fund-raisers and fund soliciting at highway rest areas and welcome stations have declined in recent years. This can be attributed to a number of reasons including security concerns and competition from a variety of soda and snack machines now on site.

III. Effect of Proposed Changes:

FDOT Organization

Section 1 of the CS/CS amends s. 20.23, F.S., deleting unnecessary instructions on the FDOT Secretary's responsibilities and to whom the Secretary may delegate, the tasks assigned to other FDOT officers and supervisors, and obsolete references in general. Some of the substantive changes include: repealing the position of Assistant Secretary for District Operations; and adding the Office of Management and Budget and the Office of Comptroller.

Concurrency

Section 2 amends s. 163.3180 (2)(c), F.S., to provide transportation facilities designated as part of the Florida Intrastate Highway System needed to serve new development must be in place or under actual construction no more than 5 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Community Improvement Authorities

Section 3 amends s. 189.441, F.S., removing the exemption for Community Improvement Authorities from s. 287.055, F.S., the "Consultants' Competitive Negotiation Act," for professional architectural, engineering, landscape architectural, or land surveying services, or for the procurement of design-build contracts.

Right-of-Way Bonds

Section 4 of the CS/CS amends s. 206.46, F.S., to increase the debt service cap on the transfer of 7 percent of State Transportation Revenue to the Right of Way Acquisition and Bridge Construction Trust Fund from $135 million to $200 million. This proposal would provide for additional debt service of approximately $65 million within the 7 percent transfer by fiscal year 2010, which would provide additional bond capacity of approximately $1 billion of 30-year bonds at 5 percent interest.

Contractor Prequalification

Sections 5, 30, 31, and 35 amend ss. 255.20, 336.41, 336.44, and 337.14 F.S., to provide any contractor prequalified with FDOT and eligible to bid is presumed prequalified to obtain bid documents and submit bids for county and expressway authority road projects. However, any contractor may be considered ineligible to bid if the contractor is behind an approved progress schedule by 10 percent or more on another county or expressway authority project. Section 255.20 (1)(a), F.S., is amended to add an eleventh exemption – projects subject to ch. 336, F.S., (the County Road System) from the provisions setting competitive bidding

thresholds and allowing local-government variations in the competitive award process. Sections 336.41 and 336.44, F.S., are similarly amended. Section 337.14, F.S., is amended to increase the validity period for a FDOT certificate of qualification from 16 months to 18 months.

Continuing Contracts

Section 6 amends s. 287.055, F.S., to raise the threshold amounts for a "continuing contract" for projects in which construction costs do not exceed $1 million (from $500,000), for study activity when the fee for such professional service does not exceed $50,000 (from $25,000).

Seaports

Section 7 amends s. 311.09 (12), F.S., to provide all moneys derived from the Florida Seaport Transportation and Economic Development Program must be expended in accordance with s. 287.057, F.S., (providing regulations for the procurement of commodities or contractual services), and 287.055, F.S., (the "Consultants' Competitive Negotiation Act"). Further the exemption for seaports subject to competitive negotiation requirements of a local governing body is repealed.

Section 8 amends s. 315.031, F.S., to authorize seaports to expend funds for promotional activities such as meals, hospitality, and entertainment of persons in the interest of promoting and engendering goodwill toward its port facilities.

Commercial Vehicles

Section 9 amends s. 316.302(1)(b), F.S., to update the reference to the current safety regulations contained in the Code of Federal Regulations (C.F.R.) to October 1, 2000. A statutory update is needed to take into account changes made to the regulations, the printed and bound version of which will be published on October 1, 2000.

Section 10 amends s. 316.3025, F.S., to remove a state law concerning commercial motor vehicle identification and adopt by reference a similar federal regulation. This provision conforms to section 5 of the CS/CS.

Section 11 deletes s. 316.3027, F.S., to remove a state law concerning commercial motor vehicle identification and adopt by reference a similar federal regulation.

Section 12 amends s. 316.515(2), F.S., to authorize automobile transporter vehicles to measure up to 14 feet in height without a permit.

Section 13 amends s. 316.535, F.S., to include weight limits on specialty trucks, and to specify they have to meet all safety and operational requirements under law.

Section 14 of the CS/CS amends s. 316.545, F.S., to correct a related cross-reference.

Section 15 repeals s. 361.610(3), F.S. The commercial motor vehicle inspection provided in the subsection is no longer relevant.

Airports

Section 16 amends s. 330.27, F.S., to: alter the definitions of "aircraft" and "airport" to provide more currently accepted terminology; delete the definition of "airport hazard," thereby eliminating a conflict with the same term originated by and defined in ch. 333, F.S., delete the definition of "aviation"; delete the definition of "operation of aircraft" or "operate aircraft"; delete the definition of "political subdivision"; amend the definition of "private airport" to conform to the Federal Aviation Administration (FAA) definition, and to facilitate the change in airport licensing requirements; amend the definition of "public airport" to conform to the FAA definition and to facilitate the change in airport licensing requirements; amend the definition of "temporary airport" changing the validity period to conform to current FAA requirements of Federal Aviation Regulations Part 157.

Section 17 amends s. 330.29, F.S., to include in the FDOT's duties the establishment of minimum standards for airport sites and airports under its registration jurisdiction. The section is further amended to include in the FDOT's duties the establishment and maintenance of a state aviation data system to facilitate licensing and registration of all airports and to provide sequential re-numbering.

Section 18 amends s. 330.30, F.S., to abolish airport site approval fees; to establish separate site approval methods for public and private airports; and to simplify and clarify the reasons to revoke an airport site approval.

The section is further amended to establish private airport registration requirements and abolish airport license and registration fees; to reformat and separately provide for licensing of public airports and registration of private airports; to clarify temporary airport usage and authorization; to amend the validity period to conform to current FAA requirements of Federal Aviation Regulations Part 157.

Section 19 amends s. 330.35, F.S., to conform to terminology as used in the current statutes that establish airport protection requirements.

Section 20 amends s. 330.36(2), F.S., to remove a potential conflict with the provisions in subsection (1).

Section 21 amends s. 332.004, F.S., to include off-airport noise mitigation projects in the definition of an "airport or aviation development project" or "development project."

Airport Zoning and Developments of Regional Impact

Section 22 amends s. 333.06, F.S., to require airports to prepare a master plan and submit that plan to affected local governments. The section provides that when the authority entity having responsibility for governing the operation of an airport seeks a "finding of no significant impact," from the federal or state government, the airport entity must submit a copy of the environmental assessment, site selection study, airport master plan, or any amendment to an airport master plan by certified mail to all affected local governments.

Section 23 amends s. 380.06, F.S., repeals the substantial deviation from a local comprehensive plan designation for a new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

The section is further amended to provide an exemption from DRIs for:

- Any Proposed facility for the storage of any petroleum product if the facility is consistent with a local comprehensive plan that is in compliance with s. 163.3177 or s. 163.3178, F.S.
- Any development or expansion of an airport or airport-related or aviation-related development.

Section 24, subsection (1) provides that nothing is this act abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement which is applicable to a DRI on the effective date of this act.

The section further provides that an airport or petroleum storage facility which has received a DRI development order pursuant to s. 380.06, F.S., but is no longer required to undergo DRI review because of this act, are governed by the following procedures:

- The development will continue to be governed by the DRI order and will be completed in accordance with the DRI order. Further, the DRI development order may be enforced by the local government.
- If requested by the developer or landowner, the DRI development order may be amended or rescinded by the local government consistent with the local comprehensive plan and land development regulations, and pursuant to the local government procedures governing local development orders.
- An airport or petroleum storage facility with an application for development approval pending on the effective date of this act, or a notification of proposed change pending on the effective date of this act, may elect to continue such review, including any appeals under s. 380.071, F.S., the resulting development order will be governed by the provisions of subsection (1).

Section 25 amends s. 380.0651, F.S., to provide a new commercial service or general aviation airport with paved runways; a new commercial service or general aviation paved runway; and a new passenger terminal facility will no longer be considered a DRI.

Promotional Items and Permit Delegation

Section 26 amends s. 334.044, F.S., is amended to authorize FDOT to purchase promotional items for the Florida Scenic Highways Program. The section is further amended to authorize FDOT to enter into a permit delegation agreement with local governments to issue drainage permits.

Safe Paths to Schools Program

Section 27 creates s. 335.066, F.S., to establish within the FDOT the Safe Paths to Schools Program to consider the planning and construction of bicycle and pedestrian way to provide safe transportation for children from neighborhoods to schools, to parks, and to the state's greenway and trails system. The section provides that the FDOT may establish a grant program and adopt appropriate rules to administer the Safe Paths to Schools Program.

Public-Private Transportation Facilities

Section 28 amends s. 334.30, F.S., to provide for "public-private transportation facilities." The section authorizes the FDOT to use state resources for a transportation facility that is either on the State Highway System or which provides that increased mobility for the state system. State funds may be used to advance projects that are in the 5-year work program and which a private entity wants to help build. Or, up to $50 million in the FDOT funds may be spent for partnership projects, statewide, that aren't in the work program. Partnership projects that seek more than the $50 million would have to be approved by the Legislature.

Further, the section establishes some noticing requirements; allows the FDOT to participate in funding operating and maintenance costs of partnership projects that are on the State Highway System; allows the FDOT to participate in the creation of tax-exempt, public-purpose corporations; and to lend toll revenues to these corporations for eligible projects.

Train Operating Speeds

Sections 29 and 55 amend ss. 335.141(3) and 341.302, F.S., to repeal the FDOT's authority to regulate train-operating speeds, which authority has been preempted by federal law.

Design-Build and Fast Response Contracting

Sections 33 and 34 amend s. 337.107 and 337.11(7)(a), F.S., to authorize the FDOT to include right-of-way services in a design-build contract, and to use design-build contracts for enhancement projects. Section 337.11(6)(c), F.S., is further amended to increase, from $60,000 to $120,000, the current cap on Fast Response contracts.

Relocation Agreements

Section 36 amends s. 337.401(2), F.S., to authorize the FDOT to accept a Utility Relocation Schedule and Relocation Agreement in lieu of a written permit, unless the utility work takes place before the Schedule and Agreement are available.

Turnpike Enterprise

Section 1 amends s. 20.23, F.S., to provide the turnpike will no longer be the eighth FDOT district, lead by a district secretary, but will be the turnpike enterprise, lead by an executive director. The section is amended to provide the responsibility for the turnpike system will be delegated by the FDOT secretary to the executive director of the turnpike enterprise. The

Secretary is authorized to exempt the turnpike enterprise from FDOT rules and authorize the turnpike enterprise to employ procurement methods available to the private sector.

Section 34 amends s. 337.11, F.S., to exempt the turnpike enterprise from the provision that no advertisement for bids may be published and no bid solicitation notice may be provided until title to necessary rights-of-way and easements for the construction of a project has been secured.

Section 37 amends s. 337.408 (1), (2), (5), and (6), F.S., to provide for public bidding of transit shelters and accommodations and to permit removal of benches, shelters, or waste disposal containers a local government finds to be in a state of disrepair or unsound. The section further permits advertising on designated containers and light poles subject to permitting requirements of the FDOT, except where the poles are located on the Interstate or are permanent fixture attachments to poles on the National Highway System.

Section 38 amends s. 338.165 (4), F.S., to permit the continuation of expiring toll collections in any county with a population in excess of 2.2 million for specified capital projects.

Section 39 amends s. 338.22, F.S., to create the Florida Turnpike Enterprise Law.

Section 40 amends s. 338.221, F.S., to define "economically feasible" for a turnpike project means the revenues of the project in combination with those of the existing turnpike system are sufficient to service the debt of the outstanding turnpike bonds to safeguard investors.

Section 41 creates s. 338.2215, F.S., to provide the Legislature's intent that the turnpike enterprise have additional powers and authority in order to maximize the advantages obtainable through fully leveraging the Florida Turnpike System asset, while protecting bondholders and improving service.

Section 42 creates s. 338.2216, F.S., to provide for the powers and authority of the turnpike enterprise. The turnpike enterprise is given greater flexibility in the operations of the turnpike system. The turnpike enterprise is authorized to contract, cooperate, coordinate, and partner with private entities. Turnpike enterprise employees are exempt from the career service system. The section authorizes the FDOT to adopt rules for the turnpike enterprise alternative to those provided in chs. 255, 277, and 337, F.S., (these chapters govern the procurement of goods and services by state agencies).

The section further provides that the turnpike enterprise is a single budget entity and will develop its own budget that will be submitted to the Legislature along with FDOT's. The section further provides that the Governor must carry forward all unexpended funds appropriated or provided to the turnpike enterprise that are not expended from the previous fiscal year. Such funds carried forward may be used for any lawful purpose including promotional activities, technology, and training.

Section 43 amends s. 338.223, F.S., to remove the provision that federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project. The section also increases the

maximum net loan amount for operating or maintenance loans in any fiscal year from 0.5 percent of the state transportation tax revenues to 1.5 percent.

Section 44 amends s. 338.227, F.S., conforming the section to the Florida Turnpike Enterprise Law.

Section 45 amends s. 338.2275, F.S., to provide that the FDOT may advertise for bids for contracts for the construction of any turnpike project prior to obtaining the required environmental permits.

Section 46 amends s. 338.234, F.S., to provide that the turnpike enterprise may sell services, products or business opportunities, which benefit the traveling public, on the turnpike system. Such services include lodging; meeting rooms; and other business services opportunities; advertising and other promotional opportunities, which are consistent with the dignity and integrity of the state.

Section 47 amends s. 338.235, F.S., to provide that the FDOT and a wireless provider may negotiate the reduction or elimination of a fee in consideration of goods or services provided to FDOT by the wireless provider.

Section 48 amends s. 338.239, F.S., to provide that approved Florida Highway Patrol expenses incurred patrolling the turnpike system will be reimbursed to the DHSMV by the turnpike enterprise. The section is further amended to provide Florida Highway Patrol Troop K will be headquartered with the turnpike enterprise and will be the official law enforcement troop for the turnpike system.

Section 49 amends s. 338.241, F.S., to provide that the budget for the turnpike system must be planned to provide for cash reserve at the end of each fiscal year of not less than 5 percent (current law provides that for a 10 percent cash reserve).

Section 50 amends s. 338.251, F.S., authorizing the turnpike enterprise to participate in the Toll Facilities Revolving Trust Fund.

Section 51 amends s. 553.80, F.S., to provide that construction regulations relating to transportation facilities under the jurisdiction of the turnpike enterprise of the FDOT will be enforced exclusively by the turnpike enterprise.

Rulemaking Authority

Section 52 amends s. 339.08(1) and (2), F.S., to delete a duplicative rulemaking requirement for the expenditure of moneys in the STTF.

Local Aid

Section 53 amends s. 339.12(4)(a), (5), and (8), F.S., to allow the FDOT to "compensate" rather than "reimburse" the governmental entity for the actual amount of the bond proceeds, time warrants, or cash used on a highway project or project phases that are not revenue producing and

are contained in the FDOT's adopted work program, or any public transportation project contained in the adopted work program. Allowing the FDOT to "compensate" rather than "reimburse" would be more timely and cost effective to both FDOT and the local governmental entity. Compensation to the governmental entity for such project or project phases must be made from funds appropriated by the Legislature, and compensation for the cost of the project phase would begin in the year the project or project phase is scheduled in the work program as the date of the agreement. The section is amended to increase the total amount project agreements may not exceed from $100 million to $150 million.

The section is further amended to provide, effective January 1, 2004, any county with a population of 50,000, in which at least 15.5 percent of its total real property is removed from the tax rolls due to state property tax exemptions and which dedicates at least 50 percent or more of the proceeds from the county's one-cent local option sales tax to improvements to the state transportation system, or to local projects that directly upgrade the state transportation system will receive funds from the FDOT which average the amount received from the FDOT over the previous ten-year period.

Work Program Amendments

Section 54 amends s. 339.135(7), F.S., to: increase the threshold amount from $150,000 to $500,000 for any amendment to the Adopted Work Program which adds a project or which advances or defers to another fiscal year, any preliminary engineering phase or design phase; increase the threshold amount from $500,000 to $1,000,000 for any amendment to the Adopted Work Program that advances or defers to another fiscal year, a right-of-way phase, a construction phase, or a public transportation project phase; increase the threshold amount from $150,000 to $500,000 for any amendment which advances or defers to another fiscal year any preliminary engineering phase or design phase, except an amendment advancing or deferring a phase for a period of 90 days or less.

The section is further amended to provide the first 5 years of the adopted work program for facilities designated as part of the Florida Intrastate Highway System is a commitment of the state to undertake transportation projects that local governments may rely on for planning purposes.

Transportation Outreach Program

Section 55 amends s. 339.137, F.S., to revise the TOP advisory council membership. The section is amended to provide the President of the Senate and the Speaker of the House of Representatives with two appointments each and three by the Governor and four at large members will be appointed by the Governor, all of whom shall serve terms of two years.

The section is amended to provide that the TOP council must develop a comprehensive ranking and scoring system including but not limited to consideration of population, length of the project, and the number of times the project has been applied for and unfunded. Projects not funded in a fiscal year must preserve their ranking and be considered in rank order the following year. The Florida Transportation Commission will provide a review of the recommended council projects prior to each legislative session.

Public Transportation and Rail

Section 56 amends s. 341.051 (5)(b), F.S., to delete the requirement that the FDOT develop a major capital investment policy for public transit capital projects. According to the FDOT, the necessity for specific state evaluations methodologies has been eliminated by changes in federal law regarding the evaluation of such projects.

Section 57 amends s. 341.302 (7) and (8), F.S., to eliminate the requirement that the FDOT develop and administer state standards concerning the safety and performance of rail system standards for hazardous material handling.

Miami-Dade Expressway Authority

Section 58 amends s. 348.0003, F.S., to provide that the qualifications, terms of office, and obligations and rights of the members of the authority will be determined by the Miami-Dade County Commission.

Environmental Mitigation

Section 59 amends s. 373.4137, F.S., to allow expressway authorities to utilize the process developed for FDOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

Orlando-Orange County Expressway Authority

Sections 60, 61, 62, 63, 64, 65, and 66 amend ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S., respectively, to give the OOCEA authority to issue its own bonds, and reissue bonds for certain projects. The section provides that the bonds do not pledge the full faith and credit of the state.

Real Estate Brokers

Section 67 amends s. 475.011, F.S., to exempt any firm or employee of a firm under contract with a state or local governmental entity to provide right-of-way acquisition services for property subject to condemnation, where the compensation for such services is not based upon the value of the property acquired from the requirement that a principal of each firm be registered as a broker, and each employee handling acquisition activities must be a Florida licensed broker or salesperson.

Billboards

Section 68 amends s. 479.15, F.S., to define the term "federal-aid primary highway system" as the federal-aid primary highway system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System.

Section 69 creates s. 479.25, F.S., to specify that governmental entities may enter into agreements with billboard owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen. The increase in height may only be sufficient to achieve the same degree of visibility the billboard enjoyed prior to construction of the blocking object. The agreement must be approved by the Federal Highway Administration if the billboard in question is located on a federal aid or interstate highway.

Section 70 creates s. 70.20, F.S., to authorize municipalities and counties to enter into relocation agreements with outdoor advertising sign owners. The section provides that no municipality, county, or governmental entity may remove or alter a lawfully erected sign along the interstate, federal-aid primary or other highway system without first paying just compensation through eminent domain proceedings. The section provides theta municipality, county, or governmental entity that wishes to remove a billboard must notify the billboard owner of such removal. Within 30 days after receipt of the notification, the owner and the municipality, county, or governmental entity may meet to attempt to negotiate a relocation and reconstruction agreement.

If the parties fail to reach a relocation and reconstruction agreement within 120 days from the initial notification, either party may request a mandatory nonbinding arbitration to resolve the disagreements among the parties. Each party selects an arbitrator, and those two arbitrators select a third arbitrator. The three arbitrators will decide upon, and present a relocation and construction agreement to the two parties. If the agreement is acceptable to both parties, the two parties will share the arbitration costs equally. If one party refuses to accept the agreement that party will be responsible for all arbitration costs, and the governmental entity must pay just compensation to the billboard owner through eminent domain proceedings if such entity proceeds with the removal of the billboard.

The section provides that nothing in this acts impairs or affects any written agreements existing prior to the effective date of this act, nor may the provisions of this act apply to any signs that are required to be removed by a date certain in areas designated by local ordinance as "view corridors" prior to the effective date of this act. The section further provides that this act will not apply until July 1, 2002, to any dispute between a municipality or county and a sign owner where the amortization period has expired and judicial proceedings are pending.

Effective July 1, 2002, where an amortization period has expired, a municipality or county may remove a sign from a designated are during the pendency of judicial proceedings on the amortization or the ordinance validity. Any public project requiring the alternation or removal of a sign shall be accompanied by notice to the owner. A ninety-day negotiating period shall commence beginning 30 days after receipt of the signed notice by the owner. Failure to achieve an agreement shall permit the local government to remove the sign in a single-family residential neighborhood using an eminent domain procedure or to remove it at the expiration of a ten-year period.

Solicitation of Funds

Section 71 amends s. 496.425(1), F.S., to delete highway rest areas, roadside welcome centers and highway service plazas from the types of transportation facilities where fund solicitation can occur.

Section 72 creates s. 496.4256, F.S., to specify any governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a solicitation permit.

Section 73 amends s. 255.25(3), F.S., to permit a state agency to renegotiate a replacement lease if an independent market analysis determines that its present value would be market-competitive compared the incurred costs of relocating.

Section 74 amends s. 320.03(9), F.S., to provide that a portion of motor vehicle license tag fees are to be deposited in the Transportation Disadvantaged Trust Fund. The change also eliminates the requirement of a vehicle weight of 5,000 pounds or less.

Section 75 amends s. 331.308 (1), (2), (3), (5), (6), and (7), F.S., to designate the Lieutenant Governor as the chair of the Spaceport Florida Authority, and to revise its membership appointments.

Section 76 amends s. 334.193 (2), F.S., to permit employees or employee work groups in the FDOT to submit competitive proposals for work performed by the agency. If the department selects these groups as the successful bidder the affected employees shall be required to resign their employment. The FDOT is directed to update its rules on the utilization of equipment and facilities in light of the changes effected by this provision.

Section 77 amend s. 768.28(10), F.S., to extend sovereign immunity protection to operators of rail services who are contractual agents of the Tri-County Commuter Rail Authority.

Section 78 provides that an effective date upon becoming law, unless specified otherwise.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

While the CS/CS does not directly require cities or counties to expend funds, or to take actions requiring the expenditure of funds, the CS/CS could require local governmental entities to pay monetary compensation in lieu of amortization to sign owners whose lawfully erected, but nonconforming billboards, must be removed or altered because of a local zoning ordinance. While the subject is technically discretionary with the local governments, any resulting "taking" has the effect of reducing any taxable income assignable to the property on the part of the local government as well as forcing these governmental units to expend money in compensation which may be in excess of that derived from amortization. The effect on Art. VII, s. 18, State Constitution, should be appreciated. The bill in its present form does not contain a declaration of important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Elimination of the airport registration/inspection fee should have a positive economic impact on private airports.

The ability of outdoor advertisers to receive monetary compensation rather than accept an amortized value, should have a positive economic impact on sign owners required to remove their billboards. The exact impact is a function of finding agreement on a suitable financial formula fair to both parties. This formula could be derived from some agreement on the appropriate appraisal method to be used (cost, income, or comparable sales) as well as a discount value to be assigned in computing any form of lump sum payment. To date no agreement has been forthcoming.

C. Government Sector Impact:

Estimates of the Fiscal Impact of Known Cost Elements in CS/CS/SB 2056

Item	Revenue	Expenditures	Net Impact
Airport fees	$ 90,000	$ 100,000	($ 10,000)
Raising debt service cap	$ 800,000,000 over 5 years	Depends on interest rate and term	Lower interest rates reduce debt service costs and increase debt capacity.
Signage compensation	Unknown	Unknown	Additional local governments costs if methods other than amortization are chosen.
Carry forward of DOT balances	$ 1,284,612		Reduced reversions
O & M subsidy increase from .5% to 1.5%	$ 21,200,000 increase in loan amounts		
Decrease in minimum cash balance	$ 7,400,000 Non-recurring	$ 400,000 Recurring	Loss of recurring investment return

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Turnpike Enterprise is given the authority to be exempted from departmental rules and purchasing procedures so that it may engage in private sector-based acquisition processes. The bill does not explain which processes are to be exempted or what replacement processes are to be adopted. Thus, it cannot be determined what difficulties are presented by chs. 120, 255, or 287, F.S., or how, in fact, the proposed language will overcome them.

VIII. Amendments:

None.