The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/CS/CS/SB 1978

INTRODUCER: Transportation and Economic Development Appropriations Committee, Transportation Committee, and Senator Baker

SUBJECT: Department of Transportation

DATE: April 28, 2008 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	**Fav/CS**
2.	ODonnell	Johansen	FT	**Fav/4 amendments**
3.	Weaver	Noble	TA	**FAV/CS**
4.	Weaver	Noble	TA	**Fav/CS**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The CS/CS/CS for Senate Bill 1978 makes changes to a number of programs implemented by the Florida Department of Transportation (FDOT, the department). The bill:

- Makes the executive director of the Florida Transportation Commission a Senior Management Service position;
- Modifies ch. 163 to better integrate airport planning provisions in the comprehensive planning process, to adjust methodologies for mitigating developments, and to exempt certain seaport-related development from Development of Regional Impact (DRI) review;
- Revises existing law regarding Transportation Concurrency Backlog Authorities (TCBAs) to authorize TCBAs to increase attributable tax revenue increments and to issue bonds;
- Authorizes the State Board of Administration to invest funds from the Lawton Chiles Endowment to lease Alligator Alley from FDOT for up to 50 years;

- Defines the term "road rage" and requires drivers impeding the flow of traffic to yield the left lane to overtaking vehicles;
- Requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an high occupancy vehicle (HOV) lane to comply with federally mandated minimum fuel economy standards;
- Lowers the blood alcohol level (BAL) for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more;
- Authorizes the enforcement of the most current regulations applicable to owners and operators of commercial motor vehicles;
- Redefines the term “motor vehicle” to require additional vehicles to meet requirements for child restraint and safety belts;
- Increases the $1.50 registration fee for vehicles weighing 5,000 lbs or less to $3.00;
- Prohibits, with some exceptions, counties, cities, and special districts from owning or operating an asphalt or concrete plant;
- Requires the department to set a goal of using design-build contracts for up to 25% of construction contracts by 2013;
- Modifies requirements relating to the posting of surety bond information;
- Allows counties with international airports to levy, by referendum, an additional $2 rental car surcharge to be used for funding commuter rail projects;
- Authorizes FDOT to purchase the Central Florida Rail Corridor for a maximum price of $450 million, assume certain liabilities, purchase liability insurance, and incur certain expenses for rail operations;
- Establishes that operators, dispatchers, security providers, and maintenance providers under contract to FDOT in the Central Florida Rail Corridor are considered agents of the state. Increases sovereign immunity on the South Florida Rail Corridor and the Central Florida Rail Corridor;
- Adds contracts for maintenance work to claims heard by the State Arbitration Board;
- Exempts utilities from paying for relocation of a utility to accommodate a transportation project serving the transportation authority or its tenants;
- Requires all new or replacement electronic toll collection (ETC) systems to be interoperable with the department’s ETC system;
- Revises current toll revenue bonding and usage provisions to accommodate specified high-occupancy toll (HOT) lanes and express lanes;
- Eliminates the requirement to maintain a uniform toll rate structure on the turnpike system, provides for alternate tolling and payment methods, and directs the turnpike enterprise to increase tolls by 25% and index tolls to the Consumer Price Index;
- Authorizes FDOT to enter long-term repayment agreements with certain counties to advance transportation projects not already included in the five-year work program;
- Enhances requirements for FDOT to notify affected counties and cities when deleting or deferring a construction phase for certain transportation projects from the work program;
- Removes obsolete provisions relating to the transportation planning process, eliminates statutory requirements resulting in duplicative reports, and makes conforming changes for the purpose of updating citations;

- Reauthorizes the Small County Resurfacing Assistance Program (SCRAP) and revises program and project eligibility requirements;
- Extends the constitutional financial reporting requirements applicable to the Miami-Dade Expressway Authority to all expressway authorities;
- Requires expressway authorities to index toll rates to the Consumer Price Index (CPI);
- Abolishes the Tampa Bay Commuter Transit Authority (TBCTA);
- Directs the Florida Department of Transportation (FDOT) to conduct a study examining transportation alternatives for the Interstate 95 (I-95) travel corridor;
- Ensures the coordinated planning of transportation disadvantaged services by all human service agencies; strengthens the alternative provider procedure process for purchasing agencies to ensure all agencies follow the same process; requires all agencies to identify dollars spent on non-emergency transportation services to transportation disadvantaged clients; and requires agencies to pay the transportation rates established by the service plan unless the procedure to use an alternative provider has been completed.
- Makes a number of technical changes related to sign permits and wall murals; and
- Provides flexibility to conform to federal program changes expanding the interstate highway Logo Sign Program and raises the authorized fee for the program
- Authorizes the expenditure of public funds on a portion of Old Cutler Road in Miami-Dade County for sidewalks, curbing, and landscaping .

This bill substantially amends the following sections of the Florida Statutes: 20.23, 125.42, 163.3177, 163.3178, 163.3180, 163.3182, 212.0606, 215.44, 215.47, 215.5601, 316.003, 316.0741, 316.083, 316.1923, , 316.193, 316.302, 316.613, 316.614, 316.656, 318.19, 320.03, 322.64, 336.41, 337.11, 337.18, 337.185, 337.403, 338.01, 338.165, 338.2216, 338.223, 338.231, 339.12, 339.135, 339.155, 339.2816, 339.2819, 339.285, 348.0003, 348.0004. 341.301, 341.302, 409.908, 427.011, 427.012, 427.013, 427.0135, 427.015, 427.0155, 427.0157, 427.0158, 427.0159, 427.016, 479.01, 479.07, 479.08, , 479.156, 479.261, and 768.28.

This bill creates ss. 334.305 and 338.166, F.S.

This bill repeals Part III of ch. 343, F.S.

This bill reenacts part of s. 316.650, F.S.

II. Present Situation:

Florida Transportation Commission

Section 20.23, F.S., creates the FTC to provide oversight of the Florida Department of Transportation (FDOT) and makes transportation policy recommendations to the Governor and Legislature. The FTC is required to appoint an executive director and assistant executive director who serve under the direction, supervision, and control of the commission. The executive director is authorized to employ staff as necessary and within budgetary limitations.[1] Currently,

1 Section 20.23(2)(h), F.S.

there are four employees at the FTC and they are classified as Selected Exempt Service personnel for the purposes of salary and benefits.

Proportionate Fair-Share Mitigation

Section 163.3180 provides a method for mitigating the impacts of development on transportation facilities through the cooperative efforts of the public and private sectors. This method, called proportionate fair-share mitigation, can be used by a local government to determine a developer's fair-share of costs to meet concurrency. The developer's fair-share may be combined with public funds to construct future improvements; however, the improvements must be part of a plan or program adopted by the local government or FDOT. If an improvement is not part of the local government's plan or program, the developer may still enter into a binding agreement at the local government's option provided the improvement satisfies part II of ch. 163, F.S., and:

- the proposed improvement satisfies the significant benefit test; or
- the local government plans for additional contributions or payments from developers to fully mitigate transportation impacts in the area within 10 years.

Transportation Concurrency Backlog Authorities (TCBAs)

Local governments are required to use a systematic process to ensure new development does not occur unless adequate infrastructure is in place to support the growth. The requirement for public facilities and infrastructure to be available concurrent with new development is known as concurrency. Transportation concurrency uses a graded scale of roadway level of service (LOS) standards assigned to all public roads. The LOS standards are a proxy for the allowable level of congestion on a given road in a given area. Stringent standards (i.e., fewer vehicles allowed) are applied in rural areas and easier standards (i.e., more vehicles) are allowed in urban areas to help promote compact urban development. FDOT is responsible for establishing LOS standards on the highway component of the Strategic Intermodal System (SIS) and for developing guidelines to be used by local governments on other roads. Local governments, however, have broad discretion in the implementation of transportation concurrency because they designate the concurrency management strategies and exception areas within their boundaries, and control land use decisions within their jurisdictions.

The 2007 Legislature passed HB 985 creating s. 163.3182, F.S., which allows any county or municipality with an identified transportation concurrency backlog to create a TCBA. The governing board of the county or municipality would comprise the authority's membership and develop and implement a plan to eliminate all backlogs within its jurisdiction. The plan must identify all roads designated as failing to meet concurrency requirements and include a schedule for financing and construction to eliminate the backlog within 10 years of plan adoption. The plan is not subject to the twice-per-year restrictions on comprehensive plan amendments. To fund the plan's implementation, each authority must collect and earmark, in a trust fund, tax increment funds equal to 25 percent of the difference between the ad valorem taxes collected in a given year and the ad valorem taxes which would have been collected using the same rate in effect when the authority is created. Upon adoption of the transportation concurrency backlog plan, all backlogs within the jurisdiction are deemed financed and fully financially feasible for purposes of calculating transportation concurrency and a landowner may proceed with development (if all other requirements are met) and no proportionate share or impact fees for backlogs may be assessed. The authority is dissolved upon completion of all backlogs.

Road Rage and Aggressive Driving

The terms "aggressive driving" and "road rage" are often used interchangeably, but most experts agree the terms are not the same. According to the National Highway Traffic Safety Administration (NHTSA), aggressive driving comprises following too closely, driving at excessive speeds, weaving through traffic, running stop lights and signs, and other forms of negligent or inconsiderate driving.[2] Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

> ... road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior ...those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving....[3]

"Road Rage" is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

> …an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.[4]

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.[5] Studies show most incidents happen between the hours of four and six o'clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. In relation, dense traffic which impedes progress is a natural and commonplace theme on most roads. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).[6] This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

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2 NHTSA, "Aggressive Driving Enforcement: Evaluation of Two Demonstration Programs" (March 2004) DOT HS 809 707
3 Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London: Tavistock
4 AAA Foundation for Traffic Safety "Controlling Road Rage: A Literature Review and Pilot Study (June 1999)
5 D. Connell, M. Joint, "Driver Aggression" Road Safety Unit Group Public Policy (November 1996)
6 Ibid.

Current Florida law in relation to "driving on right side of roadway," does require vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn at an intersection or into a private road or driveway.[7] Violations of this law are non criminal offenses; however, enforcement of these provisions has been minimal.

Aggressive Driving Laws

Another important distinction is aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). The extent of the few road rage laws in existing statutes are limited to definition. Most, if not all acts under the umbrella of what is considered to be road rage, are labeled criminal offenses with applicable punishments. Road rage is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage, Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation), *Wounding with Intent, Common Assault, Assault with a Deadly Weapon, Murder, Manslaughter, and Vehicular Homicide*.

Section 316.1923, F.S., describes "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

(1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b, F.S.
(2) Unsafely or improperly changing lanes as defined in s. 316.085, F.S.
(3) Following another vehicle too closely as defined in s. 316.0895(1), F.S.
(4) Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.
(5) Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.
(6) Violating traffic control and signal devices as defined in subsections 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive driving.[8] The information is recorded and used by the Department of Highway Safety and Motor Vehicles (DHSMV).

Section 316.003, F.S., is a list of definitions for terms used in the chapter.

Section 316.083, F.S., provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.

7 Section 316.081 (1)(3)(4), F.S.
8 Section 316.650 F.S.

Section 318.19, F.S., lists infractions requiring a mandatory court hearing.

Section 316.650, F.S., requires the DHSMV to include a box on all traffic citation tickets and accident report forms in which the issuing law enforcement officer is to check off if it is believed the traffic infraction or crash was a result of aggressive careless driving.

High Occupancy Vehicles (HOVs)

Section 316.0741, F.S., provides HOV lanes on highways are reserved for passenger vehicles carrying at least two people. In addition, current federal law (23 U.S.C. 166) provides a state agency with jurisdiction over the operation of a HOV facility shall establish occupancy requirements for HOV lanes, allowing no fewer than two vehicle occupants with the following exceptions:

- Motorcycles and bicycles-must allow motorcycles and bicycles to use the HOV facility, unless either or both create a safety hazard. If so, the State must certify, the Secretary must accept certification, and it must be published in the Federal Register for an opportunity for public comment;
- Public transportation vehicles-may allow public transportation vehicles, if vehicle identification requirements are established and enforced;
- High Occupancy Toll (HOT) vehicles-may allow vehicles not otherwise exempt to use the facility if the vehicles pay a toll; program must be established to address enrollment and participation; automatic toll collection required; procedures must be established for variable pricing and enforcement;
- Inherently low-emission and energy-efficient vehicles-before 9/30/2009, may allow inherently low-emission vehicles to use HOV facility if procedures for enforcing restrictions on use are established; vehicles must be certified and labeled under title 40, C.F.R.; and
- Other low emission and energy-efficient vehicles-before 9/30/2009, may allow low-emission and energy-efficient vehicles to use the facility if they pay a toll; vehicles must be certified and labeled by the Environmental Protection Agency (EPA); program must be established for vehicle selection and enforcement or restriction on use of facility. A state agency may charge “no toll,” or a toll that is less than tolls charged for public transportation vehicles.

A state agency choosing to allow exceptions to HOV requirements for vehicles in the latter two exception categories must certify to the USDOT Secretary it has established a program to monitor, assess, and report on the impacts the vehicles may have on the operation of the facility and adjacent highways. An adequate enforcement program is also required, as well as provisions for limiting or discontinuing the exemption(s) if the facility becomes seriously degraded.[9] Pursuant to the provisions of SAFETEA-LU (23 U.S.C. 166(e)), the EPA was to promulgate a rule by February 6, 2006, to establish requirements for certification of vehicles as low-emission

9 An HOV facility is considered degraded under federal law if vehicles operating on it are failing to maintain a minimum average operating speed 90% of the time over a consecutive 180-day period during morning and/or evening weekday peak hours. (Minimum average operating speed is defined as 45mph in a 50mph zone, or 10mph below limit when limit is less than 50mph.) States may make mileage requirements more restrictive than specified in SAFETEA-LU when managing use by low emission and energy-efficient vehicles.

and energy-efficient vehicles and requirements for their labeling, as well as to establish guidelines and procedures for making vehicle comparisons and performance calculations necessary to determine which vehicles qualify as low-emission and energy-efficient vehicles. According to FDOT, to date, that final rule has not been promulgated. The department has been contacted by the Federal Highway Administration (FHWA) and advised it is not in compliance with these monitoring and enforcement program provisions, and FDOT is currently working with the FHWA to obtain approval of its programs and submit the required certification. Specifically, the FHWA has noted the absence in Florida law of the requirement to comply with the specified minimum fuel economy standards, the commitment to update its eligibility criteria to comply with the EPA final rule once issued, and the authorization to limit or discontinue the use of a HOV lane by single-occupant vehicles as necessary to preclude degraded facilities.

Current state law authorizes the following vehicles to use a HOV lane without regard to occupancy: an inherently low-emission vehicle certified and labeled in accordance with federal regulations; and a hybrid vehicle (as defined), upon the state's receipt of written notice authorizing such use. However, no provision of current state law requires such vehicles to comply with the specified minimum fuel economy standards or addresses compliance with the anticipated EPA rule. The DHSMV is required by statute to issue decals for the use of HOV lanes by such vehicles, but the department has no authority to limit or discontinue decal issuance to drivers of these vehicles for reason of operation and management of HOV lanes. Currently, the department issues decals and renews them annually to vehicles designated as HOV lane vehicles meaning they are certified in accordance with federal regulations. During fiscal year 2006-2007, the department collected approximately $4,500 in decal fees.

Driving Under the Influence (DUI)

The offense of DUI[10] is committed if a person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent the person's normal faculties are impaired;
- The person has a BAL of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a BAL of 0.08 or more grams of alcohol per 210 liters of breath.

The DUI offense is punishable as follows:[11]

- For a first conviction**,** by a fine of not less than $250 or more than $500 and by imprisonment for not more than 6 months.
- For a second conviction, by a fine of not less than $500 or more than $1000 and by imprisonment for not more than 9 months. If the second conviction was for an offense committed within 5 years of the date of a prior conviction, the court must order imprisonment for not less than 10 days.[12]

10s. 316.193(1), F.S.
11s. 316.193(2), F.S.
12s. 316.193(6)(b), F.S.

- For a third conviction that is not within 10 years of a prior conviction, by a fine of not less than $1000 or more than $2500 and by imprisonment for not more than 12 months.[13]

A third conviction for an offense occurring within 10 years of a prior conviction is a third degree felony, punishable by no less than 30 days in jail[14] and up to five years in prison and a fine of up to $1000.[15] A fourth conviction, regardless of when it occurs, is a third degree felony, punishable by up to five years in prison and a fine of not less than $1000 or more than $5000.[16] If the fourth or subsequent conviction was for an offense that occurred within 10 years after the date of a prior conviction, the court must order imprisonment for not less than 30 days.[17]

At the judge's discretion, a defendant may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced in a residential alcoholism treatment program or a residential drug abuse treatment program.[18] Current law also requires a judge to order, as a condition of probation, the impoundment or immobilization of vehicles for various periods of time based on the number of DUI convictions.

This section requires the revocation of a driver's license:

- for not less than 180 days and no more than 1 year for a first DUI conviction;[19]
- for not less than 5 years for a second conviction for an offense that occurs within 5 years after the date of a prior conviction;[20] and
- for not less than 10 years for a third conviction for an offense that occurs within 10 years of a prior conviction.[21]

A fourth DUI conviction results in permanent revocation of a person's driving privilege.[22]

Motor Carrier Compliance - Code of Federal Regulations Update

Section 316.302(1)(b), F.S., references safety regulations contained in the Code of Federal Regulations. FDOT's Motor Carrier Compliance Office is charged with enforcement of laws relating to the operation of commercial motor vehicles within the state, including those safety regulations applicable to owner or drivers engaged in intrastate commerce. This section of law provides for the adoption of specified federal safety regulations, as they existed on October 1, 2005. A statutory update is needed to take into account changes made to the regulations.[23] Two other provisions within that section of law contain misnomers.

Child Restraints/Safety Belts

13s. 316.193(2)(b)2, F.S.
14s. 316.193(6)(c), F.S.
15s. 316.193(2)(b)1, F.S.
16s. 316.193(2)(b)3., F.S.
17s. 316.193(6)(c), F.S.
18s. 316.193(6)(k), F.S.
19s. 322.28(2)(a)1., F.S.
20s. 322.28(2)(a)2., F.S.
21s. 322.28(2)(a)3., F.S.
22s. 322.28(2)(e), F.S.
23 States are required by 49 C.F.R. s. 350.355(d) to update their laws no later than three years after the effective date of the most current federal safety regulations.

Currently, s. 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child 5 years of age or younger. For children 3 years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat or a seat belt may be used. These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 5,000 pounds; or a motorcycle, moped, or bicycle.24 A driver who violates this requirement is subject to a $60 fine, court costs and add-ons, and having 3 points assessed against their driver's license.

A driver who violates this requirement may elect, with the court's approval, to participate in a child restraint safety program. Upon completing such program the above penalties may be waived at the court's discretion and the assessment of points waived. The child restraint safety program must use a course approved by the department, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

The exemption for trucks has been in statute since the seat belt law was first enacted in 1986. At that time, trucks driven by the general public were typically less than 5,000 pounds; therefore, the exemption targeted what was then considered to be "heavy trucks" used commercially. Since 1986, the purchasing habits of the general public have changed dramatically. Today trucks exceeding the 5,000 pound threshold are commonly promoted in the general population and purchases of these types of vehicles have risen dramatically.

Section 316.614, F.S., currently applies the same weight limit to the requirement for safety belts.

Federal Motor Carrier Safety Administration Regulations – Disqualifications

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are required to implement. A FMCSA review of Florida law relating to commercial motor vehicles found in 49 C.F.R. 383.51 is not adequately addressed in a number of areas. Based on this review, Florida is required to change its laws to mirror the federal standards. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Section 322.64, F.S., provides law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Such officers shall provide the person disqualified with a 10-day temporary driving permit for the operation of a noncommercial vehicle, if otherwise eligible for the driving privilege, and also issue the person a notice of disqualification.

24 s. 316.613(2)(a-e), F.S.

Mandatory Adjudication
Section 316.656(2)(a), F.S., provides no trial judge may accept a plea of guilty to a lesser offense from a person charged who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.20 percent or more.

Design-Build Contracting
Section 337.11, F.S., provides that if the secretary of FDOT determines that it is in the best interests of the public, FDOT may combine the design and construction phases of a building, a major bridge, a limited access facility, or a rail corridor project into a single contract. Such contract is referred to as a design-build contract. In traditional contracting for transportation projects, the conventional process results in a linear progression of design-bid-build. In design-build contracts, the design and construction phases occur concurrently conserving considerable amounts of time. Design-build contracts may be advertised and awarded based on FDOT rule and procedures for administering design-build contracts. FDOT must receive at least three letters of interest in order to proceed with a request for design-build proposals. FDOT must request proposals from no fewer than three of the design-build firms submitting letters of interest. If a design-build firm withdraws from consideration after the FDOT requests proposals, the evaluation process may continue if at least two proposals are received.

Contractor Surety Bonds
Section 337.18, F.S., requires surety bond of the successful bidder in an amount equal to the awarded contract price. Current law provides that upon execution of the contract, and prior to beginning any work under the contract, the contractor shall record in the public records of the county where the improvement is located the payment and performance bond required under this section. Any claimant shall have a right of action against the contractor and surety for the amount due him or her, including unpaid finance charges due under the claimant's contract.

State Arbitration Board
Section 337.185, F.S., establishes a State Arbitration Board to facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between FDOT and the various contractors with whom it contracts. The section requires that every contractual claim in an amount up to $250,000 per contract or, at the claimant’s option, up to $500,000 per contract or, upon agreement of the parties, up to $1 million per contract, that cannot be resolved by negotiation between FDOT and the contractor be arbitrated by the board. Either party may request the claim be submitted to binding private arbitration. FDOT and contractors have used this dispute resolution process to resolve many claims arising out of construction contracts. Most frequently, matters are presented without active legal representation by either party, little or no formal discovery is taken and the costs of the proceeding are substantially less than those that would be expected in a civil judicial proceeding. The process benefits both FDOT and construction contractors by facilitating prompt claim settlement and reducing or eliminating litigation costs. Maintenance contracts are not included in this process. Routine maintenance contracts include:

- pavement patching
- shoulder repair
- cleaning and repair of drainage ditches

- traffic signs, and structures
- mowing
- bridge inspection and maintenance
- pavement striping
- litter cleanup
- other similar activities

Relocation of Utilities

Section 337.403, F.S., requires utility owners to remove or relocate utilities at their own expense when necessary for the construction of a publicly-owned transportation project. There are three exceptions:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, the FDOT pays for the removal or relocation with federal funds.
- Where the cost of the utility improvement, installation, or removal exceeds the FDOT's official cost estimates for such work by 10 percent, FDOT participation is limited to the difference between the official estimate of all the work in the agreement plus 10 percent and the amount awarded for the work in the construction contract.
- When relocation of the utility takes place before construction commences, FDOT may participate in the cost of clearing and grubbing (i.e., the removal of stumps and roots) necessary for the relocation.

Toll Collection Systems

In addition to cash deposit toll collections, FDOT currently maintains one Electronic toll collection (ETC) system, SunPass, statewide on the turnpike and at other FDOT toll facilities. Although there is currently no statutory requirement for FDOT and any other transportation authority to use interoperable ETC systems, SunPass is compatible with the systems of most independent toll agencies within Florida. Interoperability of ETC systems enhances their usefulness and generally makes the concept of ETC more desirable. ETC is more cost effective and provides improved mobility and enhanced traffic flow when compared to cash toll collection. FDOT estimates more than $450 million of costs have been avoided by not having to expand toll facilities for increased cash transactions since the 2001 deployment of the SunPass program. Currently, 65 percent of turnpike customers pay through electronic toll collection. FDOT has established a goal to increase the number of customers paying electronically to 75 percent by December 2008. As ETC continues to increase, FDOT intends to modify its toll collection process to provide more payment options to customers and improve mobility by eliminating cash toll collection at the roadside.

Today, SunPass accounts are replenished via credit card payments. Emerging technology will soon give customers the option of cash replenishment so that customers who wish to pay with cash and remain anonymous (i.e. not provide customer information) may do so. This cash payment method will be maintained off the roadway, so these cash customers will enjoy the same non-stop travel as traditional SunPass customers. The department is also anticipating the deployment of a video billing system. This method of payment will allow customers to use the roadway without a transponder or other device, instead using their license plate for identification

and billing. Video billing, as this is called, provides for pre-payment and post-payment opportunities. Customers who pre-pay with video billing will call a customer service center and establish an account with license plate and credit card information to allow for payment. Customers who post-pay may establish the account after the fact; however, this payment option is more expensive to administer and would result in a higher cost. Finally, customers who do not register for video billing will be identified based on their license plate information and will be billed through the mail for their toll activity. This method of toll collection has significant backroom processing costs, and therefore, will require additional administrative fees. FDOT currently lacks authorization to impose and recover certain administrative amounts in connection with the collection of tolls.

High-occupancy Toll/Express Lanes

FDOT is currently engaged in a pilot project to provide 'managed lanes' on the existing I-95 corridor from I-395 to the Golden Glades Interchange in Miami-Dade County. The project will convert the existing High Occupancy Vehicle Lanes (HOV) to managed lanes, also known as HOT lanes. By restriping the existing road and shoulder into narrower lanes, the existing single HOV lane will be replaced by two HOT/managed lanes. After the conversion, buses and HOVs with three or more occupants (HOV-3) will be able to use the HOT/managed lanes at no cost while single occupant vehicles (SOVs) will pay a variable toll which will be based on the operating speed of the managed lanes. HOT/managed lanes would have variable congestion pricing, i.e., tolls fluctuate with increased congestion so that a minimum operating speed of 50 MPH could be maintained at all times. Transit (buses) and vehicles with a minimum occupancy of two persons (HOV-2) may currently use the existing HOV lanes. Operational changes to shoulders on I-95 may allow for provision of additional HOT lanes south of the Golden Glades Interchange. Phase II of the I-95 Express project would extend the lanes to I-595 in Broward County.

Toll Facilities Bonding

The Florida Constitution requires legislative authorization in order to bond a revenue project. Current law (s. 338.165, F.S.) authorizes FDOT to request issuance of bonds secured by excess toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the adopted work program. These facilities, although being toll facilities, are not part of the turnpike system.

Local Government Reimbursement Program

Section 339.12, F.S., provides that any governmental entity may aid in any project or project phase included in FDOT's five-year adopted work program by contributions of cash, bond proceeds, time warrants, or other goods or services of value. Prior to accepting a contribution, FDOT must enter into agreements with the governmental entity for the project or project phases. FDOT may not under any circumstance receive contributions in excess of the actual cost of the project or project phase. By specific provisions in the written agreement between the FDOT and the governmental entity, FDOT is authorized to reimburse the governmental entity for the actual amount of the contribution on a highway project or project phases that are not revenue producing and are contained in FDOT's adopted work program, or any public transportation project contained in the adopted work program. Subject to appropriation of funds by the Legislature, FDOT may commit state funds for reimbursement of projects or project phases. Reimbursement

to the governmental entity for these projects or project phase must be made from funds appropriated by the Legislature, and reimbursement for the cost of the projects or project phase is to begin in the year the project or project phase is scheduled in the work program. Funds advanced pursuant to this section, which were originally designated for transportation purposes and reimbursed to a county or municipality, must be used by the county or municipality for any transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. Expenditures related to routine maintenance of roads are excluded from the eligible projects in which these reimbursements can be used to fund. In addition, FDOT may enter into agreements for projects or project phases not included in the five-year adopted work program. These advancements include only projects or project phases for acquisition of rights-of-way, construction, construction inspection, and related support phases. Agreements for advancement of projects or project phases from outside the five-year work program shall only include high priorities of the governmental entity. The total amount of project agreements for projects or project phases not included in the adopted work program may not at any time exceed the existing FDOT cap of $100 million statewide.

Transportation Planning Regulations and Duplicative Reporting Requirements

Section 339.155, F.S., requires the department to develop and annually update the Florida Transportation Plan (FTP). The FTP is a long-range plan addressing the needs of the entire state transportation system and identifies the goals and objectives for the next 20 years. The FTP is intended to guide Florida's transportation decisions and investments based upon the prevailing principles of: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. In conformance with federal law, the section requires the transportation planning process used in developing the FTP to provide consideration of seven specific planning factors which are established in the United States Code. These federal requirements are occasionally amended, and the Legislature has, from time to time been required to revise s. 339.155, F.S., to maintain accordance with federal revisions. For example, the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. The subsequent reauthorization, the Transportation Equity Act for the 21st Century (TEA-21) passed by Congress in 1998, consolidated the statewide and metropolitan planning factors into seven broad areas. Florida statutes were amended by the 1999 Legislature (HB 591) to accommodate the TEA-21 revisions. Currently, s. 339.155, F.S., reflects the seven broad planning factors and is once again nonconforming with federal law due to the 2005 reauthorization, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which separated the "safety and security" factor into two separate factors and modified the wording of the other factors.

Separate from the requirements of federal law, s. 339.155, F.S, requires the department to issue two additional documents: a Short Range Component of the FTP and an Annual Performance Report. The Short Range Component of the FTP documents the department's short-term objectives and strategies for implementing the FTP and specifies how those objectives are being measured. The Annual Performance Report includes a summary of how well the adopted work program meets the short-term objectives in the Short Range Component. In recent years, the

department has combined the Short Range Component and the Annual Performance reports into a single report.

Over time, revisions to various sections of the Florida Statutes have resulted in duplicative reporting and planning requirements. For example, an annual Long Range Program Plan (LRPP), required of each state agency by s. 216.013, F.S., is also developed by the department to measure state goals, agency program objectives and service outcomes. The LRPP is submitted to the Governor and Legislature. Additionally, the Florida Transportation Commission annually evaluates and reports the department's performance and productivity to the Governor and the Legislature.

Tampa Bay Commuter Transit Authority

The Tampa Bay Commuter Rail Authority (TBCTA) was created by the Florida Legislature in 1990 for the purposes of developing and operating a commuter rail or ferry system. The authority board comprises elected and citizen representatives from Hernando, Hillsborough, Pasco, Pinellas, and Polk Counties, as well as the affected FDOT District Secretaries or their designees, and an appointee of the Governor. Representatives from each of the five counties' local transit authorities serve as ex officio members. The authority has directed some organizational work and feasibility studies; however, the authority has been dormant for several years due to a lack of consensus among local authorities regarding the funding of a system, routes and design features.

Interstate 95 Corridor

Interstate 95 (I-95) is the predominant interstate highway on the United States (U.S.) eastern seaboard, paralleling the Atlantic Ocean for 1,917 miles from the Canadian border to South Florida. With approximately 1,040 miles traversing through urban areas, I-95 travels near or through some of the largest and most economically important cities in the country including Boston, Baltimore, Philadelphia, New York City, Washington, D.C., and Miami. According to the U.S. Census Bureau, only five counties along the route - two in South Carolina, one in southern Virginia, and two in northern Maine - are completely rural. I-95 is the longest north-south U.S. interstate highway and passes through fifteen states - more than any other.

The Federal Highway Administration (FHWA) estimates without any further improvements to the corridor, virtually 100 percent of the urban segments will be under heavy congestion by 2035. Congestion for non-urban corridors would increase from the current 26 percent impacted to over 55 percent impacted.

Florida's 382 miles of I-95 comprise the highest number of miles for any state. According to FDOT calculations using 2006 data, 159 miles (42%) fail to meet the adopted minimum level of service standards and may be considered congested.

County	Total Length (in miles)	Number of Congested Miles	Percent Congested
Brevard	73	45	62%
Duval	38	19	50%
Flagler	19	19	100%

Nassau	12	0	0%
St.Johns	35	0	0%
Volusia	46	1	2%
Broward	25	25	100%
Miami-Dade	17	15	88%
Indian River	19	0	0%
Martin	25	7	28%
Palm Beach	46	28	61%
St. Lucie	27	0	0%
Total	**382**	**159**	**42%**

In 2007, Florida joined four other states (Georgia, North Carolina, South Carolina, and Virginia) in a single application for the FHWA's new "Corridors of the Future" program. The application proposes to reconstruct and expand a 1,054 mile stretch of I-95 from Florida to Washington, D.C., to accommodate future demand, safety, and reliability. The projects proposed in the application offer the potential for moderate to significant congestion reduction and mobility improvements along I-95 from Washington, D.C., to Florida.

Routes paralleling I-95 for long distances in Florida include:

- U.S. Route 1, which closely parallels I-95 from Jacksonville to Miami;
- State Road A1A, along the coastline;
- U.S. Route 17, running through Jacksonville, Palatka, Deland, Orlando, before heading West through Bartow to Punta Gorda;
- U.S. Route 301, from the Georgia line to Interstate 75 in Marion County; and
- The Florida Turnpike, especially from Fort Pierce to Miami.

The Transportation Disadvantaged Program - ch. 427, F.S.

The Transportation Disadvantaged (TD) Program was created by the Legislature in 1979 and coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. The TD Program is administered by a 7-member commission through a decentralized network of state and local organizations (see Exhibit) but various state agencies provide funding for specific client groups. At the local level, coordination of TD services is accomplished through planning agencies, local advisory boards, community transportation coordinators and transportation operators.

Commission for the Transportation Disadvantaged - The Legislature created the Transportation Disadvantaged Commission in 1989 as an independent entity within FDOT, to set state policy for the TD program and oversee statewide implementation. Commissioners represent the non-transportation business community and disabled individuals who use the transportation disadvantaged system. Appointments to the commission are made by the Governor. Currently, the commission's membership includes seven voting members appointed by the Governor. Two of the members must be persons with a disability who use the transportation disadvantaged system, and five of the members must have significant experience in the operation of a

business.[25] The commission is housed within the FDOT for administrative and fiscal accountability purposes only.

It is the intent of the Legislature that when making appointments, the Governor selects persons who reflect the broad diversity of the business community in the state, as well as the geographical, racial, ethnic, and gender diversity of the state's population. In addition, the top executive (or a designee) from each of the following entities will serve as ex officio, nonvoting advisors of the commission:

- FDOT;
- The Department of Children and Family Services;
- The Agency for Workforce Innovation;
- The Department of Veterans' Affairs;
- The Department of Elderly Affairs;
- The Agency for Health Care Administration (AHCA);
- The Agency for Persons with Disabilities; and
- A county manager or administrator who is appointed by the Governor.

The commission is required to meet at least quarterly, or more frequently at the call of the chairperson. Five members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.

Funding - The commission distributes a share of its budgeted funds to the local providers, based on the commission's criteria, to ensure the availability of efficient and quality transportation services for transportation disadvantaged persons in a cost-effective manner. The commission also plays a critical role in the delivery of Medicaid non-emergency transportation services and services delivered from the funds in the Transportation Disadvantaged Trust Fund (trust fund). The trust fund receives moneys from a $1.50 fee on each initial registration and registration renewal of vehicles pursuant to s. 320.03(9), F.S., and revenues as designated by the Legislature. The trust fund subsidizes trips, provides funding for TD eligible persons not otherwise funded, and provides for administrative expenses.[26]

In fiscal year 2006-2007, total funding for TD services in Florida from all sources was $368 million which included a state appropriation of $38 million. Not all of the funds were expended directly by the commission which, until 2004, relied on the average $25 million to $35 million it received from four statutory program earmarks and special appropriations from the Legislature. In November, 2004, the AHCA executed a memorandum of agreement authorizing the commission to oversee an additional $68 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

[25] S. 20.052, F.S.

[26] Persons are considered transportation disadvantaged when physical or mental disability, income status, or age make them unable to transport themselves or to purchase transportation. These conditions cause them to rely on others to obtain access to health care, employment, education, shopping, or other life-sustaining activities. Handicapped children or children at-risk or high-risk are also eligible for services under this program. See s. 427.011, F.S.

Coordination of services at the statewide level - At the statewide level, the commission assists communities in establishing coordinated transportation systems, manages contracts and memoranda of agreement, ensures state agencies purchase transportation services from within the TD coordinated system unless a more cost-effective provider outside the coordinated system can be found by the purchasing agency, and approves the local entities that manage the delivery of transportation services to eligible clients. As managers of the Medicaid NET program, the commission identifies and enters into agreements with "subcontracted transportation providers," and pays them a monthly lump-sum amount. These subcontracted transportation providers, in turn, pay the local transportation operators actually providing the services.

Coordination of services at the local level - At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTCs), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the CTCs to the commission.

The CTCs are the entities responsible for the actual arrangement or delivery of transportation services within their local service area. A CTC may be a government entity, a transit agency, a private not-for-profit agency or a for-profit company. A CTC may function as a sole-source provider of TD services or it may broker part or all of the trips to transportation operators. The commission enters into a memorandum of agreement for services with a CTC and the agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.

Service areas - Florida's 67 counties are divided into 48 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All counties have some level of TD service for their elderly, disabled, or needy residents. According to the commission's latest annual report, 51.5 million trips were provided to clients in fiscal year 2006-2007, approximately 2 percent fewer than in the previous fiscal year. These trips served 697,159 passengers, and about one-third were to a doctor's office or medical facility. Trips to educational or training facilities rank second.

Outdoor Advertising

Chapter 479, F.S., provides for the control and permitting of signs adjacent to the highways of the state. Signs on the State Highway System which are outside of an incorporated area require a permit from the department. The department-issued permit tag currently must be posted on the sign face. After a permit has been issued, an applicant must be provided 30 days to make corrections if it is determined the application for the permit contained knowingly false or misleading information. A service fee of $3 is currently required for a replacement tag.

The department has noted the boundaries of incorporated areas change frequently, often without notice to the department, making the control area difficult to define for both the department and the regulated industry. Also, with the advent vinyl sign wraps and the use of digital displays, it is often impractical to affix the permit to the sign face. The result is that tags are posted in many different locations, making it difficult for FDOT to determine whether the tag is properly posted.

The department has also noted the $3 fee for a replacement permit tag is well below the cost to provide the tag.

Logo Program

Signs on the interstate highway system are regulated and approved by the Federal Highway Administration (FHWA). Section 479.261(1), F.S., requires FDOT to establish a Logo Sign Program for the interstate highway system rights of way. The program provides information to motorists about available gas, food, lodging, camping, and attraction services at interstate interchanges. From time to time, FHWA approves new categories of signs; however, the statute as currently written does not allow the addition of other categories of services as they achieve federal approval.

Permits for participation in the gas, food, lodging, and camping categories are based only on a set annual fee. However, participation in the attractions category is unique in that an admission fee for entry to the attraction is required, and permits must be awarded annually by the department to the highest bidder.

The department is required to establish permit fees in an amount sufficient to offset the total cost of administering the logo sign program, but the permit fee is capped at $1,250 by law. The annual fee is currently set at $1,000 by department rule. The program is implemented and operated through a privatized consultant contract which will expire on December 31, 2008.

The existing logo program is essentially based on a first-come, first-served priority with the option for qualifying businesses to renew participation on an annual basis. This has resulted in the generation of extensive waiting lists of other businesses desiring to participate in the program for several interchanges on the interstate system where the structure displaying the particular business category is full. The proposal provides for the implementation of a 3-year rotation of participating businesses at those interchanges where wait lists exist.

Rental Car Surcharge

Section 212.0606, F.S., authorizes a surcharge of $2.00 per day or any part of a day on the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental. However, the surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle. After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80% of the surcharge to the State Transportation Trust Fund;
- 15.75% of the surcharge to the Tourism Promotion Trust Fund; and
- 4.25% of the surcharge to the Florida International Trade and Promotion Trust Fund.

Under current statute, beginning in fiscal year 2007-2008, the proceeds of the rental car surcharge that are deposited into the State Transportation Trust Fund will be allocated to each FDOT district for projects, based on the amount of proceeds collected in the counties within each respective district. There are seven transportation districts ranging in size from two counties up

to eighteen counties. All counties with the exception of Glades and Lafayette collect some rental car surcharges that are deposited into the State Transportation Trust Fund. In fiscal year 2004-2005, statewide rental car surcharge revenues totaled $133 million. The counties accounting for the largest portion of this revenue include: Orange ($30.9 million), Broward ($19.7 million), Dade ($18.2 million), Hillsborough ($12.3 million), and Palm Beach ($9.3 million). The Department of Revenue estimates the rental car surcharge will generate $137.4 million in fiscal year 2005-2006 and $139.7 million in fiscal year 2006-2007.

The 1-cent county fuel tax is distributed pursuant to s. 206.60, F.S., and may be used solely for the acquisition of right-of-way, the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects.

Rail Systems

Section 341.302, F.S., requires FDOT, in conjunction with other governmental units and the private sector, to develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Specifically FDOT must:

- Provide the overall leadership, coordination, and financial and technical assistance necessary to assure the effective responses of the state's rail system to current and anticipated mobility needs;
- Promote and facilitate the implementation of advanced rail systems, including high-speed rail and magnetic levitation systems;
- Develop and periodically update the rail system plan, on the basis of an analysis of statewide transportation needs. The plan is to be consistent with the Florida Transportation Plan. The rail system plan must include an identification of priorities, programs, and funding levels required to meet statewide needs. The rail system plan is to be developed in a manner that will assure the maximum use of existing facilities and the optimum integration and coordination of the various modes of transportation, public and private, in the most cost-effective manner possible. The rail system plan must be updated at least every 2 years and include plans for both passenger rail service and freight rail service;
- Formulate a specific program of projects and financing to respond to identified railroad needs as part of FDOT’s work program;
- Provide technical and financial assistance to units of local government to address identified rail transportation needs;
- Secure and administer federal grants, loans, and apportionments for rail projects within this state when necessary to further the statewide program;
- Develop and administer state standards concerning the safety and performance of rail systems, hazardous material handling, and operations. These standards are to developed jointly with representatives of affected rail systems, with full consideration given to nationwide industry norms, and must define the minimum acceptable standards for safety and performance;

- Conduct, at a minimum, inspections of track and rolling stock; train signals and related equipment; hazardous materials transportation, including the loading, unloading, and labeling of hazardous materials at shippers', receivers', and transfer points; and train operating practices to determine adherence to state and federal standards. FDOT personnel may enforce any safety regulation issued under the Federal Government's preemptive authority over interstate commerce;
- Assess penalties, in accordance with the applicable federal regulations, for the failure to adhere to the state standards;
- Administer rail operating and construction programs, which programs shall include the regulation of maximum train operating speeds, the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, the administering of the programs by FDOT including participation in the cost of the programs;
- Coordinate and facilitate the relocation of railroads from congested urban areas to non-urban areas when relocation has been determined feasible and desirable from the standpoint of safety, operational efficiency, and economics;
- Implement a program of branch line continuance projects when an analysis of the industrial and economic potential of the line indicates that public involvement is required to preserve essential rail service and facilities;
- Provide new rail service and equipment when:
  - Pursuant to the transportation planning process, a public need has been determined to exist;
  - The cost of providing such service does not exceed the sum of revenues from fares charged to users, services purchased by other public agencies, local fund participation, and specific legislative appropriations; and
  - Service cannot be reasonably provided by other governmental or privately owned rail systems. FDOT may own, lease, and otherwise encumber facilities, equipment, and appurtenances to these, as necessary to provide new rail services; or FDOT may provide such service by contracts with privately owned service providers;
  - Furnish required emergency rail transportation service if no other private or public rail transportation operation is available to supply the required service and such service is clearly in the best interest of the people in the communities being served. Such emergency service may be furnished through contractual arrangement, actual operation of state-owned equipment and facilities, or any other means determined appropriate by the FDOT secretary;
  - Assist in the development and implementation of marketing programs for rail services and of information systems directed toward assisting rail systems users;
  - Conduct research into innovative or potentially effective rail technologies and methods and maintain expertise in state-of-the-art rail developments; and
  - Exercise other functions, powers, and duties in connection with the rail system plan, as are necessary to develop a safe, efficient, and effective statewide transportation system.

III. Effect of Proposed Changes:

Section 1 - Florida Transportation Commission

Section 20.23, F.S., is amended to set the salary and benefits of the executive director of the Florida Transportation Commission in accordance with the Senior Management Service.

Section 2 - Conforming Revision
Section 125.42, F.S., is amended to conform with revisions made to s. 337.403, F.S.

Section 3 -Airport Planning
Section 163.3177, F.S., is amended to include airport planning provisions in local government comprehensive planning requirements. Local governments addressing compatibility of lands adjacent to airports in their future land use plan element must do so by June 30, 2011.

Section 4 - Coastal Management
Section 163.3178, F.S., is amended, providing that facilities determined by the Department of Community Affairs and the applicable general purpose local government to be port-related industrial or commercial projects are not considered to be a development of regional impact provided they are located within 3 miles of a port and rely upon the utilization of port and intermodal transportation facilities or are in a port master plan area.

Section 5 - Proportionate Share for Transportation Impacts
The proportionate-share contribution provisions for DRIs under subsections (9) and (12) of s. 163.3180, F.S. are revised to direct FDOT to establish a methodology recognizing internal capture rates greater than 30 percent for certain developments. The term “backlogged transportation facility” is defined as one on which the existing level of service plus committed trips exceeds the adopted level of service. A developer may not be required to fund or construct a transportation improvement as proportionate share mitigation which is more extensive than necessary to solely mitigate the impacts of the proposed development because the improvement is on a backlogged transportation facility. The term "present value" is defined and additional language allows mitigation for subsequent development phases to include a credit for earlier mitigation provided by the developer at the present value of the earlier mitigation.

Section 6 - TCBAs
Section 163.3182, F.S., is amended establishing the legislative findings that inadequate transportation facilities and deficiencies affect the health, safety, and welfare of the state’s residents, and adversely affect economic development and growth of the tax base. Elimination of the deficiencies and inadequacies and satisfaction of transportation concurrency standards are paramount public purposes for the state, counties, and municipalities. TCBAs are authorized to issue bonds and other similar debt instruments. The maturity date of any debt may be no more than 40 years provided, however, all projects eliminating the concurrency backlog are scheduled within the first 10 years. Transportation concurrency trust funds must remain funded and the TCBA must remain in existence until all projects are completed or all debts defeased. The tax increment to be earmarked for the transportation concurrency trust fund, *i.e.*, the difference between the ad valorem taxes collected in a given year and the ad valorem taxes which would have been collected using the same rate in effect when the authority is created, is raised from 25 percent to 50 percent. Upon agreement by all taxing authorities included in the interlocal agreement creating the TCBA, the percentage may exceed 50 percent.

Section 7 through 12 - State Board of Administration/Lease of Alligator Alley

Section 7 identifies legislative findings and establishes policy relative to the investment by the State Board of Administration (SBA) of funds from the Lawton Chiles Endowment in public infrastructure.

Section 8 amends s. 215.44, F.S., revising the required elements of the SBA's report to the Legislature by requiring the inclusion of a summary of the type and amount of infrastructure investments held in each fund entrusted to the board for investment.

Section 9 amends s. 215.47, F.S., revising the maximum amount of funds which may be invested in alternative investments to 10 percent considered in the aggregate of all funds and including infrastructure investments and other investments not publicly traded in those alternative investments. Infrastructure assets eligible for investment are defined to include:

- toll roads;
- toll facilities;
- tunnels;
- rail facilities;
- intermodal facilities;
- airports;
- seaports;
- water distribution, sewage, and desalination treatment facilities;
- cell towers;
- cable networks;
- broadcast towers; and
- energy production and transmission facilities.

Section 10 amends s. 215.5601, F.S., directing the SBA to lease, for up to 50 years, the Alligator Alley from FDOT using between 20 and 50 percent of the funds in the Lawton Chiles Endowment prior to the end of fiscal year 2009-2010. The board is authorized to contract with other governmental entities, public benefit corporations, and private-sector entities to operate and maintain the toll facility.

Section 11 creates s. 334.305, F.S., establishing legislative findings relative to the public need for leasing transportation facilities to fund the rapid construction of other transportation facilities. The section also declares any lease agreement between the SBA and FDOT shall not be impaired by any act of the state or any local government.

FDOT is authorized to enter a lease agreement for up to 50 years with the SBA for Alligator Alley if such a lease is in the public's best interest. Funds received by FDOT are deposited into the State Transportation Trust Fund.

Requirements for lease agreements are established including maintenance of applicable state and federal standards, regulation of tolls, remedies to agreement impairments, cost-effectiveness analyses, traffic and revenue studies, and provisions limiting the expenditure of funds received under the lease agreement to transportation projects.

The lease agreement must specify the requirements of local, state, and federal laws, plans, and specifications. FDOT may provide maintenance, law enforcement, and other services to the SBA. Funds received from the lease may be used to advance projects programmed in the work program.

Section 12 states the provisions of the act do not prohibit the SBA from pursuing infrastructure investments in this state.

Sections 13 through 19 - Road Rage/Aggressive Careless Driving/Impeding Traffic

Section 13 describes the legislative intent to reduce road rage and aggressive careless driving through the reduction of the impediments to the free flow of traffic.

Section 14 amends s. 316.003, F.S., by defining the term "road rage" to mean:

> The act of a driver or passenger to intentionally injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

Section 15 amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthermost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthermost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthermost left-hand lane; or
- The driver is preparing to make a left turn.

Section 16 amends s. 316.1923, F.S., by adding a "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously or in succession constituting aggressive careless driving is changed from two to three. The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. In addition to any fine or points administered as specified, a person convicted of aggressive careless driving must also pay:

- Upon a first violation, a fine of $100.
- Upon a second or subsequent conviction, a fine of not less than $250 but not more than $500 and be subject to a mandatory hearing under s. 318.19, F.S.

Moneys received from this increased fine are to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in this state. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

Section 17 amends s. 318.19, F.S., to include a second or subsequent infraction of aggressive careless driving in the list of infractions for which a court appearance is mandatory.

Section 18 requires the DHSMV to provide an educational awareness campaign informing the driving community about the provisions of Section 13 -18 of this bill. The DHSMV must provide information about the act in all newly printed driver's license educational materials after October 1, 2008, and in public service announcements produced in cooperation with the Florida Highway Patrol.

Section 19 reenacts s. 316.650, F.S., for the purpose of incorporating amendments made by this act.

<u>Section 20 - HOVs</u>
Section 316.0741, F.S., is amended to require all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an HOV lane to comply with federally mandated minimum fuel economy standards; to provide for determination of continued eligibility of hybrid and other low-emission and energy-efficient vehicles for operation in an HOV lane; and to authorize the department to limit or discontinue issuing decals for the use of HOV facilities by hybrid and low-emission and energy efficient vehicles regardless of occupancy if FDOT has determined the facilities are degraded as defined by 23 U.S.C. s. 166(d)(2). This bill also amends s. 316.0741, F.S., to redefine the term "hybrid vehicle." FDOT noted, these changes are expected to enable FDOT to comply with the monitoring and enforcement provisions of federal law relating to the use of HOV lanes by hybrid

and other low-emission and energy-efficient vehicles and to submit the required annual certification to the USDOT Secretary. In addition, avoidance of a potentially severe impact on the receipt of federal funds as a result of noncompliance with federal law is accomplished. This bill authorizes the driving of a hybrid, low-emission, or energy-efficient vehicle in a HOV lane regardless of occupancy and authorizes FDOT to limit or discontinue such driving under certain circumstances and exempts such vehicles from the payment of certain tolls. The inclusion of hybrid vehicles in HOV lanes regardless of the number of occupants could result in increased difficulty in enforcing this law. Law enforcement officers would not only have to confirm the vehicle is not occupied by the required number of people, but that it also does not have the proper decal displayed prior to making a traffic stop. This would result in more time in making the traffic stop.

Section 21 and 25 - DUI: Enhanced Penalties

Section 316.193, F.S., is amended to lower the BAL for purposes of triggering DUI enhanced penalties from 0.20 or more to 0.15 or more. According to FDOT, this change is needed to facilitate continued receipt of federal safety grant funds (approximately $5 million received last year) under SAFETEA-LU. With regard to FDOT's receipt of federal safety grant funds, SAFETEA-LU amended 23 USC 410 to revise eligibility requirements for states' receipt of grants, setting up a set of eight criteria, five of which must be met by fiscal years 2008 and 2009. The FDOT received just under $5 million in grant funds last year. However, the FDOT's continued eligibility is in question, as Florida law currently meets only four of the eight criteria specified in the new SAFETEA-LU eligibility requirements.

Section 316.656(2)(a), F.S., is amended to modify the threshold for enhanced penalties for DUI from 0.20 percent or more to 0.15 percent or more. Specifically, this section is amended to provide no trial judge may accept a plea of guilty to a lesser offense from a person charged who has been given a breath or blood test to determine blood or breath alcohol content, the results of which show a blood or breath alcohol content by weight of 0.15 percent or more. According to FDOT, this change is needed to facilitate continued receipt of federal safety grant funds under SAFETEA-LU. With regard to FDOT's receipt of federal safety grant funds, SAFETEA-LU amended 23 USC 410 to revise eligibility requirements for states' receipt of grants, setting up a set of eight criteria, five of which must be met by fiscal years 2008 and 2009. The FDOT received just under $5 million in grant funds last year. However, the FDOT's continued eligibility is in question, as Florida law currently meets only four of the eight criteria specified in the new SAFETEA-LU eligibility requirements.

Section 22 - Motor Carrier Compliance: Code of Federal Regulations

Section 316.302, F.S., is amended to authorize the FDOT to enforce the most current regulations applicable to owners and operators of commercial motor vehicles, thereby ensuring safety within the state. Also, it corrects two misnomers in the same section.

Sections 23 and 24 - Child Restraints and Safety Belts for Heavy Vehicles

Section 316.613(2)(d), F.S., is amended to redefine the term "motor vehicle", expanding the definition to include vehicles having a gross vehicle weight rating of less than 26,000 pounds in the requirement to use a child restraint. Section 316.614 (3)(a), F.S., is amended to redefine the term "motor vehicle", expanding the definition to include vehicles having a gross vehicle weight rating of less than 26,000 pounds in the requirement to use a safety belts.

Section 26 - Vehicle Registration Fee
Subsection (9) of s. 320.03, F.S., imposes a $1.50 fee on the registration of automobiles and trucks weighing less than 5,000 pounds to be deposited into the Transportation Disadvantage Trust Fund. This section is amended to increase the fee to $3.00.

Section 27 - CDL Disqualification
Section 322.64, F.S., is amended to mirror the FMCSA regulations, remedy inconsistencies, and remove the limitation on disqualifications for specified major offenses to those committed in a commercial motor vehicle. This section is amended to disqualify commercial vehicle operators who have been arrested for a violation of driving of a motor vehicle (not just a violation committed in a commercial motor vehicle) with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Basically, if a person holds a commercial driver's license and is arrested for a violation of s. 316.193, F.S., a disqualification of the commercial driver's license applies whether the violation was committed while operating a commercial motor vehicle or any motor vehicle.

Section 28 - Asphalt/Concrete Plant Prohibition
Section 336.41, F.S., is amended to prohibit counties, municipalities, and special districts from owning or operating an asphalt or concrete batch plant. The prohibition does not apply to any entity owning or under contract to own a plant as of April 15, 2008, and supplies material for government projects within the county. However, asphalt produced in excepted plants may not be sold to private entities or local governments outside of the county in which the plant is locates.

Section 29 - Design-Build Contracts
Section 337.11, F.S., is amended to establish a goal for FDOT to procure up to 25 percent of capacity construction projects as design-build contracts by 2013.

Section 30 - Surety Bond Posting
Section 337.18, F.S., is amended allow contractors to maintain copies of any surety or performance bond at its principal place of business or jobsite office rather than in the public records of the county in which the contracted work is being performed. A copy of the bond may also be obtained from FDOT by request under ch. 119.

Section 31 – State Arbitration Board
Section 337.185, F.S., is amended to include maintenance contracts in the existing State Arbitration Board process.

Section 32 - Relocation of Utilities
Section 337.403, F.S., is amended to add a fourth exception to the requirement for utility owners to remove or relocate utilities at their own expense, when necessary for the construction of a transportation project. The bill places the responsibility for relocating a utility on the authority having jurisdiction over the transportation facility if the utility was initially installed to serve only the authority, its tenants, or both. For example, if a power line originally installed to supply electricity to a toll plaza must be relocated due to widening the toll road, the toll authority, not the power company, must pay the cost of moving the line. However, if the power line was

subsequently expanded to serve a nearby development, the power company would be responsible for the costs of relocating the expanded portion of the line.

Section 33 – Interoperability of ETC Systems
A new paragraph (6) is added to s. 338.01, F.S., requiring all operators of limited access toll facilities to maintain interoperability with FDOT's ETC when providing new, or replacing existing systems.

Sections 34 and 35 – HOT and Express Lanes Revenue Bonding
Section 338.165, F.S., is amended to clarify this section does not apply to HOT and express lane facilities. A new section (s. 338.166, F.S.) is created relating only to HOT or express lanes which:

- allows FDOT to request bonds to be issued which are secured by toll revenues from the I-95 Express project in Miami-Dade and Broward Counties;
- authorizes the department to charge variable tolls on HOT or express lanes;
- authorizes the department to continue to collect tolls on the HOT or express lanes after the bonds are discharged;
- directs the department to use any remaining toll revenue for the construction, maintenance, or improvement of other roads on the State Highway System;
- extends the prohibition on the charging of tolls on interstate highways except where tolls were being charged on July 1, 1997 or on HOT or express lanes; and
- provides the section does not apply to the turnpike system.

Section 36 – Turnpike Toll Collection and Vendor Contracting
Section 338.2216, F.S., is amended directing the Florida Turnpike Enterprise to implement new toll collection technologies and processes including video billing and variable pricing. Additional payment methods, such as video billing and cash replenishment would provide drivers with more flexibility for payment options without compromising the other benefits of non-stop travel. Drivers will still have the flexibility to pay tolls with cash but will no longer have to stop on the roadway to do so.

The bill also provides that the Florida Turnpike Enterprise shall not under any circumstances contract with any vendor for the retail sale of fuel along the Florida Turnpike if such contract is negotiated or bid together with any other contract, including, but not limited to, the retail sale of food, maintenance services, or construction, with the exception that any contract for the retail sale of fuel along the Florida Turnpike shall be bid and contracted together with the retail sale of food at any convenience store attached to the fuel station. All contracts including, but not limited to, the sale of fuel, the retail sale of food, maintenance services, or construction awarded by the Florida Turnpike Enterprise shall be procured through individual competitive solicitation and awarded to the lowest responder. This language does not prohibit the award of more than one individual contract to a single vendor if he or she submits the most cost effective response.

Section 37 updates a cross-reference in s. 338.223, F.S.

Section 38 – Toll Rates and Administration Costs
Section 338.231, F.S., is amended to delete language comprising subsection (1) which requires a system wide equivalent-cost-per-mile toll structure. The deletion of subsection (1), including the

only statutory reference to a "uniform system rate," allows the Florida Turnpike Enterprise to provide innovative methods of toll collection, such as variable pricing. New language is added allowing the Florida Turnpike Enterprise to temporarily establish a toll-rate lower than the rate established through FDOT's rule-making process. These changes provide flexibility for additional toll payment options and allow the administrative costs of such additional customer options to be allocated fairly among the customers selecting such payment options.

A new subsection (7) is created directing the turnpike enterprise to increase existing tolls by 25 percent and to index the increase to the Consumer Price Index.

Section 39 - Local Government Reimbursement Program
Section 339.12, F.S., is amended to authorize FDOT to enter long-term repayment agreements with counties having populations of 150,000 or fewer persons, for the purpose of advancing transportation projects not already included in the five-year work program. Any project so advanced must be a high priority of the governmental entity, be included in the local comprehensive plan, and may only be reimbursed using funds appropriated by the Legislature through the work program process under s. 339.135(5), F.S. No more than $200 million worth of projects may be advanced under this program at any given time.

Section 40 - Work Program Deferral and Deletion Notification
Section 339.135, F.S., is amended to revise requirements for FDOT to notify affected counties and cities when deleting or deferring a construction phase for certain transportation projects from the work program. FDOT must transmit a written notification to the chief elected official in each affected county or city and the chair of each affected Metropolitan Planning Organization. Each notification recipient shall have 14 days to respond to the department with the anticipated effect on their respective concurrency management system. FDOT shall include any written responses in the proposed work program amendment.

Section 41 - Planning Regulations: Conformance with Federal Law
Section 339.155, F.S., is amended to remove transportation planning factors made obsolete by changes to federal law and to remove duplicative reporting requirements.

Section 42- Small County Resurfacing Assistance Program
Section 339.2816, F.S., is amended to reauthorize the Small County Resurfacing Assistance Program (SCRAP) beginning again in fiscal year 2012-2013. Program eligibility requirements are revised to eliminate ad valorem taxation as a prerequisite for eligibility. FDOT is directed to consider whether a road is located in a fiscally-constrained county when prioritizing projects.

Section 43 makes conforming revisions to s. 339.2819, F.S., for the purpose of updating citations.

Section 44 makes conforming revisions to s. 339.285, F.S., for the purpose of updating citations.

Section 45 - Expressway Authority Financial Disclosure Requirements
Section 348.0003, F.S., is amended to extend the constitutional financial reporting requirements applicable to Miami-Dade Expressway Authority members to all expressway authority members in the state.

Section 46 - Expressway Tolls Indexing
Section 348.0004, F.S., is amended to require expressway authorities to index toll rates to the Consumer Price Index (CPI).

Section 47 - TBCTA
Part III of chapter 343, Florida Statutes is repealed effectively abolishing the Tampa Bay Commuter Transit Authority.

Section 48 - Interstate 95: Alternative Routes Study
A new section of law is created directing FDOT, in consultation with the Department of Law Enforcement, the Division of Emergency Management of the Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development, to study transportation alternatives for the I-95 corridor. The study is to consider state needs relating to:

- transportation,
- emergency management,
- homeland security, and
- economic development.

The report must identify cost-effective measures for;

- alleviating congestion on I-95,
- facilitating emergency and security responses, and
- fostering economic development.

The report must be completed by June 30, 2009. FDOT is required to send the report to:

- the Governor,
- the President of the Senate,
- the Speaker of the House of Representatives, and
- each affected metropolitan planning organization (MPO).

Sections 49 through 59 - Transportation Disadvantaged Services
Section 409.908, F.S., is amended to clarify that the agency may contract for non-emergency transportation services provided in a more cost-effective manner after consultation with the commission; and to clarify that the agency may continue to contract for non-emergency transportation services in area 11 with managed care plans under contract before July 1, 2004.

Section 427.011, F.S., is amended to revise definitions. Subsection (8) redefines "member department" as "purchasing agency" to mean a department or agency whose head is an ex officio, nonvoting advisor to the commission, or an agency that purchases transportation services for the transportation disadvantaged. Subsection (12), defining "annual budget estimate" is deleted and subsection (13) is redesignated as subsection (12).

Subsection (4) of s. 427.012, F.S., is amended to reduce the number of commissioners that constitute a quorum from five to four.

Subsections (7), (8), (9), (14), and (26) are amended and subsection (29) is created in,

s. 427.013, F.S., to require that all procedures, guidelines and directives issued by purchasing agencies are conducive to the coordination of transportation services unless otherwise provided by state and federal law; create a new process for purchasing agencies to contract with transportation providers other than through the commission when the purchasing agency cannot reach mutually acceptable contract terms with the commission, and has a means of obtaining services in a more cost-effective manner of comparable or higher quality standards; provide cross-references to this process where applicable within Part I of chapter 427; exempt agencies that meet these standards and are using an alternative providers, from the rules developed by the commission for community transportation coordinators, and transportation operators or coordination contractors; include a provision requiring the commission to collect information about the amounts collected by each official planning agency, and removes a provision from current law requiring the commission to issue a report regarding the consolidated annual budget estimates for state agencies, local governments, and directly federally funded agencies; eliminate the provision that allows staff of the quality assurance and management review program to function independently and be directly responsible to the executive director; allow the commission to incur expenses for the purchase of advertisements, marketing services and promotional items.

Section. 427.0135, F.S., is amended to provide the following:

- Amends subsection (1) to delete the authority for the Medicaid agency to purchase transportation services.[27]
- Subsection (2) is created to require a purchasing agency to pay the rates established in the service plan or negotiated statewide contract unless the alternative provider procedures have been completed and the agency can demonstrate that a proposed alternative provider can provide comparable quality transportation services at a lower cost.
- Subsection (3) is created to provide that a purchasing agency may not procure transportation services without first negotiating with the commission. If after consulting the commission, the agency determines that it cannot reach mutually acceptable contract terms with the commission, the agency may contract for cost-effective and comparable or higher quality standards of service.
- Subsection (4) is created to require that each purchasing agency to identify in the annual legislative budget request submitted to the Governor the specific amount of any money to be allocated for transportation disadvantaged services.

Subsections (2) and (3) of s. 427.015, F.S., are amended to require that each MPO or designated official planning agency request actual (not estimated) expenditures on services from each local government in its jurisdiction. Consolidated reports submitted by the MPO or designated official planning agency on local government expenditures must be submitted to the commission by September 15 of each fiscal year.

Subsection (7) of s. 427.0155, F.S., is amended to clarify that the eligibility guidelines established by the CTC are established in cooperation with the local coordinating board pursuant to criteria developed by the commission.

27 Under the memorandum executed in November, 2004, the commission negotiates Medicaid NET services.

Subsection (4) of s. 427.0157, F.S., is amended to require that the local coordinating board assist the CTC in the development of eligibility guidelines for recipients of services purchased with trust fund moneys.

Subsections (2) and (3) of s. 427.0158, F.S., are amended to provide that information relating to the use of school board vehicles at actual cost when those vehicles are not being used to transport students must be provided to the CTC upon request. Semi-annual reporting requirements are deleted. Information relating to the public transit fixed route or fixed schedule system must also be submitted to the CTC upon request instead of in an annual report.

Subsection (4) to, s. 427.0159, F.S., is amended to provide that a purchasing agency may deposit funds into the trust fund for the commission to implement, manage, and administer the purchasing agency's transportation disadvantaged funds as defined in s. 427.011(10), F.S.

Subsections (1) and (2) of s. 427.016, F.S., are amended to clarify that-a purchasing agency may establish maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, or any other mechanism, including contracting after the initial negotiation with the commission, which the agency considers more cost-effective and of comparable or higher quality standards than those of the commission for the purchase of services on behalf of its clients, if it has fulfilled the requirements of s. 427.0135 (3) or the procedure for an alternative provider. Requires each agency, whether or not it is an ex officio nonvoting advisor of the commission, to annually identify in the legislative budget request provided to the Governor for the General Appropriations Act the specific amount of any money the agency will allocate for the provision of transportation disadvantaged services.

Sections 60 – 63 – Outdoor Advertising

Several technical revisions are made to ch. 479, F.S., to resolve known problems.

Section 479.01(1), F.S., is amended to update the definition of "automatic changeable facing." The new definition recognizes signs and billboards may be changed by other than mechanical means, e.g., electronic or digital display.

Section 479.07(1), F.S., which requires permits for signs on the State Highway System outside of *incorporated* areas is revised to require permits for signs outside of *urban* areas. The urban area boundaries, which are designated using U.S. Census Bureau and Federal Highway Administration guidelines, change much less frequently than those of incorporated areas. Designated urban areas are typically larger than incorporated areas.

Section 479.07(5)(a), F.S., is amended to define the specific placement of sign permit tags on sign structures. The provision affords the industry 2 years within which to comply.

The bill amends s. 479.07(5)(b), F.S., directing the department to establish by rule, a fee for replacement tags in an amount covering the actual cost. A permittee may also provide its own replacement tag if it conforms to department specifications established by rule.

Section 479.08, F.S., is amended to clarify the department's ability to revoke any sign permit for violating the requirements of the chapter. Under the revision, knowingly false or misleading

information must be corrected immediately in order to maintain compliance with the permit. When notifying a permittee of a revocation, the department must describe in detail the alleged violation and any necessary corrective action. The existing provision allowing aggrieved persons to apply for an administrative hearing under ch. 120, F.S., is not changed.

Section 479.11(2), F.S., is amended to conform to the definition of "controlled area" in s. 479.01, F.S.

Section 479.156, F.S., is amended to direct FDOT to accept a local government's determination of customary use in lieu of controls established by previous agreement between the state and the United States Department of Transportation.

Section 64 – Logo Sign Program

A number of changes are made to s. 479.261, F.S., relating to the interstate highway Logo Sign Program:

- The program is revised to include logo signs for other services approved by FHWA thereby eliminating the need for repetitive statutory changes as the service categories achieve federal approval.
- The requirement for attractions to charge admission fees in order to be eligible for the program is removed.
- The requirement for a competitive bidding process for permits, unique to the attractions category of services, is removed, making the attractions category consistent with the annual permit fees of the other logo categories.
- The $1,250 cap on the annual permit fee for business participants is deleted and FDOT is directed to adopt rules establishing reasonable fee rates not to exceed $5000 in urban areas or $2500 in rural areas. Proceeds, taking into account costs, are deposited in the State Transportation Trust Fund to be used for transportation purposes.
- The department is authorized to implement a 3-year rotation for program participants who will provide for the eventual replacement of participating businesses at interchanges where waiting lists exist.
- Obsolete language dealing with reimbursement for privately funded signs has been deleted.

Section 65 - Rental Car Surcharge at International Airports

A new paragraph is added to s. 212.0606, F.S., authorizing counties with international airports to levy, by referendum, an additional $2 per day surcharge on vehicle rentals originating at international airports. Revenues collected under the paragraph may only be used for the construction, reconstruction, operation, maintenance, and repair of facilities related to a commuter rail program.

Sections 66 and 67 - Commuter Rail Provisions

Section 341.301, F.S., is amended to provide definitions for a number of terms related to commuter rail service.

Section 341.302, F.S., provides FDOT with authority to expend up to $450 million to acquire the Central Florida Rail Corridor, consisting of approximately 61 miles of CSX right-of-way

between DeLand and Poinciana. The department and CSX are required to enter into a written agreement with labor unions to protect the interests of employees who could be adversely affected.

The department is also authorized to purchase insurance and establish a self-retention fund to insure against liability risks for FDOT or other users of the rail corridors. The liability provisions specifically:

- Define the boundaries of the rail corridor and the classes of people FDOT intends to allow in the rail corridor. Those people being the passengers, people with the passengers, and people visiting or working in other developments within the corridor (i.e. food stands or kiosks at the station);
- Provide FDOT with the authority to enter contracts with a freight operator that owns a rail corridor FDOT acquires property rights in and provides the parameters FDOT must stay within while negotiating terms;
- Provide that FDOT may be solely responsible for any loss, injury or damage to commuter rail passengers, rail corridor invitees or trespassers, regardless of circumstances or cause. FDOT may agree to pay for 100 percent of injuries to its passengers, its invitees, and trespassers if an accident occurs;
- Provide that if only one train is involved in an incident, FDOT may be solely responsible for any loss, injury or damage, if the train is an FDOT train, or a train other than a FDOT or freight rail operator's train. However, in an instance when only a freight rail operator train is involved the freight rail operator is solely responsible for any loss, injury, or damage, except for commuter rail passengers, rail corridor invitees and trespassers; and, the freight rail operator is solely responsible for its property and all of its people in any instance when its train is involved in an incident;
- Provide that if any train involved in an accident that is not an FDOT train or freight operator train (other train) may be treated as if it is an FDOT train when determining the allocation of liability between FDOT and the freight operator;
- Provide that when more than one train is involved in an incident:
  - If an FDOT train (or other train treated as an FDOT train), and a freight operator train collide, the freight operator pays 100 percent of its property and people on its train and FDOT pays 100 percent of its property, passengers and people in the corridor. FDOT and the freight operator split 50/50 damages to people and property outside the corridor.
  - If an FDOT train, a freight operator train and a non-FDOT train are all involved in an accident, the freight operator pays 100 percent of its property and people on its train and FDOT pays 100 percent of its property, passengers and people in the corridor. FDOT and the freight operator split 50/50 damages to people and property outside the corridor. Any payment by the non-FDOT/non-freight operator to those injured or damaged outside of the rail corridor will not reduce the equal sharing responsibility of the freight operator to below one-third of the total third party loss.
- Establishes a cap of $200 million for liability under any contractual obligation relating to indemnify a freight rail operator.
- Authorizes FDOT to purchase $250 million in liability insurance for each corridor and establishes the self-insurance retention fund for payment of the deductible limits

of insurance, for several types of users of the rail corridor, and includes a provision that any of the parties covered under the insurance shall pay a reasonable monetary contribution to cover the cost.
- Authorizes FDOT to expend funds for advertising, marketing, and promoting purposes.

By entering into any indemnity contract, purchasing the liability insurance, or establishing the self-insurance retention fund, FDOT does not waive sovereign immunity for torts or increase the statutory waiver of sovereign immunity limits. The proposal also applies to other governmental entities operating commuter rail on a public owned rail corridor that are designated by FDOT or are under contract with the FDOT.

Section 68 - Sovereign Immunity
Section 768.28, F.S., is amended to provide that operators, dispatchers, and providers of security for rail services and rail facility maintenance providers in the South Florida Rail Corridor or the Central Florida Rail Corridor, or any of their employees or agents, performing services under contract with and on behalf of FDOT, or a governmental entity that is under contract with FDOT to perform services or a governmental entity designated by FDOT, shall be considered agents of the state while acting within the scope of and pursuant to guidelines established in contract or by rule. The bill waives sovereign immunity for the state, and FDOT and its agents for liability within the $200 million cap and raises the statutory per person limit to $250,000 and per incident/occurrence limit to $500,000. Maximum allowable attorneys' fees are increased to 40 percent of any judgment or settlement.

Section 69 – Effective Date
The provisions of the bill take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Vehicle registration fees for vehicles under $5,000 are increased by $1.50. Increased toll charges are authorized to fund state transportation projects. Variable toll rates may be charged on HOT lanes or express lanes. The bill increases fees for replacing permit tags

affixed to roadside signs. The maximum fee authorized for logo signs placed near interchanges is increased.

B. Private Sector Impact:

Persons convicted of aggressive careless driving are to pay $100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than $250 and no more than $500 in addition to any other fines associated with each individual violation.

The provisions adding maintenance contracts to the State Arbitration Board process may result in indeterminate reduced costs for maintenance contractors because of reduced litigation costs. The general public benefits from increased efficiency in the delivery of maintenance projects.

Vehicle registration fees for vehicles under $5,000 are increased by $1.50.

Utility owners can see reduced costs from the utility relocation cost provision.

According to FDOT, removing stop and go cash collection in the travel lanes will:

- reduce congestion on the roadway;
- significantly improve safety at tolling points for both drivers and personnel;
- reduce carbon emissions from idling vehicles by an estimated 185 tons per year; and
- save 24 million gallons of fuel.

Revisions facilitating alternative payment methods and toll collection technologies will ensure the amount paid by drivers relates fairly to the payment option selected by the individual.

The potential need to relocate sign permits and an increase in replacement tag fees will have an indeterminate negative cost impact on outdoor advertisers. The impact will be spread over two years and may be partially offset by enhanced specificity in the statutory description of permit placement.

The provisions relating to the Logo Sign Program may result in increased annual costs for participating businesses. The implementation of participant rotation at wait-listed locations may result in additional businesses participating while also temporarily denying participation to others during the rotation period. Participants in the attractions category may experience savings due to the elimination of the competitive bid requirement.

C. Government Sector Impact:

Section 1 - 6.
None.

Sections 7 - 12.
Valuation of a 50-year lease agreement for Alligator Alley is currently being examined.

Sections 13 - 19.
The DHSMV estimates that the cost to inform the public of this bill is $200,000 in the first year and $50,000 for each of the next two years. The bill establishes an additional fine to be distributed to the Administrative Trust Fund for use by certain trauma centers. Revenues accruing from the additional fine are indeterminate.

Section 20.
Currently a $5 fee is charged for access to the HOV lanes which is deposited into the Highway Safety Operating Trust Fund. In fiscal year 2006-2007 approximately $4,500 was received for decals for those vehicles designated as traveling in the HOV lanes. Any fee collection change as a result of this bill would result in a minimal revenue impact to the Highway Safety Operating Trust Fund.

Sections 21 - 25.
None.

Section 26.
The Transportation Disadvantaged Program could realize an increase of approximately $20 million.

Section 27 - 30.
None.

Section 31.
The provisions adding maintenance contracts to the State Arbitration Board process may result in indeterminate positive administrative cost reductions to FDOT because of reduced litigation costs.

Section 32.
FDOT, local governments, and other authorities will experience indeterminate increases in construction project costs due to the cost of relocating some utilities during the construction of some transportation projects.

Section 33.
The required interoperability of ETC systems may result in transportation authorities experiencing limited alternatives when implementing toll technology solutions.

Section 34 and 35.

Increased toll revenues may be applied to state transportation projects. The estimated construction cost for Phase 2 of the I-95 Express project is approximately $213.5 million, with an estimated annual operations and maintenance cost of approximately $10.6 million. FDOT's very preliminary estimate of gross toll revenues expected on this segment of the project amounts to approximately $8 to $9 million annually, well short in fully funding Phase 2. This extension in Phase 2 was not part of the latest completed traffic and revenue projection analysis.

Section 36.
The department estimates the provisions facilitating all-electronic toll collection could eventually result in the elimination of 142 state positions and approximately $8,000,000 in supporting budget authority.

Section 37.
None.

Section 38.
The efficiencies created by additional toll payment options will result in indeterminate but positive fiscal impacts. The increase in toll rates by 25 percent will allow the Turnpike to bond an additional $3 billion.

Section 39.
Indeterminate since the number of applicants and terms are unknown.

Section 40.
Minimal administrative expenses.

Section 41.
Minimal administrative cost savings due to the elimination of duplicative reporting requirements.

Section 42.
Currently, up to $25 million per year may be programmed to SCRAP projects. Insomuch as the SCRAP program was to be terminated in 2009-2010, no funds have been programmed beyond that year. Revisions in the bill will result in future programming of up to $25 million per year.

Section 43 - 45.
None.

Section 46.
Indeterminate but likely significant increase in revenues to expressway authorities.

Section 47 - 59.
None.

Sections 60 - 63.

Minimal positive impact from increased fees for replacement permit tags will remove a negative impact stemming from current fees which do not currently cover costs to FDOT.

Section 64.
Using a maximum fee of $5,000 urban and $2,500 rural with adjustments for market conditions and traffic counts, and assuming that actual average permit fees will be about 80% of the maximum fee allowed with no significant increase in the number of signed interchanges or in the average number of businesses displaying signs at each interchange, FDOT expects an increase of approximately $6 million per year before costs.

Section 65.
Local governments imposing the local option rental car surcharge would realize additional revenue for the construction and maintenance of commuter rail facilities and operations. Revenue estimates for rentals originating at international airports were not available for this analysis. The table below shows estimates of potential revenues for select counties assuming all rentals originate at an international airport. Since a significant number of rentals originate at non-airport locations, actual values could be significantly lower. Source: Department of Revenue.

County	FY 06-07 Revenue (Estimated)	FY 07-08 Revenue (Estimated)
BROWARD	$20,362,113	$20,708,816
DADE	$18,866,697	$19,187,937
HILLSBOROUGH	$12,785,945	$13,003,650
ORANGE	$32,049,953	$32,595,663
PALMBEACH	$9,736,426	$9,902,207
VOLUSIA	$1,353,578	$1,376,625

Section 66 - 67.
Further negotiation with CSX is required; however, FDOT is authorized to expend a maximum of $450 million on the purchase of the commuter rail. The fiscal impact of the labor agreement is unknown, as the details of any such agreement must be negotiated. The fiscal impact of the sovereign immunity and liability provisions is unknown, as the number and severity of potential incidents is unknown. FDOT expects to expend approximately $2,250,000 annually for the authorized purchase of insurance.

Section 68.
Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

By Transportation on March 11, 2008:
The CS:

- clarifies a public authority's responsibility for utility relocations does not extend to subsequent expansions of utility facilities originally serving the authority if the expansions do not serve the authority exclusively;
- authorizes the department to charge variable toll rates on HOT lanes or express lanes;
- allows sign permittees to provide their own replacement permit tags when the original is lost or destroyed;
- requires the department's notification of sign permit revocation to describe in detail the cause of the revocation and necessary corrective actions; and
- removes the department's authority to expand the interstate highway logo sign program beyond interchange locations.

By Transportation and Economic Development Appropriations on April 22, 2008:
The CS:

- allows for an additional $2 rental car surcharge by referendum in counties with international airports and the proceeds are to go to commuter rail projects;
- authorizes FDOT to purchase part of the A Line from CSX for $450 million and establishes liability issues between the parties;
- modifies commercial driver license provisions to comply with federal regulations;
- modifies transportation planning laws;
- changes FDOT's logo program to conform with federal regulations;
- modifies the Transportation Disadvantaged law;
- modifies existing wall mural and sign language;
- keeps the Gas and Food contracts separate on the Turnpike;
- revises notice requirements to require the Department of Transportation to notify affected local governments regarding amendments to an adopted 5-year work program;
- authorizes rates based on market demand and traffic count at each location, and provides that after recovery of program costs, proceeds go into the State Transportation Trust Fund; and
- revises land use and intergovernmental comprehensive plan provisions in s.163.3177, F.S., to include provisions that relate to airport land use plan compatibility planning.

By Transportation and Economic Development Appropriations on April 24, 2008:
The CS:

- authorizes the State Board of Administration to invest funds from the Lawton Chiles Endowment to lease Alligator Alley from FDOT for up to 50 years;
- defines the term "road rage" and requires drivers impeding the flow of traffic to yield the left lane to overtaking vehicles;
- increases the $1.50 registration fee for vehicles weighing 5,000 lbs or less to $3.00;
- exempts certain seaport-related development from DRI review;
- authorizes the expenditure of public funds on a portion of Old Cutler Road in Miami-Dade County for sidewalks, curbing, and landscaping .
- adjusts methodologies for mitigating developments;
- deletes authorization for FDOT to pay stipends to unsuccessful bidders for construction and maintenance contracts; and
- directs the turnpike enterprise to increase tolls by 25% and index tolls to the Consumer Price Index.

B. Amendments:

None.