

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: PCS/SB 144

INTRODUCER: Transportation Committee

SUBJECT: Traffic Infraction Detectors

DATE: March 24, 2014

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

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------|----------------|-----------|--------------------|
| 1. | Price   | Eichin         | TR        | <b>Pre-meeting</b> |
| 2. |         |                | ATD       |                    |
| 3. |         |                | AP        |                    |
| 4. |         |                |           |                    |
| 5. |         |                |           |                    |
| 6. |         |                |           |                    |

**I. Summary:**

PCS/SB 144 subjects the installation of traffic infraction detectors, or “red-light cameras,” when permitted by the Florida Department of Transportation (FDOT) to the FDOT’s signal timing specifications, in addition to placement and installation specifications. Issuance of notices of violation or uniform traffic citations through the use of a red-light camera is prohibited if the camera is not in compliance with all specifications.

The proposed committee substitute (PCS) requires the FDOT to identify engineering countermeasures to be considered and applied, where appropriate, before the installation of a red-light camera, and requires installation to be based on the results of a traffic engineering study documenting the implementation and failure of any appropriate countermeasures.

The PCS diverts violation proceeds currently deposited into the General Revenue Fund to the State Transportation Trust Fund to be used for intersection safety improvements in the county or municipality in which the violation occurred. Of the proceeds distributed to a county or municipality, use of any funds remaining after payment of contractual obligations is restricted to traffic safety capital projects intended to protect pedestrians and bicyclists (defined as “vulnerable road users”) or to fund the required traffic studies.

The PCS diverts the \$70 currently deposited into the General Revenue Fund to the State Transportation Trust Fund for intersection safety improvements in the county or municipality where the violation occurred, and likewise restricts county or municipal use of any funds remaining after contractual obligations to the specified traffic safety capital projects or to fund the required traffic studies.

The FDOT is authorized to require county and municipal data and information in annual reports, in addition to the DHSMV, which data and information must be submitted in a format enabling individual review of each intersection monitored by a red-light camera. The failure of a county or municipality to submit the required information annually by October 1 nullifies all notices of violation or uniform traffic citations through the use of red-light cameras within the county or municipality. The DHSMV is required to collaborate with the FDOT before providing its currently required annual report, and the FDOT is required to submit its recommendations and any necessary legislation, along with the DHSMV.

Lastly, the bill reduces the authorized assessment of county or municipal costs in the event a notice of violation challenged by an alleged violator is upheld.

## II. Present Situation:

### Traffic Infraction Detectors Generally

Traffic infraction detectors, or “red-light cameras,” are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases, video cameras are used. These video cameras and accompanying sensors record the license plate number, the date and time of day, the time elapsed since the signal has turned red and the vehicle’s speed.

### Traffic Infraction Detectors in Florida

In 2010, the Florida Legislature enacted ch. 2010-80, L.O.F. The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of ch. 316, F.S.<sup>1</sup> The law authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to authorize officials to issue notices of violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., for a driver’s failure to stop at a traffic signal when such violation was identified by a traffic infraction detector.<sup>2</sup>

Municipalities may install or authorize installation of traffic infraction detectors on streets and highways in accordance with FDOT standards, and on state roads within the incorporated area when permitted by FDOT.<sup>3</sup> Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by

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<sup>1</sup> Section 316.0076, F.S.

<sup>2</sup> See generally s. 316.0083, F.S.

<sup>3</sup> Section 316.008(8), F.S.; s. 316.0776(1), F.S.

FDOT.<sup>4</sup> DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of FDOT, when permitted by FDOT.<sup>5</sup>

If DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must notify the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.<sup>6</sup> Such signage must meet the specifications for uniform signals and devices adopted by FDOT pursuant to s. 316.0745, F.S.<sup>7</sup>

### *Notifications and Citations*

If a traffic infraction detector identifies a vehicle violating ss. 316.074(1) or 316.075(1)(c)1., F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. A notification must be issued to the registered owner of a vehicle within 30 days of an alleged violation,<sup>8</sup> notifying the alleged violator that he or she must pay the required penalty to the county or municipality,<sup>9</sup> furnish an affidavit setting forth an authorized defense,<sup>10</sup> or request a hearing within 60 days of the date of the notification to avoid issuance of a uniform traffic citation. The notification must include notice that the owner has the right to review the photographic or electronic images or the streaming video evidence, which constitute(s) a rebuttable presumption against the vehicle owner, and must state the time and place, or the Internet location, where the evidence may be examined and observed.<sup>11</sup> The notification must also direct the alleged violator to a website that provides information on the right to request a hearing and on all related court costs, and a form to request a hearing.<sup>12</sup> If a person requests a hearing on a notice of violation, and the local hearing officer upholds the violation, the person may be assessed county or municipal costs up to \$250.<sup>13</sup>

If the registered owner of the vehicle does not submit payment, request a hearing, or submit an affidavit setting forth an authorized defense within 60 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation<sup>14</sup> to the registered owner (first name on registration in cases of joint registration).<sup>15</sup> The citation must also include the statements described above regarding review of the photographic or video evidence.<sup>16</sup> The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was

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<sup>4</sup>*Id.*

<sup>5</sup> Section 321.50, F.S. The DHSMV is not currently administering a red-light camera program. Therefore, effects of changes to that program are not described in this bill analysis.

<sup>6</sup> Section 316.0776(2), F.S.

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

<sup>8</sup> Notifications of violation must be sent by first-class mail, and mailing of the notifications of violation constitutes notice.

<sup>9</sup> However, payment or a fee may not be required before any hearing requested by the alleged violator. See

s. 316.0083(1)(b)1.c., F.S.

<sup>10</sup> Section 316.0083(1)(d), F.S.

<sup>11</sup>Section 316.0083(1)(b)1.b., F.S.

<sup>12</sup>Section 316.0083(1)(b)1.c., F.S.

<sup>13</sup> Sections 316.0083(5)(e) and 318.18(22), F.S.

<sup>14</sup> Citations must be sent by certified mail, and delivery constitutes notification. s. 316.0083(1)(c)1.a. and b., F.S.

<sup>15</sup>Section 316.0083(1)(c)1.c., F.S.

<sup>16</sup>Section 316.0083(1)(c)2., F.S.

used in a violation.<sup>17</sup> A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of the citation to the violator, or, if a hearing is requested, to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.<sup>18</sup>

### ***Defenses***

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer; or
- Was, at the time of the violation, in the care, custody, or control of another person.

Additional defenses are available if a law enforcement officer issues a uniform traffic citation for the alleged violation or if the owner was deceased on or before the date the uniform traffic citation was issued.<sup>19</sup>

### ***Fines***

A fine of \$158 is levied on violators who fail to stop at a traffic signal as required by ss. 316.074(1) or 316.075(1)(c)1., F.S. When the \$158 fine is the result of a local government's traffic infraction detector, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).<sup>20</sup> DOR subsequently distributes the fines by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health Emergency Services Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>21</sup>

If a law enforcement officer cites a motorist for the same offense, the fine is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Emergency Services Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.<sup>22</sup>

### ***Actual Revenues***

According to the DOR website, from July 2012 through June 2013, 77 jurisdictions operated red light camera programs throughout the state. DOR reports the state portion of the fines collected during that fiscal year amount to \$62,454,920. Of the total, \$52,663,609 was distributed to the General Revenue Fund; \$7,510,916 was distributed to the Health Administration Trust Fund; and \$2,257,262 was distributed to the Brain & Spinal Cord Injury Trust Fund.<sup>23</sup>

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<sup>17</sup>Section 316.0083(1)(e), F.S.

<sup>18</sup>Section 316.650(3)(c), F.S.

<sup>19</sup>Section 316.0083(1)(d), F.S.

<sup>20</sup> Section 318.18(15)(a)3., F.S., s. 316.0083(1)(b)3.b., F.S.

<sup>21</sup>*Id.*

<sup>22</sup> Section 318.18(15)(a)1., F.S.

<sup>23</sup> See DOR website: <http://dor.myflorida.com/dor/taxes/distributions.html>. (Last viewed 9/11/13).

## Engineering Countermeasures to Reduce Red Light Running

The Federal Highway Administration (FHWA) reports:

Research has shown that engineering improvements, safety education, and increased enforcement by law enforcement officers can significantly reduce red light violations. In addition, to supplement traditional law enforcement activities, many jurisdictions have implemented automated enforcement red light camera systems.

“The solution to the problem of red light running and resulting crashes may require one or a combination of engineering, education, and enforcement measures.”<sup>24</sup>

These measures include:

- Intersection engineering improvements, such as modifying traffic signal timing, improving signing and marking, improving sight lines, modifying grades and/or grade separation, adjusting the prevailing speeds, changes in surface treatments, altering lane configuration, and replacing the traffic signal with some other form of traffic control device or intersection type;
- Education campaigns to assist motorists and the general public in understanding the safety issues inherent to red light running;
- Traditional enforcement by law enforcement officers specifically targeting red light running violators at problem locations; and
- Red light camera systems.

According to the FHWA, “An engineering study should consider each of these possible solutions in order to identify the most appropriate solution to the documented problem at the intersection.”<sup>25</sup>

## Federal Rules on Traffic Control Devices

The Federal Highway Administration (“FHWA”) publishes a Manual on Uniform Traffic Control Devices (“MUTCD”) that defines standards related to the installation and maintenance of traffic control signals. The MUTCD is updated periodically to “accommodate the nation’s changing transportation needs and address new safety technologies, traffic control tools and traffic management techniques.”<sup>26</sup> On December 16, 2009, a final rule adopting the 2009 Edition of the MUTCD was published in the Federal Register with an effective date of January 15, 2010.<sup>27</sup> All states must adopt the 2009 edition of the MUTCD by January 15, 2012.<sup>28</sup>

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<sup>24</sup> Federal Highway Administration, *Red Light Camera Systems Operational Guidelines (2005)*, at 8: <http://safety.fhwa.dot.gov/intersection/redlight/cameras/fhwasa05002/fhwasa05002.pdf>. (Last visited March 22, 2014.)

<sup>25</sup> *Id.*

<sup>26</sup> See the Federal Highway Administration’s (FHWA) information on the MUTCD at <http://mutcd.fhwa.dot.gov/> (Last viewed 2/19/2013).

<sup>27</sup> *Id.*

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

According to information published on FHWA's website, Florida has adopted this national standard.<sup>29</sup>

### **Florida Laws and Rules on Traffic Control Devices**

Section 316.0745(1), F.S., requires FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of the state. Section 316.0745(2), F.S., requires FDOT to compile and publish a manual defining its uniform system. The statute also requires FDOT to compile and publish minimum specifications for traffic control signal devices "certified by [the FDOT] as conforming with the uniform system."<sup>30</sup>

Following statutory requirements, FDOT publishes a Traffic Engineering Manual ("TEM") to provide traffic engineering standards and guidelines.<sup>31</sup> The TEM covers the processes whereby standards and guidelines are adopted, as well as chapters devoted to "highway signs and markings, traffic signals, traffic optimization through the use of computer models . . . , and links to information on [FDOT's] aging road user program –Safe Mobility for Life."<sup>32</sup>

In addition to FDOT's TEM, many sections of Florida law require drivers to obey traffic control signal demands. Section 316.075, F.S., requires drivers to follow set traffic control signal commands and yield the right-of-way to pedestrians lawfully in intersections and crosswalks. Violators of s. 316.075, F.S., including those that run red lights, commit non-criminal traffic violations punishable pursuant to ch. 318, F.S.

### **Institute of Transportation Engineers**

According to its website, the Institute of Transportation Engineers ("ITE") is an international, educational and scientific association of transportation professionals.<sup>33</sup> Among other things, ITE offers recommendations to the MUTCD and is recognized as one of the leading organizations in transportation research. It publishes a Traffic Engineering Handbook containing information used by transportation officials nationwide. The FDOT's TEM calculates the minimum yellow signal change and all-red clearance intervals using formulas contained within the ITE's Traffic Engineering Handbook. However, there is no express requirement in Florida law that FDOT's TEM contain formulas contained within ITE's Traffic Engineering Handbook.

### **Traffic Signal Display Intervals**

The purpose of the yellow-light and all-red displays on traffic control signals is "to provide a safe transition between two conflicting traffic signal phases."<sup>34</sup> More specifically, the function of

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<sup>29</sup> See FHWA's site indicating Florida has adopted the 2009 Edition of the MUTCD. This information can be accessed at [http://mutcd.fhwa.dot.gov/resources/state\\_info/florida/fl.htm](http://mutcd.fhwa.dot.gov/resources/state_info/florida/fl.htm) (Last visited 2/19/2013).

<sup>30</sup> Section 316.0745(2), F.S.

<sup>31</sup> Florida Department of Transportation *Traffic Engineering Manual*, "Adoption Procedure." This information can be viewed at <http://www.dot.state.fl.us/trafficoperations/Operations/Studies/TEM/TEM.shtm> (Last visited 2/19/13).

<sup>32</sup> *Id.*

<sup>33</sup> See the Institute of Transportation Engineers website at <http://www.ite.org/aboutite/index.asp> (Last visited 2/19/13).

<sup>34</sup> Florida Department of Transportation *Traffic Engineering Manual*, s. 3.6.1, "Purpose." This information can be viewed at

the yellow light display is “to warn traffic of an impending change in the right-of-way assignment.”<sup>35</sup> The TEM states that a yellow change interval should have a minimum duration of three seconds and a maximum duration of 6 seconds and a red clearance interval should have a duration not exceeding six seconds.<sup>36</sup> Further, the TEM states that the minimum red clearance interval shall be 2.0 seconds and the maximum red clearance interval should normally not exceed 6.0 seconds.<sup>37</sup> The TEM sets out formulas for signal timing for yellow-light and all-red display intervals, based on national standards developed by the ITE.

### **Bicyclist and Pedestrian Safety in Florida**

Florida’s bicyclists and pedestrians are of course at particular risk on the public roadways. “Because bicyclist and pedestrian deaths make up about 14 percent of overall traffic fatalities, compared to about 12 percent of total trips, they are at more risk than most users. The number of people bicycling and walking for transportation continues to increase, almost doubling since 1995, and now nearly 12 percent of trips taken in the United States are by bike or foot. Intersections are especially dangerous for bicyclists and walkers; the Traffic Safety Coalition found that 24 percent of pedestrian deaths and 33 percent of bicyclist traffic fatalities occurred in an intersection.”<sup>38</sup>

### **OPPAGA Research Memorandum on Florida Red Light Camera Programs**

The Office of Program Policy Analysis & Government Accountability (OPPAGA) recently released a memorandum<sup>39</sup> on its examination of red light camera programs implemented by Florida cities and counties. OPPAGA issued the following recommendations:

- Require local jurisdictions to provide demonstrable evidence of a genuine safety need for the use of a red light camera at an intersection, based on criteria developed by the FDOT, and to conduct a traffic engineering study prior to installation of a red light camera.
- Mandate that the minimum yellow light change interval at intersections with red light cameras be in accordance with the FDOT specifications.
- Require local jurisdictions to annually report specific data by intersection and establish a penalty for jurisdictions that do not comply with current statutory reporting requirements.
- Direct the DHSMV to collaborate with the FDOT to analyze and annually report crash data for red light camera intersections on state roads.

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

Generally, the bill codifies the recommendations of the OPPAGA memorandum described in the preceding paragraph. A specific analysis follows.

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[http://www.dot.state.fl.us/trafficoperations/Operations/PDFs/FDOT Traffic Engineering Manual revised January 2012.pdf](http://www.dot.state.fl.us/trafficoperations/Operations/PDFs/FDOT_Traffic_Engineering_Manual_revised_January_2012.pdf) (Last visited 2/19/13).

<sup>35</sup> *Id.*

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

<sup>37</sup> *Id.* at 3.6.2.2.

<sup>38</sup> National Conference of State Legislatures Transportation Review (Feb. 2012), *Bicycle and Pedestrian Safety*, Schinkle, D.: <http://www.ncsl.org/documents/transportation/BicyclePedestrianSafety.pdf>. (Last visited March 21, 2014.)

<sup>39</sup> Copy on file in the Senate Transportation Committee.

**Section 1** amends s. 316.0776, F.S., to:

- Require red-light cameras when permitted by the FDOT to meet the FDOT's signal timing specifications, in addition to currently existing placement and installation specifications; and to prohibit issuance of a notice of violation or uniform traffic citation through the use of a red light camera if the camera is not in compliance with the specifications; and
- Require the FDOT to identify engineering countermeasures intended to reduce red light camera violations before installation of a camera on any roadway. Placement of a camera must be based on a traffic engineering study documenting the implementation and failure of any countermeasure appropriate for a specific location.<sup>40</sup>

The first revision has the effect of mandating that all permitted red light cameras meet the FDOT signal timing specifications, which are taken from the TEM as described above. If a camera does not meet the placement, installation, and signal timing specifications, the enforcing agency would be prohibited from issuing a notice of violation or a uniform traffic citation through use of that camera. Alleged violators may have notices dismissed if noncompliance with the signal timing specifications is established.

The second revision requires consideration and application where appropriate of engineering countermeasures intended to reduce violations. A traffic study showing the failure of any appropriate implemented countermeasure, in addition to meeting the current FDOT placement, installation, and signal timing specifications, would be required prior to the installation of additional cameras at any new locations.

Installations of cameras would be based on professional engineering standards. This may result in installation of fewer cameras in the event that any appropriate countermeasures prove to reduce red-light violations.

**Section 2** amends s. 316.0083, F.S., to revise the distribution of funds resulting from red light camera violations.

- Seventy dollars of the \$158 penalty currently deposited into the General Revenue Fund is re-directed to the State Transportation Trust Fund. These funds must be used for intersection safety improvements in the county or municipality in which the violation occurred.
- The Emergency Medical Services Trust Fund and the Brain and Spinal Injury Trust Fund continue to receive their respective \$10 and \$3 distributions.
- Of the \$75 distributed to a municipality or county from each violation respectively enforced on any road, use of any funds remaining after payment of contractual obligations is again restricted to the specified traffic safety capital projects or to fund the required traffic studies.

A General Revenue Fund distribution is eliminated, and a State Transportation Trust Fund distribution is created, in equivalent amounts. Municipalities and counties would experience a reduction in revenues available for any current uses other than the described capital projects or traffic studies. This reduction may be somewhat offset by requiring the State Transportation Trust Fund deposits from municipally- or county-enforced violations to be used for intersection safety improvements in the county or municipality in which the violations occur.

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<sup>40</sup> The study must be signed and sealed by a Florida-licensed professional engineer.

Current and potential future use of funds from red light camera violations is restricted to traffic safety in general and, specifically, to the protection of pedestrians and bicyclists. A decrease in property damage, personal injury, and associated litigation, may be realized.

This section of the bill also requires data and information currently submitted by counties and municipalities in an annual report to the DHSMV be submitted in a format enabling individual review of each intersection monitored by a red light camera. Failure of a municipality or county to submit the information annually by October 1 immediately nullifies all notices of violations or citations issued through use of a red light camera within the municipality or county. The FDOT is authorized to require statistical data and information, in addition to the DHSMV. The DHSMV is required to collaborate with the FDOT before submitting its currently required annual report, which shall include the FDOT's recommendations, along with the DHSMV's.

The bill also reduces from \$250 to \$100 the authorized assessment of county or municipal costs if a local hearing officer upholds a notice of violation challenged by any alleged violator.

**Section 3** amends s. 318.18(22), F.S., also to reduce the authorized assessment of county or municipal costs from \$250 to \$100.

**Section 4** provides the bill takes effect July 1, 2014.

#### **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:

None.

B. Private Sector Impact:

Alleged violators may be successful in challenging notices of violations and uniform traffic citations if noncompliance with the signal timing specifications is established, thereby relieving the alleged violator of fines and costs. Alleged violators who have a violation upheld will be subject to \$100 in costs, rather than \$250.

**C. Government Sector Impact:**

The FDOT will incur expenses associated with identifying engineering countermeasures to be considered and applied before installation of a red light camera, which costs are expected to be absorbed within existing resources. Local jurisdictions will be subject to costs associated with the required traffic studies, offset by the use of funds from red light camera violations to pay for such studies, after payment of contractual obligations. Local jurisdictions will experience a reduction in revenues available for any current uses other than the described capital projects or traffic studies.

If the DHSMV ever exercises its authorization to install red light cameras, it would similarly be subject to costs associated with the required traffic studies. A State Transportation Trust Fund Source is created in the amount of \$100 per violation, the use of which is restricted to intersection safety improvements in the county or municipality in which the violation occurred.

A General Revenue Fund source of approximately \$73.7 million is eliminated by diverting the \$70 for each violation enforced by a municipality or county to the State Transportation Trust Fund.<sup>41</sup> Again, local jurisdictions will be subject to costs associated with the required traffic studies, which may be offset by the use of funds from red light camera violations to pay for such studies after payment of contractual obligations, and may be further offset by the bill's restriction of the use of such funds deposited into the State Transportation Trust Fund to intersection safety improvements in the county or municipality in which the violation occurred.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.0776, 316.0083, and 318.18.

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

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

None.

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<sup>41</sup> Based on the February Highway Safety Fee Estimating Conference, per Senate Transportation & Economic Development Appropriations Subcommittee email, March 24, 2014, on file in the Senate Transportation Committee.

B. Amendments:

None.

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

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