

**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.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 1554

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Transportation

DATE: March 23, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1554 reflects the Florida Department of Transportation's (FDOT) 2015 Legislative Package, as well as other transportation-related issues. More specifically, the bill:

- Increases from \$15 million to \$25 million the annual funding for the Florida Seaport Transportation and Economic Development (FSTED) program.
- Removes Port Citrus as an authorized member of the FSTED Council, as well as obsolete provisions regarding a related port feasibility study.
- Allows commercial motor vehicle operators to purchase temporary registration permits and provides for a reduced non-registration penalty under certain circumstances.
- Extends the allowable length of a trailer transporting manufactured buildings under a special permit from 54 feet to 80 feet.
- Extends the allowable length of certain semitrailers from 53 feet to 57 feet under certain conditions.
- Provides an exemption from required minimum following distance to users of driver-assistive truck platooning technology, a system that controls inter-vehicle spacing between two truck tractor-semitrailer combinations.
- Directs the Office of Economic and Demographic Research to evaluate and determine the economic benefits of the state's investment in the FDOT Work Program.
- Allows turnpike bonds to be validated at the option of the Division of Bond Finance, and limits the location of publication of bond-validation notices to Leon County.
- Substantially revises chapter 333, F.S., relating to airport zoning regulations.

- Authorizes the FDOT to assume certain review responsibilities under the National Environmental Policy Act with respect to highway projects, as authorized by federal law.
- Requires consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology and revises existing statutes with regard to the definition and use of autonomous vehicle technology.
- Clarifies provisions relating to pedestrians and crosswalks in an effort to improve safety.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System.
- Requires the Center for Urban Transportation Research to conduct a study, design a pilot project, and provide a report regarding the feasibility and means of implementing a vehicle-miles-traveled funding mechanism for transportation projects.
- Creates the Northwest Florida Regional Transportation Finance Authority Act, authorizing Escambia and Santa Rosa Counties, to form a regional transportation finance authority to develop transportation projects in the northwest region of the state.
- Revises the membership of a legislatively-created independent special district regulating for-hire transportation.
- Revises provisions relating to staffing and responsibilities of the Fort Meyers Urban Office of the FDOT.
- Modernizes language relating to FDOT's provision of 511 services.
- Removes obsolete language relating to the FDOT secretary's appointment of an inspector general.
- Repeals obsolete language relating to transportation corridors.
- Deletes references to toll facilities no longer owned by the FDOT.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.
- Makes other technical and conforming revisions.

## II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

## III. Effect of Proposed Changes:

### **Florida Seaport Transportation and Economic Development Program (Sections 4 and 5)**

#### *Present Situation*

Florida has 15 public seaports,<sup>1</sup> and Florida law reflects a number of seaport and seaport-related funding provisions. Section 311.07(2), F.S., requires a minimum of \$15 million per year from the

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<sup>1</sup> Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandino. Listed in s. 311.09(1), F.S.

State Transportation Trust Fund (STTF) to fund the FSTED Program.<sup>2</sup> The program finances port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo and passengers in commerce and trade and support the interests, purposes, and requirements of all ports listed in s. 311.09, F.S. The annual funding level was increased from \$8 million to the current \$15 million by the 2012 Legislature, based on the FDOT's historic funding level of \$15 million annually since 2004.<sup>3</sup>

In addition, s. 320.20(3), F.S., directs \$15 million annually from motor vehicle registration fees deposited into the STTF to fund the FSTED Program as provided in chapter 311, F.S. And s. 320.20(4), F.S., directs \$10 million annually from the same fees to the STTF to fund the FSTED Program and for funding seaport intermodal access projects of statewide significance under the Intermodal Development Program.<sup>4</sup> These amounts are in addition to funding provided under s. 311.07, F.S.

The 2012 Legislature also enacted the Seaport Investment Program, directing \$10 million beginning in FY 2013-2014 and annually for 30 years to fund any seaport project in the FDOT's Adopted Work Program;<sup>5</sup> and the Strategic Port Investment Initiative, setting aside a minimum of \$35 million annually from the STTF for projects that meet the state's economic goal of becoming a hub for trade, logistics, and export-oriented activities.<sup>6</sup>

The FDOT advises that its Adopted Work Program since 2012 and through 2019 totals almost \$1 billion for seaport and seaport-related funding.

### *Effect of Proposed Changes*

Sections 4 and 5 amend s. 311.07(2) and s. 311.09(9), F.S., respectively, to increase the annual funding from the STTF from the current \$15 million to \$25 million. The FDOT is required to include no less than the \$25 million in its annual legislative budget request to fund the FSTED Program.

### **Port Citrus (Section 5)**

#### *Present Situation*

The Florida Legislature in 2011 included a representative of Port Citrus as a member of the FSTED Council. Port Citrus was authorized to apply for a grant for a feasibility study through the FSTED Council until July 14, 2014, regarding the establishment of a port in Citrus County.

According to a recent article, by late 2011, Citrus County established a port authority and joined the Florida Ports Council and Gulf Ports Association of the Americas, with annual dues of \$15,000. Backers of Port Citrus "envisioned development of a port near a key cut in the Cross

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<sup>2</sup> See also s. 311.09(9), directing the FDOT to include no less than \$15 million annually in its legislative budget request for the FSTED Program.

<sup>3</sup> See CS/CS/CS/HB 599 and SB 1998 (2012 Reg. Session).

<sup>4</sup> See s. 341.053, F.S. Eligible projects include, among others, road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports.

<sup>5</sup> See SB 1998 (2012 Reg. Session).

<sup>6</sup> See s. 311.10, F.S.

Florida Barge Canal.”<sup>7</sup> According to the article, the study found that the barge canal would be a good location for a marina, but not for a port, because the canal’s 12-foot depth is too shallow. Efforts are underway to pursue a possible marina. However, members of the current Citrus County Commission have raised questions about whether the dues paid for membership in the groups joined are appropriate, noting that a marina does not need to be designated as a port.<sup>8</sup>

On January 24, 2015, the Citrus County Board of County Commissions, acting as the Citrus County Port Authority, voted to abolish Port Citrus. The Port Authority has requested statutory revision to reflect the abolishment.<sup>9</sup>

### *Effect of Proposed Changes*

Section 5 amends s. 311.09(1) and repeals s. 311.09(12), F.S., to remove a representative of Port Citrus as an authorized member of the FSTED Council, as well as the dated provisions relating to application for a grant to conduct the feasibility study.

## **Commercial Motor Vehicles/Ports of Entry/Operating Credentials (Sections 6 and 11)**

### *Present Situation*

Interstate operators of commercial motor vehicles (CMVs) are required to obtain a number of credentials. Generally, for example, interstate operators of CMVs are required to obtain an International Fuel Tax Agreement (IFTA) license and decal<sup>10</sup> and, in some cases, to obtain overweight or over-dimensional permits.<sup>11</sup> Some states allow the purchase of some or all necessary credentials at weigh stations located close to routes entering their borders and at other locations, and these states are known as “port of entry” or “POE” states.<sup>12</sup> Because these credentials must be obtained prior to entering Florida, the state is known as a “non-POE” state.<sup>13</sup> If a CMV enters the state without proper credentials and the operator seeks to purchase them at any weigh station, the applicable fine is assessed depending on the type of credential at issue. Only then is the operator allowed to purchase the necessary credential.<sup>14</sup>

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<sup>7</sup> See *Port Citrus talk: Sink or stay afloat?*, January 24, 2015, Citrus County Chronicle Online:

<http://www.chronicleonline.com/content/port-citrus-talk-sink-or-stay-afloat>. Last visited March 19, 2015.

<sup>8</sup> *Id.*

<sup>9</sup> See Citrus Port Authority correspondence dated January 29, 2015. On file in the Senate Transportation Committee.

<sup>10</sup> See ss. 207.004 and 316.545(4), F.S. The International Fuel Tax Agreement (IFTA) is an agreement among the states and the Canadian provinces to simplify the reporting of interstate fuel taxes. The motor carrier’s base jurisdiction issues the IFTA license and decals, allowing the carrier to file one quarterly tax return reflecting the net tax and any refund due on fuel used in all jurisdictions.

<sup>11</sup> See s. 316.550, F.S.

<sup>12</sup> See the *Florida Port of Entry Feasibility Study*, September 2014, prepared for the FDOT, at 3.1 and 3.2. Copy on file in the Senate Transportation Committee. According to the study, 28 states are non-POE states, and 22 states and the District of Columbia consider themselves to be POE jurisdictions. Alabama is a POE state; Georgia is not. Further, the definitions of “POE” vary greatly by state.

<sup>13</sup> *Id.* at 1.1.

<sup>14</sup> See the FDOT 2015 Legislative Proposal form, *Port-of-Entry*, on file in the Senate Transportation Committee.

Another credential required before entering Florida is registration under the International Registration Plan (IRP). The IRP<sup>15</sup> is a plan for registering vehicles that are operated in two or more IRP-member jurisdictions while displaying just one registration license plate for each vehicle.

All IRP member jurisdictions have agreed to allow one jurisdiction to collect the registration fees (apportioned fees) for each jurisdiction at one time. These fees are then distributed among the other IRP jurisdictions according to:

- Percentage of mileage traveled in each jurisdiction;
- Vehicle identification information; and
- Maximum weight.

Under the IRP, interstate truck operators are required to file an application with their base jurisdiction. The base jurisdiction, in turn, issues one registration cab card and one tag for the vehicle. In member jurisdictions, the single apportioned license plate and cab card are the only registration credentials required to operate interstate and intrastate.<sup>16</sup>

A “Full Reciprocity Plan” was instituted effective January 1, 2015, under which registrants are billed only for jurisdictions in which actual miles were accrued during the reporting period. If no miles were accrued in a given jurisdiction, registrants are billed based on the average distance of all registrants in each jurisdiction. Upon registration, the cab cards will reflect all jurisdictions.<sup>17</sup>

Section 320.0715(1), F.S., requires all apportionable vehicles<sup>18</sup> domiciled in this state to register under the International Registration Plan and to display the apportioned license plate. If a CMV domiciled elsewhere could be lawfully operated in this state because IRP registration had been obtained prior to entering Florida, but was not, a ten-day Florida trip permit may be obtained for \$30. The permit allows the vehicle to be operated in interstate or intrastate commerce for the ten-day period.

A CMV not registered under the application provisions of chapter 320, F.S., is subject to a penalty of five cents per pound on the weight that exceeds 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations, 10,000 pounds on laden straight

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<sup>15</sup> Section 320.01(23), F.S., defines the IRP to mean “a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions.”

<sup>16</sup> See the Florida Department of Highway Safety and Motor Vehicles *International Registration Plan Trucking Manual*, at 5. On file in the Senate Transportation Committee.

<sup>17</sup> *Id.*

<sup>18</sup> Section 320.01(24), F.S., defines “apportionable vehicle” to mean “any vehicle [with certain exceptions] which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds; (b) Is a power unit having three or more axles, regardless of weight; or (c) Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.”

trucks or straight truck-trailer combinations, or 10,000 pounds on any unladen CMV.<sup>19</sup> Operators of CMVs that fail to obtain the temporary trip permit prior to entering Florida are fined accordingly and then allowed to purchase the temporary trip permit. All such penalties and permit fees are credited to the State Transportation Trust Fund to be used for repair and maintenance of Florida's roads and for enforcement purposes.<sup>20</sup>

### ***Effect of Proposed Changes***

The bill defines "port-of-entry" and reduces the existing penalty for IRP registration violations.

Section 6 creates s. 316.003(94), F.S., to define "port-of-entry" as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within Florida, and to direct the FDOT to determine the locations and the designated routes to such locations.

Section 11 amends s. 316.545(2)(b), F.S., to provide that if a CMV enters the state at a designated POE or is operating on an FDOT-designated route to a POE, and if the ten-day IRP trip permit is obtained at the POE, the penalty is limited to the difference between the CMV's gross weight and the declared gross vehicle weight at five cents per pound.

The penalty no longer is calculated based on five cents per pound of weight in excess of 35,000 pounds or 10,000 pounds, depending on the type of truck, combination, or whether the truck is laden, but on the difference between declared and actual weight. Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

The FDOT advises three potential POE locations are under consideration:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.

The designated route for each location would be the portion of the interstate from the state line to the weigh station.<sup>21</sup>

## **Commercial Motor Vehicles/Trailer Lengths/Manufactured Building/Special Permits (Section 10)**

### ***Present Situation***

The Office of Commercial Vehicle Enforcement of the Florida Department of Highway Safety and Motor Vehicles (FDHSMV) administers a Weight Enforcement program. Protection of the public's investment in the highway system is the primary purpose of the program. To prevent heavy trucks from causing unreasonable damage to roads and bridges, maximum weight and size

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<sup>19</sup> See 316.545(2)(b), F.S.

<sup>20</sup> See s. 316.545(6), F.S.

<sup>21</sup> *Supra*, note 14.

limits are established in chapter 316, F.S.<sup>22</sup> Section 316.515, F.S., sets out the maximum width, height, and length limitations, and s. 316.545, F.S., addresses unlawful weight.

The FDOT or a local authority may issue a special permit to operate or move a vehicle or combination of a size or weight exceeding the maximums specified. Issuance of such a permit must not be contrary to the public interest and is at the discretion of the FDOT or the local authority.<sup>23</sup> Significant penalties can result from failure to obtain a special permit or failure to comply with the specific terms of the permit.<sup>24</sup>

Generally, as to truck tractor-semitrailer combinations and length, the extreme overall outside dimension of the combination may not exceed 48 feet, measured from the front of the unit to the rear of the unit and the load carried.<sup>25</sup> However, a semitrailer that is more than 48 feet but not more than 53 feet may operate on non-restricted public roads, if the distance between the kingpin and the rear axle or axle group does not exceed a certain number of feet<sup>26</sup> and the vehicle is equipped with required rear end protection.

In addition, the FDOT is authorized to issue a special permit for a truck tractor-semitrailer combination if the total number of over-width deliveries of manufactured buildings may be reduced by permitting the use of an over-length trailer not exceeding 54 feet.<sup>27</sup> Issuance of this type of over-length special permit does not exempt the combination vehicle from existing weight limitations or special permit requirements if the weight of the combination exceeds the maximums specified in ch. 316, F.S.

### ***Effect of Proposed Changes***

Section 10 amends s. 316.515(3)(b), F.S., to increase from 53 to 57 feet the allowable extreme overall outside dimension of a semitrailer exceeding 48 feet, if specified conditions are met. The Federal Highway Administration (FHWA) has reviewed the proposed language and deems it compliant with federal regulations.<sup>28</sup>

Section 10 also amends s. 316.515(14), F.S., to insert “multiple sections or single units” with reference to manufactured buildings transported on permitted, over-length trailers, and to increase the allowable trailer over-length from 54 to 80 feet.

The Federal Highway Administration has reviewed the proposed language and opined that it does not appear to conflict with federal regulations, as long as weight restrictions are not exceeded.<sup>29</sup> Transporters of manufactured buildings on truck tractor-semitrailer combinations continue to be required to obtain a permit for such combinations, even with a trailer length of 80

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<sup>22</sup> See the FDHSMV website: <http://www.flhsmv.gov/fhp/CVE/WeightEnforcement.htm/>. Last visited March 3, 2015.

<sup>23</sup> See s. 316.550, F.S.

<sup>24</sup> See s. 316.550(10), F.S.

<sup>25</sup> Section 316.550(3)(b)1., F.S.

<sup>26</sup> Generally, forty-one feet. For a semitrailer used exclusively or primarily to transportation vehicles in connection with motorsports competition events, 46 feet. Section 316.515(3)(b), F.S.

<sup>27</sup> Section 316.515(14), F.S.

<sup>28</sup> See the FHWA email, March 17, 2015. On filed in the Senate Transportation Committee.

<sup>29</sup> See the FHWA email, February 11, 2015. On file in the Senate Transportation Committee.

feet. Overweight permits also continue to be required when applicable. Issuance of such permits remains within the discretion of the FDOT.

### **Driver-Assistive Truck Platooning (Sections 6, 7, and 9)**

#### ***Present Situation***

In August of 2014, the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking, following NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.<sup>30</sup> NHTSA advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."<sup>31</sup>

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.<sup>32</sup>

The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.<sup>33</sup>

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether specific trucks are clear to engage in platooning operations. The system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk

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<sup>30</sup> See the U.S. Department of Transportation Fact Sheet on Vehicle-To-Vehicle Communication Technology. On file in the Senate Transportation Committee.

<sup>31</sup> See the NHTSA website: <http://www.safercar.gov/v2v/index.html>. Last visited March 16, 2015.

<sup>32</sup> See the GBT Global News website: <http://www.gobytrucknews.com/driver-survey-platooning/123>. Last visited March 16, 2015.

<sup>33</sup> See the American Transportation Research Institute website: <http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/>. Last visited March 16, 2015.



has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.<sup>34</sup>

Section 316.0895(2), F.S., currently deems it unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. That subsection expressly does not prevent overtaking and passing and does not apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles.

### ***Effect of Proposed Changes***

Section 6 creates s. 316.003(95), F.S., to define driver-assistive truck platooning.

Section 7 amends s. 316.0895 (2), F.S., to exclude from the 300-foot distance limitation two-truck tractor-semitrailer combinations, equipped and connected with driver-assistive truck platooning technology and operating on a multilane, limited access facility. The exclusion applies only if the owner or operator complies with the financial responsibility requirement of s. 316.86, F.S., which requires submission to the DHSMV of proof of insurance acceptable to the DHSMV in the amount of \$5 million. Tandem trailer trucks are not included in the authorized exclusion.

Section 9 amends s. 316.303(1) and (3), respectively, to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with video equipment visible from the driver's seat, and to authorize an electronic display used by the operator of a vehicle equipped and operating with truck platooning technology.

## **Return on Transportation Investment (Section 40)**

### ***Present Situation***

Section 334.046, F.S., provides prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system. The principles are preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, and improving travel choices to ensure mobility.

As to economic competitiveness, the statute requires the FDOT to ensure a clear understanding of the economic consequences of transportation investments and how such investments affect the state's economic competitiveness. The FDOT is directed to develop a macroeconomic analysis of the linkages between transportation investment and economic performance and a method to quantifiably measure the economic benefits of the district-work-program investments. The FDOT must analyze the state's and districts' economic performance relative to competition, the business environment viewed from the perspective of companies evaluating the state as a place in which to do business, and the state's capacity to sustain long-term growth.<sup>35</sup>

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<sup>34</sup> See <http://www.peloton-tech.com/fag/>. Last visited March 16, 2015.

<sup>35</sup> Section 334.046(4)(b), F.S.

The FDOT in January 2015 completed its “Macroeconomic Analysis of Florida’s Transportation Investments,”<sup>36</sup> estimating the economic effects of its Work Program for fiscal years 2013/2014 through 2017/2018. The analysis indicates that almost all Work Program spending was covered, including highway, rail, seaport, and transit modes. According to the analysis, “on average, every dollar invested in the Work Program will yield about \$4.40 in economic benefits for Florida from the beginning of the Work Program to FY 2043.”<sup>37</sup>

### ***Effect of Proposed Changes***

Section 40 directs the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits<sup>38</sup> of the state’s investment in the FDOT Adopted Work Program for fiscal year 2015-2016, including the following four fiscal years. At a minimum, a separate return on investment shall be projects for roads and highways, rails, public transit, aviation, and seaports.

The analysis is limited to funding anticipated by the Adopted Work Program but may address the continuing economic impact of the transportation projects in the five years beyond the conclusion of the Adopted Work Program. The number of jobs created, the increase or decrease in personal income, and the impact on gross domestic product from the direct, indirect, and induced effects on the state’s investment in each area must be evaluated.

The FDOT and each of its district offices are required to provide the EDR full access to all data necessary to complete the analysis, including any confidential data, and the EDR must provide the analysis to the Senate President and House Speaker by January 1, 2016.

### **Turnpike Revenue Bonds/Bond Validation (Sections 2 and 7)**

#### ***Present Situation***

The Division of Bond Finance (DBF) is authorized to issue bonds on behalf of the FDOT to finance or refinance the cost of legislatively approved turnpike projects. Such bonds must be validated under ch. 75, F.S., through proceedings instituted by attorneys for the DBF.<sup>39</sup> In any action to validate bonds issued pursuant to s. 338.227, F.S., the complaint must be filed in the circuit court of Leon County; the notice required by s. 75.06, F.S., must be published in a newspaper of general circulation *in Leon County and in two other newspapers of general circulation in the state*;<sup>40</sup> and the complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending (the Second Circuit).

Section 75.06(2), F.S., requires the clerk, before the date set for hearing on a complaint to validate Turnpike bonds, to publish a copy of the court’s order requiring appearance at the

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<sup>36</sup> The analysis is available at: <http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtm>. Last visited March 16, 2015.

<sup>37</sup> *Id.* at 1.

<sup>38</sup> Defined per the bill in s. 288.005, F.S., meaning the direct, indirect, and induced gains in state revenues as a percentage of the state’s investment. The state’s investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

<sup>39</sup> See s. 215.82(1), F.S.

<sup>40</sup> Emphasis added.

hearing in Leon County at least once each week for two consecutive weeks, commencing with the first publication, which may not be less than 20 days before the date set for hearing, *in a newspaper in each of the counties where the proceeds of the bonds are to be expended, and in a newspaper published in Leon County.*<sup>41</sup>

However, if publication pursuant to s. 215.82, F.S., would require publication in more newspapers than would publication pursuant to s. 75.06, F.S., then publication pursuant to s. 75.06, F.S., controls.<sup>42</sup> The required publication is dependent upon the geographic reach of the project(s) for which funding through bond issuance is sought.

According to the DBF:

Bond validation is a judicial procedure through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.<sup>43</sup>

### ***Effect of Proposed Changes***

The bill in general leaves validation of turnpike bonds to the discretion of the DBF and limits provisions relating to publication of the required notice.

Section 2 amends s. 215.82(2), F.S., to strike the reference to s. 338.227, F.S., in favor of the language in newly created s. 338.227(5), F.S.

Section 7 creates subsection (5) of s. 338.227, F.S., to:

- Provide turnpike bonds issued pursuant to that section are not required to be validated pursuant to chapter 75, F.S., notwithstanding s. 215.82, F.S.;
- Provide for validation at the option of the DBF; and
- Require the notice under s. 75.06, F.S., to be published only in Leon County.

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<sup>41</sup> Emphasis added.

<sup>42</sup> See s. 215.82(2), F.S.

<sup>43</sup> See copy of email from Ben Watkins, Director, Florida Division of Bond Finance, to House staff dated January 27, 2015. On file in the Senate Transportation Committee.

## **Airport Zoning/Chapter 333 Re-Write (Sections 12 through 26)**

Chapter 333, Florida Statutes, contains airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the chapter:

- Addresses permitting for structures exceeding federal obstruction standards;
- Requires adoption of certain airport zoning regulations;
- Provides a process for seeking variances from the zoning regulations;
- Sets out a process for appeal of decisions based on the zoning regulations;
- Requires boards of adjustment to hear and decide appeals;
- Provides for judicial review of any board of adjustment decision; and
- Establishes penalties and remedies for violations.

The FDOT in 2012 created a stakeholder working group to address problems with implementing this chapter. Representatives from airports, local planning and zoning departments, the Florida Defense Alliance, the League of Cities, the Florida Airports County, the real estate development community, and the FDOT participated in the working group. The FDOT advises the working group determined that chapter 333, F.S., “contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.”

As examples, the FDOT reports the need to update current definitions consistent with federal regulations, advises that zoning variances and permitting processes are mixed in the chapter, and notes that required creation of separate boards often duplicate existing local governing body structures and functions. The result is inconsistent local application of the provisions governing airspace and land use at or near airports with outcomes that may be unpredictable.<sup>44</sup>

The FDOT advises it expects no substantive changes as a result of the bill’s proposed revisions; e.g., the existing requirements for issuance of permits are substantively unchanged. The number of permits issued or denied is not expected to change. Rather, the changes are designed to facilitate more uniform permitting, appeals, and review processes applied at the local level and provide clarity and predictability for those subject to airport zoning regulations.<sup>45</sup>

### **Definitions**

#### ***Present Situation***

Section 333.01, F.S., contains definitions related to airport zoning that need updating for internal chapter consistency and for consistency with federal regulations.

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<sup>44</sup> See the FDOT 2015 Agency Proposal, *Airspace and Land Use at Public Airports*. On file in the Senate Transportation Committee.

<sup>45</sup> Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

### *Effect of Proposed Changes*

Section 12 amends s. 333.01, F.S., to provide, revise, and delete definitions to:

- Reflect terminology used in federal regulations;
- Provide for consistency with Federal Aviation Administration (FAA) advisements;
- Define terms used but undefined elsewhere in the chapter and delete terms not used elsewhere in the chapter;
- Remove antiquated terminology;
- Delete variances from definitions to reflect the streamlined permitting process effected in the bill; and
- Otherwise provide clarity through editorial and grammatical changes.

### **Permitting for Structures Exceeding Federal Obstruction Standards**

#### *Present Situation*

The Code of Federal Regulations (CFR) sets forth standards for structures that present a hazard within an area in an airport due to obstruction of the airspace required for aircraft to take off, maneuver, or land. Section 333.025, F.S., requires a permit from the FDOT for any proposed construction or alteration of a structure that would exceed the federal standards, if the standards will be exceeded within a 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport licensed by the state for public use.<sup>46</sup> A permit from the FDOT is not required if a political subdivision<sup>47</sup> has adopted adequate airspace protection regulations and filed them with the FDOT. The facilities at airports shown on the airport master plan, or on an airport layout plan submitted to the Federal Aviation Administration (FAA) or comparable military documents, are to be protected. Certain planned or proposed facilities are also protected.

The FDOT must issue or deny a permit within 30 days of receipt of an application for erection, alteration, or modification of any structure that would exceed the federal obstruction standards. The FDOT is required to consider a list of factors in determining whether to issue or deny a permit. As a permit condition, the FDOT is directed to require obstruction and lighting of the permitted structure. The FDOT is prohibited from approving a permit to erect a structure unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation.

#### *Effect of Proposed Changes*

Section 13 amends s. 333.025, F.S., to replace the term “geographic center” with “airport reference point,” which is located at the approximate geometric center of all usable runways and to update references to current federal regulations. Per the FDOT, the airport reference point is not the same as the geographic center of the airport.<sup>48</sup>

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<sup>46</sup> Public airports are licensed under the provisions of ch. 330, F.S.

<sup>47</sup> Generally, a local governmental entity. Section 333.03(9), F.S.

<sup>48</sup> See the FDOT document provided to staff, *Proposed Ch. 333, F.S. Amendments and Legislative Support Documentation*. On file in the Senate Transportation Committee.

When a political subdivision has adopted adequate airport protection zoning regulations which are on file with the FDOT *and* the political subdivision has established a permitting process, a permit from the FDOT is not required for a structure. To evaluate the technical consistency of a permit application submitted to a local government, the bill provides a 15-day FDOT review period concurrent with the established local permitting process. Cranes, construction equipment, and other temporary structures in use or in place for a period not exceeding 18 consecutive months are exempt from the FDOT review, unless the FDOT requests review.

The FDOT is required to review permit applications in conformity with s. 120.60, F.S., relating to licensing. The list of factors to be considered by the FDOT when granting or denying a permit is revised to remove ambiguity and duplication, and to provide clarity. The FDOT must require the owner of the permitted structure or vegetation to install, operate, and maintain marking and lighting in conformance with FAA standards, at the owner's expense. A reference to aeronautical "evaluation" is revised to aeronautical "study" in accordance with the new definition. The denial of a permit is subjected to the administrative review provisions of the Administrative Procedures Act.

### **Adoption of Airport Zoning Regulations**

#### ***Present Situation***

Section 333.03, F.S., requires political subdivisions with an airport hazard area<sup>49</sup> to adopt, administer, and enforce airport zoning regulations for the area. If the airport is owned or controlled by a political subdivisions and has a hazard area outside of its territorial limits, the owning or controlling political subdivision and the political subdivision within which the hazard area is located must either adopt zoning regulations by interlocal agreement or create a joint airport zoning board with the power to do so. The airport zoning regulations must, at a minimum, require:

- A variance for erection, alteration, or modification of any structure that would exceed the federal obstruction standards;
- Obstruction marking and lighting per s. 333.07(3);
- Documentation of compliance with federal proposed construction notification and a valid aeronautical evaluation submitted by each person applying for a variance;
- Consideration of the same list of factors when determining whether to issue or deny a variance as required of the FDOT when considering permit applications; and
- That no variance be approved solely on the basis that a proposed structure will not exceed the federal obstruction standards.

The FDOT is required to issue copies of the federal obstruction standards in the CFR to each political subdivision with an airport hazard area, and issue certain airport zoning maps at no cost.

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<sup>49</sup> The bill defines "airport hazard" to mean any area of land or water upon which an airport hazard might be established. "Airport hazard area" is defined in the bill to mean any obstruction which exceeds the federal obstruction standards in the specified sections of the Code of Federal Regulations and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing; or is otherwise hazardous to such activity and for which no permit has been obtained. The bill generally defines "obstruction" to mean any object of natural growth, terrain, or permanent or temporary construction or alteration thereof, existing or proposed, that exceeds the federal obstruction standards.

Interim land use compatibility zoning regulations must be adopted, unless the political subdivision has adopted land development regulations addressing the use of land consistent with this section. Interim land use compatibility zoning regulations must consider whether sanitary landfills are located within certain areas and whether any landfill will attract or sustain hazardous bird movements, with attendant reporting requirements and bird management considerations. If a public-use airport has conducted a specified federal noise study, residential construction and construction of certain educational facilities are prohibited within the area defined by the study to be incompatible with such construction. If no study is conducted, the same construction is prohibited within a certain distance.

Airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones must be adopted, including uses that result in congregations of people, emissions of light or smoke, or attract birds. Certain limited exceptions for construction of educational facilities in specified areas are authorized.

### *Effect of Proposed Changes*

Section 14 amends s. 333.03, F.S., to eliminate the duplicative requirement for obtaining a variance for structures that would exceed federal obstruction standards, in favor of a local permitting process. Every political subdivision having an airport hazard area is required to adopt, by either of the two authorized methods, airport *protection* zoning regulations. In addition to editorial and grammatical revisions, this section revises language to:

- Replace references to a “variance” with “permit.”
- Update references to the federal obstruction standards contained in the CFR;
- Replace aeronautical “evaluation” with “study” consistent with the new definition;
- Remove the FDOT’s duty to provide copies of the federal obstruction standards and issue maps and replace it with making the FDOT available to provide assistance with respect to the standards;
- Eliminate the reporting requirements related to birds at airports near landfills in favor of requiring the landfill operator to incorporate bird management techniques;
- Allow alternative noise studies approved by the FAA, and their application;
- Include substantial modification of existing incompatible uses in the required adopted regulations restricting such uses within runway *protection* zones;
- Remove the limited exceptions for construction of educational facilities
- Require all updates and amendments to local airport codes to be filed with the FDOT within 30 days after adoption.
- Delete outdated language; and
- Authorize an airport authority, local government, or other governing body operating a public-use airport to adopt more restrictive airport protection zoning regulations, per the FDOT, to allow restrictions appropriate to the local context of the airport.<sup>50</sup>

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<sup>50</sup> *Supra*, note 48.

## **Guidelines Regarding Land Use Near Airports**

### ***Present Situation***

Section 333.065, F.S., requires the FDOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports. The guidelines must use certain acceptable and established quantitative measures.

### ***Effect of Proposed Changes***

Section 18 repeals s. 333.065, F.S. The FDOT advises the deletion reflects completion of the FDOT's Airport Compatible Land Use Guidebook.<sup>51</sup>

## **Permits, Variances, and Appeals**

### ***Present Situation***

Section 333.07, F.S., authorizes any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired. All such regulations must require a permit before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted.

If a nonconforming use, structure, or tree has been abandoned or is more than 80 percent torn down or deteriorated, a permit may not be issued under certain conditions. The owner of a nonconforming structure or tree may be compelled, at the owner's expense, to under certain actions necessary to conform to the regulations. If the owner does not, the required action may be accomplished by the administrative agency and the costs may be assessed against the nonconforming object or the land on which it is located. If the assessment is not paid within 90 days, a lien at the annual rate of 6 percent interest is applied.

Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in violation of the adopted airport zoning regulations is authorized to apply to a board of adjustment for a variance from the regulations. The FDOT has 45 days to comment or waive that right. Conditions for allowance of variations are provided. The FDOT is authorized to appeal any variance granted and to apply for judicial relief.

As a condition of any granted permit or variance, the administrative agency or board of adjustment must require the structure or tree owner to install, operate, and maintain at the owner's expense marking and lighting necessary to indicate to aircraft pilots the presence of an obstruction.

Section 333.08, F.S., authorizes any person or taxpayer affected by any decision of an administrative agency in its administration of adopted airport zoning regulations or of any governing body of a political subdivision, or the Department of Transportation, or any joint

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<sup>51</sup> *Supra*, note 48.



airport zoning board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

### ***Effect of Proposed Changes***

Section 19 amends s. 333.07, F.S., to streamline the permitting process, repeal the duplicative variance process, and facilitate implementation of the permitting process by local entities. More specifically, rather than authorizing any adopted airport zoning regulations to require a permit be obtained before any new structure or use is constructed or established and before any existing use or structure may be substantially changed or repaired, the bill simply requires a permit to erect, construct, alter, increase the height of any structure, permit the growth of any vegetation, or otherwise use his or her property in violation of the adopted regulations.

The political subdivision or its administrative agency must consider virtually the same standards as must be considered by the FDOT when issuing or denying a permit for structures exceeding federal obstruction standards. All variance provisions are removed in favor of the permitting process. In addition, the provisions relating to a lien resulting from an owner's failure to take action to bring a nonconforming structure or tree into regulatory compliance are removed. The FDOT's 45-day comment period is removed in favor of the shortened 15-day period of review for technical consistency described above. Obstruction marking and lighting is required in conformance with specific standards established by the FAA. Outdated language is repealed.

Section 20 repeals s. 333.08, F.S., authorizing and providing requirements for appeals of zoning regulation decisions, in favor of relocated, modified appeals language in s. 333.09, F.S.

Section 22 repeals s. 333.10, F.S., currently requiring all adopted airport zoning regulations to provide for a board of adjustment to hear and decide appeals and variances, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

## **Administration of Airport Zoning Regulations**

### ***Present Situation***

Section 333.09, F.S., requires all adopted airport zoning regulations to provide for administration and enforcement by an administrative agency, which may be an agency created by the regulations; or by any official, board, or other existing agency of the political subdivision adopting the regulations; or by one of the subdivisions that participated in creating a joint airport zoning board adopting the regulations. The duties of any such administrative agency include hearing and deciding all permits under s. 333.07, F.S., but not any of the powers delegated to the board of adjustment.

### ***Effect of Proposed Changes***

Section 21 amends s. 333.09, F.S., to remove the list of entities that may be an administrative agency, per the FDOT, to reflect correct community planning terminology.<sup>52</sup> Administration and enforcement is left to the affected political subdivision or its administrative agency. Also

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<sup>52</sup> *Supra*, note 48.

removed is the prohibition against an administrative agency exercising the powers delegated to the board of adjustment.

Political subdivisions required to adopt airport zoning regulations must establish a process to:

- Issue or deny permits consistent with s. 333.07, including requests for exceptions to airport zoning regulations;
- Notify the FDOT of receipt of a complete permit application; and
- Enforce any permit, order, requirement, decision, or determination made by the administrative agency with respect the airport zoning regulations.

If a zoning board or permitting body already exists within a political subdivision, the zoning board or permitting body may implement the permitting and appeals process. Otherwise, the political subdivision must implement the permitting and appeals process.

Any person, political subdivision or its administrative agency, or any joint airport zoning board, may use the process established for an appeal. Appeals must be taken with a reasonable time provided by the political subdivision or its administrative agency by filing a notice of appeal specifying the grounds for appeal. An appeal stays all proceedings in the underlying action, unless the entity from which the appeal is taken certifies pursuant to the rules for appeal that a stay would cause imminent peril to life or property. In such case, proceedings may be stayed only by an order from the political subdivision or its administrative agency following notice to the entity from which the appeal is taken and for good cause shown.

The political subdivision or its administrative agency must set a reasonable time for a hearing and provide notice to the public and the parties in interest. A party may appear in person, by agent, or by attorney. The subdivision or agency may reverse, affirm, or modify the underlying order, requirement, decision, or determination from which the appeal is taken in accordance with the provisions of chapter 333, F.S.

## **Judicial Review**

### ***Present Situation***

Section 333.11, F.S., authorizes any person aggrieved or any taxpayer affected by a decision of a board of adjustment, any governing body of a political subdivision, the FDOT, any joint airport zoning board, or any administrative agency to apply for judicial relief in the judicial circuit court where the board of adjustment is located. That section provides procedural provisions related to the board of adjustment, describes the court's authorized review of a decision by a board of adjustment, and prohibits judicial review in provisions related to a board of adjustment.

### ***Effect of Proposed Changes***

Section 23 amends s. 333.11, F.S., to remove the FDOT from authorization to apply for judicial relief and reference to the board of adjustment, but otherwise leave the authorization to apply for judicial review in place. Any person, political subdivision or its administrative agency, or any joint zoning board is authorized to apply for judicial relief. The judicial review prohibition is revised. An appellant is required to exhaust all remedies through application for local government permits, exceptions, and appeals before seeking judicial review. These revisions

reflect the elimination of the requirement that adopted airport zoning regulations provide for a board of adjustment, consistent with repeal of the variance provisions in favor of the local government permitting and appeals process established by the bill in revised s. 333.09, F.S.

### **Transition Provisions**

Section 25 of the bill creates s. 333.135, F.S., to:

- Provide that a provision of airport zoning regulation in effect on July 1, 2015, and in conflict with the revised chapter 333, F.S., must be amended to conform by July 1, 2016.
- Requires any political subdivision with an airport that has not adopted airport zoning regulations to do so by October 1, 2017, consistent with the chapter.
- Require the FDOT to administer the permitting process as provided in s. 333.025, F.S., for political subdivisions that have not yet adopted the required regulations.

### **Technical Revisions**

The following sections of the bill primarily make grammatical and editorial revisions to existing language in chapter 333, F.S., and modify sections of the chapter for internal consistency with definitions.

Section 15 amends s. 333.04, F.S., to replace the following phrases as follows:

- “Zoning ordinance” with “plan or policy.”
- “Trees” with “vegetation.”

Section 16 amends s. 333.05, F.S., to reference amended or deleted regulations and administering and enforcing regulations, in addition to those adopted.

Section 17 amends s. 333.06, F.S., to replace references to “runway clear zones” with “runway protection zones, and “tree” to “vegetation.”

Section 24 amends s. 333.12, F.S., to provide editorial changes; replace the term “navigation easement” with “avigation easement;”<sup>53</sup> and replace “tree” with “vegetation.”

Section 26 repeals s. 333.14, the short title citing chapter 333, F.S., as the “Airport Zoning Law of 1945.”

Section 58 reenacts s. 350.81, F.S., to incorporate the amendment to s. 333.01, F.S.

## **National Environmental Policy Act/Delegation of Responsibilities to States (Section 28)**

### ***Present Situation***

The National Environmental Policy Act (NEPA) “establishes national environmental policy for the protection, maintenance, and enhancement of the environment and provides a process for implementing the goals within the federal agencies.” Federal agencies are required to prepare

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<sup>53</sup> The bill describes “avigation” easement as an easement conveying the airspace over another property for use by the airport.

detailed statements assessing the environmental impact of and alternatives to major federal actions that significantly affect the environment.<sup>54</sup>

NEPA requirements also apply to state highway projects eligible for federal funding. According to the FDOT, when a highway project is advanced and is federally eligible, project development occurs consistent with NEPA requirements, in consultation with and subject to the oversight of the Federal Highway Administration (FHWA). The FDOT utilizes two processes to meet NEPA requirements. One process, the Efficient Transportation Decision Making process, is used during the project's planning phase to initiate contact with agencies and other stakeholders and obtain multiple-party input and information used to inform the second process. The Project Development and Environment (PD&E) process is used to analyze, perform outreach, guide agency coordination, and meet regulatory requirements before a project may be advanced. The FDOT prepares necessary documents, analyzes alternatives, consults with agencies, and makes recommendations. This information is provided to the FHWA, which is the lead agency for review, comment, and ultimate approval.<sup>55</sup>

Following an initial pilot project conducted in California, Congress in 2012 enacted the Moving Ahead for Progress in the 21st Century Act, which established a permanent surface transportation project delivery program.<sup>56</sup> Under the program, in which Texas is already participating, the U.S. Department of Transportation (USDOT) secretary may assign, and any state may assume, pursuant to a written agreement, all or part of the secretary's responsibilities under NEPA with respect to projects or classes of projects. The written agreement must provide that the state:

- Agrees to assume all or part of the described responsibilities;
- Expressly consents, on behalf of the state, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the secretary assumed by the state;<sup>57</sup>
- Certifies that state laws and regulations are in effect that authorize the state to take the actions necessary to carry out the responsibilities; and
- Agrees to maintain the financial resources necessary to carry out the responsibilities.<sup>58</sup>

The USDOT secretary is authorized to terminate the participation of any state if the state is not adequately carrying out the responsibilities and the secretary notifies the state of the determination of noncompliance. If the state fails to take corrective action as determined by the USDOT secretary within 30 days after notice, the agreement is terminated.<sup>59</sup>

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<sup>54</sup> See the U.S. Environmental Protection Agency website: <http://www.epa.gov/compliance/basics/nepa.html>. Last visited March 17, 2015.

<sup>55</sup> See the FDOT 2015 Legislative Proposal form, *Authorization to Participate in Certain Federal Transportation Programs*. On file in the Senate Transportation Committee.

<sup>56</sup> 23 U.S.C. s. 327 (2013).

<sup>57</sup> This requirement apparently exists to address the Eleventh Amendment to the U.S. Constitution, which generally prohibits suits in law or equity against one of the United States by its citizens, citizens of another state, or subjects of any foreign state.

<sup>58</sup> *Supra*, note 56.

<sup>59</sup> *Id.*

With respect to the consent to Federal court jurisdiction, the FDOT advises:

This waiver is limited to only those actions delegated to the Department by the USDOT and related to carrying out its NEPA duties on state highway projects. Challenges to NEPA decision making are filed in federal district court pursuant to the Federal Administrative Procedures Act and are limited to a review of the underlying administrative record. The standard for review is whether the Department's action is arbitrary and capricious. To the extent that a challenger is successful, the remedy is to require additional review, analysis and documentation to support the action. The state's exposure is further limited by 23 USC 327(a)(2)(G), which provides that a state assuming the responsibilities of the Secretary [of the USDOT] under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys' fees directly attributable to eligible activities associated with the project.<sup>60</sup>

### *Effect of Proposed Changes*

Section 28 amends s. 334.044, F.S., to authorize the FDOT to assume responsibilities under 23 U.S.C. s. 327 of the USDOT with respect to highway projects, and with respect to related responsibilities for environmental review, consultation, or other action required under any federal environmental law pertaining to review or approval of a highway project, within Florida. The FDOT is authorized to enter into one or more agreements with the U.S. Secretary of Transportation related to the federal surface transportation project delivery program for the delivery of transportation projects, including highway projects. The FDOT is authorized to adopt implementing rules and to adopt relevant federal environmental standards as the standards for this state for the program. The FDOT advises the delegation allows direct consultation between the FDOT and federal regulatory agencies and maximizes efficiency by consolidating all NEPA reviews under the FDOT.

Sovereign immunity to civil suit in federal court is waived consistent with 23 U.S.C. s. 327 and limited to the compliance, discharge, or enforcement of a responsibility assumed by the FDOT. The FDOT advises its district offices would continue to conduct the PD&E process, with the FHWA's project review, legal sufficiency, and approval authority delegated to the FDOT's Central Office and with the FHWA retaining program level oversight. The waiver of sovereign immunity is limited only to those actions delegated to the FDOT and related to carrying out its NEPA duties on state highway projects. The standard for review is whether the FDOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Further, a state assuming the NEPA responsibilities may use certain apportioned state funds for attorneys' fees directly attributable to eligible activities associated with a project.<sup>61</sup>

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<sup>60</sup> *Supra*, note 55.

<sup>61</sup> *Supra*, note 56.

## **Autonomous Vehicles (Sections 9, 10, 35, and 36)**

### ***Present Situation***

Autonomous or “self-driving” vehicles are those operated “without direct driver input to control the steering, acceleration, and braking and ... designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode.”<sup>62</sup> According to the National Highway Traffic Safety Administration, autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.<sup>63</sup>

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps no longer than in the next five years.<sup>64</sup>

### **Transportation Planning and Autonomous Vehicles**

Current law requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires the FDOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System Plan. The plan must be consistent with the Florida Transportation Plan.<sup>65</sup>

Current law makes no specific mention of taking into consideration planning for infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicles, in developing MPO long-range transportation plans or when updating the SIS Plan.

### **Electronic Displays in Autonomous Vehicles**

A motor vehicle operated on the highways of this state may not be equipped with television-type receiving equipment that is visible from the driver’s seat. The prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.<sup>66</sup>

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<sup>62</sup> See the National Highway Traffic Safety Administration’s Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*. On file in the Senate Transportation Committee.

<sup>63</sup> See NHTSA’s statement of [policy on automated vehicles](#).

<sup>64</sup> See, e.g.: *Autonomous Cars are Closer Than You Think*: <http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/>. Last visited February 21, 2015.

<sup>65</sup> The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state’s long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.

<sup>66</sup> See s. 316.303(1) and (3), F.S.

### **Definitions**

The definitions of the terms “autonomous vehicle” and “autonomous technology” are currently contained together in one subsection of s. 316.003, F.S.

### ***Effect of Proposed Changes***

Section 35 amends s. 339.175(3)(c)2., F.S., to include in an MPO’s capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

Similarly, section 36 amends s. 339.64, F.S., to require the FDOT to coordinate with federal, regional, and local partners, as well as industry representatives, to consider when updating the SIS Plan infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology. The bill also requires the same consideration to be included in the needs assessment.

Section 9 amends s. 316.303(1) and (3), F.S., respectively, to allow autonomous vehicles to be equipped with television-type receiving equipment visible from the driver’s seat, and to authorize an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode.

Section 10 amends s. 316.003, F.S., to separate the definitions of the terms “autonomous vehicle” and “autonomous technology,” currently contained in one subsection, to facilitate ease of reference.

### **Pedestrian Safety/Crosswalks (Sections 6 and 8)**

#### ***Present Situation***

The FDOT advises that it conducts public opinion surveys and on-the-street observation surveys to elicit feedback relating to pedestrian safety.

It is the opinion of the department’s safety office that these results indicate that both the general population and law enforcement have a challenging time with the crosswalk definition as it is written.<sup>67</sup>

Current law defines “crosswalk” to mean:

- That part of the roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
- Any portion of a roadway at an intersection *or elsewhere* distinctly indicated for pedestrian crossing by lines or other markings on the surface.<sup>68</sup>

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<sup>67</sup> See the FDOT email to Senate and House Committee staff, February 9, 2015. On file in the Senate Transportation Committee.

<sup>68</sup> See s. 316.003(6), F.S. Emphasis added.

This definition is quite similar, but not identical, to the definition contained in the Manual on Uniform Traffic Control Devices (MUTCD), which is a national, uniform system of traffic control devices adopted by the American Association of State Highway Officials. States must adopt the 2009 National MUTCD as their legal standard for traffic control devices within two years from the effective date.<sup>69</sup> The FDOT has adopted the MUTCD pursuant to direction in s. 316.0745, F.S., which in part recognizes the potential need for revisions to a uniform system “to meet local and state needs.” Further, a review of the MUTCD reveals numerous references to the need to exercise engineering judgment in applying the provisions of the MUTCD, depending upon factors such as traffic volume, terrain, and posted speed limit, etc.

According to a Federal Highway Administration (FHWA) Study:

Pedestrians have a right to cross roads safely, and planners and engineers have a professional responsibility to plan, design, and install safe and convenient crossing facilities. Pedestrians should be included as design users for all streets.

Providing marked crosswalks traditionally has been one measure used in an attempt to facilitate crossings. Such crosswalks commonly are used at uncontrolled locations (i.e., sites not controlled by a traffic signal or stop sign) and sometimes at *midblock* locations.<sup>70</sup>

While current Florida law, the MUTCD, and the FHWA recognize the existence of midblock crosswalks, the term, “midblock crosswalk,” is not currently defined in the Florida Statutes.

The FDOT also seeks to revise the current definition of “sidewalk”; *i.e.*, “That portion of a street between the curblines, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.”<sup>71</sup>

Section 316.130, F.S., generally requires a pedestrian to obey the instructions of any applicable official traffic control device, including, but not limited, to signals and signage at crosswalks. That section also contains direction to drivers with respect to stopping or yielding to pedestrians at intersections having a traffic control signal in place,<sup>72</sup> at crosswalks where signage so indicates,<sup>73</sup> and at crosswalks with no traffic control signals and no signage.<sup>74</sup>

Generally, a driver must stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely

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<sup>69</sup> See the FHWA website: <http://mutcd.fhwa.dot.gov/index.htm>. Last visited February 18, 2015.

<sup>70</sup> Emphasis added. See *Safety Effects of Marked Versus Unmarked Crosswalks at Uncontrolled Locations, Final Report and Recommended Guidelines*, 2005, at 1. On file in the Senate Transportation Committee.

<sup>71</sup> See s. 316.003(47), F.S.

<sup>72</sup> Section 316.130(7)(a), F.S.

<sup>73</sup> Section 316.130(7)(b), F.S.

<sup>74</sup> Section 316.130(7)(c), F.S.



from the opposite half of the roadway as to be in danger. However, pedestrians crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided must yield to all vehicles on the roadway.<sup>75</sup>

### *Effect of Proposed Changes*

The current definitions of “crosswalk” and “sidewalk” are revised in an attempt to clarify the terms with more easily understood language. The provisions relating to stopping for pedestrians at crosswalks where signage so indicates; i.e., crosswalks with stop signs, and at crosswalks with no traffic control signals and no signage are edited and collapsed into one subsection for clarity and brevity.

Section 6 amends s. 316.003(6), F.S., by deleting the current two-part definition of “crosswalk” and replacing it as follows:

- “Unmarked crosswalk” is defined to mean an unmarked part of the roadway at an intersection used by pedestrians for crossing the roadway.
- “Marked crosswalk” is defined to mean pavement marking lines on the roadway surface, which may include contrasting pavement texture, style, or colored<sup>76</sup> portions of the roadway at an intersection used by pedestrians for crossing the roadway.
- “Midblock crosswalk” is defined to mean a location between intersections where the roadway surface is marked by pavement marking lines on the roadway surface, which may include contrasting pavement texture, style or colored portion of the roadway at a signalized or unsignalized crosswalk used for pedestrian roadway crossings and may include a pedestrian refuge island.

The bill also amends s. 316.003(47), F.S., to define “sidewalk” to mean: “That portion of a street intended for use by pedestrians, adjacent to the roadway between the curb or edge of the roadway and the property line. The current definitions of “crosswalk” and “sidewalk” are revised with “plain language.” According to the FDOT, plain language provides pedestrians with tools necessary to make safer choices, which often results in fewer crashes. In addition, law enforcement officials are assisted in enforcing compliance with relevant laws. The FDOT further advises these changes will not result in fewer crosswalks getting marked; rather, the sole purpose is to utilize plain language to assist pedestrians and law enforcement.<sup>77</sup>

Section 8 amends s. 316.130(7)(b), F.S., to make that paragraph applicable to crosswalk locations where the approach is not controlled by a traffic signal or by, in plain language, a stop sign. A driver continues to be required to stop and remain stopped when encountering a pedestrian at these crosswalks when the pedestrian steps in or is in the crosswalk and is upon the half of the roadway upon which the vehicle is traveling and, the bill adds, when turning, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Such locations may include midblock crosswalks. Paragraph (c) is repealed, but a pedestrian’s duty to yield to all vehicles on the roadway when crossing at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided remains in place.

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<sup>75</sup> *Id.*

<sup>76</sup> The current MUTCD definition of “crosswalk” also references “contrasting pavement texture, style, or color.” *Supra*, note 69. The definition is found on p. 13 of the MUTCD, available by link on the FHWA website.

<sup>77</sup> *Supra*, note 69.

## Turnpike Tolls/Dormant Prepaid Accounts (Section 34)

### *Present Situation*

SunPass is the Florida Turnpike's electronic, prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.<sup>78</sup>

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of chapter 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.<sup>79</sup>

### *Effect of Proposed Changes*

Section 34 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

[T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,<sup>80</sup> prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.

We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.<sup>81</sup>

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<sup>78</sup> See SunPass website, *Frequently Asked Questions*: <https://www.sunpass.com/faq>. Last visited February 11, 2015.

<sup>79</sup> See s. 338.231(3)(c), F.S.

<sup>80</sup> The Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: <http://www.fhwa.dot.gov/map21/summaryinfo.cfm>. Last visited February 13, 2015.

<sup>81</sup> See the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass*. On file in the Senate Transportation Committee.

## **Shared-Use Nonmotorized Trail (SunTrail) Network (Sections 3, 30, 37, 38, and 39)**

### ***Present Situation***

#### **Trail Development**

The development of Florida's bicycle and pedestrian infrastructure did not begin in earnest until the late 20<sup>th</sup> Century. With the deregulation of the American railroad industry by the Staggers Rail Act of 1980<sup>82</sup>, the state was presented with an immediate abundance of abandoned rail corridors. With the assistance of organizations such as The Rails-to-Trails Conservancy and The Trust for Public Land, the Florida Department of Transportation (FDOT), and the Florida Department of Environmental Protection (FDEP) coordinated to develop numerous abandoned rail corridors as shared-use "rail-trails" for nonmotorized transportation and recreation. Many of Florida's premier nonmotorized trails, including the Pinellas Trail, Tallahassee-St. Marks Trail, and the West Orange Trail, are a result of rail-trail conversions.

The second major thrust in trail development came in 1991 when Congress shifted transportation policy. The Intermodal Surface Transportation Efficiency Act, for the first time, identified pedestrian and bicycle facilities as components of the nation's transportation infrastructure, and created a dedicated funding source for multiuse trails and paths. With local governments serving as project sponsors,<sup>83</sup> many of the resulting projects are community-centric, short-distance trails, initiated by local governments and other governmental entities not traditionally associated with transportation development, such as water management districts and school districts.

#### **Trail Connectivity**

Although locales throughout the state benefited from federal trail funding, an unintended consequence of trail development being initiated by numerous state entities and local governments is a collection of random trails rather than a statewide system. As a result, many trails lack connectivity with other trails and often serve no meaningful origins and destinations. Trail users are often required to use roads, sidewalks, and highways to connect trails or complete a trip. Many trail trips are "out-and-back" trips in which the origin and destination are the same. Such trips serve little to no transportation function and do not realize the full economic potential of a trail network.

A widely accepted tenet in trail development holds that the longer a given trail is, the greater its propensity for becoming a "destination trail," and the greater distance users will travel to use. Users traveling farther stay in the area longer and, consequently, increase spending in the area. Users of the Great Allegheny Passage/C&O Towpath, a 335-mile system of biking and hiking trails that connects Pittsburgh to Washington, DC, travel an average of 131 miles to a trailhead. Those traveling 50 miles or more had daily expenditures approximately twice that of users that traveled less.<sup>84</sup>

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<sup>82</sup> Staggers Rail Act of 1980, Pub. L. 96-448, 94 *Stat.* 1895. Approved 1980-10-14.

<sup>83</sup> Resources for the Future Backgrounder "Federal Funding for Conservation and Recreation Trails" Joe Maher, February 2009 ([http://www.rff.org/RFF/Documents/RFF-BCK-ORRG\\_DOT.pdf](http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_DOT.pdf)).

<sup>84</sup>The Great Allegheny Passage Economic Impact Study (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 70. (<http://www.atatrail.org/docs/GAPeconomicImpactStudy200809.pdf>)

Recognizing this potential, the Florida Greenways and Trails Foundation (FGTF),<sup>85</sup> recently announced its priority to “close the gaps” on a 275-mile corridor between the Canaveral National Seashore near Titusville and St. Petersburg.<sup>86</sup> The “Coast-to-Coast Connector” will link communities along this destination trail, providing a year-round eco-tourism engine throughout the region. The Connector includes two of the state’s most popular trails, the Pinellas Trail and the West Orange Trail, each of which have served approximately one million users per year and fueled the economic transformation of trail communities, particularly Dunedin and Winter Garden. Components of the Connector will also serve other planned trails including multi-day loop trails such as the 250-mile Heart of Florida Greenway<sup>87</sup> and the 300-mile St. Johns River-to-Sea Loop.<sup>88</sup>

#### Trail Benefits

In addition to the intrinsic values nonmotorized travel bring to community mobility, sustainable transportation, and personal health, trails provide the framework for, and access to, conservation lands and wildlife corridors. Trails also produce numerous quantifiable economic benefits:

- *Trails increase the value of nearby properties.* Based on an analysis of comparable trails from across the country, the presence of Miami-Dade County’s Ludlam Trail will increase properties values within 1/2 mile of the trail, 0.32 percent to 0.73 percent faster than other properties throughout the county. This translates into a total property value increase over a 25 year period of between \$121 million and \$282 million.<sup>89</sup> A survey co-sponsored by the National Association of Home Builders and the National Association of Realtors found that proximity to nonmotorized trails came in second only to highway access when recent home buyers were asked about the “importance of community amenities.”<sup>90</sup> A study of property values near trails in Delaware found that properties within 50 meters of the bike paths sell for \$8,800 more than other similar homes.<sup>91</sup>
- *Trails boost spending at local businesses.* An economic impact analysis of Orange County trails found that in 2010, average spending per trail user is \$20 per visit, representing food and beverages, transportation, books and maps, bike maintenance, rentals and more. The West Orange Trail supported 61 jobs, and represented an estimated economic impact of \$5 million for Downtown Winter Garden. Longer, “destination trails,” increase spending and benefit hotels, bed and breakfasts, and outdoor outfitters. A study of the Great Allegheny Passage, a 132-mile corridor in Pennsylvania, found that users reporting longer average travel distances to the trail, were more likely to spend successive days on or near the trail. Those who reported an overnight stay in conjunction with their trip averaged spending \$203

<sup>85</sup> The FGTF, a direct support organization, exists to support the mission and programs of the Florida Department of Environmental Protection's Office of Greenways and Trails (OGT) as it continues toward establishing a statewide system of greenways and trails for recreation, conservation and alternative transportation.

<sup>86</sup> Florida Greenways and Trails Foundation Website: Coast-to-Coast Connector (<http://fgtf.org/coast-to-coast/>) (Last visited: 2/25/15)

<sup>87</sup> Florida Greenways and Trails Foundation Website: Heart of Florida Greenway (<http://fgtf.org/maps/hof/overview.pdf>) (Last visited 2/25/15)

<sup>88</sup> St. Johns River-to-Sea Loop Trail Status Update, September 2011. ETM, Inc. [http://www.etminc.com/SJR2C/sg\\_userfiles/SJR2C\\_Summary\\_Report\\_09-19-11.pdf](http://www.etminc.com/SJR2C/sg_userfiles/SJR2C_Summary_Report_09-19-11.pdf)

<sup>89</sup> Miami-Dade County Trail Benefits Study: Ludlam Trail Case Study (<http://atfiles.org/files/pdf/Miami-Dade-Ludlam-Trail-Benefits.pdf>)

<sup>90</sup> (<http://www.americantrails.org/resources/benefits/homebuyers02.html>)

<sup>91</sup> Lindsey et al, “Property Values, Recreation Values, and Urban Greenways,” *Journal of Park and Recreation Administration*, V22(3) pp.69-90.

per person.<sup>92</sup> A survey on the Greenbrier River Trail, an 81-mile corridor in West Virginia, found an overwhelming majority of trail users were highly educated professionals with high income levels, 2/3 were from outside of West Virginia, 93 percent were staying in the area from one to four days, 58 percent spent between \$100 and \$500 in the area, and 93 percent indicated that they were highly likely to plan a return trip.<sup>93</sup>

- *Trails influence business location and relocations decisions.* Companies often choose to locate in communities that offer a high level of amenities to employees as a means of attracting and retaining top-level workers. Trails can make communities attractive to businesses looking to expand or relocate both because of the amenities they offer to employees and the opportunities they offer to cater to trail visitors.<sup>94</sup>
- *Trails revitalize depressed areas.* In Dunedin, Florida, after the abandoned CSX railroad was transformed into the Pinellas Trail, the downtown went from a 30 percent storefront vacancy rate to a 95 percent storefront occupancy.<sup>95</sup>
- *Trails provide sustainable tourism opportunities.* The Outer Banks of North Carolina generates \$60 million in economic activity through bicycle tourism. The one-time investment of \$6.7 million on bicycle infrastructure has resulted in an annual nine-to-one return. Outer Banks shows bicycle tourists tend to be affluent (half earn more than \$100,000 a year, 87 percent earn more than \$50,000) and educated (40 percent have a masters or doctoral degree). More than half of survey respondents said bicycling had a strong influence on their decision to return to the area. Two-thirds of respondents said that riding on bike facilities made them feel safer and three-fourths said that more paths, shoulders and lanes should be built.<sup>96</sup> A trail can be regarded as a product that is able to provide a sustainable form of tourism resting on a ‘quadruple bottom line’ of environmental, social, economic and climate responsiveness.<sup>97</sup>
- *Trail development creates more jobs than road development.* A national comparison of the number of jobs created per \$1 million spent on various types of transportation projects found that for every \$1 million spent on the development of multi-use trails, 9.57 jobs were created while road-only development yielded 7.75 jobs.<sup>98</sup>

### ***Effect of Proposed Changes***

Generally, the bill creates the Shared-Use Nonmotorized Trail (SunTrail) Network as a component of the Florida Greenways and Trail System. The FDOT is given primary

<sup>92</sup> *The Great Allegheny Passage Economic Impact Study* (2007–2008) Detailed Report The Progress Fund/Job #07-294b 91 March 9, 2009, page 91 (<http://www.atatrail.org/docs/GAPEconomicImpactStudy200809.pdf>)

<sup>93</sup> *Maximizing Economic Benefits from a Rails-to-Trails Project in Southern West Virginia – A Case Study of the Greenbrier River Trail*, May 2001. Raymond Busbee, Ph.D. Marshall University.

<sup>94</sup> *Economic Impacts of Protecting Rivers, Trails, and Greenway Corridors: Corporate Relocation and Retention*. Rivers, Trails and Conservation Assistance Program, National Park Service 1995

<sup>95</sup> FDEP Presentation: “*The Impact of Trails on Communities*” Office of Greenways and Trails. (<http://www.opportunityflorida.com/pdf/Jim%20Wood%20-%20Trails%20and%20Economic%20Impact%20-%20Rural%20Summit.pdf>)

<sup>96</sup> Lawrie, et al, “*Pathways to Prosperity: the economic impact of investments in bicycling facilities*,” N.C. Department of Transportation Division of Bicycle and Pedestrian Transportation, Technical Report, July 2004. [http://www.ncdot.org/transit/bicycle/safety/safety\\_economicimpact.html](http://www.ncdot.org/transit/bicycle/safety/safety_economicimpact.html).

<sup>97</sup> Reis, A.C.; Jellum, C. (2012). Rail trails development: a conceptual model for sustainable tourism. *Tourism Planning and Development*, 9(2): 133-148

<sup>98</sup> *Pedestrian And Bicycle Infrastructure: A National Study Of Employment Impacts* Heidi Garrett-Peltier Political Economy Research Institute University of Massachusetts, Amherst June 2011

responsibility for developing and maintaining the SunTrail network, although provisions are included to allow the FDOT to outsource maintenance and to enter into trail sponsorship agreements with public and private entities. Specific provisions of the bill follow.

Section 3 amends s. 260.0144 F.S., to remove SunTrail components from existing provisions for sponsorship of state trails by not-for-profit or private sector entities. Other greenways and trails remain eligible for sponsorship under the section. Section 11 of the bill creates a new s. 339.83, F.S., to provide for sponsorship of SunTrail components.

Section 30 amends s. 335.065, F.S., to remove the FDOT's authority to enter contracts for commercial sponsorship of multi-use trails. This authority is provided in new section 339.83, F.S., which expands sponsorship opportunities for SunTrail components.

Section 37 creates s. 339.81, F.S., to establish the Florida SunTrail Network as a component of the Florida Greenways and Trails System established in ch. 260. SunTrail components will provide nonmotorized travel opportunities between and within communities, conservation areas, state parks, beaches and other natural and cultural attractions.

SunTrail components will not include sidewalks, nature trails, or loop trails in a single park. Bicycle lanes on roadways may not be considered components of the SunTrail network unless the lane is used to connect two or more nonmotorized trails and is no more than one-half mile long. Exceptions are provided to include some on-road components of the Florida Keys Overseas Heritage Trail within the SunTrail Network.

The FDOT will include SunTrail projects within its five-year work program. The FDOT and other agencies and units of government are authorized to expend funds and accept gifts and grants of funds, property, and property rights for the development of the SunTrail network. The FDOT is authorized to enter into memoranda of agreement with other governmental entities and contract with private entities to provide maintenance services on individual components of the network and may adopt rules to assist in developing and maintaining the network.

Section 38 creates s. 339.82, F.S., directing the FDOT to develop the SunTrail Network Plan in coordination with FDEP, MPOs, local governments, other public agencies, and the Florida Greenways and Trails Council. The plan must include:

- A needs assessment, including a comprehensive inventory of existing facilities;
- A process that prioritizes projects that:
  - Are identified by the Florida Greenways and Trails Council as priority projects;
  - Connect components by closing gaps in the network; and
  - Maximize use of federal, local, and private funds;
- A map showing existing and planned facilities;
- A finance plan in five- and ten-year cost-feasible increments;
- Performance measures focusing on trail access and connectivity;
- A timeline for completion of the base network; and
- A marketing plan prepared in conjunction with Visit Florida.

Section 39 creates s. 339.83, F.S., to provide for sponsorship of SunTrail components by not-for-profit or private sector entities. The bill provides guidance on sponsor signs, markings, and exhibits and provides for trail marketing materials to recognize sponsors.

### **Vehicle Miles Traveled Pilot (Section 57)**

#### ***Present Situation***

Concern regarding the sustainability of transportation funding sources remains as a focus of attention in the transportation arena. A number of factors have together caused a reduction in transportation revenues:

- The bulk of federal surface transportation funding comes from the federal taxes on gasoline and diesel fuel assessed on a per-gallon basis, and the tax rates are not adjusted for inflation.
- The total number of vehicle miles traveled (VMT) has declined in recent years, resulting in fewer gallons of gas and diesel sold upon which to assess federal, state, and local taxes. This number is not expected to return to previously realized growth levels.
- Vehicle fuel efficiency continues to increase, also lowering the demand for gallons of gas and diesel.<sup>99</sup>

Various alternatives to the existing gas and diesel taxes have been considered. One alternative is to replace those taxes with a “vehicle-miles-traveled tax” or a “mileage-based user fee”:

Mileage-based user fees (MBUF) are an alternative way to finance the construction and maintenance of roads. Rather than the current gas tax method, which is based on the amount of fuel purchased at the pump, a VMT tax is based on how many miles are driven.<sup>100</sup>

According to the Mileage-based User Fee Alliance (MBUFA), use of a distance-traveled mechanism is already being successfully implemented in several European nations and in New Zealand. Domestically, “. . . states are taking a lead in helping to resolve many of the implementation questions by working with academia, industry partners and each other to devise mileage-based user fee pilot projects around the country.”<sup>101</sup>

The State of Oregon appears to have made the most progress in the United States, having already completed two pilots and planning implementation of a voluntary program, beginning July 1, 2015, using 5,000 vehicles.<sup>102</sup> Interest has been expressed in developing a Florida-specific, implementable pilot project to determine the efficacy of a VMT fee as a viable alternative to per-gallon gas and diesel taxes.

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<sup>99</sup> See the Center for Urban Transportation Research, *Florida MPOAC Transportation Revenue Study*, July 2012. On file in the Senate Transportation Committee.

<sup>100</sup> See Mileage-Based User Fee Alliance website: <http://mbufa.org/about.html>. Last visited February 26, 2015.

<sup>101</sup> See MBUFA website: <http://mbufa.org/where.html>. Last visited February 26, 2015. Colorado, Minnesota, Nevada, New York City, Texas, Washington, the University of Iowa, and the I-95 Corridor Coalition have all undertaken efforts with respect to a mileage-based fee.

<sup>102</sup> See *Oregon’s VMT Pilot to Begin its Third Phase – Road usage Charge Program Update*: <http://www.nlc.org/media-center/news-search/oregon%E2%80%99s-vmt-pilot-to-begin-its-third-phase-road-usage-charge-program-update>. Last visited February 26, 2015.

### ***Effect of Proposed Changes***

Section 57 directs the Center for Urban Transportation Research (CUTR) to conduct a study on the viability of implementing a system that charges drivers based on their vehicle miles traveled (VMT), as an alternative to the present fuel tax structure, to fund transportation projects. The study is to inventory previous research and findings from pilot projects conducted in other states. At a minimum, the study must address previous work conducted in the following broad areas.

- Assessment of technologies;
- Behavioral and privacy concerns;
- Equity impacts; and
- Policy implications of a VMT road charging system.

The study must also quantify the current costs to collect traditional highway user fees, synthesize findings of completed research and demonstrations, and analyze their applicability to Florida. CUTR must present the findings of the study phase to the Legislature by January 30, 2016.

In the course of the study, and in consultation with the Florida Transportation Commission, CUTR is directed to establish the framework for a pilot project that will evaluate the feasibility of implementing a VMT charging system. In designing the framework, CUTR is directed to address at a minimum the following elements:

- The geographic location for the pilot;
- Special fleets or classes of vehicles;
- Evaluation criteria for the demonstration;
- Consumer choice in the method of reporting miles traveled;
- Privacy options for participants in the pilot project;
- The recording of miles traveled with and without locational information;
- Records retention and destruction; and
- Cyber security.

The pilot project design must be completed by December 31, 2016, and submitted in a report to the Legislature, so that implementation can occur in 2017.

### **Northwest Florida Regional Transportation Finance Authority (Sections 42 through 56)**

#### ***Present Situation***

Escambia and Santa Rosa counties, are currently served by the Northwest Florida Transportation Corridor Authority and the Santa Rosa Bay Bridge Authority. According to a report by the Florida Transportation Commission (FTC), the NFTCA is not currently operating any facility and is operating under an agreement using federal funding for administration, professional services, and regional transportation planning. The Santa Rosa Bay Bridge Authority owns the Garcon Point Bridge in southwest Santa Rosa County. Florida's Turnpike Enterprise provides toll operations.<sup>103</sup>

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<sup>103</sup> Florida Transportation Commission, *Transportation Authority Monitoring and Oversight Fiscal Year 2013 Report*, at 163, available at: <http://www.ftc.state.fl.us/reports/TAMO.shtm>. Last visited February 16, 2015.



### *Effect of Proposed Changes*

The bill creates chapter 345 of the Florida Statutes, the Northwest Florida Regional Transportation Finance Authority Act, consisting of ss. 345.0001 – 345.0014, F.S. The bill authorizes Escambia County, alone or together with a consenting Santa Rosa County, to form a regional finance authority in the northwest region of the state. The governing body of the Authority consists of two resident members from each participating county appointed by the county commission of each county, an equal number to be appointed by the Governor, and the FDOT's District Three secretary. County commission appointees must represent the business and civic interests of the relevant community, if possible.

The Authority is authorized to construct, operate, and maintain a regional system in the area served, except for an existing system for transporting people and goods owned by another non-consenting entity. Broad powers are granted to the Authority, including, but not limited to:

- The exercise of eminent domain;
- The establishment and collection of rates and fees, which power may be assigned or delegated to the FDOT;
- The power to borrow money and issue bonds<sup>104</sup> to finance the system and to secure the payment of such bonds by a pledge of system revenues, including any municipal or county funds received by the Authority under an agreement with the municipality or county.
- The power to enter into contracts, including, but not limited to, partnerships providing for participation in system ownership and revenues;
- The power to employ an executive director, attorney, staff, and consultants, with the FDOT furnishing the services of an FDOT employee to act as the executive director upon the request of the Authority.

The FDOT is deemed the Authority's agent for performing all construction, extension, and improvement phases of a project. After the issuance of bonds to finance construction, the Division of Bond Finance and the Authority are required to transfer the necessary funds to the credit of the State Transportation Trust Fund. Alternatively, with the FDOT's consent and approval, the Authority may appoint a local, FDOT-certified agency to administer federal-aid projects.

The FDOT is also deemed the Authority's agent for operating and maintaining the system, except for transit facilities, and the costs incurred by the FDOT must be reimbursed from system revenues. However, the Authority remains obligated as principal to operate and maintain the system.

At the request of the Authority and subject to appropriation by the Legislature, the FDOT may pay the cost of financial, engineering, or traffic feasibility studies or of the design, financing, acquisition, or construction of an Authority project that is included in the ten-year Strategic

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<sup>104</sup> A resolution authorizing issuance of bonds on behalf of the authority under the State Bond Act and pledging system revenues must require periodic deposits of system revenues into appropriate accounts in amounts sufficient to pay the costs of O&M for the current fiscal year and to reimburse the FDOT for any unreimbursed O&M costs from prior fiscal years before revenues of the system are deposited for payment of principal and interest on such bonds.

Intermodal System Plan.<sup>105</sup> The FDOT is required to include funding for such payments in its legislative budget request. The request for funding may be included in the FDOT's five-year Tentative Work Program. However, the request must appear as a distinct funding item in the legislative budget request and be supported by a financial feasibility test.

The FDOT may not make a budget request unless the estimated net revenues of the proposed project will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of 12 years of operation, and at least 100 percent of the same by the end of 30 years of operation.<sup>106</sup> Funding for a project must appear in the General Appropriations Act as a distinct fixed capital outlay item and must clearly identify the related project.

The FDOT may participate in projects that, at a minimum, serve national, statewide, or regional functions; are identified in the capital improvements element of a comprehensive plan; comply with local government policies in such plans relative to corridor management; are consistent with the Strategic Intermodal System Plan; and have a local, regional, or private financial match.

Before approving a proposed project, the FDOT must determine that the project:

- Is in the public's best interest;
- Does not require the use of state funds, unless the project is on the State Highway System;
- Has adequate safeguards in place to ensure no additional imposed costs or service disruptions if the FDOT cancels or defaults on the agreement, and to ensure that the FDOT and the Authority have the opportunity to add capacity to the project and other transportation facilities serving similar origins and destinations.

The FDOT may require any contribution to be repaid from tolls of the project, other Authority revenue, or other sources of funds. The FDOT must receive a share of the Authority's net revenues equal to the ratio of the FDOT's total contributions to the Authority to the sum of:

- The FDOT's total contributions;
- Any local government contributions to the cost of revenue-producing Authority projects; and
- The sale proceeds of Authority bonds after payment of costs of issuance.

The Authority is exempt from paying any taxes or assessments upon any Authority property, rates, fees, or income, etc., or upon bonds issued by the Authority. Issuance of bonds to finance the cost of extension or improvement of a system is authorized without compliance with any other law.

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<sup>105</sup> The Strategic Intermodal System (SIS) is the statewide network of high priority transportation facilities, including the state's largest and most significant airports, spaceports, deepwater seaports, freight rail terminals, interregional rail and bus terminals, rail corridors, urban fixed guideway transit corridors, waterways, and highways. The SIS is the state's highest statewide priority for transportation capacity improvements. See the FDOT SIS brochure, available at: <http://www.dot.state.fl.us/planning/sis/Strategicplan/>. Last visited February 17, 2015.

<sup>106</sup> Equivalent to the economic feasibility test for proposed Turnpike projects under s. 338.221(8)(a), F.S.

## **Independent Special Districts Regulating Vehicles For Hire (Section 31)**

### ***Present Situation***

The Hillsborough County Public Transportation Commission (HPTC) is a legislatively-created independent special district regulating vehicles for hire. The HPTC regulates such vehicles in that county pursuant to authority granted to counties in s. 125.01(1)(n), F.S., to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county. The Commission appears to be the only independent special district with such responsibilities.<sup>107</sup>

The HPTC currently has seven members.<sup>108</sup> The Board of County Commissioners appoints three members from the board, the City Council of Tampa appoints two members, and the City Commission of Plant City and the City Council of Temple Terrace appoint one member each. Each member serves a two-year term.

### ***Effect of Proposed Changes***

Section 31 creates s. 335.21, F.S., to revise the appointment of membership to the HPTC, notwithstanding any provision of local law. The Governor appoints four members, the Tampa City Council appoints one member, and the Hillsborough County Board of Commissioners appoints two members. All seven members must be Hillsborough County residents. Entities authorized under s. 163.567, F.S., or under chapters 343, 348, or 349, F.S.; e.g., generally, regional transportation authorities and expressway and bridge authorities, are excluded from the revised appointment provisions.

## **Fort Myers Urban Office/Staffing and Responsibilities (Section 1)**

### ***Present Situation***

Current law organizes the operations of the FDOT into seven districts, each headed by a district secretary, as well as a turnpike enterprise and a rail enterprise. Section 20.23(4)(b), F.S., authorizes each district secretary to appoint up to three district directors. Section 20.23(4)(d), F.S., makes the district director for the Fort Myer's Urban Office of the FDOT responsible for developing the five-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties, and makes the Urban Office responsible for providing policy, direction, local government coordination, and planning for those counties. The office and the counties are contained within FDOT's District One, which currently provides policy, direction, and planning for all counties in District One, not just those specified.

The FDOT also has Urban Area offices located in Jacksonville and Orlando. The FDOT advises all urban offices are satellite offices for their main District Office, and all are under the direction of the respective District Secretary. However, only the Fort Myer's Urban Office is referenced in statute with express direction as to staffing and responsibilities.

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<sup>107</sup> The HPTC is an independent special district first created in 1983. See ch. 83-423, Laws of Florida.

<sup>108</sup> See ch. 2001-299, Laws of Florida.

The FDOT advises that insertion of the specific staffing and responsibility assignment was in the nature of a precursor to what might have, but did not, become an FDOT District Eight. No district director is currently physically housed in the Fort Myers Urban Office. Responsibility for providing policy, direction, and planning for the listed counties occurs at the District One level, leaving the Fort Myers Urban Office largely responsible for local government coordination in support of those activities, as well as coordination of joint participation and local funding agreements for transportation projects, in the listed counties.<sup>109</sup>

### *Effect of Proposed Changes*

Section 1 repeals s. 20.23(4)(d), F.S., to remove the Fort Myers Urban Office District Director responsibility for developing the five-year Transportation Plan for the specified counties and remove the specified Urban Office responsibilities. The FDOT advises the existence of the Fort Myers Urban Office is in no way affected, and the office will continue to provide local government coordination in the specified counties. The FDOT advises the revisions provide flexibility to make efficient best-practices human resource decisions, while it continues to provide service in the specified counties.<sup>110</sup>

## **511 Traveler Information Services (Sections 27, 28, and 29)**

### *Present Situation*

511 is a national abbreviated dialing code assigned by the Federal Communications Commission (FCC) to be used exclusively for access to travel information services.<sup>111</sup> The code enables a caller to connect to a location in a network without using a seven or ten-digit telephone number. The network is pre-programmed to translate a three-digit code into the appropriate seven or ten-digit code and route the call accordingly.<sup>112</sup>

All of Florida's interstates, toll roads, and other major metropolitan roadways are covered by the 511 system. Currently, in addition to provision of services via the toll-free 511 telephone system, motorists may also receive travel information by:

- Visiting FL511.com for interactive roadway maps showing traffic congestion and crashes, travel times, and traffic camera views;
- Downloading a free mobile app available on Google Play or Apple App Store; or
- Following one of the 12 statewide, regional, or roadway specific Twitter feeds (#FL511).<sup>113</sup>

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<sup>109</sup> Conversation with FDOT Legislative and Legal Staff during joint meeting with Senate and House staff, January 30, 2015.

<sup>110</sup> See the FDOT 2015 Legislative Proposal form, *Fort Myers Urban Office*. On file in the Senate Transportation Committee.

<sup>111</sup> See Federal Communications Commission Order No. 00-256, *Third Report and Order and Order on Reconsideration*, July 21, 2000. Copy on file in the Senate Transportation Committee.

<sup>112</sup> *Id.*, at 4.

<sup>113</sup> See 511News.com January 20, 2015, press release <http://www.511news.com/news-releases/fdots-511-on-the-lookout-to-help-birdwatchers-travel-to-space-coast/> for additional information on Florida 511 features. Last visited February 4, 2015.

The FDOT, as the state’s lead agency for implementing 511 services and the point of contact for coordinating 511 services with *telecommunications*<sup>114</sup> service providers, is statutorily tasked with the following duties:

- Implementation and administration of 511 services in the state;
- Coordination with other transportation authorities in the state to provide multimodal traveler information through 511 services and other means;
- Development of uniform standards and criteria for the collection and dissemination of traveler information using the 511 number or other interactive voice response systems; and
- Entrance into joint participation agreements or contracts with highway authorities and public transit districts to share the costs of implementation and administration.<sup>115</sup>

“511” or “511 services” are currently defined as three-digit *telecommunications dialing to access interactive voice response telephone*<sup>116</sup> traveler information services as defined by the FCC Order No. 00-256, July 1, 2000.<sup>117</sup> “Interactive voice response” is defined as a software application that accepts a combination of voice *telephone* input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail, and other media.<sup>118</sup> The FDOT’s existing rulemaking authority is similarly limited to coordination of 511 traveler information *phone* services.<sup>119</sup> And the FDOT’s existing powers and duties likewise limit the FDOT’s provision of services to *interactive voice response telephone systems access*.<sup>120</sup>

The referenced duties and definitions are essentially limited to *telephonic* access to traveler information and do not recognize the additional methods by which travelers may obtain the information using more recent technology, such as a web site, mobile apps, Twitter accounts, and text alerts.

### ***Effect of Proposed Changes***

The bill in general revises 511 traveler information services statutes to remove language limiting the provision of services through only telephonic access. These revisions recognize newer technologies and methods for providing traveler information.

Section 27 amends s. 334.03(36), F.S., to remove from the definition reference to *three-digit telecommunications dialing to access interactive voice response telephone* traveler information in favor of *all* traveler information services. That section also amends s. 334.03(37), F.S., to repeal the definition of “interactive voice response,” as the phrase is no longer to be used.

Section 28 amends s. 334.044(31), F.S., to revise the FDOT’s 511 oversight duty by deleting reference to *the provision of interactive voice response telephone systems* and a reference to the 511 *number*, leaving the FDOT responsible for oversight via the 511 *services* as assigned by the FCC.

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<sup>114</sup> Emphasis added.

<sup>115</sup> See s. 334.60, F.S.

<sup>116</sup> Emphasis added.

<sup>117</sup> See s. 334.03(36), F.S.

<sup>118</sup> See s. 334.03(37), F.S.

<sup>119</sup> See s. 334.60, F.S.

<sup>120</sup> See s. 334.044(31), F.S.

Section 29 amends s. 334.60, F.S., striking reference to the FDOT's coordination *with telecommunications service providers*, to allow the FDOT's continued coordination of *all* traveler information services with providers using newer technologies and methods. A reference to the *511 number or other interactive voice response systems* is removed, in favor of *511 services*, and a reference to *phone services* is deleted.

The FDOT advises that the effectiveness of disseminating traveler information through interactive voice response is becoming less advantageous. While the FDOT may decide to discontinue providing an interactive voice response system, traveler information will be provided via the most advanced technologies, thereby ensuring distribution of information to the largest possible audience. Armed with the information, users are able to make informed travel decisions, which improves safety and mobility on Florida roadways.<sup>121</sup>

### **Inspector General Appointment (Section 1)**

#### ***Present Situation***

Prior to 2014, agency inspectors general were appointed by and reported to agency heads. The Legislature in 2014 revised the law with respect to agency inspector general appointment to provide, for agencies such as the FDOT under the jurisdiction of the Governor, agency inspectors general are to be appointed by and report to the Chief Inspector General.<sup>122</sup> Section 20.23(3)(d), F.S., continues to require the FDOT Secretary to appoint an inspector general directly responsible to and serving at the pleasure of the Secretary, in direct conflict with the revisions made in 2014 to s. 20.55, F.S.

#### ***Effect of Proposed Changes***

Section 1 repeals s. 20.23(3)(d), F.S., to remove the directly conflicting and obsolete direction to the FDOT Secretary regarding inspector general appointment, thereby conforming to the revisions to s. 20.55, F.S., made by the 2014 Legislature.

### **Transportation Corridors (Section 41)**

#### ***Present Situation***

Section 341.0532, F.S., enacted in 2003, currently defines “statewide transportation corridor” as a system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport. That section also lists eight corridors deemed “Florida’s statewide transportation corridors.”

In the same year, the Legislature enacted the Strategic Intermodal System (SIS).<sup>123</sup> SIS facilities collectively serve 56 percent of State Highway System traffic, 70 percent of State Highway

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<sup>121</sup> See the FDOT 2015 Legislative Proposal form, *Modify definition/responsibilities of 511*, on file in the Senate Transportation Committee.

<sup>122</sup> See Enrolled HB 1385 (2014).

<sup>123</sup> See the web link, *supra*, note 105, for additional information on the SIS.

System truck traffic, 89 percent of interregional bus and rail passengers, 99 percent of commercial air passengers and cargo, and 100 percent of rail and waterborne freight tonnage and cruise ship passengers.<sup>124</sup> SIS facilities are designated by the FDOT based on criteria provided in ss. 339.61 through 339.64, F.S. The corridors currently listed in s. 341.0532, F.S., with limited exception,<sup>125</sup> are also part of the SIS. Section 341.0532, F.S., is not referenced elsewhere in the Florida Statutes, and the FDOT advises that section is not used in performing any of its duties and responsibilities. The statute appears to be obsolete.

### ***Effect of Proposed Changes***

Section 41 repeals s. 341.0532, F.S., which created Florida's statewide transportation corridors. The corridors continue to be managed through their inclusion in the SIS.

## **Obsolete References/Beeline-East Expressway and Navarre Bridge (Section 32)**

### ***Present Situation***

Section 338.165(4), F.S., authorizes the FDOT to request the DBF to issue bonds secured by 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 FDOT's adopted work program. The Beeline-East Expressway (re-named the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.<sup>126</sup> The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

### ***Effect of Proposed Changes***

Section 32 s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

## **Broward County Expressway Authority/Obsolete Bond Language (Section 34)**

### ***Present Situation***

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility in Broward County. The expressway opened to traffic in 1986 and extends from I-75 in Weston to its interchange with the Florida Turnpike and Southwest 10<sup>th</sup> Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.<sup>127</sup> The Expressway Authority was abolished in 2011.<sup>128</sup> Section 338.221(5), F.S., generally authorizes the FDOT, in each fiscal year during which any of the Broward County Expressway Authority bond series 1984 and series 1986-A remain outstanding, to pledge revenues from the turnpike

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<sup>124</sup> See the 2014 FDOT *Strategic Intermodal System Briefing*. On file in the Senate Transportation Committee.

<sup>125</sup> See the FDOT email, March 2, 2015. On file in the Senate Transportation Committee.

<sup>126</sup> See s. 338.165(10), F.S.

<sup>127</sup> See the FDOT website: [http://www.floridasturnpike.com/about\\_system.cfm#7](http://www.floridasturnpike.com/about_system.cfm#7). Last visited February 23, 2015.

<sup>128</sup> See s. 18, ch. 2011-64, Laws of Florida.

system to the payment of such bonds and the operation and maintenance of the Sawgrass Expressway. No such bonds are currently outstanding, and the language is obsolete.

***Effect of Proposed Changes***

Section 34 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

**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:

**Sections 3, 30, 37, 38, and 39:** Significant positive economic development is expected from development of the SunTrail Network.

**Section 4 and 5:** Increased FSTED funding may generate a positive economic impact for the private sector.

**Sections 6 and 11:** The trucking industry is expected to experience a positive fiscal impact due to the decreased fines assessed for IRP violations.

**Sections 6 and 8:** To the extent that the bill reduces the number and severity of bicycle and pedestrian deaths and injuries, a positive but indeterminate fiscal impact to bicyclists and pedestrians is expected.

C. Government Sector Impact:

**Sections 3, 30, 37, 38, and 39:** The bill currently provides no funding for the SunTrail Network but, if funded, significant positive economic development is expected.



**Sections 4 and 5:** Minimum annual funding from the STTF for the FSTED Program is increased from \$15 to \$25 million.

**Sections 6 and 11:** The FDOT advises it expects a negative annual fiscal impact of approximately \$1.6 million due to a decrease in the fines assessed for IRP violations.<sup>129</sup> A portion of the decrease, approximately \$500,000, is attributed to the revised IRP Full Reciprocity Plan.

**Section 10:** The FDOT may experience an indeterminate positive fiscal impact if the increased allowable trailer length used to transport manufactured buildings results in issuance of more special permits.

**Section 40:** The Office of Economic and Demographic Research will incur unknown expenses to evaluate and determine the economic benefits of the state's investment in the FDOT Adopted Work Program, as will the FDOT and its district offices in providing necessary data.

**Sections 35 and 36:** MPOs may experience minimal expenses in considering autonomous vehicle technology when developing long-range transportation plans. Likewise for the FDOT when updating the SIS Plan.

**Section 57:** The bill authorizes CUTR to expend up to \$400,000 for the VMT study and pilot project design, contingent upon legislative appropriation.

**Sections 42 through 56:** The fiscal impact of authorizing creation of the Northwest Florida Regional Transportation Finance Authority is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.23, 215.82, 260.0144, 311.07, 311.09, 316.003, 316.0895, 316.130, 316.303, 316.515, 316.545, 333.01, 333.025, 333.03, 333.04, 333.05, 333.06, 333.07, 333.09, 333.11, 333.12, 334.03, 334.044, 334.60, 335.065, 338.165, 338.227, 338.231, 339.175, and 339.64.

This bill creates the following sections of the Florida Statutes: 333.135, 335.21, 339.81, 339.82, 339.83, 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.001, 345.0011, 345.0012, 345.0013, and 345.0014.

<sup>129</sup> See the FDOT's response to House committee staff's *DOT Package Questions from Committee Staff*, on file in the Senate Transportation Committee.

This bill repeals the following sections of the Florida Statutes: 333.065, 333.08, 333.10, 333.14, and 341.0532.

This bill reenacts section 350.81 of the Florida Statutes.

The bill creates three undesignated sections of Florida law.

## **IX. Additional Information:**

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

#### **CS by Transportation on March 29, 2015:**

The CS modifies the bill by:

- Revising several sections of the bill dealing with chapter 333, F.S., relating to airport zoning regulations, to make final glitch corrections and provide uniformity in the language;
- Authorizing the FDOT to assume responsibilities under the National Environmental Policy Act with respect to highway projects, as authorized by federal law;
- Providing that the provisions revising the membership of a legislatively-created independent special district do not apply to certain entities;
- Adding provisions of SB 1186 requiring a vehicle-miles-traveled study, requiring consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, creating the Northwest Florida Regional Transportation Authority Act, extending the allowable length of certain trailers, and repealing obsolete language;
- Defining “driver-assistive truck platooning,” excluding certain vehicles equipped with such technology from provisions relating to vehicles following too closely, and including such vehicles in the provisions relating to television-type or other electronic displays visible to a driver.
- Removing Port Citrus from membership on the FSTED Council and repealing related provisions;
- Removing authorization of a public transit provider to contract with a transportation network company to provide public transit services;
- Removing direction to the Commission for the Transportation Disadvantaged and the Center for Urban Transportation Research to develop and implement a pilot program with a public transit provider to provide paratransit services; and
- Extending from 53 to 57 feet the allowable length of certain semitrailers authorized to operate on public roads.

### **B. Amendments:**

None.