The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee

BILL:	CS/CS/SB 1392
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Brandes
SUBJECT:	Transportation
DATE:	March 1, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Sneed	Miller	ATD	**Recommend: Fav/CS**
3.	Sneed	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1392 includes a number of transportation-related provisions. Specifically, the bill:

- Authorizes the transfer of the Florida Department of Transportation's (FDOT) Pinellas Bayway System to become part of the turnpike system and, in such event, also requires the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities.
- Establishes the Seaport Security Advisory Committee within the Florida Seaport Transportation and Economic Development Council and establishes a Seaport Security Grant Program, subject to specific appropriation.
- Clarifies the FDOT's authority with respect to noncompliant traffic and pedestrian control devices.
- Revises specifications for bus deceleration lighting systems.
- Expands the authority of a chartered municipal parking enforcement specialist to enforce state, county, and municipal parking laws and ordinances under specified circumstances.
- Revises the definition of the term "port vehicles and equipment."
- Extends the authorized term of certain airport-related leases.
- Requires the FDOT to install roadside barriers to shield water bodies contiguous with state roads where a death due to drowning resulted from a crash between July 1, 2006, and July 1, 2016.

- Revises conditions under which the FDOT may waive a required surety bond relating to contracts for construction or maintenance.
- Requires local governments to consider information provided by the FDOT regarding the effect that approving or denying certain land use changes, regulations, or orders may have on the cost of construction aggregate materials in the local area, region, and state.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Increases the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expands the list of project types that the Tampa-Hillsborough County Expressway Authority is approved to finance with certain revenue bonds.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.
- Revises the purpose of the state-funded infrastructure bank within the FDOT to include constructing and improving ancillary facilities that produce or distribute natural gas fuel; authorizes the FDOT to consider applications for loans from the bank for development and construction of certain natural gas fuel production or distribution facilities beginning July 1, 2017; and authorizes such loans to be used to refinance outstanding debt.
- Provides an exemption from permitting for certain outdoor advertising signs in place since 1995.
- Makes several statutory changes specific to the operation and regulation of autonomous vehicles, including:
  - Clarifies that the authorization for a person holding a valid driver license to operate an autonomous vehicle applies on the public roads of this state.
  - Revises provisions regarding the operation of autonomous vehicles on roads for testing purposes.
  - Revises equipment requirements for autonomous vehicles, requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
  - Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, to users of driver-assistive truck platooning technology, as defined in the bill.
  - Requires metropolitan planning organizations to accommodate advances in vehicle technology when developing long-range transportation plans.
  - Requires the FDOT to accommodate advances in vehicle technology when updating the Strategic Intermodal System (SIS) Plan.
  - Authorizes television-type receiving equipment visible from the driver's seat if the vehicle is equipped with the autonomous technology and operated in autonomous mode.
  - Defines the term "Driver-Assistive Truck Platooning";
  - Requires the FDOT to study, in consultation with the Florida Department of Highway Safety and Motor Vehicles (DHSMV), the use and safe operation of driver assistive truck platooning technology, and authorizes a pilot project to test vehicles equipped with such technology;
  - Requires manufacturers to provide certain insurance or security acceptable to the DHSMV before the start of the pilot project.

- Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, for purposes of the driver-assistive truck platooning technology pilot program.

This bill has potential economic benefits for the private sector. The waiver of certain surety bond requirements for certain construction or maintenance contracts may create contractual opportunities for qualifying businesses. The impacts of operating autonomous vehicles and the use of driver-assistive truck platooning technology are unknown at this time; however, positive economic benefits are expected in terms of improved safety and mobility, and cost and travel-time savings. Further, while the transfer of the Pinellas Bayway System to the Florida Turnpike Enterprise may not have an immediate impact, the construction of the replacement bridge over Boca Ciega Bay on SR 679 is expected to result in more efficient travel for motorists. The repeal of the $50 annual pass is expected to have an insignificant fiscal impact on the private sector who will now be required to pay tolls at all Bayway System toll collection points.

Several provisions in the bill have an indeterminate fiscal impact on state government. According to the FDOT, the installation of roadside barriers on state roads at specific crash sites is projected to cost at least $2.4 million. While the transfer of ownership of the Pinellas Bayway System occurs without the expenditure of any funds, the method by which the replacement of the bridge over Boca Ciega Bay is funded or financed is unknown. Increasing the population ceiling in the Small County Outreach Program allows Charlotte, Martin, and Santa Rosa Counties to be eligible to participate in the program and compete for program funding. The Tampa-Hillsborough County Expressway Authority bonding provisions have no immediate fiscal impact; however, the potential impact of future bond financing is unknown.

The bill takes effect on July 1, 2016.

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:

Pinellas Bayway System (Sections 17 and 18)

Present Situation

The Pinellas Bayway System, currently owned by the Florida Department of Transportation (FDOT), is a tolled system of bridges and causeways that provides an east-west link between St. Petersburg and St. Petersburg Beach via State Road 682. Tolls on the Pinellas Bayway System are collected by the Florida Turnpike Enterprise.[1] The system also serves Tierra Verde and Fort De Soto Park to the south via State Road 679. One of the bridges on State Road 679 over Boca Ciega Bay was classified as structurally deficient in 2013. "Structurally deficient," according to

[1] *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 95: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.

the FDOT, "means that a bridge has to be repaired or replaced within six years." The term does not mean that a bridge is unsafe.[2]

FDOT's policy is to replace a structurally deficient bridge within six years of the deficient classification.[3, 4] The scope of the work for the bridge over Boca Ciega Bay is to replace the existing movable bridge with a high-level fixed bridge through a design-build contract, at a proposed cost of $52.1 million.[5] However, no funds for replacement of the bridge are currently included in the FDOT District work program. The FDOT advises that the balance of an existing reserve construction account for the Pinellas Bayway System improvements as of December 31, 2015, was $7,326,346.13.[6]

Bayway System Construction and Tolls

In 1968, the predecessor of the FDOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*.[7] In the settlement agreement, the State Road Department agreed that owners and residents of real property in the Bayway Isles Development would have the right to purchase an annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for $15 per vehicle. That agreement remains in place.

Chapter 85-364, L.O.F., required a toll of $.50, following completion of widening to four lanes from the eastern toll booth to State Road 679, at the eastern and western toll plazas on State Road 682. The FDOT was required, after payment of annual operating costs and discharge of bond indebtedness, to establish a reserve construction account to be used for widening to four lanes State Road 682 from State Road 679 west to Gulf Boulevard. Continued collection of tolls was required upon completion of the widening to reimburse the FDOT for all accrued maintenance costs for the Pinellas Bayway. In addition, ch. 85-364, L.O.F., required the FDOT to allow any person to purchase an annual pass for each motor vehicle they own at a cost of $50 per year which exempts the motor vehicle from any Pinellas Bayway System tolls during its term. Currently the $50 pass remains available.

Chapter 95-382, L.O.F., required tolls collected to first be placed in the construction reserve account, after payment of operating costs and bond indebtedness, to be used for construction of Blind Pass Road, State Road 699 improvements in Pinellas County, *and then* for Phase II of the Pinellas Bayway widening to four lanes of State Road 682 from State Road 679 west to Gulf

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[2] *See* the Bay News 9 article,"*6 Bay area bridges "structurally deficient:*" http://www.baynews9.com/content/news/baynews9/news/article.html/content/news/articles/bn9/2016/1/13/tampa_bay_deficient_.html. Last visited January 21, 2016. *See also* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway dated January 5, 2016. (On file in the Senate Transportation Committee.)

[3] *Id.*

[4] Note that replacement of the old drawbridge on State Road 682 connecting St. Petersburg and St. Petersburg Beach was completed in 2014 at a cost of approximately $41 million. *See* the 10 News article, "*New Pinellas Bayway grand opening Friday*:" http://www.wtsp.com/story/news/traffic/road-warrior/2014/10/16/bayway/17352735/. Last visited January 21, 2016.

[5] *See* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway System dated January 5, 2016. (On file in the Senate Transportation Committee.)

[6] *See* the FDOT email to committee staff dated January 21, 2016. (On file in the Senate Transportation Committee.)

[7] Copy on file in the Senate Transportation Committee.

Boulevard. Tolls continue to be collected to reimburse the FDOT for all accrued maintenance costs.

Section 48 of ch. 2014-223, L.O.F., repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard. These improvements have been completed. As noted, however, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient.

Currently, for a two-axle vehicle, the toll, other than for those that hold the $15 or the $50 annual pass, is:

- $.53 for SunPass customers and $.75 for cash customers, both westbound at the East Plaza and eastbound at the West Plaza, plus $.53 and $.75, respectively, for each additional axle.
- $.26 for SunPass customers and $.50 for cash customers southbound at the south plaza, plus an additional $.26 and $.50, respectively, for each additional axle.[8]

Effect of Proposed Changes

Section 17 creates s. 338.165(11), F.S., authorizing the FDOT to transfer the Pinellas Bayway System to become part of the turnpike system. The bill also preserves the provisions of the settlement agreement and final judgment by retaining the ability to purchase a $15 annual pass. Additionally, the bill transfers the construction reserve account to the FDOT Turnpike Enterprise when ownership of the system is transferred to the Florida Turnpike Enterprise.

The FDOT advises that the transfer of the system would allow replacement of the structurally deficient bridge over Boca Ciega Bay on SR 679 to be moved up from 2020 to 2017 in the FDOT work program, and funded through a combination of the accrued reserve account revenues and other financing available to the Florida Turnpike.

Section 18 repeals ch. 85-634, L.O.F., as amended by ch. 95-382 and section 48 of ch. 2014-223, L.O.F. The ability of the specified owners and residents to purchase the $15 annual passage through the easterly terminus of the Bayway System will remain in place, pursuant to the 1968 settlement agreement. As a result of the repeal of ch. 85-364, L.O.F., the $50 annual pass authorized in that law would no longer be available for purchase. Current holders of those passes would be required to pay tolls at all of the Bayway toll collection points.

Seaport Security Advisory Committee/Seaport Security Grant Program (Section 1)

Present Situation

The Florida Seaport Transportation and Economic Development (FSTED) Program was created within the FDOT to finance port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and

[8] *See* the Florida Turnpike Toll Calculator, click on "Tampa Area," roll over hot buttons to select the Pinellas Toll Plazas: http://www.floridasturnpike.com/TollCalcV3/index.htm. Last visited January 21, 2016.

support the interests, purposes, and requirements of all 15 public seaports.[9]Section 311.07(2), F.S., currently requires a minimum of $15 million annually to be made available from the State Transportation Trust Fund to fund the FSTED Program.[10, 11]

The FSTED Program is managed by the FSTED Council, which consists of the port director of the state's 15 public seaports or the director's designee, the Secretary of the FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity (DEO) or his or her designee.[12] The Council evaluates eligible projects[13] and submits an annual list of approved projects, along with a recommended funding level for each project to the FDOT and the DEO. The FDOT and the DEO review the list of approved projects[14] and funding approved by the FDOT and the DEO for projects selected to go forward is included in the FDOT's work program.[15]

Seaport Security

Each seaport is required to adopt and maintain a security plan. The plan must provide for a secure seaport infrastructure that promotes the safety and security of state residents and visitors and the flow of trade and travel.[16] Such plans must be periodically revised based on an ongoing assessment of security risks and reviewed for compliance with federal security regulations,[17] but a seaport may implement security measures that are more stringent, extensive, or supplemental to the federal regulations.[18]

Effect of Proposed Changes

Section 1 creates subsection (5) of s. 311.12, F.S., establishing the Seaport Security Advisory Committee (SSAC) for the purpose of providing a forum for discussion of seaport security issues, including such matters as national and state security strategy and policy, actions required to meet current and future security threats, statewide cooperation on security issues, and security concerns of the state's maritime industry. The SSAC is established under the direction of the FSTED Council with the following members:

- Five or more port security directors appointed by the Council chair. The Council chair must designate one member of the SACC to serve as the SACC chair.

[9]See s. 331.07(1), F.S. The 15 seaports, listed in s. 311.09(1), F.S., are 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 Fernandina.
[10]*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.
[11] Additional seaport-related funding is provided for specified projects under the Strategic Port Investment Initiative under s. 311.10, F.S. and the Intermodal Logistics Center Infrastructure Support Program under s. 311.101, F.S. Additional debt service funding is also provided under ss. 320.20 and 339.0801, F.S., for seaport-related bonds.
[12] Section 311.09(1), F.S.
[13] Eligible project types are listed in s. 311.07(3)(b), F.S., and funding is limited to the specified port facility or port transportation projects on a 50-50 matching basis per s. 311.07(3)(a), F.S.
[14]*See* s. 311.09(6) and (7), F.S.
[15]*See* s. 311.09(8) and (9), F.S.
[16] Section 311.12(2)(a), F.S.
[17] Section 311.12(2)(b), F.S.
[18] Section 3111.12(1)(a), F.S.

- One designee each from the U.S. Coast Guard and the U.S. Customs and Border Protection, serving as ex officio nonvoting members.
- Two representatives from local law enforcement agencies providing security services at a Florida seaport, serving as ex officio nonvoting members.

The bill provides for meetings at the call of the SSAC chair but requires at least an annual meeting. The bill also provides quorum and voting requirements.

The bill also creates subsection (6) of s. 311.12, F.S., directing the FSTED Council to establish a Seaport Security Grant Program for the purpose of assisting in the implementation of security plans and measures at the state's 15 deepwater seaports. Funds may be used for the purchase of equipment, infrastructure needs, cybersecurity programs, and other security measures identified in a seaport's approved federal security plan. Grant funding is subject to legislative appropriation. Grants may not exceed 75 percent of the total cost of a request The SSAC is charged with reviewing applications for the grant program and making recommendations to the FSTED Council for grant approvals. Lastly, the Council is directed to adopt rules for implementation of this new subsection.

Toll Facilities No Longer Owned by the FDOT (Section 17)

Present Situation

The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.[19] The Navarre Bridge is now county-owned and no longer a state toll facility. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Section 17 amends subsection (4) of s. 338.165, 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. The reference to the Pinellas Bayway is also removed.

Uniform Traffic Control Devices/School Zones (Section 4)

Present Situation

Section 316.0745, F.S., requires the FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of this state. The FDOT has adopted the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) by rule.[20] All official traffic control signals and devices purchased and installed in this state must conform to the MUTCD. [21] An "official traffic control device" includes all signs, signals, markings, and devices, not inconsistent with ch. 316, F.S., placed or erected by authority of a public body or official

[19] *See* s. 338.165(10), F.S.
[20] *See* Rule 14-15.010, F.A.C.
[21] Section 316.0745(3), F.S.

having traffic control jurisdiction for the purpose of regulating, warning, or guiding traffic. An "official traffic control signal" includes any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.[22]

Similarly, s. 316.1895, F.S., requires the FDOT, pursuant to its authority in s. 316.0745, F.S., to adopt a uniform system of traffic control and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private. Each county and municipality in the state is required to install and maintain traffic and pedestrian control devices that conform to the MUTCD.[23] The FDOT is required to maintain school zones located on state-maintained primary or secondary roads. Counties are required to maintain school zones located outside of any municipality and on a county road, and municipalities are required to maintain school zones located within their municipal boundaries.[24]

The FDOT is currently authorized, after a hearing with 14 days' notice, to direct the removal of any purported traffic control device, wherever located, that fails to meet the MUTCD requirements. In such case, the public agency that erected or installed the device must remove it immediately and is prohibited from installing any device paid for with state revenues, for five years unless prior written approval is received from the FDOT. Any additional violation by a public body or official is cause for withholding of state funds for traffic control purposes until the public body or official demonstrates compliance.[25]

According to media reports, disputes have arisen over the FDOT's authority to require compliant school signage that is erected or installed in a municipal school zone.[26]

Effect of Proposed Changes

Section 4 amends s. 316.0745(7), F.S., to clarify the FDOT's authority with respect to uniform signals and devices. The FDOT is authorized, *upon receipt and investigation of reported noncompliance*, and after a hearing with 14 days' notice, to direct the removal of any traffic control device that fails to meet the requirements of that section, wherever the device is located *and without regard to assigned responsibility under s. 316.1895, F.S.* The FDOT may allow the erecting or installing public agency to *immediately bring the device into compliance* or remove the device or signal at the FDOT's direction. The five-year prohibition against installing traffic control devices without the FDOT's written approval, and the penalty for any additional violation, remain unchanged. If the FDOT receives a report of noncompliance, it is authorized to investigate the noncompliance, provide the notice and hearing, and order that a device or signal be made compliant or order the removal of the device or signal, regardless of existing assignment of maintenance responsibility under s. 316.1895, F.S.

[22] Sections 316.003(23) and (24), F.S.
[23] Section 316.1895(1), F.S.
[24] Section 316.0895(3), F.S. "Maintained" is defined to mean the care and maintenance of all school zone signs, markers, and traffic and pedestrian control devices.
[25] Section 316.0745(7), F.S.
[26] *See* the 10 News article, *Is city staff downplaying school zone speed traps?*, available at: http://www.wtsp.com/story/news/investigations/2015/09/29/st-pete-council-not-getting-all-facts-on-school-zone-speed-traps/73049462/. Last visited January 25, 2016.

Additional Lighting on Buses (Section 5)

Present Situation

Section 316.235, F.S., allows buses to have additional lighting on the rear of the bus to indicate it is slowing down, preparing to stop, or is stopped. The deceleration lighting system consists of amber lights mounted horizontally on the back of the bus, which are visible from a distance of not less than 300 feet to the rear in normal sunlight. The lights are permitted to light and flash during deceleration, braking, or idling of the bus.[27]

Effect of Proposed Changes

Section 5 of the bill amends s. 316.235(3)(c)2., F.S., to provide that the bus deceleration lighting system must consist of *two red or* amber lights mounted on the rear of a bus that are no greater than 12 inches apart and no higher than 100 inches from the ground.

Parking Enforcement Specialists (Section 7)

Present Situation

Counties and municipalities are authorized to enforce the traffic laws of the state.[28] A county may employ parking enforcement specialists[29] to enforce all state and county laws, ordinances, regulations, and official signs governing parking within the unincorporated areas of the county by appropriate state or county citation. A specialist may also issue citations for parking in violation of posted signage at parking areas located on property owned or leased by a county, whether or not such areas are within the boundaries of a chartered municipality.[30]

A chartered municipality or its authorized agency or instrumentality may employ parking enforcement specialists[31] to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, by appropriate state, county, or municipal traffic citation.[32] Such specialists are not currently authorized to enforce any laws or ordinances governing parking *outside* the municipality's boundaries.

Effect of Proposed Changes

Section 7 amends s. 316.640(3)(c)2., F.S., to expand the jurisdiction of parking enforcement specialists employed by chartered municipalities. The bill authorizes a specialist employed by a chartered municipality to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of *the county in which the chartered municipality is located*, pursuant to a memorandum of understanding between the county and the municipality.

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[27] Section 316.235(5), F.S.
[28] Section 316.640, F.S.
[29] Such individuals must first complete a training program established and approved by the Criminal Justice Standards and Training Commission for such specialists in accordance with s. 316.640(2)(c), F.S.
[30] Section 316.640(2)(c)1., F.S.
[31] Again, such individuals must first complete required training. Section 316.640(3)(c)1., F.S.
[32] Section 316.640(3)(c)2., F.S.

Port Vehicles and Equipment/Vehicle Registration (Section 11)

Present Situation

Section 320.525(1), F.S., defines "port vehicles and equipment" to mean trucks, tractors, trailers, truck cranes, top loaders, fork lifts, hostling tractors, chassis, or other vehicles or equipment used for transporting cargo, containers, or other equipment. These vehicles and equipment are exempt from requirements related to motor vehicle registration, the payment of license taxes, and the display of license plates when operated or used within the port facility of any deepwater port listed in s. 403.021(9)(b), F.S.,[33] for the purpose of transporting cargo, containers, or other equipment:

- Between wharves and storage areas or terminals within the port.
- On appropriately signed port roads designated by the FDOT connecting port facilities of a single deepwater port listed in s. 403.021(9)(b), F.S.[34]

Incidental operation of port vehicles or equipment on the roads of this state within the listed port facilities while being operated for the above-described purposes does not deprive such vehicles of the exemption.[35]

Effect of Proposed Changes

Section 11 amends s. 320.525(1), F.S., revising the definition of the term "port vehicles and equipment" to include any motor vehicle being relocated within a port facility or via designated port district road regardless of whether the vehicle is transporting cargo, containers, or other equipment.

Airport and Airport-Related Lease Terms (Section 12)

Present Situation

In addition to certain other powers,[36] a municipality that has or may establish an airport or other air navigation facilities, or that has acquired, set apart, or may acquire or set apart real property for such purposes, is authorized to:

- Lease for a term not exceeding 30 years such airports or other air navigation facilities, or real property, to private parties, any municipal or state government or the national government, or any department of either, for operation.
- Lease or assign for a term not exceeding 30 years, to the same parties, space, area, improvements, or equipment on such airports. [37]

Lease terms reportedly vary, depending on when a lease is negotiated, the size of the tenant's investment, and the useful life of improvements made by a tenant. While there are no set rules,

[33] Listed in that section are the ports of Jacksonville (JaxPort), Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.
[34] Section 320.525(2)(a) – (c), F.S.
[35] Section 320.525(3), F.S.
[36] *See* ss. 332.01-332.12, F.S.
[37] Section 332.08(1)(c), F.S. A municipality may also confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities.

and different airports have differing guidelines based upon applicable state and local statutes, it is important to consider that leases that are too long in term may prevent land from being developed in the most advantageous manner. Conversely, a lease term that is too short may prevent the potential tenant from being able to fully amortize their initial investment for the necessary improvements, thus dissuading interested tenants from entering into airport development projects.[38]

The Federal Aviation Administration (FAA) has opined that *most* tenant ground leases of 30 to 35 years are sufficient to retire a tenant's initial financing and provide a reasonable return for the tenant's development of major facilities.[39] However, leases of up to 50 years are allowed.[40] Concern has been raised that the current 30-year limitation is adversely impacting the ability of municipal airports to attract tenants due to the potential inability to fully amortize initial investments.

Effect of Proposed Changes

Section 12 amends s. 332.08(1)(c), F.S., to extend the allowable term of the specified leases from 30 years to 50 years. This revision may facilitate airport development and continued economic health by providing tenant confidence in a reasonable rate of return, thereby increasing the likelihood of tenants who are willing to make investments in municipal airports.

Roadside Barriers (Sections 13 and 14)

Present Situation

Existing FDOT Requirements

No current statutory provision exists relating to guardrail installation along water bodies that are contiguous with state roads. However, the FDOT's 2016 Plans Preparation Manual (PPM)[41] defines "canal hazard" as an open ditch parallel to the roadway for a minimum distance of 1000 feet and with a seasonal water depth in excess of 3 feet for extended periods of time (24 hours or more).[42]

The PPM also addresses "clear zones," which are defined as the amount of recoverable area provided beyond the traveled way, and which include shoulders and bike lanes. A clear zone is intended to provide "an opportunity for an errant vehicle to safely recover." The PPM generally

[38] *See* the Airport Cooperative Research Program Report 47, *Guidebook for Developing and Leasing Airport Property*, at p. 17. (On file in the Senate Transportation Committee.)
[39] *See* the FAA Airport Compliance Manual, Order 5190.6B, Chapter 12, 12.3.b.(3), available at: http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/. Last visited January 27, 2016.
[40] *Id.*
[41] The PPM recites that it "sets forth geometric and other design criteria, as well as procedures, for Florida Department of Transportation (FDOT) projects. The information contained herein applies to the preparation of contract plans for roadways and structures." *See* the FDOT's website, heading "Introduction": http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm. Last visited January 13, 2016.
[42] *See* the FDOT's website, heading "Chapter 4," subheading "4.3.2:" http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm. Last visited January 13, 2016.

prohibits aboveground fixed objects, water bodies, and non-traversable slopes[43] in the clear zone.[44] The required clear zone is dependent upon the type of roadway facility and the design speed.[45]

The FDOT advises that water bodies greater than three feet deep are treated as roadside hazards and must be outside the clear zone, if possible.[46]

The FDOT's Previous Study and Conclusions

According to the FDOT,[47] the canal hazard criteria contained in the PPM were incorporated following a study conducted between February 2013 and July 2014, based on crash data from 2003 to 2011.[48] The study included cost-benefit analyses of shielding parallel water bodies of various lengths and offset distances from the roadway for selected roadway types and traffic volumes, the findings of which "show that shielding water bodies based on FDOT's current offset clearance requirements in most cases is cost beneficial and/or results in a reduction in societal crash costs."[49]

Further, the PPM provides the following guidance:

> The evaluation of Roadside Safety is highly dependent on site specific conditions and constraints which are unique to a given situation. Therefore the determination as to when shielding is warranted for [a] given roadside feature must be made on a case-by-case basis, and generally requires engineering judgment. It should be noted that the installation of roadside barriers presents a hazard in and of itself, and as such, the designer must analyze whether or not the installation of a barrier presents a greater risk than the feature it is intended to shield.[50]

Application to Water Bodies Other than Canal Hazards

As previously noted, whether the provisions of the PPM applicable to canal hazards, and shielding of such hazards, are also applicable to other water bodies, such as ponds, is unclear. To illustrate, in the evaluation of roadside hazards, the PPM recommends barriers "when hazards exist within the clear zone, hazards cannot be cost effectively eliminated or corrected, and collisions with the hazards are more serious than collisions with the barriers."[51]

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[43] A non-traversable slope is classified as a slope that is rough, obstructed, or slopes steeper than a 1:3 ratio. *Supra* note 4, subheading "4.2.2" and "4.2.3."
[44] *Supra* note 42, subheading "4.2.2" and "4.2.3."
[45] *See* the FDOT's SB 522 bill analysis, July 1, 2016, at p. 2. (On file in the Senate Transportation Committee.)
[46] *Supra* note 44.
[47] *Supra* note 44.
[48] *See* the FDOT documentation, "*A Re-examination of FDOT Criteria for Shielding Canal Hazards."* (On file in the Senate Transportation Committee.) The document reflects an extensive review of the history of the FDOT's design criteria since it was first established in 1965.
[49] *Id.*, at "Task 5 – Benefit Cost Analysis."
[50] *Supra* note 42, subheading "4.4.7."
[51] *Supra* note 42, subheading "4.4.7.1."

When listing conditions within the clear zone that are normally considered more hazardous than a roadside barrier, "canals, ponds, and other bodies of water (*other than parallel ditches*)[52] are included. Thus, it appears that water bodies may exist that do not meet the definition of a canal hazard, defined in part as an "open ditch parallel to the roadway."

Effect of Proposed Changes

Section 13 creates s. 335.085, F.S., requiring the FDOT, by June 30, 2018, to install roadside barriers to shield water bodies contiguous with state roads at locations where a death due to drowning resulted from a motor vehicle accident in which a vehicle departed the adjacent state road between July 1, 2006, and July 1, 2016. This provision appears to require barrier installation, as specified, along water bodies that do not necessarily meet the FDOT's definition of a "canal hazard." However, because crash reports do not always reflect that a death was due to drowning, the FDOT is unable to definitively identify all locations where such deaths occurred during the ten-year time period identified in the bill.

The bill also provides that the barrier installation requirement does not apply to any location at which the FDOT's chief engineer determines, based on engineering principles, that installation of a barrier would increase the risk of injury to motorists traveling on the adjacent

Section 14 requires the FDOT to review all motor vehicle accidents that resulted in death due to drowning in a water body contiguous with a state road which occurred during the same period. The FDOT must use reconciled[53] crash data from the Florida Department of Highway Safety and Motor Vehicles (DHSMV) and submit a report to the President of the Senate and Speaker of the House by January 3, 2017, providing recommendations for any necessary changes to state laws and the FDOT's rules to enhance traffic safety.

Construction Aggregate Material/Local Government Decision-Making (Section 15)

Present Situation

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base.[54] The Legislature has recognized the critical need for an available supply of construction aggregate material and that disruption of the supply could cause a significant detriment to the state's construction industry, transportation system, and overall health, safety, and welfare. Further, mining of such material is recognized as an industry of critical importance to the state and is in the public interest. [55]

[52] Emphasis added.
[53] The process of reconciling involves ensuring the data taken from fatality crash reports and included in the Florida Department of Highway Safety and Motor Vehicles (DHSMV) crash database is accurate. *See* DHSMV email to committee staff, January 20, 2016. On file in the Senate Transportation Committee.
[54] Section 337.0261, F.S., defines "construction aggregate materials" as crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.
[55] Section 337.0261(2), F.S.

Due to the critical nature of aggregate supply, the Legislature has placed certain restrictions on local government with respect to aggregate material. Local governments are prohibited from approving or denying a proposed land use zoning change, comprehensive plan amendment, land use permit, ordinance, or order regarding construction aggregate materials without considering information provided by the FDOT regarding the effect such change, amendment, permit decision, ordinance, or order would have on the availability, transportation and potential extraction of such material. Additionally, local governments are prohibited from imposing a moratorium, or combination of moratoria, of more than 12 months' duration on the mining or extraction of construction aggregate materials. The failure of the FDOT to provide this information is not a basis for delay or invalidation of the local government action.[56]

Effect of Proposed Changes

Section 15 amends s. 337.0261, F.S., to require local governments to also consider information provided by the FDOT regarding the effect that approving or denying an identified zoning change, plan amendment, land use permit, ordinance, or order may have on the *cost* of construction aggregate materials in the local area, the region, and the state.

Surety Bond Waiver/Contracts for Construction or Maintenance (Section 16)

Present Situation

The successful bidder on an FDOT contract for construction or maintenance is generally required to provide a surety bond. The bond must be payable to the FDOT and conditioned for performance of the contract according to the plans and specifications within the time period specified, and for prompt payment of all persons furnishing labor, materials, equipment, and supplies for work provided in the contract. The FDOT is authorized to waive the surety bond requirement under the following circumstances.[57]

- For a project with a contract price of $250,000 or less, the FDOT may waive the bond requirement if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property.
- For a project with a contract price of $250 million or more, the FDOT may waive the bond requirement in an amount equal to the contract price, accept a surety bond for some portion of the contract price, and require an alternate means of security for the balance of the contract amount not covered by the bond, if the FDOT Secretary determines doing so is in the best interest of the FDOT and will not endanger public health, safety, and welfare.[58]

Effect of Proposed Changes

Section 16 amends s. 337.18(1)(a), F.S., to authorize the FDOT to waive the requirement for all or a portion of a surety bond for the prime contractor that is a qualified nonprofit agency for the blind or other severely handicapped,[59] or for a prime contractor using a subcontractor that is

[56] Section 337.0261(3), F.S.
[57] Section 337.18(1), F.S.
[58] *Id.*
[59] "Other severely handicapped" is defined in s. 413.033(2), F.S., to mean an individual or class of individuals under a physical or mental disability other than blindness, which, according to criteria established by the department, after

such a qualified nonprofit agency. The FDOT may already waive the bond requirement for such contractors upon determining that waiver will not pose a public danger. The revisions allow a waiver of the bond requirement without making such a determination for the specified prime contractors.

Turnpike Dormant Toll Accounts (Section 19)

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.[60]

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 ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.[61]

Effect of Proposed Changes

Section 19 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,[62] 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

consultation with appropriate entities of the state and taking into account the views of nongovernmental entities representing the handicapped, constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.

[60] *See* the SunPass website, *Frequently Asked Questions:* https://www.sunpass.com/faq. Last visited January 25, 2016.

[61] Section 338.231(3)(c), F.S.

[62] The Moving Ahead for Progress in the 21st 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 January 25, 2016.

on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.[63]

Small County Outreach Program (Section 21)

Present Situation

The Small County Outreach Program (SCOP) is authorized in s. 339.2818, F.S. The purpose of the program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstruction of county roads, or construction capacity or safety improvements to county roads. A small county is defined as any county that has a population of 150,000 or less as determined by the most recent official population estimate as determined by the Office of Economic and Demographic Research (EDR).[64] However, for the 2015-2016 fiscal year, a small county is defined as any county with a population of 165,000 or less.[65]

Small counties are eligible to compete for funds designated for projects on county roads. The FDOT provides 75 percent of the cost of the projects funded under this program. Funds paid into the State Transportation Trust Fund pursuant to s. 201.15, F.S., for the purposes of the SCOP are annually appropriated for expenditure to support the program.[66]

Effect of Proposed Changes

Section 21 amends s. 339.2818, F.S., increasing the population ceiling in the definition of "small county" from 150,000 to 170,000. The increase allows Charlotte, Martin, and Santa Rosa Counties that currently exceed the current population limit of 150,000, to be eligible for the SCOP. Those counties would still have to compete for funding and priority using the program criteria. The bill also repeals the alternative 2015-2016 fiscal year definition of "small county," which is set to expire on July 1, 2016.

State-funded Infrastructure Bank/Natural Gas Fuel Production or Distribution Facilities (Section 22)

Present Situation

The 2000 Legislature created the state-funded infrastructure bank (SIB) within the FDOT to provide loans and credit enhancements for use in constructing and improving transportation facilities.[67] Government units and private entities may apply to the SIB for assistance. As outstanding obligations are repaid to the SIB, those repayments are made available for future

[63] *See* the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass.* On file in the Senate Transportation Committee.
[64] Section 186.901, F.S., requires the EDR to provide annually on April 1 population estimates of local government units, using accepted statistical practice and employing the same general guidelines used by the U.S. Bureau of the Census. *See* the EDR website for population and demographic data as of April 1, 2015, available at: http://www.edr.state.fl.us/Content/population-demographics/data/index.cfm. Last visited January 26, 2016.
[65] This provision allowed Charlotte and Santa Rosa counties to participate in the SCOP program and is set to expire on July 1, 2016. Section 339.2818(2)(b), F.S.
[66] Additional SCOP funding is provided under ss. 215.211, 320.072, and 339.0801, F.S.
[67] Section 339.55, F.S.

lending on other eligible SIB projects. Generally, repayment of a loan must begin no later than five years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later.[68, 69]

The SIB consists of two separate escrow accounts established with the Department of Financial Services, one federally-funded and one state-funded. Projects eligible for assistance from the former account include those meeting certain federal requirements. For assistance from the state-funded account, a project must:

- Be on the State Highway System;
- Provide for increased mobility on the state's transportation system; or
- Provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals for the movement of people and goods.[70]

Additionally, projects identified under the Transportation Regional Incentive Program are eligible for assistance from the state-funded account.[71] Emergency loans for damages incurred to public-use seaports, airports, and other transit and intermodal facilities within an area that is part of an official state declaration of emergency are also authorized under specified conditions.[72]

Effect of Proposed Changes

Section 22 amends s. 339.55, F.S., to revise the purpose of the SIB. In addition to providing loans and credit enhancements for use in constructing and improving transportation facilities, the bill adds the purpose of constructing and improving ancillary facilities that produce or distribute natural gas or fuel. The bill authorizes the FDOT, beginning July 1, 2017, to consider applications for SIB loans for the development and construction of natural gas fuel production or distribution facilities used primarily to support the transportation activities at seaports or intermodal facilities. Use of such SIB loans to refinance outstanding debt is also authorized.

Tampa-Hillsborough County Expressway Authority Bonding (Section 27)

Present Situation

The Tampa-Hillsborough County Expressway Authority (THEA) is an agency of the state, created in s. 348.52, F.S., for the purpose of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system in the Tampa metropolitan area or

[68] Section 339.55(4), F.S.
[69] *See* the FDOT's website for further information describing the SIB, its history, and its capitalization, available at: http://www.dot.state.fl.us/officeofcomptroller/PFO/sibintro.shtm. Last visited February 26, 2016.
[70] Section 339.55(2)(a), F.S.
[71] Sections 339.55(2)(b) and 339.2819, F.S. The FDOT is authorized to match up to 50% of the cost for projects that, at a minimum, serve national, statewide, or regional functions and function as part of an integrated regional transportation system; are identified in the capital improvements element of a comprehensive plan and are in compliance with local government plan policies relative to corridor management; are consistent with the Strategic Intermodal System Plan developed under s. 339.64, F.S.; and have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.
[72] Section 339.55(2)(c), F.S.

within Hillsborough County.[73] With the consent of the county within whose jurisdiction the activities occur, THEA may also construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and managed lanes and other transit supporting facilities within the jurisdictional boundaries of contiguous counties.[74]

Bonds may be issued on behalf of THEA pursuant to the State Bond Act, or THEA may issue revenue bonds for construction, reconstruction, improvement, extension, repair, maintenance, and operation of the expressway system.[75] In addition, THEA may issue revenue bonds to finance or refinance the following projects:

- Brandon area feeder roads.
- Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment.
- Lee Roy Selmon Crosstown Expressway System widening.
- The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4.[76]

THEA may also issue revenue bonds to refund any bonds outstanding, regardless of whether the bonds being refunded were issued by THEA or on behalf of THEA.[77] THEA is further authorized to issue bonds for the combined purpose of:

- Paying the cost of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system.
- Refunding outstanding bonds.

THEA owns and operates the Lee Roy Selmon Crosstown Expressway (Selmon Expressway),[78] which is a 15-mile, four-lane limited access toll road crossing the City of Tampa from Gandy Boulevard and MacDill Air Force Base in the south, through downtown Tampa and east to Brandon. The Selmon Expressway connects St. Petersburg with Tampa and Brandon via the Gandy Bridge and a short segment of Gandy Boulevard. THEA also owns and operates the Brandon Parkway, a 3.1-mile set of non-tolled feeder roads, and Reverse Express Lanes (REL) within the median of the Selmon Expressway.[79]

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[73] "Expressway system" or "system" means a modern highway system of roads, bridges, causeways, and tunnels in the metropolitan area of the City of Tampa, or within any area of Hillsborough County, with access limited or unlimited as the authority may determine, and such buildings and structures and appurtenances and facilities related thereto, including all approaches, streets, roads, bridges, and avenues of access for such system. Section 348.51(7), F.S.
[74] Section 348.54(15), F.S.
[75] Section 348.56, F.S.
[76] Section 348.565, F.S.
[77] Section 348.57, F.S.
[78] The Research and Innovative Technology Administration and the USDOT have designated THEA as a test bed for autonomous vehicle technology. The Reverse Express Lanes (REL) is reportedly the only test bed in the U.S. that has the ability to do real-time traffic tests and have a closed course environment in the same location. *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 80: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.
[79] *Id.* at p. 79.

Effect of Proposed Changes

Section 27 amends s. 348.565, F.S., to revise the list of specified THEA projects for which revenue bonds may be issued for financing or refinancing purposes. The bill adds *extensions* of the Selmon Expressway as eligible projects. It also adds capital projects that THEA is authorized to acquire, construct, reconstruct, equip, operate, and maintain pursuant to part II of ch. 348, F.S., governing THEA, including, without limitation, projects identified in s. 348.54(15), F.S.; *i.e.*, projects within the jurisdictional boundaries of a consenting, contiguous county, provided that any financing does not pledge the full faith and credit of the state.

Broward County Expressway Authority/Obsolete Bond Language (Section 19)

Present Situation

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility that extends from its junction with Interstate 75 in Weston to its interchange with Florida's Turnpike and Southwest 10th Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.[80] The Expressway Authority was abolished in 2011.[81] Section 338.221(5), F.S., authorizes the FDOT to pledge revenues from the turnpike system to the payment of Broward County Expressway Authority bond series 1984 and series 1986-A bonds. The bonds are no longer outstanding,[82] and the language is obsolete.

Effect of Proposed Changes

Section 19 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

Transportation Corridors (Section 24)

Present Situation

Section 341.0532, F.S., enacted in 2003, 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) which collectively serves 56 percent of State Highway System traffic, 70 percent of State Highway 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

[80] *See* the Florida Turnpike website: http://www.floridasturnpike.com/about_system.cfm#7. Last visited January 25, 2016.
[81] *See* s. 18, ch. 2011-64, Laws of Florida.
[82] *See* the FDOT email to committee staff dated February 26, 2015. On file in the Senate Transportation Committee.

cruise ship passengers.[83, 84] The corridors currently listed in s. 341.0532, F.S., with limited exception,[85] 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.[86] The statute appears to be obsolete.

Effect of Proposed Changes

Section 24 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.

Tampa Bay Area Regional Transportation Authority (Sections 25 and 26)

Present Situation

The U.S. Bureau of the Census designates urbanized areas throughout the state based on census data. Federal law and rule[87] require a metropolitan planning organization (MPO) to be designated for each urbanized area or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Current law provides for a chair's coordinating committee, composed of the Metropolitan Planning Organizations (MPOs) serving Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota counties, which must:

- Coordinate transportation projects deemed to be regionally significant by the committee.
- Review the impact of regionally significant land use decisions on the region.
- Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.
- Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.[88]

The Tampa Bay Area Regional Transportation Authority (TBARTA) was created by the Legislature in 2007[89] to develop and implement a Regional Transportation Master Plan for the

[83] 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 January 25, 2016.
[84] See the 2014 FDOT *Strategic Intermodal System Briefing*. (On file in the Senate Transportation Committee.)
[85] See the FDOT email, March 2, 2015. (On file in the Senate Transportation Committee.)
[86] *Id.*
[87] *See* 23 U.S.C. 134 and 23 C.F.R. 450 Part C.
[88] Section 339.175(6)(i), F.S.
[89] Chapter 2007-254, L.O.F.

West Central Florida region consisting of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas and Sarasota Counties.

Section 343.92, F.S. provides that the TBARTA governing board consist of 16 members, one of whom must be the Secretary of a FDOT district located within the TBARTA area (FDOT District 1 or District 7, serving as a nonvoting, ex officio member appointed by the FDOT Secretary.

Effect of Proposed Changes

Section 25 amends s. 343.92, F.S., providing that the TBARTA governing board will consist of 15 voting members, eliminating the membership of one of the FDOT district secretaries. Instead, the Secretary of the FDOT is required to appoint, as advisors to the board, both of the FDOT District Secretaries for District 1 and District 7.

Section 26 amends s. 343.922, F.S., requiring the TBARTA to present its original master plan and updates to, and to coordinate with the TBARTA MPO Chairs Coordinating Committee which replaces the West Central Florida MPO Chairs Coordinating Committee, and with the legislative delegation members representing the TBARTA counties. The TBARTA is required to provide administrative support and direction to the MPO Chairs Coordinating Committee.

Control of Outdoor Advertising/Permits and Exceptions (Section 28)

Present Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along federal-aid primary, interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings when appropriate.

While the states are not directly forced to control outdoor advertising signs, failure to impose the required controls can result in a substantial penalty. Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[90] incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas; i.e., a "controlled area." The agreement embodies the federally required "effective control" of the erection and maintenance of outdoor advertising signs, displays, and devices. Absent this effective control, a state may be penalized 10 percent of federal highway funds.[91] Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

[90] Copy on file in the Senate Transportation Committee.
[91] 23 U.S.C. § 131(b)

Required Permits and Exemptions

Generally, a person may not erect or maintain, or cause to be erected or maintained, any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from the FDOT.[92] A number of signs are exempt from the permit requirement.[93]

Additional exemptions are contained in current law. However, these exemptions are conditional; *i.e.*, implementation or continuance of these exemptions is expressly prohibited if the federal government notifies the FDOT that implementation or continuation will adversely affect the allocation of federal funds to the FDOT. In such case, the FDOT must provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice. If the sign is not removed, the FDOT may remove the sign, and the costs incurred must be assessed against, and collected from, the sign owner.

The following signs are conditionally exempt from the permit requirement:

- Signs measuring up to 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, outside an incorporated area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign measuring up to 16 square feet denoting only the name of the business and the distance and direction to the business.
- Signs placed by a local tourist-oriented business located within a rural area of opportunity, with certain restrictions as to size and location.
- Signs measuring up to 32 square feet denoting only the distance or direction of a farm operation which are erected at a road junction with the State Highway System, but only during the harvest season of the farm operation for up to 4 months.
- Acknowledgment signs erected upon publicly funded school premises which relate to sponsorship of a specific public school club, team, or event and which are placed at least 1,000 feet from any other acknowledgment sign on the same side of the roadway.
- Displays erected upon a sports facility, the content of which is directly related to the facility's activities or to the facility's products or services.[94]

Effect of Proposed Changes

Section 28 amends s. 479.16, F.S., providing an additional conditional exemption from the FDOT for an outdoor advertising sign. The bill exempts signs located within the controlled area of a federal-aid primary highway on a parcel adjacent to an off-ramp to the termination point of a turnpike system, if no directional decision is to be made by a driver, the signs are primarily facing the off-ramp, and the signs have been in existence since 1995.

[92] Section 479.07, F.S. The term "on any portion of the State Highway System, interstate highway system, or federal-aid primary system" means a sign located within the controlled area which is visible from any portion of the main-traveled way of such system.
[93] *See* s. 479.16(1) – (14), F.S.
[94] *See* s. 479.16(15) – (19), F.S.

Because Florida law references only one turnpike system under the responsibility of Florida's Turnpike Enterprise,[95] this exemption applies only to the described signs and locations on the turnpike system. Should the federal government notify the FDOT that implementation or continuation of this new exemption will adversely affect the allocation of federal funds, the FDOT must provide the required notice to remove the sign. If the FDOT removes the sign, it will assess the owner for the removal costs.

Autonomous Vehicles (Sections 6, 8-10, 20, and 23)

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."[96] According to the National Highway Traffic Safety Administration (NHTSA), autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.[97]

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 within the next five years.[98]

Levels of Vehicle Automation and Evolving Federal Policy

Self-driving cars are just one form of vehicle automation. The NHTSA in 2013[99] defined a range of vehicle automation, from vehicles with no automated control systems to fully automated vehicles.

The NHTSA also made several recommendations in its 2013 Policy Statement, including those for:

- Licensing Drivers to Operate Self-Driving Vehicles for Testing.
- State Regulations Governing Testing of Self-Driving Vehicles.
- Basic Principles for Testing of Self-Driving Vehicles.
- Regulations Governing the Operation of Self-Driving Vehicles.[100]

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[95] *See* ss. 20.23(4)(e) and 338.2215, F.S.**CS**

[96] See the National Highway Traffic Safety Administration's Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*, (May 30, 2013) *available at:* http://www.nhtsa.gov/About+NHTSA/Press+Releases/U.S.+Department+of+Transportation+Releases+Policy+on+Automated+Vehicle+Development (last visited Jan. 25, 2016).

[97] See NHTSA, *Preliminary Statement of Policy Concerning Automated Vehicles*, http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated_Vehicles_Policy.pdf (last visited Jan. 25, 2016).

[98] *See* TechCrunch, *Autonomous Cars are Closer Thank You Think* (Jan. 18, 2015), http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/ (last visited Jan. 25, 2016).

[99] *See* NHTSA's *2013 Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 4. (On file in the Senate Transportation Committee.)

[100] NHTSA at that time recommended against states authorizing the operation of self-driving vehicles for purposes other than testing and suggested: "Should a state nevertheless decide to permit such non-testing operation of self-driving vehicles, at a

The increase in the general availability of autonomous vehicles has been the subject of much discussion. The NHTSA, however, recently updated its policy, acknowledging rapid development of emerging automation technologies and recognizing the feasibility of widespread deployment of partially and fully automated vehicles.[101] The NHTSA's administrator announced the NHTSA's use of available tools to accelerate deployment of technologies that can eliminate 94 percent of crashes involving human error. The NHTSA committed to working with state partners on a consistent national policy to provide options, now and in the future, for manufacturers to seek deployment of autonomous vehicles.

In an announcement on January 14, 2016, the U.S. Department of Transportation (USDOT) outlined the following 2016 milestones:

- The NHTSA will work with industry and other stakeholders within six months of the announcement to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them.
- In the same six months, the NHTSA will work with state partners, the American Association of Motor Vehicle Administrators, and other stakeholders to develop a model state policy on automated vehicles that offers a path to consistent national policy.
- Manufacturers are encouraged to submit rule interpretation requests where appropriate to help enable technology innovation.[102]
- When interpretation authority is not sufficient, manufacturers are encouraged to submit requests for use of the agency's exemption authority to allow the deployment of fully autonomous vehicles.[103] Exemption authority allows the NHTSA to enable the deployment of up to 2,500 vehicles for up to two years if the agency determines that an exemption would ease development of new safety features.[104]
- The USDOT and the NHTSA will develop the new tools necessary for this new era of vehicle safety and mobility, and will consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when they are demonstrated to provide an equivalent or higher level of safety than is now available.

The USDOT also announced that the President's budget proposal for fiscal year 2017 will include nearly $4 billion to test connected vehicle systems in designated corridors throughout the

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minimum the state should require that a properly licensed driver (i.e., one licensed to drive self-driving vehicles) be seated in the driver's seat and be available at all times in order to operate the vehicle in situations in which the automated technology is not able to safely control the vehicle." *Id.*, at pp. 11-14.

[101] *See* NHTSA, *2016 Update to Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 1: http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Autonomous-Vehicles-Policy-Update-2016.pdf (last visited Feb. 10, 2016).

[102] As an example, the announcement links to a NHTSA response to a BMW request for an interpretation confirming that BMW's remote self-parking system meets the Federal Motor Vehicle Safety Standards. The response notes that NHTSA does not provide approvals of vehicles or vehicle equipment or make determinations as to whether a product conforms to the Federal Motor Vehicle Safety Standards (FMVSSs) outside of an agency compliance test. Instead, federal law requires manufacturers to self-certify that a product conforms to all applicable FMVSSs in effect on the date of product manufacture. *See* the NHTSA response: file:///C:/Users/One/Downloads/BMW-response-01042016.pdf. Last visited January 23, 2016.

[103] *See* 49 C.F.R. Part 555.

[104] *See* 49 C.F.R., Subpart A, s. 555.6.

county. The budget proposal will also allow funding to be used for working with industry leaders on a common multistate structure for connected and autonomous vehicles.[105]

State Regulation of Autonomous Vehicles

Nevada, in 2011, was the first state to authorize operation of autonomous vehicles.[106] Various legislation has also been enacted by the District of Columbia and five states, including Florida.[107] The Florida Legislature first enacted legislation relating to autonomous vehicles in 2012[108] that:

- Provided legislative intent,
- Defined relevant terms,
- Provided vehicle requirements and guidelines for testing,
- Added liability provisions, and
- Required the DHSMV to submit a report on recommendations for the safe testing and operation of motor vehicles equipped with autonomous technology.[109]

Sixteen states introduced legislation related to autonomous vehicles in 2015, an increase from 12 states in 2014, nine states and the District of Columbia introduced such legislation in 2013, and six states did so in 2012.[110] The most recent development at the state level occurred in California in December of 2015. The California Department of Motor Vehicles released draft autonomous vehicle deployment regulations for public comment, in preparation for "the next step toward allowing the public to operate self-driving cars on California roadways in the future."[111]

Current Florida Law

Definitions: Section 316.003(90), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. That subsection also includes a definition of "autonomous technology," which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.[112]

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[105] *Supra* note 49.
[106] *See* the National Conference of State Legislatures website for additional detail on legislation already enacted by specified states: http://www.ncsl.org/research/transportation/autonomous-vehicles-legislation.aspx#Enacted Autonomous Vehicles Legislation. Last visited January 23, 2016.
[107] The other four states are California, Michigan, North Dakota, and Tennessee. *Id.*
[108] Chapter 2012-174, L.O.F. *See* also ch. 2014-216, L.O.F.
[109] *See* the report at: http://www.flhsmv.gov/html/HSMVAutonomousVehicleReport2014.pdf. Last visited January 24, 2016.
[110] *Supra* note 50.
[111] This followed California's legislation directing the adoption of safety standards and performance requirements to ensure the safe operation and testing of autonomous vehicles. *See* the California Department of Motor Vehicles Press Release: https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/newsrel15/2015_63. Last visited January 23, 2016.
[112] The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

Operation: Operation of autonomous vehicles is authorized in s. 316.85, F.S. A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode.[113] When a person causes the vehicle's autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode, that person is deemed the operator of the vehicle.

Testing: Testing of vehicles equipped with autonomous technology is authorized in s. 316.86, F.S. Employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, are authorized to operate such vehicles on roads in this state to test autonomous technology. A human operator must be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.[114] Before testing, the entity performing the testing must submit an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of $5 million.[115]

Vehicle Requirements: Section 319.145, F.S., requires an autonomous vehicle registered in this state[116] to meet federal standards and regulations for a motor vehicle. This section of law is expressly superseded when in conflict with NHTSA federal regulations. In addition, an autonomous vehicle must:

- Have a means to engage and disengage the autonomous technology which is easily accessible to the operator.
- Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.
- Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle.
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

[113] The DHSMV will authorize a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on a Florida roadway, but only if manufacturers of the technology designate the person as a driver for testing purposes. *See* the DHSMV publication, *Excellence in Service, Education, and Enforcement*, Summer 2012, heading "2012 Legislative Update," at p. 1: http://www.flhsmv.gov/html/CJSummer2012.pdf. Last visited January 24, 2016.
[114] The DHSMV will authorize operation of an autonomous vehicle in autonomous mode without a human physically present in the vehicle only on a closed course. *See* the DHSMV email to committee staff dated January 25, 2016. On filed in the Senate Transportation Committee.
[115] This section of the law also provides immunity from certain liability for the original manufacturer of a vehicle converted by a third party into an autonomous vehicle under specified conditions. Section 316.86(2), F.S.
[116] Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.

Television-Type Equipment in Motor Vehicles

Section 316.303(1) and (3), F.S., currently prohibit operation of a motor vehicle if it is equipped with television-type receiving equipment that is visible from the driver's seat. However, an electronic display used in conjunction with a vehicle navigation system is not prohibited.

Local Regulation of Autonomous Vehicles

Current Florida law contains no provision addressing local regulation of autonomous vehicles.

Transportation Planning and Autonomous Vehicles

Section 339.175(7), F.S., 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 (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.[117]

Effect of Proposed Changes:

Section 6 amends s. 316.303(1) and (3), F.S., to authorize active display of moving television broadcast or pre-recorded video entertainment content visible from the driver's seat while the vehicle is in motion if the vehicle is equipped with autonomous technology and operated in autonomous mode.

Section 8 amends s. 316.85, F.S., to expressly authorize a person holding a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003, F.S. Operation of an autonomous vehicle on roads in this state would no longer be limited to licensed drivers designated for testing purposes.

Section 9 amends s. 316.86, F.S., to remove provisions regarding the operation of vehicles equipped with autonomous technology on roads for testing purposes, including the provisions:

- Authorizing employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, to operate such vehicles on roads in this state to test autonomous technology.
- Requiring a human operator to be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.
- Requiring the specified proof of insurance or surety bond before testing.

[117] 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.

The original manufacture liability protections are not amended.

Section 10 amends s. 319.145, F.S., to clarify that registered autonomous vehicles must meet *applicable* federal standards and regulations for such vehicles. This section also requires an autonomous vehicle to have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

- Require the operator to take control of the autonomous vehicle, or
- If the operator does not or is unable to take control, be capable of bringing the vehicle to a complete stop.

The latter revision replaces the currently required easily accessible means by which the operator engages and disengages the technology, and the required means to alert the operator of a described technology failure to indicate to the operator to take control of the vehicle.

Taken together, these sections of the bill authorize operation of autonomous vehicles equipped with the defined autonomous technology on the public roads of this state by any person holding a valid driver license, without the need to be designated by an autonomous vehicle manufacturer for testing purposes, and without any testing. The physical presence of an operator is no longer required. Autonomous vehicles registered in this state must continue to meet federal standards and regulations that apply to such vehicles. To the extent that any new provision in the bill regarding vehicle equipment is or becomes in conflict with federal law, the bill's provision would be superseded.

Section 20 amends s. 339.175(7)(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.

Section 23 amends s. 339.64, F.S., to require the FDOT when updating the SIS Plan to coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology.

Driver-Assistive Truck Platooning (Sections 2, 3 and 6)

Present Situation

In August of 2014, the NHTSA issued an advance notice of proposed rulemaking, following the 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.[118] The NHTSA

[118] *See* the USDOT Fact Sheet on Vehicle-To-Vehicle Communication Technology, *available at:* http://www.its.dot.gov/safety_pilot/pdf/safetypilot_nhtsa_factsheet.pdf. On file in the Senate Transportation Committee.

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."[119]

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.[120]

> 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.[121]

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether traffic conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, 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 has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.[122]

Currently, s. 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Additionally, s. 316.303, F.S., prohibits the operation of a motor vehicle with television-type receiving equipment that is visible from the driver's seat. This prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.[123]

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[119] *See* the NHTSA *Vehicle-to-Vehicle Communications*, http://www.safercar.gov/v2v/index.html. Last visited January 25, 2016.
[120] *See* the GBT Global News website: http://www.gobytrucknews.com/driver-survey-platooning/123. Last visited January 25, 2016.
[121] *See* the American Transportation Research Institute, *ATRI Seeks Input on Driver Assistive Truck Platooning* (Nov. 17, 2014), http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/. Last visited January 25, 2016.
[122] *See* Peloton, *FAQ*, http://www.peloton-tech.com/faq/ (last visited Jan. 25, 2016).
[123] Section 316.303, F.S.

Effect of Proposed Changes

Section 2 amends s. 316.003, F.S., to define the term "driver-assistive truck platooning technology."

Section 3 requires the FDOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

The bill authorizes the FDOT, upon conclusion of the study and in consultation with the DHSMV, to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology.[124] The pilot project may be conducted notwithstanding the traffic control provisions related to following too closely and television-type equipment in motor vehicles.[125] Prior to the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of $5 million.

The DOT, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, Senate President, and Speaker of the House upon conclusion of the pilot project.

Section 6 amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[124] The pilot project may be conducted in such a manner and at such locations as determined by the DOT.
[125] Sections 316.0895 and 316.303, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sections 6, 8 through 10, 20, and 23: The impact of the provisions in CS/CS/SB 1392 relating to the operation of autonomous vehicles is unknown. The private sector may realize positive economic benefits in terms of improved safety and mobility, and cost and travel-time savings. The companies that sell vehicles with autonomous technology may experience more sales to the extent that the bill promotes wider use of such vehicles.

Sections 2, 3, and 6: Depending on the outcome of the pilot project, the bill may have an indeterminate positive fiscal impact on companies that sell or use driver-assistive truck platooning technology.

Section 17: Transfer of ownership of the Pinellas Bayway System from the FDOT to the Florida Turnpike Enterprise does not appear to have an immediate impact on the private sector but a positive fiscal impact may be realized upon construction of the replacement bridge in terms of more efficient travel.

C. Government Sector Impact:

Sections 13 and 14: The FDOT provided a spreadsheet attachment to its SB 522 analysis which appears to identify deaths between 2006 and 2015 reported on specified crash report form numbers, as well as costs associated with additional *guardrail* installation at the identified locations. The spreadsheet reflects that whether drowning was the cause of each death is, in some cases, undetermined. These locations, with limited exception, do not appear to be anticipated as candidates for additional guardrail installation. However, the spreadsheet does indicate, "for cases where nearly identical water hazard scenarios were present in the vicinity, the proposals [add] guardrail for shielding all water hazards seen nearby (with the exception of interchange approaches, as explained in the comments []."
Aside from this information, the FDOT provided the following estimate based on the bill's language, as filed, requiring guardrail installation, as opposed to roadside barriers:

> Assuming [] the addition of varying feet of guardrail at each location, the bill would result in the addition of 132,845 linear feet of guardrail at a cost of approximately $17 per foot for a total estimated cost of $2,381,614. New installation locations will be added to existing inventory and maintained at an additional [unspecified] cost.[126]

[126] *Supra* note 45, at p. 3. *See* also the spreadsheet attached to the FDOT's bill analysis for information on specific identified locations for additional shielding.

Section 17: The transfer of ownership of the Pinellas Bayway System does not appear to have any immediate fiscal impact, as the transfer occurs without the expenditure of any funds. Aside from the project cost information on replacing the structurally deficient bridge over Boca Ciega Bay on SR 679 provided by the Florida Department of Transportation, the method by which replacement will be funded or financed is unknown.

Section 21: Increasing the population ceiling in the Small County Outreach Program definition of "small county" from 150,000 to 170,000 will allow Charlotte, Martin, and Santa Rosa Counties to be eligible to participate in the program. Those counties would still have to compete for funding and priority using the program criteria.

Section 27: The Tampa-Hillsborough County Expressway Authority bonding provisions pose no immediate fiscal impact. The fiscal impact of any potential bonding is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under current law, the "operator" of an autonomous vehicle is the person who engages the technology. The identity of the "operator" of an unoccupied vehicle is unclear.

According to the FDOT, "Autonomous vehicle technology development and testing is being evaluated in a test track setting. Coordination with federal and local partners will be completed within existing resources. It may be several years before the department can estimate the infrastructure investment needed to support autonomous vehicle operations on state roads."[127]

Further, the FDOT has indicated that the department and the Metropolitan Planning Organizations (MPOs) are directed to consider infrastructure and technological improvements during the development of the Five-Year Work Program and Long Range Transportation Plan, respectively. Intelligent Transportation System (ITS) technological solutions are considered during this process. Consideration of autonomous vehicle technology introduces a new demand on funding. It is difficult to estimate the amount of future investments in technological solutions versus infrastructure solutions.[128]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 311.12, 316.003, 316.0745, 316.235, 316.303, 316.640, 316.85, 316.86, 319.145, 320.525, 332.08, 337.0261, 337.18, 338.165, 338.231, 339.175, 339.2818, 339.55, 339.64, 343.92, 343.922, 348.565, and 479.16.

[127] *Supra* note 73.
[128] *Ibid.*

The bill creates section 335.085 of the Florida Statutes.

This bill repeals section 341.0532 of the Florida Statutes.

This bill repeals ch. 85-364, as amended by ch. 95-382 and section 48 of ch. 2014-223, Laws of Florida.

IX. Additional Information:

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

CS/CS by Appropriations on March 1, 2017:
The committee substitute modifies the bill by:

- Establishing the Seaport Security Advisory Committee within the Florida Seaport Transportation and Economic Development (FSTED) Council as a forum for discussion of seaport security and establishing a Seaport Security Grant Program.
- Correcting a scrivener's error in the definition of the term "driver-assistive truck platooning technology" and correcting an error in a title amendment directory clause.
- Revising specifications for bus deceleration lighting systems.
- Expanding the authority of a chartered municipal parking enforcement specialist to enforce state, county, and municipal parking laws and ordinances under specified circumstances.
- Revising the definition of the term "port vehicles and equipment."
- Requiring the Florida Department of Transportation (FDOT) to install certain roadside barriers to shield water bodies contiguous with state roads where a death due to drowning resulted from a crash between July 1, 2006, and July 1, 2016, and to conduct a study of specified motor vehicle accidents.
- Revising conditions under which the FDOT may waive a required surety bond relating to contracts for construction or maintenance.
- Removing from the bill a requirement for a toll facility to install certain signage notifying drivers if cash payment is not an option.
- Requiring local government to consider information provided by the FDOT regarding the effect that certain land use decisions may have on the cost of construction aggregate materials in the local area, region, and state.
- Revising the purpose of the state-funded infrastructure bank within the FDOT to include constructing and improving ancillary facilities that produce or distribute natural gas fuel.
- Authorizing the FDOT to consider applications for loans from the bank for development and construction of certain natural gas fuel production or distribution facilities beginning July 1, 2017, and authorizing such loans to be used to refinance outstanding debt.
- Revising the membership of the Tampa Bay Area Regional Transportation Authority (TBARTA); requiring the TBARTA to present a certain master plan and updates to the TBARTA Metropolitan Planning Organization (M.P.O.) Chairs Coordinating

Committee; requiring TBARTA to provide administrative support and direction to the TBARTA M.P.O. Chairs Coordinating Committee.

- Providing an exemption for certain outdoor advertising signs from permitting requirements.
- Revises the definition for driver-assistive truck platooning (DATP) technology and requires compliance with the National Highway Traffic Safety Administration (NHTSA) rules regarding vehicle-to-vehicle communications.
- Requires FDOT, in consultation with the DHSMV, to study the use and safe operation of DATP technology; authorizes a pilot project upon conclusion of the study to test vehicles equipped with the technology; requires insurance coverage by the manufacturers that participate in the pilot; and requires the findings to be submitted to the Governor and Legislature.
- Revises the provisions in the bill relating to television-type receiving equipment visible from the driver's seat in vehicles equipped with DAPT technology.

CS by Transportation on January 27, 2016:
The CS modifies the bill by:

- Removing from the bill preemption of regulation and operation of autonomous vehicles to the state.
- Revising equipment requirements for autonomous vehicles by requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
- Extending the authorized term of certain airport-related leases.
- Requiring signage at toll facilities notifying drivers if cash payment is not an option.
- Transferring certain funds to be used to help fund the costs of repair and replacement of the Pinellas Bayway System.
- Increasing the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expanding the list of THEA project types approved to be financed by certain revenue bonds.

B. Amendments:

None.