

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/CS/HB 425 Transportation

SPONSOR(S): Infrastructure Strategies Committee, Infrastructure & Tourism Appropriations Subcommittee, Transportation & Modals Subcommittee, Esposito, Andrade and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/SB 64

FINAL HOUSE FLOOR ACTION: 113 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/CS/HB 425 passed the House on April 26, 2023, as amended, and subsequently passed the Senate on May 4, 2023. Part of the bill also passed in CS/CS/CS/HB 1305.

The bill addresses matters related to transportation. Specifically, the bill:

- Expands Florida's existing Move Over Law to include disabled motor vehicles.
- Requires the Department of Transportation (DOT) to establish standards by which the State Highway System will be graded according to their compatibility with the operation of autonomous vehicles.
- Revises provisions regarding airport land use compatibility zoning regulations.
- Codifies the Implementing Solutions from Transportation Research and Evaluating Emerging Technologies (I-STREET) Living Lab within the University of Florida.
- Provides that a producer of construction aggregates (gravel, sand, etc.) may not represent that an aggregate is certified for use unless such aggregate complies with DOT rules.
- Requires a local governmental entity to accept electronic proof of delivery for construction materials.
- Requires DOT contracts for bridge work over navigable waters to require marine general liability insurance in an amount determined by DOT.
- Requires DOT to implement strategies to reduce project costs and authorizes DOT to share a portion of construction cost savings with certain persons.
- Provides that certain stipends paid by DOT which are contained in DOT's legislatively-approved work program are not subject to additional specified documentation and notification requirements.
- Authorizes a contractor who desires to bid exclusively on construction contracts with proposed budget estimates of \$2 million or less (increased from \$1 million) to submit reviewed, rather than audited, financial statements.
- Authorizes an applicant for a contractor certificate of qualification to request to keep an existing certificate and current maximum capacity rating in place until expiration of the existing certificate.
- Repeals a public records exemption for documents that reveal the identity of a person who has requested or obtained a bid package, plan, or specifications pertaining to any project to be let by DOT.
- Increases the maximum size of modular newspaper racks on specified rights-of-way.
- Authorizes DOT to request legislative approval of a proposed turnpike project regardless of how complete the project's design phase is.
- Revises various provisions relating to Metropolitan Planning Organizations and the Metropolitan Planning Organization Advisory Council.
- Requires DOT to make \$20 million available annually for five years to enhance the movement and storage of construction aggregate and authorizes DOT to expend \$5 million for workforce development.
- Removes the requirement that railroad police be appointed by the Governor and revises powers of railroad police.

The bill has an indeterminate fiscal impact on the state and local governments and the private sector.

The bill was approved by the Governor on June 5, 2023, ch. 2023-197, L.O.F., and will become effective on July 1, 2023, except as otherwise provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0425z1.DOCX

DATE: 6/14/2023

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Move Over Law

Current Situation

Pursuant to Florida's Move Over Law,¹ if an authorized emergency vehicle displaying any visual signals is parked on the roadside, a sanitation vehicle is performing a task related to the provision of sanitation services on the roadside, a utility service vehicle is performing a task related to the provision of utility services on the roadside, a wrecker displaying amber rotating or flashing lights is performing a recovery or loading on the roadside, or a road and bridge maintenance or construction vehicle displaying warning lights is on the roadside without advance signs and channelizing devices, the driver of every other vehicle must, as soon as it is safe:

- Vacate the lane closest to the emergency vehicle, sanitation vehicle, utility service vehicle, wrecker, or road and bridge maintenance or construction vehicle when driving on an interstate highway or other highway with two or more lanes traveling in the direction of the emergency vehicle, sanitation vehicle, utility service vehicle, wrecker, or road and bridge maintenance or construction vehicle except when otherwise directed by a law enforcement officer. If such movement cannot be safely accomplished, the driver must reduce speed as provided below.
- Slow to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater; or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less, when driving on a two-lane road, except when otherwise directed by a law enforcement officer.

A violation of the Move Over Law is a noncriminal traffic infraction, punishable as a moving violation.² The statutory base fine is \$60,³ but with additional fees and surcharges, the total penalty may be up to \$158.⁴

Effect of the Bill

Effective January 1, 2024, the bill expands Florida's Move Over Law by adding a disabled motor vehicle that is stopped and is displaying warning lights or hazard lights, that is stopped and is using emergency flares or posting emergency signage, or that is stopped and one or more persons are visibly present. Under the bill, other motorists will be required to move over for such disabled motor vehicles. A violation remains a noncriminal traffic infraction punishable as a moving violation.

The bill republishes s. 318.18(2)(d), F.S., relating to the amount of penalties to incorporate changes to the Move Over Law.

Autonomous Vehicle Grading Standards for the State Highway System

Current Situation

Florida law defines the term "autonomous vehicle" to mean any vehicle with an automated driving system.⁵ The term "automated driving system" is defined to mean the hardware and software that are

¹ S. 316.126(1)(b), F.S.

² S. 316.126(6), F.S.

³ S. 318.18(3)(a), F.S.

⁴ Florida Association of Clerk of Courts, *2022 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines*, p. 42, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098_attach_2_2022_dist.pdf (last visited Apr. 17, 2023).

⁵ S. 316.003(3)(a), F.S.

collectively capable of performing the entire dynamic driving task⁶ of an autonomous vehicle on a sustained basis, regardless of whether it is limited to a specific operational design domain.⁷

Autonomous vehicles are equipped with advanced sensors, such as radar, LiDAR, or cameras, and computing abilities to perceive surroundings and activate steering, braking, and acceleration actions without operator input.⁸

Currently, Florida roads are not graded or categorized according to their compatibility with autonomous vehicles.

Effect of the Bill

The bill requires the Department of Transportation (DOT) to coordinate with federal, regional, and local partners, as well as industry representatives, to establish standards by which roads on the State Highway System⁹ must be graded according to their compatibility with the operation of autonomous vehicles. In establishing these standards, DOT must consider factors including, but not limited to, the structural adequacy and safety of each road and the particular challenges that the overall driving environment of each road may present to a fully autonomous vehicle operating with the automated driving system engaged. These autonomous vehicle grading standards must be incorporated into standards for transportation projects involving the construction of new roads or maintenance of existing roads on the State Highway System.

Airport Noise Mitigation

Current Situation

Florida is home to 20 commercial service airports¹⁰ and 109 general aviation airports.¹¹ Additionally, there are hundreds of small private airports.¹²

Aircraft noise is considered a public nuisance and a potential public health and welfare concern, with airports and airport operations being an inherently noisy type of land use. Therefore, both federal and Florida law require the consideration of noise impacts and restriction of uses incompatible with certain levels of aircraft noise through land use planning and airport protection zoning measures.¹³

Federal Airport Noise Study Regulations

⁶ Section 316.003(3)(b), F.S., defines the term “dynamic driving task” to mean all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic within its specific operational design domain, if any, excluding strategic functions such as trip scheduling and selection of destinations and waypoints.

⁷ S. 316.003(3), F.S. Section 316.003(3)(d), F.S., defines the term “operational design domain” as a description of the specific operating domain in which an automated driving system is designed to properly operate, including, but not limited to, roadway types, speed ranges, environmental conditions such as weather and time of day, and other domain constraints.

⁸ Department of Transportation, *Florida's Connected and Automated Vehicle (CAV) Initiative*, <https://www.fdot.gov/traffic/teo-divisions.shtm/cav-ml-stamp/connected-vehicles> (last visited Feb. 15, 2023).

⁹ Section 334.03(24), F.S., defines the term “State Highway System” to mean the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated.

¹⁰ Commercial service airports are publicly-owned airports that have at least 2,500 passenger boardings each year and receive scheduled passenger service. 49 U.S.C. § 47102.

¹¹ General aviation airports are airports that do not have scheduled service or have less than 2,500 passenger boardings each year. 49 U.S.C. § 47102.

¹² DOT, *Florida Aviation System Plan 2035: Introduction*. <https://www.fdot.gov/aviation/FASP2035> (last visited Apr. 15, 2023).

¹³ DOT, *2020 Airport Airspace Land Use Guidebook*, p. 99 [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/2020_airport_airspace_-_land_use_guidebook-\(2\).pdf?guid=bc07f1b0-6316-416c-be1d-2e652774592a](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/2020_airport_airspace_-_land_use_guidebook-(2).pdf?guid=bc07f1b0-6316-416c-be1d-2e652774592a) (last visited Apr. 15, 2023).

At the federal level, the Federal Aviation Administration (FAA) regulates airports and airspace. A federal Part 150 noise compatibility study¹⁴ (Part 150 study) is a voluntary study that airports prepare to define its five-year vision of compatibility between the airport and the surrounding communities. Part 150 establishes guidelines for a program that:

- Measures current and future aircraft noise levels and their associated effects on the surrounding communities.
- Outlines actions that will reduce or minimize aircraft noise over sensitive areas.
- Establishes land use guidelines to address compatibility between the airport and its surrounding communities.
- Identifies areas where aircraft noise is present and encourages land uses that are compatible.
- Develops a comprehensive noise compatibility program for the airport.¹⁵

An airport's Part 150 study includes noise exposure maps defining the existing and future aircraft noise exposure boundaries surrounding the airport and a noise compatibility plan identifying mitigation measures that could correct surrounding non-compatible land uses.¹⁶

Although noise studies are not normally required, a Part 150 study may be required for some airport projects. For example, a Part 150 study is required for FAA-authorized federal funding to mitigate aircraft noise impacts to the surrounding community. Federal funds may be available to conduct the study and to implement recommended noise mitigation measures.¹⁷

When a noise study is conducted outside of Part 150, airports have some leeway regarding the study's scope and detail. The study may be tailored to an airport's and community's needs and may help create a dialogue between the airport and the surrounding community. However, federal funds are not available to conduct the study or to implement study recommendations.¹⁸

Florida Law

In Florida, DOT is responsible for planning airport systems and overseeing the public airport system.¹⁹ The owner or lessee of a proposed public airport²⁰ must receive DOT approval before site acquisition, construction, or establishment of a public airport facility.²¹ DOT is also responsible for licensing public airport facilities prior to the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or license renewal.²² Current law authorizes local governments to establish and operate airports²³ and governs airport zoning and land use issues.²⁴

Florida law requires political subdivisions to adopt, administer, and enforce airport land use compatibility zoning regulations. At a minimum, these zoning regulations must address specified issues. When an airport authority or other governing body operating a public-use airport²⁵ has conducted a Part 150 study, or where a public-use airport owner has established noise contours pursuant to another study approved by the FAA, the zoning regulations must address the prohibition of

¹⁴ 14 C.F.R. Part 150.

¹⁵ National Academy of Sciences, Transportation Research Board, *Consider a Part 150 Study*, <https://crp.trb.org/acrpwebresource1/consider-a-part-150-study/> (last visited Apr. 17, 2023).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ S. 332.001, F.S.

²⁰ S. 330.27(6), F.S. For purposes of DOT approval and licensure, the term "public airport" means a publicly or privately-owned airport for public use.

²¹ S. 330.30(1), F.S.

²² S. 330.30(2), F.S.

²³ See ch. 332, F.S.

²⁴ See ch. 333, F.S.

²⁵ Section 333.01(15), F.S., defines the term "public-use airport" to mean an airport, publicly or privately owned, licensed by the state, which is open for use by the public.

incompatible uses, as established in the study, except if such uses are specifically contemplated by such study with appropriate mitigation described in the study.²⁶

Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the zoning regulations must address the prohibition of residential construction and any educational facility,²⁷ except aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.²⁸

Effect of the Bill

The bill provides that airport land use compatibility zoning regulations must, at a minimum, consider (rather than address):

- Where an airport authority or other governing body operating a public-use airport has conducted a Part 150 study, or where a public-use airport owner has established noise contours pursuant to another FAA-*accepted* public study, the prohibition of incompatible uses, as established in the noise study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.
- Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the mitigation, instead of prohibition, of potential incompatible uses associated with residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

Implementing Solutions from Transportation Research and Evaluating Emerging Technologies (I-STREET) Living Lab

Current Situation

Florida law codifies various centers, institutes, and special programs within the State University System, including the Florida Industrial and Phosphate Research Institute at Florida Polytechnic University,²⁹ the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida,³⁰ the Louis de la Parte Florida Mental Health Institute at the University of South Florida,³¹ the Florida Institute for Child Welfare at Florida State University,³² and the Center for Urban Transportation Research at the University of South Florida.³³

Center for Urban Transportation Research

Florida law establishes the Center for Urban Transportation Research (CUTR) at the University of South Florida (USF), which is administered by the Board of Governors. CUTR's responsibilities include, but are not limited to, conducting and facilitating research on issues related to urban transportation problems in this state and serving as an information exchange and depository for the most current information pertaining to urban transportation and related issues.³⁴

²⁶ S. 333.03(2)(c), F.S.

²⁷ Section 333.01(10), F.S., defines the term "educational facility" to mean any structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multitenant building.

²⁸ S. 333.03(2)(d), F.S.

²⁹ S. 1004.346, F.S.

³⁰ S. 1004.43, F.S.

³¹ S. 1004.44, F.S.

³² S. 1004.615, F.S.

³³ S. 334.065, F.S.

³⁴ S. 334.065(1), F.S.

CUTR serves as a continuing resource for the Legislature, DOT, local governments, the nation's metropolitan regions, and the private sector in the area of urban transportation and related research and must generate support in addition to its state-funded support. CUTR must promote intercampus transportation and related research activities among Florida's universities in order to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.³⁵

CUTR's advisory board must periodically and objectively review and advise the center concerning its research program. Except for projects mandated by law, CUTR may not undertake state-funded base projects without advisory board approval. CUTR's advisory board consists of nine experts in transportation-related areas, including the secretaries of DOT, the Department of Environmental Protection, and the Department of Economic Opportunity, or their designees, and a member of the Florida Transportation Commission.³⁶ The remaining members of the board are nominated by the President of USF, as submitted by USF's College of Engineering, and these appointments are reviewed and approved by the Florida Transportation Commission and confirmed by the Board of Governors.³⁷

I-STREET Living Lab

The University of Florida (UF) College of Engineering's Transportation Institute aims to advance transportation, disseminate research results, and provide educational opportunities related to transportation. The institute is an umbrella organization housing several transportation-related centers.³⁸

UF's Transportation Institute, DOT, the City of Gainesville, and others have partnered to create the Implementing Solutions from Transportation Research and Evaluating Emerging Technologies (I-STREET) Living Lab. I-STREET's principal objective is to make significant improvements to transportation safety and mobility, utilizing a real-world testbed environment that has been created on and surrounding the UF campus and the expanding set of diverse technology installed on Florida segments of the Interstate Highway System.³⁹

DOT has invited transportation industry leaders to participate in the UF I-STREET program. According to DOT:

I-STREET is designed to assist in implementing emerging technologies aimed at safety and mobility improvements. DOT will develop requests for proposals utilizing the emerging technologies and will select vendors through a competitive bidding process. The selected vendor for each project will deploy technology solutions. UF will conduct before-and-after evaluations of implemented projects. After evaluation, DOT will consider whether to expand the successful I-STREET projects elsewhere in the state.

DOT has allocated funding for these innovative projects each fiscal year from Fiscal Year 2020-2021 until Fiscal Year 2024-2025. DOT plans to fund multiple projects each year based on the projects' merits and safety and mobility improvement potential. The number of awards will vary depending on the project type and scope.⁴⁰

³⁵ S. 334.065(2), F.S.

³⁶ The Florida Transportation Commission is a citizen's advisory board for the Department of Transportation. Florida Transportation Commission, *About Us*, <http://www.ftc.state.fl.us/aboutus.shtml> (last visited Feb. 15, 2023). See also s. 20.23(2), F.S.

³⁷ S. 334.065(3), F.S.

³⁸ University of Florida Transportation Institute, *Overview*, <https://www.transportation.institute.ufl.edu/overview/> (last visited Feb. 15, 2023).

³⁹ UF, *I-Street Living Lab*, <https://www.transportation.institute.ufl.edu/i-street-living-lab/> (last visited Feb. 15, 2023).

⁴⁰ DOT, *UF I-Street*, <https://www.fdot.gov/traffic/its/projects-deploy/cv/maplocations/uf-testbed.shtml> (last visited Feb. 15, 2023).

Effect of the Bill

The bill codifies in statute the I-STREET Living Lab within UF. The bill requires I-STREET, at a minimum, to:

- Conduct and facilitate research on issues related to innovative transportation mobility and safety technology development and deployment in Florida and serve as an information exchange and depository for the most current information pertaining to transportation research, education, workforce development, and related issues.
- Be a continuing resource for the Legislature, DOT, local governments, the nation's metropolitan regions, and the private sector in the area of transportation and related research.
- Promote intercampus transportation and related research activities among Florida universities to enhance the ability of these universities to attract federal and private sector funding for transportation and related research.
- Provide by July 1, 2024, and each July 1 thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a comprehensive report that outlines I-STREET's clearly defined goals and its efforts and progress on reaching those goals.

The bill creates an advisory board to periodically review and advise I-STREET concerning its research program. The board consists of the following nine members with expertise in transportation-related areas:

- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House of Representatives.
- The Secretary of Transportation or his or her designee.
- The Secretary of Economic Opportunity or his or her designee.
- A member of the Florida Transportation Commission.
- Four members nominated by UF's College of Engineering and approved by UF's president. These nominees may include representatives of UF, other academic and research institutions, or private entities.

Construction Aggregates

Current Situation

Aggregates are raw materials such as gravel, crushed stone, and sand. When combined with a binding medium such as water, cement, or asphalt, aggregates form compound materials, including asphalt concrete.⁴¹

Section 334.044(10)(d), F.S., authorizes DOT to adopt rules relating to approval of aggregate and other material sources.

Section 334.179, F.S., provides that notwithstanding any law, rule, or ordinance to the contrary, a local government may not adopt standards or specifications that are contrary to DOT's standards or specifications for permissible use of aggregates that have been certified for use. The term "certified for use" means that the aggregates have been certified by the producer in accordance with DOT rules.⁴²

DOT's rules regarding aggregates⁴³ provide a standardized method for producers of construction aggregates to apply for, receive, and maintain DOT approval of construction aggregate sources for use on DOT projects. Source and product approval, and maintenance of an on-going effective quality

⁴¹ Association of Equipment Manufacturers, *Construction Aggregates 101: What They Are (And Why They Matter)* (July 8, 2021), <https://www.aem.org/news/construction-aggregates-101-what-they-are-and-why-they-matter> (Last visited Feb. 15, 2023).

⁴² Section 334.179, F.S., does not apply to a multicounty independent special district created by a special act of the Legislature.

⁴³ R. 14-103, F.A.C.

control program, comprise DOT's primary methods of determining acceptability of aggregate on DOT projects.⁴⁴

DOT's Aggregate Acceptance Unit within the Materials Office ensures the quality of aggregates in Florida's transportation system by approving and monitoring aggregate sources. It develops, reviews, and recommends changes to DOT's policies and specifications for aggregate materials used in construction. It also conducts ongoing DOT research and evaluation of aggregate performance, base materials including new aggregate sources and recyclable waste products.⁴⁵

Effect of the Bill

The bill amends the definition of "certified for use" as it relates to aggregates by clarifying that the aggregates must have been certified by the producer "in compliance with" (rather than "in accordance with") DOT rules, and the bill clarifies that the applicable DOT rules are those adopted pursuant to s. 334.044(10)(d), F.S.

The bill provides that a producer may not represent that an aggregate is certified for use unless such aggregate is in compliance with DOT's rules adopted pursuant to s. 334.044(10)(d), F.S.

Electronic Proof of Delivery for Material Delivery

Current Situation

In April 2020, during the COVID-19 pandemic, DOT issued a Materials Bulletin/DCE Memorandum, prohibiting the use of paper delivery tickets for the delivery of construction materials. This document provided the following four methods that would satisfy the requirement that no paper be exchanged at the project site:

- *Direct Electronic Submission* – This method would allow digital copies of electronic delivery tickets generated at the material source be to directly transmitted at the project site by electronic means. The electronic image of the delivery ticket would be the official project record.
- *Electronic Image of Delivery Documents* – With this method, paper delivery tickets would be photographed by the delivery driver and provided at the job site by electronic means (e-mail or text). The electronic image would serve as proof of delivery.
- *e-Ticketing (Asphalt only)* – With this method, for asphalt deliveries, an e-ticketing system that meets specified requirements may be used. The electronic version of the delivery ticket would be the official project record.
- *Remote Review* – With this method, job site personnel may use a grabber tool to retrieve the paper ticket from the delivery driver, photograph the paper ticket, and return the paper ticket back to the delivery driver without handling the paper ticket. Alternatively, project personnel may photograph the ticket while the truck driver in the truck cab holds up the ticket. In these instances, the electronic image may be used at the jobsite, but the paper ticket will be the official project record.⁴⁶

The memorandum includes an attachment containing what information is required on an e-ticket, including, but not limited to, project information, name and location of plant, and weight of the truck.⁴⁷

Effect of the Bill

⁴⁴ R. 14-103.002, F.A.C.

⁴⁵ DOT, *Aggregate Acceptance*, <https://www.fdot.gov/materials/laboratory/geotechnical/aggregates/laboratory.shtm> (last visited Feb. 15, 2023).

⁴⁶ DOT, *Materials Bulletin No. 20-12; DCE Memorandum No. 20-14, April 8, 2020*, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/materials/administration/resources/library/materialsbulletins/topics/2020/mb20-12.pdf?sfvrsn=a2813251_2 (last visited Feb. 15, 2023).

⁴⁷ *Id.*

The bill requires that, notwithstanding any law, rule, or ordinance to the contrary, a local governmental entity⁴⁸ must accept an electronic proof of delivery as an official record for a material delivery on the local governmental entity's transportation project.

Bridge Contractor Marine Liability Insurance Requirements

Current Situation

DOT Contractor Liability Insurance Requirements

DOT requires each contractor to indemnify and hold harmless DOT, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the construction contract.⁴⁹

DOT also requires each contractor to carry commercial general liability insurance that provides continuous coverage for all work and operations provided under the contract. Additional requirements exist for construction adjacent to railroad tracks and certain utility facilities.⁵⁰

Marine General Liability Insurance

Since commercial general liability insurance policies exclude marine work, marine general liability insurance is designed to protect against claims of liability for bodily injury, property damage, and personal/advertising injury for those who work on or near the water. These classes include ship repairers, marina operators, charterers, stevedores, and terminal operators.⁵¹

Effect of the Bill

The bill provides that each contract let by DOT for performance of bridge construction or maintenance over navigable waters must require marine general liability insurance, in a DOT-determined amount, which covers potential liability for third-party personal injury and property damage claims caused by vessels used by the contractor in the performance of the work.

Construction Cost Savings

Current Situation

Under Florida law, DOT is required to periodically review its construction, design, and maintenance standards to ensure that such standards are cost-effective and consistent with applicable federal regulations and state law.⁵²

DOT has established a Cost Savings Initiative Program (CSI), offering contractors an opportunity to demonstrate ingenuity and innovation. A contractor may be rewarded by submitting a proposal

⁴⁸ Section 334.03(13), F.S., defines the term "local governmental entity" to mean a unit of government with less than statewide jurisdiction, or any officially designated public agency or authority of such a unit of government, that has the responsibility for planning, construction, operation, or maintenance of, or jurisdiction over, a transportation facility; the term includes, but is not limited to, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

⁴⁹ DOT Specs Book (January 2017) at Section 7-12.1, <https://www.fdot.gov/docs/default-source/programmanagement/implemented/specbooks/january2017/files/007-117.pdf> (last visited Feb. 15, 2023).

⁵⁰ *Id.* at Sections 7-13.2, 7-13.3, and 7-13.4.

⁵¹ Kelly White and Associates Insurance, LLC, *Marine General Liability Insurance*, <https://kwhiteinsurance.com/marine-insurance/#:~:text=Marine%20General%20Liability%20protects%20against,%2C%20stevedores%2C%20and%20terminal%20operators> (last visited Feb. 15, 2023).

⁵² S. 334.044(10)(b), F.S.

contributing to a project's cost effectiveness. The proposal must result in savings without degrading safety, operations, maintenance, aesthetics and essential functions. Over the past 10 years, DOT has approved 214 CSI proposals resulting in more than \$47 million in project savings.⁵³ However, engineering or consultant contracts are not eligible to participate in DOT's CSI program.

Effect of the Bill

The bill requires DOT to implement strategies to reduce the costs of all project phases including, design, construction, and inspection, while ensuring that the design and construction of projects meet applicable federal and state standards. DOT must make a record of such strategies and the projected savings.

The bill authorizes DOT to share a portion of the construction cost savings realized due to a change in a construction contract's design and scope, initiated after the execution of the contract, with a design services consultant or a construction engineering and inspection services consultant to the extent that the consultant's input and involvement contributed to such savings. The amount paid to a consultant may not exceed 10 percent of the construction cost savings realized.

DOT Contracting and Procurement Authority, Settlements, and Stipends

Current Situation

Bid Settlements

Under current law, when DOT determines that it is in the public's best interest to resolve a bid protest⁵⁴ related to the purchase of personal property or contractual services,⁵⁵ through a settlement requiring DOT to pay a nonselected responsive bidder a sum of \$1 million or more, including any amount paid relating to patents, copyrights, and trademarks,⁵⁶ relating to design-build stipends,⁵⁷ or any other law, DOT must:

- Document in a written memorandum prepared by the DOT secretary the specific reasons that such settlement and payment to a nonselected bidder is in the state's best interest. The written memorandum must be included and maintained in DOT's permanent files concerning the procurement and must include:
 - A description of the property rights, patent rights, copyrights, trademarks, or the engineering design or other design work that DOT will acquire or retain as a result of such settlement; and
 - The specific appropriation in the existing General Appropriations Act which DOT intends to use to provide such payment.
- Provide prior written notification to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General at least five business days, or as soon thereafter as practicable, before DOT makes the settlement agreement final. Such written notification must include the written memorandum.
- Provide, at the time settlement discussions regarding any such payment have begun in earnest, written notification of such discussions to the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives minority leaders, the chair and vice chair of the Legislative Budget Commission, and the Attorney General.⁵⁸

Design-Build Stipends

⁵³ DOT, *Cost Savings Initiative*, <https://www.fdot.gov/roadway/qa/default.shtm> (last visited Feb. 15 2023).

⁵⁴ Bid protests are handled in accordance with s. 120.57(3), F.S.

⁵⁵ S. 287.057, F.S.

⁵⁶ S. 334.049, F.S.

⁵⁷ S. 337.11(8), F.S.

⁵⁸ S. 337.1101(1), F.S.

Florida law provides that if DOT determines that it is in the public's best interest, it may pay a stipend to nonselected design-build firms that have submitted responsive proposals for construction contracts. The decision and amount of a stipend is based upon DOT analysis of the estimated proposal development costs and the anticipated degree of engineering design during the procurement process. DOT retains the right to use those designs from responsive nonselected design-build firms that accept a stipend.⁵⁹

Effect of the Bill

The bill provides that stipends paid by DOT to nonselected design-build firms that have submitted responsive proposals for construction contracts, which stipends are contained in DOT's legislatively approved work program, are not subject to existing documentation and notification requirements for stipend payments made by DOT to resolve a bid protest through a settlement. If DOT pays a stipend to settle a bid protest in an amount that triggers the requirements (\$1 million) and such amount is not contained in DOT's legislatively approved work program, DOT must continue to comply with the documentation and notification requirements.

Contractor Certificate of Qualification

Current Situation

Florida law requires a contractor desiring to bid on any DOT construction contract in excess of \$250,000 to obtain a certificate of qualification from DOT.⁶⁰ Each application for a certificate of qualification must be accompanied by the contractor's latest audited annual financial statements. If the application or the annual financial statement shows the contractor's financial condition more than four months prior to the date when DOT receives the application, the contractor must also submit audited interim financial statements and an updated application.⁶¹

DOT's rules include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor, which are necessary to perform the specific class of work for which the contractor seeks certification. DOT verifies and evaluates whether an applicant is competent and responsible and possesses the necessary financial resources to perform the requested work.⁶²

Part of DOT's inquiry involves whether an applicant has the financial resources sufficient to establish a maximum capacity rating, which is the total aggregate dollar amount of *uncompleted* work an applicant may have under contract at any one time as a prime contractor and/or subcontractor, regardless of the work location and with whom the applicant contracted.⁶³ According to DOT's rules, the maximum capacity rating is established by a formula, one element of which is the "ability factor."⁶⁴ DOT's rules require an applicant's maximum capacity rating to be reduced by the total value of their current uncompleted work, producing the applicant's "current capacity," or bidding capacity. Under the rule, the current capacity must be amended immediately upon issuance of a new certificate of qualification, regardless of whether the existing certificate has expired.⁶⁵

⁵⁹ S. 337.11(8), F.S.

⁶⁰ S. 337.14, F.S.; r. 14-22, F.A.C.

⁶¹ The interim financial statements must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than four months prior to the date DOT receives the interim statement; but, upon request of the applicant, an application and accompanying annual or interim financial statement received by the DOT within 15 days after either four-month period is considered timely. S. 337.14(1), F.S.

⁶² R. 14.22-003(1), F.A.C.

⁶³ R. 14.22-003(1)(d) and (2), F.A.C.

⁶⁴ The ability factor is a performance score which a contractor receives from DOT upon completion of a project. The initial ability factor is based on the applicant's organization, management, work experience, and letters of recommendation. R. 14-22-003, F.A.C.

⁶⁵ R. 14-22.006(1), F.A.C.

Currently, if an applicant for a certificate of qualification is found to possess the prescribed qualifications, DOT must issue the applicant a certificate, which, unless revoked by DOT for good cause, is valid for a period of 18 months after the date of the applicant's financial statement, or such shorter period as DOT prescribes. Submission of an application does not affect expiration of an existing certificate, the ability factor of the applicant, or the maximum capacity rating of the applicant.⁶⁶

Under Florida law, an applying contractor desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than \$1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant, instead of audited, certified financial statements. DOT may waive these requirements for projects having a contract price of \$500,000 or less if DOT determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.⁶⁷

Effect of the Bill

The bill removes existing provisions providing that submission of an application does not affect the ability factor or the maximum capacity rating of an applicant for certificate of qualification from DOT. Instead, the bill authorizes an applicant to submit a written request to DOT, along with its timely submitted application, to keep an existing certificate in place until its expiration date. If DOT approves the request, the applicant's current maximum capacity rating remains in place until expiration of the current certification. In the absence of DOT's approval and in accordance with DOT's existing rules, the current capacity rating must be amended immediately upon issuance of a new certificate of qualification, regardless of whether the existing certificate has expired.

The bill increases from \$1 million to \$2 million the proposed budget estimate amount for contracts under which an applying contractor may submit reviewed, rather than audited, annual or interim financial statements prepared by a certified public accountant. As a result, an applying contractor who desires to bid exclusively on construction contracts with proposed budget estimates of \$2 million or less may submit reviewed, rather than audited, annual or interim financial statements prepared by a certified public accountant.

Identities of Potential Bidders on DOT Contracts

Current Situation

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a) of the Florida Constitution.⁶⁸

Current law provides that a document revealing the identity of persons who have requested or obtained bid packages, plans, or specifications pertaining to any project to be let by DOT is confidential and exempt from the public records law for the period which begins two working days before the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. A document that reveals the identity of such persons more than the two working days before the deadline for obtaining bid packages, plans, or specifications remains a public record.⁶⁹

Effect of the Bill

⁶⁶ S. 337.14(4), F.S.

⁶⁷ S. 337.14(1), F.S.

⁶⁸ Art. I, s. 24(c), Fla. Const.

⁶⁹ S. 336.168(2), F.S.

The bill eliminates the public record exemption for documents revealing the identity of a person who has requested or obtained a bid package, plan, or specifications pertaining to any project to be let by DOT for the period that begins two working days before the deadline for obtaining bid packages plans, or specifications, and ends with the letting of the bid. Under the bill, such documents would be open to public inspection and copying as with any other public records.

Modular Newspaper Racks

Current Situation

Section 337.408, F.S., provides for the regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of way. Specifically, s. 337.408(3), F.S., provides that modular news racks, including advertising thereon, may be located within the right-of-way limits of any municipal, county, or state road, except a limited access highway, provided the municipal government within whose incorporated limits such racks are installed or the county government within whose unincorporated limits such racks are installed has passed an ordinance regulating the placement of modular news racks within the right-of-way and has authorized a qualified private supplier of modular news racks to provide such service. The modular news rack or advertising thereon may not exceed a height of 56 inches or a total advertising space of 56 square feet. No later than 45 days prior installing modular news racks, the private supplier must provide a map of proposed locations and typical installation plans to DOT for approval. If DOT does not respond within 45 days after receiving the submitted plans, installation may proceed.

Effect of the Bill

The bill increases the maximum height of modular news racks from 56 inches to 105 inches.

Proposed Turnpike Projects

Current Situation

Under Florida law, any proposed project to be constructed or acquired as part of DOT's turnpike system and any turnpike improvement must be included in DOT's tentative work program.⁷⁰ A proposed turnpike project may not be added to the turnpike system unless DOT determines the project is economically feasible, a statement of environmental feasibility has been completed, and such project is determined to be consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such project is located.⁷¹

DOT may authorize engineering studies, traffic studies, environmental studies, and other expert studies of the location, costs, economic feasibility, and practicality of proposed turnpike projects and may proceed with the design phase of such projects. DOT may not request legislative approval of a proposed turnpike project until the design phase of that project is at least 30 percent complete.⁷² There is not a similar statutory requirement for non-turnpike projects.

If a proposed turnpike project or group of proposed turnpike projects is found to be economically feasible, consistent, to the maximum extent feasible, with approved local government comprehensive plans of the local governments in which such projects are located, and a favorable statement of environmental feasibility has been completed, DOT, with the approval of the Legislature must, after receiving all necessary permits, construct, maintain, and operate such turnpike projects.⁷³

⁷⁰ DOT's tentative work program is provided for in s. 339.135(4), F.S.

⁷¹ S. 338.223(1), F.S.

⁷² *Id.*

⁷³ *Id.*

Effect of the Bill

The bill authorizes DOT to request legislative approval of a proposed turnpike project regardless of how complete the project's design phase is.

Metropolitan Planning Organizations

Metropolitan planning organizations (MPOs) are federally required transportation planning entities in urbanized areas with populations of 50,000 or more persons.⁷⁴ Florida has 27 MPOs.⁷⁵

Current Situation: MPO Designation

Under Florida law, an MPO must be designated for each urbanized area. However, an individual MPO is not required to be designated for each urbanized area. MPO designation is accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the urbanized area's population. However, the central city or cities within the MPO must be a party to such agreement.⁷⁶

To the extent possible, only one MPO may be designated for each urbanized area or group of contiguous urbanized areas. More than one MPO may be designated within an existing urbanized area only if the Governor and the existing MPO determine that the existing urbanized area's size and complexity makes designating more than one MPO for the area appropriate.⁷⁷

Effect of the Bill: MPO Designation

The bill revises the provision that allows more than one MPO to be designated for each urbanized area or groups of urbanized areas, in which case each MPO designated for the urbanized area must:

- Consult with every other MPO designated for the area and the state to coordinate plans and transportation improvement programs.
- Ensure, to the maximum extent practicable, the consistency of data used in the planning process, including data used in forecasting travel demand with the urbanized area.

Current Situation: MPO Powers, Duties, and Responsibilities

An MPO's powers, privileges, and authority are those specified in s. 339.175, F.S., relating to MPOs, or incorporated into an interlocal agreement. The intent of s. 339.175, F.S., is that each MPO be involved in the planning and programming of transportation facilities⁷⁸ to the extent permitted by state or federal law.⁷⁹

In developing its long-range transportation plan⁸⁰ and the transportation improvement program,⁸¹ each MPO must consider projects and strategies that will:

- Support the economic vitality of the metropolitan area;
- Increase the safety and security of the transportation system;
- Increase the accessibility and mobility options available to people and for freight;
- Protect and enhance the environment, promote energy conservation, and improve quality of life;
- Enhance the integration and connectivity of the transportation system for people and freight;

⁷⁴ Federal Transit Administration, *Metropolitan Planning Organization (MPO)*, <https://www.transit.dot.gov/regulations-and-guidance/transportation-planning/metropolitan-planning-organization-mpo> (last visited Apr. 17, 2023).

⁷⁵ A list of Florida's MPOs is available at: <https://www.mpoac.org/mpos/> (last visited Apr. 17, 2023).

⁷⁶ S. 339.172(2)(a)1., F.S.

⁷⁷ S. 339.172(2)(a)2., F.S.

⁷⁸ Transportation facilities include, but are not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities.

⁷⁹ S. 339.175(6), F.S.

⁸⁰ The long-range transportation plan is developed pursuant to s. 339.175(7), F.S.

⁸¹ The transportation improvement program is developed pursuant to s. 339.175(8), F.S.

- Promote efficient system management and operation; and
- Emphasize the preservation of the existing transportation system.⁸²

In order to provide recommendations to DOT and local governmental entities regarding transportation plans and programs, each MPO must:

- Prepare a congestion management system for the metropolitan area and cooperate with DOT in the development of all other transportation management systems;
- Assist DOT in mapping transportation planning boundaries;
- Assist DOT in performing its duties relating to access management, functional classification of roads, and data collection;
- Execute all agreements or certifications necessary to comply with applicable law;
- Represent all the jurisdictional areas within the metropolitan area in the formulation of required transportation plans and programs; and
- Perform all other duties required by state or federal law.⁸³

Florida law requires each MPO to appoint a technical advisory committee, whose members include, whenever possible, planners; engineers; representatives of local aviation authorities, port authorities, and public transit authorities or representatives of aviation departments, seaport departments, and public transit departments; the school superintendent, or his or her designee, from each county within the MPO; and other appropriate representatives of affected local governments.⁸⁴

The Legislature finds that the state's rapid growth in recent decades has caused many urbanized areas subject to MPO jurisdiction to become contiguous to each other. As a result, various transportation projects may cross into multiple MPOs. To more fully accomplish the MPO's purposes, MPOs must develop coordination mechanisms with one another to expand and improve transportation. The appropriate method of coordination between MPOs varies depending upon the project involved and given local and regional needs. Therefore, it is appropriate to set forth a flexible methodology that can be used by MPOs to coordinate with other MPOs and appropriate political subdivisions as circumstances demand.⁸⁵

Any MPO may join with any other MPO or any individual political subdivision to coordinate activities or to achieve any federal or state transportation planning or development goals or purposes consistent with federal or state law. When an MPO determines that it is appropriate to join with another MPO or any political subdivision to coordinate activities, the MPO or political subdivision must enter into an interlocal agreement to coordinate the transportation planning or development activities and the statute provides various requirements for these agreements. However, This does not require any MPOs to merge, combine, or otherwise join together as a single MPO.⁸⁶

Effect of the Bill: MPO Powers, Duties, and Responsibilities

The bill prohibits MPOs from performing production or delivery for capital improvement projects on the State Highway System.

The bill requires each MPO in developing its long-range transportation plan and transportation improvement program to:

- Support the economic vitality of the *contiguous urbanized* metropolitan area;
- Enhance the integration and connectivity of the transportation system, across and between contiguous urbanized metropolitan areas, for people and freight; and
- Improve the resilience of transportation infrastructure.

⁸² S. 339.175(6)(b), F.S.

⁸³ S. 339.175(6)(c), F.S.

⁸⁴ S. 339.175(6)(d), F.S.

⁸⁵ S. 339.175(6)(j)1., F.S.

⁸⁶ S. 339.175(6)(j)2., F.S.

The bill requires each MPO to prepare a congestion management system for the *contiguous urbanized* metropolitan area.

The bill requires certain MPOs to consider the proportional representation of the area's population when selecting membership of a technical advisory committee and requires that, whenever possible, representatives of intermodal logistics centers⁸⁷ be included on the technical advisory committee.

The bill removes legislative findings regarding transportation projects crossing from the jurisdiction of one MPO into the jurisdiction of another MPO.

The bill provides that multiple MPOs may merge, combine, or otherwise joint together as a single MPO.

Current Situation: Tampa Bay Area MPOs

Current law creates the Chairs Coordinating Committee, composed of the MPOs serving Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.⁸⁸ The committee 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 MPO 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.⁸⁹

Effect of the Bill: Tampa Bay Area MPOs

The bill repeals the Chairs Coordinating Committee.

In its place, the bill requires that, by December 31, 2023, the MPOs serving Hillsborough, Pasco, and Pinellas Counties must submit a feasibility report to the Governor, the President of the Senate, and the Speaker of the House of Representatives exploring the benefits, costs, and process for consolidation into a single MPO serving the contiguous urbanized area, the goal of which would be to:

- Coordinate transportation projects deemed to be regionally significant.
- Review the impact of regionally significant land use decisions on the region.
- Review all proposed regionally significant transportation projects in the transportation improvement programs.

Current Situation: Long-Range Transportation Plan

Each MPO must develop a long-range transportation plan addressing at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and comply with state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are:

- Preserving the existing transportation infrastructure;
- Enhancing Florida's economic competitiveness; and
- Improving travel choices to ensure mobility.⁹⁰

⁸⁷ Section 311.101(2), F.S., defines the term "intermodal logistics center," including, but not limited to, an "inland port," to mean a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09, F.S.

⁸⁸ The Chairs Coordinating Committee was previously created within the Tampa Bay Area Regional Transit Authority.

⁸⁹ S. 339.175(6)(i), F.S.

⁹⁰ S. 339.175(7), F.S.

The MPO's long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the local government located within the MPO. Florida law encourages each MPO to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The MPO's approved long-range transportation plan must be considered by local governments in developing and amending the transportation elements in local government comprehensive plans.⁹¹

The long-range transportation plan must, at a minimum:

- Identify transportation facilities that will function as an integrated metropolitan transportation system. The long-range transportation plan must emphasize transportation facilities that serve national, statewide, or regional functions, and consider the Florida Transportation Plan's⁹² identified goals and objectives. If a project is located within more than one MPO, the MPOs must coordinate plans regarding the project in the long-range transportation plan.⁹³
- Include a financial plan that demonstrates how the plan can be implemented, indicating resources from public and private sources which are reasonably expected to be available to carry out the plan, and recommends any additional financing strategies for needed projects and programs.⁹⁴

Effect of the Bill: Long-Range Transportation Plan

The bill requires multiple MPOs within a contiguous urbanized area to coordinate the development of long-range transportation plans to be reviewed by the Metropolitan Planning Organization Advisory Council. The bill also requires multiple MPOs within a contiguous urbanized area to ensure, to the maximum extent possible, consistency in the data used in the planning process.

Current Situation: Transportation Improvement Program

Under Florida law, each MPO must, in cooperation with the state and affected public transportation operators, develop a transportation improvement program for the area within the MPO's jurisdiction. In developing its transportation improvement program, each MPO must provide the public, affected public agencies and other interested parties with a reasonable opportunity to comment on the proposed transportation improvement program.⁹⁵

Each MPO must annually develop a list of project priorities and a transportation improvement program. The prevailing principles each MPO must consider when developing a list of project priorities and a transportation improvement program are:

- Preserving the existing transportation infrastructure;
- Enhancing Florida's economic competitiveness; and
- Improving travel choices to ensure mobility.⁹⁶

The transportation improvement program is used to initiate federally aided transportation facilities and improvements as well as other transportation facilities and improvements including transit, rail, aviation, spaceport, and port facilities to be funded from the State Transportation Trust Fund (STTF) within its metropolitan area. The transportation improvement program must be consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local governments

⁹¹ *Id.*

⁹² The Florida Transportation Plan is provided for in s. 339.175, F.S.

⁹³ S. 339.175(7)(a), F.S.

⁹⁴ S. 339.175(7)(b), F.S.

⁹⁵ S. 339.175(8), F.S.

⁹⁶ *Id.*

within the MPO's metropolitan area and include those projects programmed pursuant to the Transportation Regional Incentive Program.⁹⁷

The transportation improvement program must, at a minimum:

- Include projects and project phases to be funded with state or federal funds within the time period of the transportation improvement program and which are recommended for advancement during the next fiscal year and four subsequent fiscal years.
- Include projects within the metropolitan area which are proposed for funding under the Federal Transit Act and which are consistent with the long-range transportation plan.
- Provide a financial plan demonstrating how the transportation improvement program can be implemented; indicating the resources that are reasonably expected to be available to accomplish the program; and identifying any innovative financing techniques that may be used to fund needed projects and programs.
- Group projects and project phases of similar urgency and anticipated staging into appropriate staging periods.
- Indicate how the transportation improvement program relates to the long-range transportation plan, including examples of specific projects or project phases that further the long-range transportation plan's the goals and policies.
- Indicate whether any project or project phase is inconsistent with an affected local government's approved comprehensive plan. If a project is inconsistent with an affected comprehensive plan, the MPO must provide justification for including the project in the transportation improvement program.
- Indicate how the improvements are consistent, to the maximum extent feasible, with affected seaport, airport, and spaceport master plans and with public transit development plans of local governments located within the MPOs jurisdiction. If a project is located within more than one MPO, the MPOs must coordinate plans regarding the project in the transportation improvement program.⁹⁸

Effect of the Bill: Transportation Improvement Program

The bill adds ensuring safety to the list of principles to be considered by each MPO when developing a list of project priorities and a transportation improvement program, requires multiple MPOs within a contiguous urbanized area to coordinate transportation improvement programs, and requires each MPO's transportation improvement program to indicate coordination or alignment with transportation improvement plans of other MPOs within the contiguous urbanized area.

Current Situation: Metropolitan Planning Organization Advisory Council

Section 339.175(11), F.S., creates the Metropolitan Planning Organization Advisory Council (MPOAC) to augment, not supplant, the role of the individual MPOs in the cooperative transportation planning process.⁹⁹ The MPOAC consists of one representative from each MPO.¹⁰⁰ The MPOAC's powers and duties are to:

- Enter into contracts with individuals, private corporations, and public agencies.
- Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
- Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.
- Establish bylaws providing procedural rules to guide its proceedings and consideration of matters before the council, or, alternatively, adopt rules to implement laws conferring powers or duties upon it.

⁹⁷ S. 339.175(8)(a), F.S.

⁹⁸ S. 339.175(8)(b), F.S.

⁹⁹ S. 339.175(11)(a), F.S.

¹⁰⁰ S. 339.175(11)(b), F.S.

- Assist MPOs in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion.
- Serve as a clearinghouse for review and comment by MPOs on the Florida Transportation Plan and on other issues required to comply with federal or state law.
- Employ an executive director and other staff necessary to adequately perform, within budgetary limitations, the MPOAC's functions. The executive director and staff are exempt from the Career Service System¹⁰¹ and serve at the MPOAC's direction and control. The MPOAC is assigned to the Office of the Secretary of Transportation for fiscal and accountability purposes, but otherwise functions independently of DOT's control and direction.
- Adopt an agency strategic plan that prioritizes steps the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directives.¹⁰²

Effect of the Bill: Metropolitan Planning Organization Advisory Council

The bill removes the following from the MPOAC's powers and duties:

- To enter into contracts with individuals, private corporations, and public agencies.
- To acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
- To accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

The bill gives the MPOAC the power to deliver training on federal and state program requirements to MPO board members and MPO staff.

The bill requires the MPOAC to annually report to the Florida Transportation Commission on the alignment of MPO long-range transportation plans with the Florida Transportation Plan.

The bill also authorizes the MPOAC to enter into contracts to support the activities described above. However, the bill prohibits the MPOAC from lobbying or accepting funds, grants, assistance, gifts, or bequests from private, local, state, and federal sources.

Strategic Intermodal System Emerging Supply Chain Demands

Current Situation

The Strategic Intermodal System (SIS) is Florida's high-priority network of transportation facilities important to the state's economy and mobility. Established in 2003, the SIS focuses Florida's limited transportation resources on the facilities most significant for interregional, interstate, and international travel. The SIS is Florida's highest priority for transportation capacity investments and a primary focus for implementing the Florida Transportation Plan, the state's long-range transportation vision and policy plan.¹⁰³

The SIS consists of appropriate components of:

- Highway corridors established under s. 339.65, F.S.¹⁰⁴
- The National Highway System.
- Airport, seaport, and spaceport facilities.

¹⁰¹ Ch. 110, part II, F.S.

¹⁰² S. 339.175(11)(c), F.S.

¹⁰³ Department of Transportation, *Florida's Strategic Intermodal System (SIS)*, <https://www.fdot.gov/planning/sis/default.shtm> (last visited Apr. 15, 2023).

¹⁰⁴ Strategic Intermodal System highway corridors include the following components of the State Highway System: interstate highways, the Florida Turnpike System, interregional and intercity limited access facilities, existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited access or controlled access facility standards, new limited access facilities necessary to complete a balanced statewide system.

- Rail lines and rail facilities.
- Selected intermodal facilities; passenger and freight terminals; and appropriate components of the State Highway System, county road system, city street system, inland waterways, and local public transit systems that serve as existing or planned connectors between the components listed above.
- Other existing or planned corridors that serve a statewide or interregional purpose.¹⁰⁵

Effect of the Bill

The bill creates s. 339.651, F.S., relating to Strategic Intermodal System supply-chain demands. The bill provides legislative findings that :

- The SIS components ensure a multimodal transportation system.
- The SIS is a critical network supporting economic activities and the transport of people and goods.
- The SIS is instrumental in the movement of road building materials for infrastructure investments;
- Florida's rapid economic and population growth can compound supply-chain demands on the transportation system; and
- The demand for construction aggregate continues to outpace supply.

The bill requires DOT to specifically address in its transportation plans, including the Florida Transportation Plan and the Strategic Intermodal System Plan, movement and storage of construction aggregate materials essential for building roadways.

The bill requires DOT to make up to \$20 million available in each year for fiscal years 2023-2024 through 2027-2028, from existing work program revenues, to fund projects that provide increased capacity and enhanced capabilities to move and store construction aggregate. Applicants eligible for project funding are seaports,¹⁰⁶ rail lines, and rail facilities.

DOT must consider at least the following criteria when evaluating projects for assistance:

- The ability of the project to serve the strategic state interest of mitigating supply-chain demands for construction aggregate sufficient to ensure ongoing improvement of the SIS and the state's entire transportation network.
- The ability of the project to facilitate the cost-effective and efficient movement and storage of construction aggregate.
- The extent to which the project efficiently interacts with and supports the transportation network.
- Any commitment of a funding match, which may be investment or commitment made by the owner or developer of the existing or proposed facility that facilitates or will facilitate the movement and storage of construction aggregate, local financial support or commitment, or a combination of both. Projects with a funding match shall be prioritized based on the amount of the match and shall be prioritized over projects having no such funding match.

Projects meeting the above criteria may be funded from the STTF up to 100 percent of the cost of the project. DOT may adopt rules to implement this provision.

The bill repeals s. 339.651, F.S., on July 1, 2028.

¹⁰⁵ S. 339.62, F.S.

¹⁰⁶ Florida's seaports are Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, KeyWest, and Fernandina. See s. 311.09(1), F.S.

Workforce Development

Current Situation

Section 334.044, F.S., authorizes DOT to provide a road and bridge construction workforce development program for construction of projects designated in the 5-Year Work Program. The program serves as a tool to address the construction labor shortage by recruiting and building a pipeline of skilled workers for multiuse infrastructure projects. For Fiscal Years 2019-2020, 2020-2021, and 2021-2022, DOT was appropriated \$2.5 million to the STTF to fund the program. Even though the dedicated program funding ended, the program remains authorized in statute and may be administered by DOT to the extent that funding resources are available.

DOT is authorized to administer workforce development contracts with consultants and non-profit entities, such as local community partners, state colleges, and technical institutions. These entities, as specified in a contract with the DOT, are deemed to have the primary purposes of providing:

- Workforce recruitment;
- Training curriculum for the DOT's road and bridge construction and corridor projects; and
- Providing support services to remove barriers to work.

Effect of the Bill

The bill amends DOT's workforce development authorization in s. 334.044, F.S., to remove "road and bridge" from the description of the construction workforce development program, thereby expanding the scope of the program. The bill also amends the description of the construction workforce development program such that it is for the delivery, instead of construction, of projects in DOT's work program.

The bill requires DOT, beginning in Fiscal Year 2023-2024 and annually thereafter for five years, to allocate \$5 million from the STTF to the workforce development program to promote career paths in Florida's road and bridge industry.

Railroad Police

Current Situation

Railroads

According to the United States Surface Transportation Board (STB), railroads are classified based on their annual operating revenues. The class to which a railroad belongs is determined by comparing its adjusted operating revenues for three consecutive years to the following scale:

- Class I - \$943.9 million or more;
- Class II - \$42.4 million or more;
- Class III - \$0 to \$42.4 million.¹⁰⁷

Florida has a rail network 3,865 miles long. Florida's freight rail system consists of two Class I railroads, one Class II railroad, and multiple Class III railroads. Roughly 60 percent of Florida's rail mileage is owned by Class I or Class II railroads. There is also intercity passenger rail operating on freight tracks by Amtrak and Brightline. In the Orlando and Miami urbanized areas, DOT owns rail corridors where SunRail (Orlando) and Tri-Rail (Miami) operate. Additionally, there are urban rail transit systems in Miami, Jacksonville, and Tampa.¹⁰⁸

¹⁰⁷ Surface Transportation Board, *Economic Data*, <https://www.stb.gov/reports-data/economic-data/#:-:text=For%20regulatory%20purposes%2C%20the%20Board,the%20carrier's%20annual%20operating%20revenues> (last visited Apr. 15, 2023).

¹⁰⁸ DOT, *Florida Rail System Plan, December 2022, Chapter 1: The Role of Rail in Statewide Transportation*, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/rail/2022/fdot_rsp_ch-1_ada.pdf?sfvrsn=7a311447_2 (last visited Apr. 17, 2023).

Appointment of Special Officers

Section 354.01, F.S., provides that upon the application of any railroad or other common carrier,¹⁰⁹ the Governor must appoint one or more persons who have met the statutory law enforcement qualifications and training requirements as special officers for the protection and safety of such carriers; their passengers and employees; and the property of such carriers, passengers, and employees.

However, until the Governor appoints or rejects the application for appointment of a special officer, the railroad or common carrier may temporarily employ the person as a special officer if he or she complies with the qualifications for employment as a law enforcement officer. However, a special officer must have the same training as a law enforcement officer.¹¹⁰ A Class I, Class II, or Class III railroad is considered an employing agency for purposes of ss. 943.13 and 943.135(1), F.S., and must pay all costs associated with the training and continuing education of employed special officers.¹¹¹

Each special officer has, in every county in which the common carrier for which he or she was appointed, does business, operates, or owns property, the power to make arrests for violation of law on the property of such common carrier, and to arrest persons, whether on or off such carrier's property, violating any law on such carrier's property, under the same conditions under which a deputy sheriff may make arrests, and may carry weapons.¹¹²

Before entering into the performance of his or her duties every such special officer must enter into a \$5,000 bond payable to the Governor with a surety company authorized to do business in Florida, conditioned for the faithful performance of his or her duties, and to pay any and all damage done by any illegal act committed by him or her.¹¹³

These special officers are commissioned by the Governor, and their commissions continue so long as they are employed in such capacity by the railroad or other common carrier; but may be removed by the Governor as provided by law.¹¹⁴

Law Enforcement Officers – Minimum Qualifications and Training Requirements

The Criminal Justice Standards and Training Commission (CJSTC), housed within the Florida Department of Law Enforcement, establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary law enforcement officers (LEOs). Currently, every prospective LEO must meet the minimum qualifications outlined in s. 943.13, F.S., successfully complete a CJSTC-developed Basic Recruit Training Program, and pass a statewide certification examination in order to receive their certification.¹¹⁵

Section 943.13, F.S., provides the following minimum qualifications for law enforcement officers:

- Be at least 19 years of age.
- Be a citizen of the United States.
- Be a high school graduate or its “equivalent.”

¹⁰⁹ A common carrier is a person or a commercial enterprise that transports passengers or goods for a fee and establishes that their service is open to the general public. Examples of common carriers include ships, railroads, airlines, and taxis. Cornell Law School Legal Information Institute, *Common Carrier*, https://www.law.cornell.edu/wex/common_carrier#:~:text=A%20common%20carrier%20is%20a,airline%2C%20taxi%20service%2C%20etc (last visited Apr. 15, 2023).

¹¹⁰ In accordance with ss. 943.13 and 943.135(1), F.S.

¹¹¹ S. 354.01, F.S.

¹¹² S. 354.02, F.S.

¹¹³ S. 354.03, F.S.

¹¹⁴ S. 354.05, F.S.

¹¹⁵ S. 943.13, F.S.

- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States.
- Have documentation of his or her processed fingerprints on file with the employing agency.
- Have passed a physical examination.
- Have a good moral character as determined by a background investigation.
- Execute and submit to the employing agency an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with requirements above.
- Complete a basic recruit training program for the applicable criminal justice discipline.
- Achieve an acceptable score on the officer certification examination.
- Comply with the continuing training or education requirements of s. 943.135, F.S.

LEOs must also satisfy the continuing training and education requirements of s. 943.135, F.S., to maintain their certification. This statute requires LEOs, as a condition of continued employment or appointment, to receive periodic CJSTC-approved continuing training or education at the rate of 40 hours every 4 years.¹¹⁶ The employing agency must document that the continuing training or education is job-related and consistent with the needs of the employing agency, and must maintain and submit the documentation to CJSTC.¹¹⁷

Effect of the Bill

The bill provides that a railroad police officer who has met the statutory law enforcement officer qualifications and training requirements must be recognized as a special officer for the protection and safety of any railroad or common carrier doing business in Florida; its passengers and employees; and the property of such carrier, passengers, and employees. A special officer is not considered a “law enforcement officer” except for purposes of ss. 943.085-943.255, F.S.

The bill removes the requirement that these special officers be appointed by the Governor and removes the authorization for a person to temporarily work as a special officer while waiting for the Governor to appoint him or her as a special officer.

The bill amends the powers of special officers by providing that in every county in which he or she is employed and does business, operates, or owns property, a special officer may arrest a person who has violated any law on such carrier’s property, whether the arrest occurs on or off such carrier’s property, under the same conditions under which a deputy sheriff may make arrests, and may carry weapons for the reasonable purpose of his or her office.

The bill provides that the commission of a special officer continues as long as he or she is employed in such capacity by the railroad or other common carrier. However, a special officer may be removed at any time, as provided by law.

The bill amends s. 784.07, F.S., relating to assault and battery of law enforcement officers and other specified officers, removing a provision that railroad special officers are appointed by the Governor.

The bill amends s. 943.10, F.S., revising the definition of “law enforcement officer” to include special officers employed by Class I, Class II, or Class III railroads and revising the definition of “employing agency” to include a Class I, Class II, or Class III railroad that employs special officers.

Effective Date

Except as otherwise expressly provided in the bill, the bill has an effective date of July 1, 2023.

¹¹⁶ S. 943.135(1), F.S.

¹¹⁷ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The state may see additional revenues from penalties associated with expanding the Move Over Law to include disabled motor vehicles.

2. Expenditures:

Under current law, the Department of Highway Safety and Motor Vehicles (DHSMV) must provide an educational awareness campaign regarding the Move Over Law. Additionally, DHSMV must provide information about the Move Over Law in all newly printed driver license educational materials.¹¹⁸ DHSMV will need to update its materials regarding the Move Over Law.

DOT's costs associated with establishing autonomous vehicle grading standards for roads on the State Highway System are indeterminate, but implementation would be limited to available transportation revenues within the confines of the Work Program. DOT reports that some autonomous vehicle grading standards are already incorporated into DOT's current standards for transportation projects for new roads and maintenance of existing State Highway System roads.

DOT reports that policies relating to the contractor certificate of qualification would require amending, but any costs would be negligible and absorbed within existing resources.

Any travel related costs associated with the Secretary or his or her designee participating in the I-STREET advisory board would be insignificant and absorbed within existing resources according to DOT.

In addition, the bill mandates that beginning in Fiscal Year 2023-2024, \$5 million from the State Transportation Trust Fund be allocated to support the costs related to implementing the workforce development program and promoting career paths in Florida's road and bridge industry.

The bill requires DOT to make \$20 million available each year from existing work program revenues to fund projects that provide increased capacity and enhanced capabilities to move and store construction aggregates and other materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Local governments may see additional revenues from penalties associated with expanding the Move Over Law to include disabled motor vehicles.

2. Expenditures:

Indeterminate. Requiring local governments to accept electronic proof of delivery for material delivery is not expected to add expense to the local government's processes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain portions of the bill may result in cost savings to the private sector, while the provision requiring marine general liability insurance of bridge construction or maintenance over navigable waters may

¹¹⁸ S. 316.126(1)(c), F.S.

increase costs to the private sector. According to DOT, however, private vendors who bid on these projects normally include such costs in their bids, thus passing this cost back to the state. The fiscal impact of this provision is indeterminate.

The road and bridge industry may experience improved employee recruitment as a result of DOT's workforce development program.

D. FISCAL COMMENTS:

None.