

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1301 Department of Transportation
SPONSOR(S): Infrastructure Strategies Committee, Infrastructure & Tourism Appropriations Subcommittee, Transportation & Modals Subcommittee, Abbott, Berfield, and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	11 Y, 6 N, As CS	Walker	Hinshelwood
2) Infrastructure & Tourism Appropriations Subcommittee	10 Y, 4 N, As CS	Hicks	Davis
3) Infrastructure Strategies Committee	17 Y, 8 N, As CS	Walker	Harrington

SUMMARY ANALYSIS

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

- Revises the Florida Department of Transportation’s (FDOTs) areas of program responsibility.
- Removes obsolete language that requires the FDOT secretary to appoint FDOT’s inspector general.
- Changes the time period a prepaid toll account can remain dormant from three years to ten.
- Provides a circumstance wherein FDOT may not expend any state funds to support a project or program of a public transit provider, authority, public-use airport, or a port.
- Provides that the remainder of the revenues deposited into the State Transportation Trust Fund (STTF) derived from the registration of motor vehicles must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation to fund arterial highway projects.
- Allows FDOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance projects identified in the Moving Florida Forward Infrastructure Initiative in the Work Program.
- Provides that when developing transportation plans, FDOT and Metropolitan Planning Organizations may not consider any nonpecuniary factor.
- Creates a Supply Chain Innovation Grant Program within the Department of Commerce.
- Requires that any lane elimination or lane repurposing, recommendation, or application relating to public transit projects must be approved by a two-thirds vote of the transit authority board in a public meeting with a 30-day public notice and that any action of eminent domain for acquisition of public transit facilities carried out by a public transit provider must be discussed by the public transit provider at a public meeting with a 30-day public notice.
- Provides that the remaining unallocated New Starts Transit Program funds as of June 30 of each fiscal year, must be reallocated for the purpose of the Strategic Intermodal System.
- Provides that each public transit provider, by November 1, 2024, during a public meeting must annually certify that its budgeted and general administration costs are not greater than 20 percent above the annual state average of administrative costs for its respective tier; present a line-item budget report of its budgeted and actual general administration costs; and disclose all salaried executive and management level employees' total compensation packages, ridership performance and metrics, and any gift accepted in exchange for contracts.
- Provides requirements for marketing and advertising by a public transit provider.

The bill will have an indeterminate fiscal impact on state and local governments and the private sector. See Fiscal Analysis Section.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Department of Transportation (FDOT) Program Responsibility

Current Situation

FDOT's areas of program responsibility include, but are not limited to:

- Administration;
- Planning;
- Public transportation;
- Design;
- Highway operations;
- Right-of-way;
- Toll operations;
- Information systems;
- Motor carrier weight inspection;
- Management and budget;
- Comptroller;
- Construction;
- Maintenance; and
- Materials.¹

The secretary of FDOT may appoint positions at the level of deputy assistant secretary or director which the secretary deems necessary to accomplish the mission and goals of the FDOT, including, but not limited to, the areas of program responsibility provided above.²

Effect of the Bill

The bill revises FDOT's areas of program responsibility by replacing:

- Public transportation with modal development; and
- Management and budget with work program development and budget.

The bill adds the following areas of program responsibility:

- Transportation technology;
- Statewide corridors;
- Forecasting and performance;
- Emergency management; and
- Safety office.

Office of Inspector General

Current Situation

An Office of Inspector General (OIG) is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government.³

For state agencies under the jurisdiction of the Governor, the Inspector General (IG) must be appointed by the Chief IG. The agency head or Chief IG must notify the Governor in writing of his or her intention to hire the IG at least 7 days before an offer of employment. The IG must be appointed without regard to political affiliation.⁴

¹ S. 20.23(3)(b), F.S.

² *Id.*

³ S. 20.055(2), F.S.

⁴ S. 20.055(3)(a), F.S.

Section 20.23(3), F.S., contains an obsolete provision that requires the Florida Department of Transportation (FDOT) secretary to appoint an IG.⁵

Effect of the Bill

The bill removes obsolete language that requires the FDOT secretary to appoint the IG.

Dormant Prepaid Toll Accounts

Current Situation

Under Florida law, any prepaid toll account of any kind which has remained inactive for 3 years must be presumed unclaimed and its disposition must be handled by the Department of Financial Services⁶ in accordance with all applicable provisions relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by FDOT.⁷

Effect of the Bill

The bill changes the time period a prepaid toll account can remain dormant from three years to ten.

Use of Moneys in the State Transportation Trust Fund

Current Situation

Florida law establishes the State Transportation Trust Fund (STTF), which is used for transportation purposes, under the direction of FDOT.⁸ Such transportation purposes include maintaining and developing the state highway system and supporting various transportation related projects.⁹ STTF's primary revenue sources are from state fuel taxes and fees related to motor vehicle licensing.¹⁰ FDOT must expend moneys in the STTF in accordance with its annual budget.¹¹

Effect of the Bill

The bill provides that FDOT may not expend any state funds approved through the General Appropriation Act (GAA) to support a project or program of a public transit provider¹², certain transportation authorities¹³, public-use airport¹⁴, or a port¹⁵ which is found in violation of s. 381.00316, F.S.¹⁶ The bill provides that FDOT must withhold state funds until a public transit provider, authority, public-use airport, or port are found to be in compliance with s. 381.00316, F.S.

⁵ S. 20.23(3)(d), F.S.

⁶ Until claimed, unclaimed money is deposited into the state school fund, where it is used for public education. There is, however, no statute of limitations, and citizens have the right to claim their property any time at no cost. Florida Department of Financial Services, *Unclaimed Property*, <https://www.myfloridacfo.com/division/unclaimedproperty/home#:~:text=Florida%20Unclaimed%20Property&text=Until%20Unclaimed%2C%20unclaimed%20money%20is.any%20time%20at%20no%20cost>. (last visited Feb. 7, 2024).

⁷ S. 338.231(3)(c), F.S.

⁸ S. 206.46(1), F.S.

⁹ Office of Work Program and Budget Florida Department of Transportation, *Florida's Transportation Tax Sources*, (2023), p. 2, https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/pr/P_rimer.pdf#:~:text=STTF%E2%80%99s%20primary%20revenue%20sources%20from%20state%20taxes%20and,fuel%20taxes%20and%20motor%20vehicle%20license%20related%20fees. (last visited Feb. 7, 2024).

¹⁰ *Id.*

¹¹ S. 339.08(1), F.S.

¹² S. 341.031(1), F.S., defines public transit provider as a public agency providing public transit service, including rail authorities.

¹³ Authority created pursuant to Ch. 343, 348, or 349.

¹⁴ S. 332.004(14), F.S., defines public-use airport as any publicly owned airport which is used or to be used for public purposes.

¹⁵ S. 311.09(1), F.S., enumerates the following ports: Port of 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, Key West, and Fernandina.

¹⁶ S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or

Arterial Highway Projects

Current Situation

After the revenue derived from the registration of motor vehicles is distributed monthly, as specified and allocated per law, the remainder of such revenues must be deposited into the STTF.¹⁷ This remainder deposited in the STTF must be used to fund arterial highway¹⁸ projects identified by FDOT and may be used for projects for upgrading arterial highways with controlled access facilities and constructing U.S. 19 controlled access facilities.¹⁹

Effect of the Bill

The bill provides that the revenues deposited into the STTF aforementioned must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation²⁰ to fund arterial highway projects. Furthermore, the bill provides that for the corporation's bonding purposes, two or more of such projects in FDOT's approved Work Program (WP) may be treated as a single project.

Florida Department of Transportation Financing Corporation & Moving Florida Forward

Current Situation

Florida Department of Transportation Financing Corporation and Service Contracts

The Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for FDOT.²¹

The Florida Department of Transportation Financing Corporation may enter into one or more service contracts with FDOT to provide services to FDOT in connection with projects approved in the department's WP. FDOT may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature.²² FDOT may enter into a service contract in conjunction with the issuance of debt obligations which provide for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of the Florida Department of Transportation Financing Corporation.²³

Moving Florida Forward Initiative

During the 2023 Legislative session, the GAA transferred \$4 billion from the General Revenue Fund to the STTF for the Moving Florida Forward plan with the purpose of accelerating the completion of selected road projects and providing traffic congestion relief in the state. The funds were placed in reserve, contingent upon FDOT submitting a budget amendment for approval by the Legislative Budget Commission (LBC). Such budget amendment must include a project list, implementation schedule, finance plan, and budget authority necessary to implement the initiative.²⁴

other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.

¹⁷ S. 320.20(5)(a), F.S.

¹⁸ S. 334.03(1), F.S., defines arterial road as a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

¹⁹ S. 339.0803, F.S.

²⁰ S. 339.0809(1), F.S., provides that the Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for FDOT.

²¹ *Supra* note 27.

²² S. 339.0809(4), F.S.

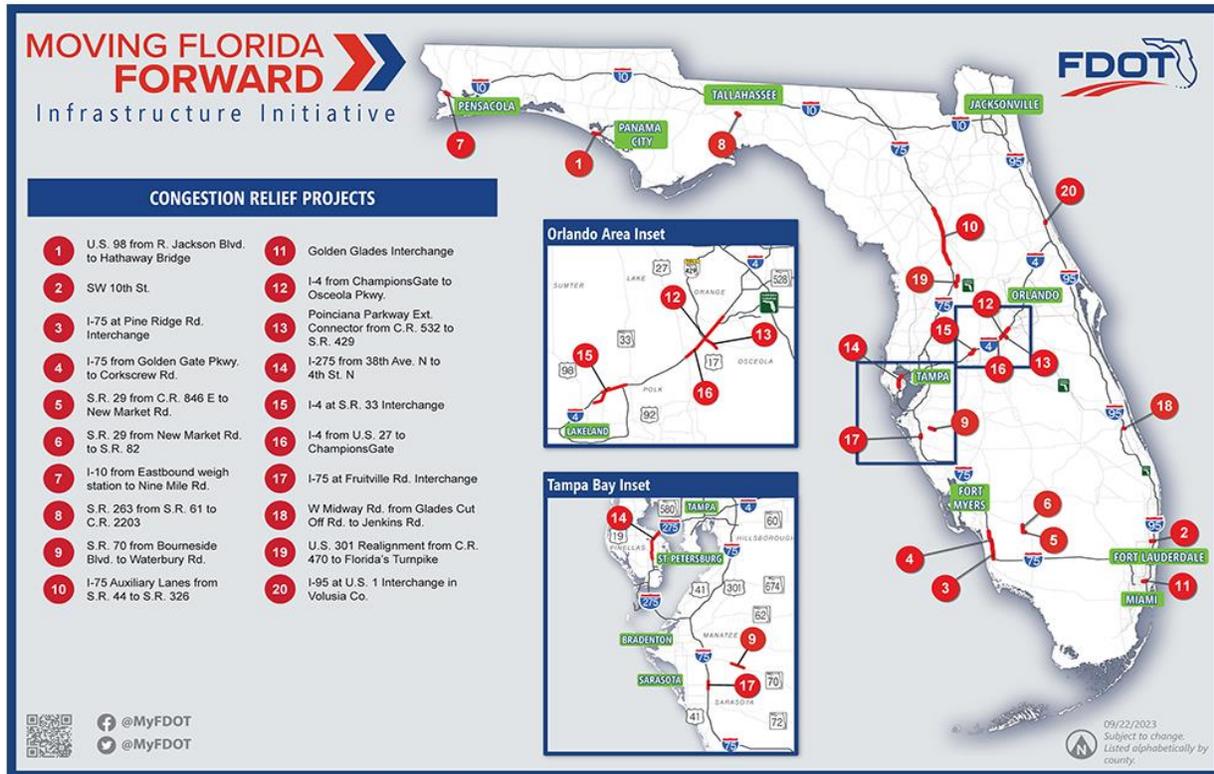
²³ S. 339.0809(13), F.S.

²⁴ Ch. 2023-239, Laws of Fla.

On September 8, 2023, the LBC approved the appropriation and release of nearly \$1.6 billion of these funds for the first year of the Moving Florida Forward Plan.²⁵

As seen below, there are 20 projects identified in the Moving Florida Forward Infrastructure Initiative:

Figure 1: Moving Florida Forward Project List²⁶



Effect of the Bill

The bill provides that funds appropriated for payments under a service contract with the Florida Department of Transportation Financing Corporation must be available after funds pledged to payment on bonds, but before other statutorily required distributions.

Additionally, the bill allows FDOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance those 20 projects identified in the Moving Florida Forward Infrastructure Initiative in the WP. Such service contract payments may not exceed 7 percent of the funds deposited in the STTF in each fiscal year. The annual payments under such service contract must be included in FDOT's tentative WP²⁷ and legislative budget request. Finally, FDOT must ensure that the annual payments are programmed for the life of the service contract before execution of the service contract and shall remain programmed until fully paid.

Transportation Planning

Current Situation

FDOT and Metropolitan Planning Organizations (M.P.O.s) are partners in the transportation planning, with FDOT responsible for coordinating the state's long range transportation goals, the Florida

²⁵ State of Florida, Transparency Florida, *Approved Budget Amendment Request B0112, Fiscal Year 2023-24*, <http://www.transparencyflorida.gov/arreports/arreport/55469> (last visited Feb. 7, 2024).

²⁶ FDOT, *Moving Florida Forward Infrastructure Initiative*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited Feb. 7, 2024).

²⁷ S. 339.135(1)(c), F.S., defines the tentative work program as the 5-year listing of all transportation projects planned for each fiscal year which is developed by FDOT's central office based on the district work programs.

Transportation Plan (FTP),²⁸ and M.P.O.s responsible for coordinating regional long range transportation plans.²⁹ The M.P.O.s develop their Long Range Transportation Plan (LRTP) to implement national and state goals for their metropolitan area.³⁰ Projects are developed and must be included in the LRTP to be considered for funding.³¹ An M.P.O. must also develop its List of Priority Projects (LOPP), which must be consistent with the LRTP and is used to inform the development of the Transportation Improvement Program (TIP).³² An M.P.O.'s TIP includes a listing of projects planned for the next five fiscal years.³³ TIPs from all 27 M.P.O.s are combined together, along with FDOT's other non-metropolitan statewide projects to form the Statewide Transportation Improvement Program (STIP).³⁴ To be eligible for federal funding, projects must be included in the LRTP, TIP, and STIP.³⁵ The projects included in an M.P.O.'s TIP are funded and completed through the WP.³⁶

Effect of the Bill

The bill provides that when developing transportation plans, FDOT and M.P.O.s may not consider any nonpecuniary factor. Rather, FDOT and M.P.O.s must consider pecuniary factors including, but not limited to, the material effects on the risk or return of an investment, mitigation against natural hazards, and long-term financial viability.

The bill defines nonpecuniary factor as social, political, or ideological interests, including environmental, social, and corporate governance (ESG) interests; or social governance standards, benchmarks, and requirements, including any initiative adopted by the Federal Government or an agency thereof to achieve reduction in carbon dioxide emissions or thresholds to achieve net zero emissions of carbon dioxide.

Supply Chain Innovation Grant Program

Current Situation

Efforts have been made by state agencies, such as the Department of Commerce (FloridaCommerce) and FDOT to strengthen Florida's supply chain.

For example, FDOT has an assistant secretary that is directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America.³⁷ In addition, FloridaCommerce provides programs, such as the Job Growth Grant Fund, to support Florida's economic growth and supply chain.

²⁸ The FTP is a policy document updated at least once every five years and developed in compliance with requirements in s. 339.155, F.S. The FTP establishes and defines the state's long range transportation goals and objectives to be accomplished over a period of at least 20 years. S. 339.155(1), F.S. It is based upon the prevailing principles of preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, improving travel choices to ensure mobility, and expanding the state's role as a hub for trade and investment. *Id.* The FTP is the single overarching plan guiding Florida's transportation future. FDOT, *Florida Transportation Plan*, <https://www.fdot.gov/planning/ftp/default.shtm> (last visited Feb. 7, 2024).

²⁹ FDOT, Metropolitan Planning Organization Subject Brief, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheet_mpo_102720.pdf?sfvrsn=b17ab46b_2 (last visited Feb. 7, 2024).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ FDOT, *STIP Information*, <https://www.fdot.gov/workprogram/federal/stip-mpostip.shtm> (last visited Feb. 7, 2024).

³⁴ FDOT, *supra* note 36.

³⁵ *Id.*

³⁶ *Id.*

³⁷ S. 20.23(1)(d), F.S.

The five industry clusters below were identified by the Department of Economic Opportunity (now FloridaCommerce) and Enterprise Florida (now repealed) for economic growth in Florida and each of these industries rely heavily on freight transportation systems and a strong supply chain³⁸:

- 1) Cleantech,
- 2) Life Sciences,
- 3) Aviation/Aerospace,
- 4) Logistics and Distribution, and
- 5) Defense and Homeland Security.

Effect of the Bill

The bill creates and codifies a Supply Chain Innovation Grant Program within FloridaCommerce that is subject to appropriation by the Legislature. Awardees under this program must be selected jointly by FDOT and FloridaCommerce, and grants awarded under this program must be administered by FloridaCommerce. FDOT and FloridaCommerce are authorized to adopt rules to implement this program.

FDOT and FloridaCommerce must annually consider applications submitted under the new program by ports³⁹; class I, II, or III freight railroads; public airports, and intermodal logistics centers or inland ports⁴⁰ to fund proposed projects that support supply chain innovation.

Each award made must be matched dollar-for-dollar by nonstate funds. Project selection must be based on projects that create strategic investments in infrastructure to increase capacity and address freight mobility to meet the economic development goals of the state. In the selection process, priority should be given to projects with innovative plans, advanced technologies, and development strategies that focus on the future growth and economic prosperity of the supply chain across the state.

Project criteria must include consideration of:

- Consistency with plans and studies produced by FloridaCommerce and FDOT;
- Projects that directly increase efficiency in the delivery of goods;
- Improved freight mobility access while reducing congestion, including, but not limited to, overnight truck parking at rest areas, weigh stations, and intermodal logistics centers;
- Increased fuel storage and distribution capacity across the state, including, but not limited to, petroleum, hydrogen, ethanol, and natural gas located at seaports and spaceports;
- Securing a sustainable logistics transportation network throughout this state;
- Developing connections to multimodal transportation systems; and
- Addressing emerging supply chain and transportation industry challenges.

Additionally, FloridaCommerce and FDOT must consider applications for funding submitted by public and private entities seeking to develop and establish vertiports in this state. Each award made for vertiport development must be matched dollar-for-dollar by nonstate funds. For purposes of this section, the bill defines the term "vertiport" to mean a system or infrastructure with supporting services and equipment used for landing, ground handling, and takeoff of manned or unmanned vertical takeoff and landing (VTOL) aircraft.

FloridaCommerce, in conjunction with FDOT, must generate a Supply Chain Innovation Grant Program report that must include a list of each Supply Chain Innovation Grant Program project awarded and the

³⁸ FDOT, *Florida Supply Chain Management*, <https://www.fdot.gov/docs/default-source/planning/systems/programs/mspi/pdf/Freight/Florida-Supply-Chain-Management-Exec-Summary.pdf> (last visited Feb. 7, 2024).

³⁹ S. 311.09(1), F.S., The ports of 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, Key West, and Fernandina.

⁴⁰ S. 311.101(2), F.S., defines intermodal logistics center or an inland port as 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.

benefit of each project toward meeting the Supply Chain Innovation Grant Program goals and objectives. FloridaCommerce must provide the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025, and biennially thereafter.

Public Transit Plan

Current Situation

FDOT must prepare a public transit plan which must be included in FDOT's tentative work program.⁴¹ The public transit plan must be consistent with the local plans developed in accordance with the comprehensive transportation planning process. Projects that involve funds administered by FDOT and that will be undertaken and implemented by another public agency must be included in the public transit plan upon the request of that public agency, providing such project is eligible. Projects so included in the plan must not be altered or removed from priority status without notice to the public agency or local governmental entities involved.⁴²

Effect of the Bill

The bill requires that any lane elimination or lane repurposing, recommendation, or application relating to public transit projects must be approved by a two-thirds vote of the transit authority board in a public meeting with a 30-day public notice. The bill also requires that any action of eminent domain⁴³ for acquisition of public transit facilities carried out by a public transit provider must be discussed by the public transit provider at a public meeting with a 30-day public notice.

New Starts Transit Program

Current Situation

The New Starts Transit Program assists local governments in the development of fixed guideway and bus rapid transit projects. After required distributions, ten percent of the amount credited to the STTF must be allocated for capital funding for the New Starts Transit Program in accordance with Florida law. Those funds are annually appropriated for expenditure to support the New Starts Transit Program.⁴⁴

This program is a matching program to leverage local or federal funds.⁴⁵ However, according to FDOT, due to local governments' inability at times to meet state and federal eligibility requirements or provide a funding commitment for the required matching funds, projects identified for the New Starts Transit Program may not always be programmed into the WP, which results in the annually appropriated funds not being obligated and carried forward to the next fiscal year.

Effect of the Bill

The bill provides that the remaining unallocated New Starts Transit Program funds as of June 30 of each fiscal year, must be reallocated for the purpose of the Strategic Intermodal System⁴⁶ within the STTF.

⁴¹ S. 339.135(1)(c), F.S., defines the tentative work program as the 5-year listing of all transportation projects planned for each fiscal year which is developed by FDOT's central office based on the district work programs.

⁴² S. 341.051(2), F.S.

⁴³ Eminent domain refers to the power of the government to take private property and convert it into public use. See Cornell Law School, *Eminent Domain*, https://www.law.cornell.edu/wex/eminent_domain (last visited Feb. 15, 2024). See also Ch. 73, F.S., relating to eminent domain.

⁴⁴ S. 341.051(6), F.S.

⁴⁵ Florida Transportation Commission, *New Starts Transit Program*, [http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_\(5-23-06\).pdf](http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_(5-23-06).pdf) (last visited Feb. 7, 2024).

⁴⁶ The Strategic Intermodal System is Florida's high priority network of transportation facilities important to the state's economy and mobility. See FDOT, *Florida's Strategic Intermodal System (SIS)*, <https://www.fdot.gov/planning/systems/sis> (last visited Feb 15, 2024).

Public Transit Providers and Productivity and Performance Measures

Current Situation

Public transit provider is defined as a public agency providing public transit service, including rail authorities created in chapter 343, F.S.⁴⁷ Each public transit provider must establish productivity and performance measures, which must be approved by FDOT and which must be selected from measures developed pursuant to s. 341.041(3), F.S.^{48 49}

Effect of the Bill

The bill provides that beginning November 1, 2024, and annually thereafter, each public transit provider, during a publicly noticed meeting must:

- Certify that its budgeted and general administration costs are not greater than 20 percent above the annual state average of administrative costs for their respective tier;
- Present a line-item budget report of its budgeted and actual general administration costs; and
- Disclose all salaried executive and management level employees' total compensation packages, ridership performance and metrics, and any gift accepted in exchange for contracts. This disclosure must be posted annually on the transit provider's website.

To support compliance with the requirements above, the FDOT, by tier, must determine the annual state average of administrative costs by determining the percentage of the total operating budget that is expended on general administration costs in this state annually by March 31 to inform the public transit provider's following Fiscal Year budget. Additionally, a year-over-year cumulative increase of 2 percent or more in general administration costs must be reviewed before the start of the next fiscal year and must be reviewed and approved by the Florida Transportation Commission⁵⁰ before approval by the public transportation provider's governing board.

For the purpose of this provision, the bill defines the terms as follows:

- “General Administrative costs” includes, but is not limited to, costs related to transit service development, injuries and damages, safety, personnel administration, legal services, data processing, finance and accounting, purchasing and stores, engineering, real estate management, office management and services, customer service, promotion, market research, and planning. The term does not include insurance costs.
- “Public transit provider” means a public agency providing public transit service, including an authority created pursuant to part II of chapter 343, F.S.,⁵¹ or chapter 349, F.S.⁵²
- “Tier I provider” means a recipient that owns, operates, or manages either 101 or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode; or rail transit.⁵³
- “Tier II provider” means a recipient that owns, operates, or manages 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed routes modes or in any one

⁴⁷ S. 341.031(1), F.S.

⁴⁸ S. 341.071(2), F.S.

⁴⁹ S. 341.041(3), F.S., provides that FDOT must develop, publish, and administer state measures concerning system management, performance, productivity, cost distribution, and safety of governmentally owned public transit systems and privately owned or operated systems financed wholly or in part by state funding. Such measures must be developed jointly with representatives of affected publicly owned transit systems and in coordination with affected privately owned systems, with full consideration given to nationwide industry norms.

⁵⁰ The FTC is assigned to FDOT for administrative and fiscal purposes; otherwise, it functions independently of the control and direction of the FDOT. The FTC is composed of nine commissioners appointed by the Governor and confirmed by the Florida Senate for four-year terms. The FTC is required to meet at least four times per year. The FTC, among its other responsibilities, serves as an oversight body of FDOT (review performance, review work program, monitor highway safety, monitor financial status, and review budget requests and long-range plans). See FTC, *FTC Overview*, <http://www.ftc.state.fl.us/aboutus.shtm> (last visited Feb. 16, 2024).

⁵¹ Ch. 343, part II, F.S., relates to the Central Florida Regional Transportation Authority.

⁵² Ch. 349, F.S., relates to the Jacksonville Transportation Authority.

⁵³ 49 C.F.R. § 625.5.

non-fixed route mode; a subrecipient under the 5311 Rural Area Formula Program; or any American Indian tribe.⁵⁴

This provision does not apply to Central Florida Commuter Rail or the South Florida Regional Transportation Authority.

Public Transit Providers and Use of State Funds

Current Situation

FDOT's annual budget is approved by the Legislature and the Governor and contains funding for transportation related projects through the inclusion and adoption of the Five-Year WP, which is a list of transportation projects planned for each fiscal year. State taxes and fees, along with federal aid, make up the primary funding sources for the WP. Other funding sources include tolls collected in certain facilities, proceeds from bond issuances, and local taxes and fees.⁵⁵

Each fiscal year, a minimum of 15 percent of all state revenues deposited into the STTF are committed annually by FDOT for public transportation projects, including public transit projects.⁵⁶

Public transit is defined in Florida law as the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as paratransit.⁵⁷

Effect of the Bill

The bill provides that as a condition of receiving state funds a public transit provider may not expend state funds directly, indirectly, or through a grant or agreement, for marketing or advertising activities, including any wrap, tinting, or paint on a bus, commercial motor vehicle, or motor vehicle. This condition does not apply to when a public transit provider displays a brand or logo of the public transit provider, the official seal of the jurisdictional government entity, or state agency public service announcement.

The bill provides that FDOT must have priority placement for marketing or advertising activities, including any wrap, tinting, or paint on a bus, commercial motor vehicle, or motor vehicle.

Additionally, the bill provides that any new wrap, tinting, paint, medium, or advertisement on the passenger windows of a vehicle used by a public transit provider may not be darker than the legally allowed window tinting requirements.⁵⁸

Effective Date

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 20.23, F.S., relating to FDOT.

Section 2: Amends s. 338.231, F.S., relating to turnpike tolls, fixing; pledge of tolls and other revenues.

⁵⁴ *Id.*

⁵⁵ Office of Work Program and Budget Florida Department of Transportation, *supra* note 16.

⁵⁶ S. 206.46(3), F.S. The funding cap minimum is for public transportation projects that are in accordance with ch. 311, ss. 332.003-332.007, ch. 341, and ch. 343 of F.S.

⁵⁷ S. 341.031(6), F.S.

⁵⁸ S. 316.2954, F.S., provides that a person shall not operate any motor vehicle with any sun screening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance. Specific requirements provided in statute.

- Section 3:** Amends s. 339.08, F.S., relating to use of moneys in the STTF.
- Section 4:** Amends s. 339.0803, F.S., relating to allocation of increased revenues derived from amendments to s. 320.08, F.S., by chapter 2019-43, Laws of Florida.
- Section 5:** Amends s. 339.0809, F.S., relating to the Florida Department of Transportation Financing Corporation.
- Section 6:** Amends s. 339.155, F.S., relating to transportation planning.
- Section 7:** Creates s. 339.652, F.S., relating to Supply Chain Innovation Grant Program.
- Section 8:** Amends s. 341.051, F.S., relating to administration and financing of public transit and intercity bus service programs and projects.
- Section 9:** Amends s. 341.071, F.S., relating to transit productivity and performance measures; reports.
- Section 10:** Creates s. 341.072, F.S., relating to public transit provider marketing and advertising standards.
- Section 11:** Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The creation of the Supply Chain Innovation Grant Program may have an indeterminate negative fiscal impact on FloridaCommerce and FDOT's administrative expenditures due to their joint responsibilities to review applications submitted under the grant program and select awardees for grant funding. These administrative costs can be absorbed within existing department resources. However, the funding for grant awards under the Supply Chain Innovation Grant Program is subject to legislative appropriation and there is no appropriation in the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See "Fiscal Comments" section below.

2. Expenditures:

Indeterminate. See "Fiscal Comments" section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See "Fiscal Comments" section below.

D. FISCAL COMMENTS:

The bill appears to have a neutral fiscal impact on FDOT expenditures as it relates to the New Starts Transit Program. As the bill is written, it appears that any unallocated funds would remain in the STTF for the New Starts Transit Program.

The bill may have a negative fiscal impact on a public transit provider, authority, public-use airport, or a port that is found to be in violation of s. 381.00316, F.S.⁵⁹ FDOT must withhold state funds from any entity found violating such provision until such time that the entity is found to be in compliance with s. 381.00316, F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking may be necessary in order to conform to changes made by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Transportation & Modals Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment revises the Supply Chain Innovation Grant Program by:

- Requiring that FDOT and FloridaCommerce must annually consider applications submitted under the new program to fund proposed projects that support supply chain innovation;
- Requiring that project selection must be based on projects that create strategic investments in infrastructure to increase capacity and address freight mobility to meet the economic development goals of the state;
- Expanding project criteria requirements;
- Requiring that FloridaCommerce in conjunction with FDOT generate a Supply Chain Innovation Grant Program report which must include a list of each Supply Chain Innovation Grant Program project awarded and the benefit of each project toward meeting the Supply Chain Innovation Grant Program goals and objectives; and
- Requiring that, by October 1, 2025, and biennially thereafter, FloridaCommerce provide such report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

On February 5, 2024, the Infrastructure & Tourism Appropriations Subcommittee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The amendment removes the provision that would create flexibility for FDOT by allowing the use of a tiered system that correlates with the cost of

⁵⁹ S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.

the construction project to meet the required percentage threshold for funding the purchase of plant materials.

On February 15, 2024, the Infrastructure Strategies Committee adopted one amendment, with an amendment to the amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment:

- Revises FDOTs areas of program responsibility.
- Removes the provision relating to authority for FDOT to procure and establish contracts with financial institutions or other financial entities for the collection of amounts to which the turnpike enterprise is entitled.
- Revises the circumstances wherein FDOT may not expend any state funds to support a project or program of a public transit provider, certain transportation authorities, public-use airport, or a port.
- Amends the definition of nonpecuniary factor.
- Revises the Supply Chain Innovation Grant Program.
- Requires that any lane elimination or lane repurposing, recommendation, or application relating to public transit projects must be approved by a two-thirds vote of the transit authority board in a public meeting with a 30-day public notice and that any action of eminent domain for acquisition of public transit facilities carried out by a public transit provider must be discussed by the public transit provider at a public meeting with a 30-day public notice.
- Provides that the remaining unallocated New Starts Transit Program funds as of June 30 of each fiscal year, must be reallocated for the purpose of the Strategic Intermodal System.
- Amends the provision relating to general administration costs of public transit providers.
- Amends requirements for marketing and advertising by a public transit provider.

The analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.