

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/CS/SB 1132

INTRODUCER: Appropriations Subcommittee on Transportation, Tourism, and Economic Development, Community Affairs Committee, and Senator Brandes

SUBJECT: Department of Transportation

DATE: April 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/7 amendments
2.	Anderson	Yeatman	CA	Fav/CS
3.	Price	Martin	ATD	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/CS/SB 1132 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT or department) and various transportation issues.

The bill contains several issues that will impact state revenues, most of which have an indeterminate or negligible fiscal impact. Please see Section V.

The bill:

- Extends the Florida Transportation Commission’s oversight of expressway and bridge authorities to regional transportation finance authorities created under a new ch. 345, F.S., and repeals provisions relating to the Florida Statewide Passenger Rail Commission.
- Establishes the FDOT as the agency responsible for administering the small county dredging program and sunsets the program on July 1, 2018.
- Provides funding for space transportation projects from the State Transportation Trust Fund (STTF).

- Authorizes the FDOT to fund up to 100 percent of the cost of strategic airport investment projects under specified conditions.
- Prohibits the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements.
- Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way.
- Amends the process that the FDOT must follow relating to proposals to enter into a lease of the FDOT property for joint public-private development or commercial development.
- Revises provisions relating to the uses of fees generated from certain tolls to include the design and construction of a fire station; revises provisions relating to the transfer of certain excess revenues; and removes authority of a water management district to issue bonds or notes which pledge excess toll revenues.
- Revises provisions relating to metropolitan planning organization (MPO) designation to conform language to federal law, provides a cap on the number of voting members of an MPO re-designated as specified, provides that certain authorities or agencies in metropolitan areas may be provided voting membership on the MPO, and makes editorial changes to eliminate redundancy and provide clarity.
- Authorizes Enterprise Florida, Inc., to be a consultant to the FDOT for consideration of expenditures associated with and contracts for economic development transportation projects and revises the requirements for those project contracts between the FDOT and a governmental entity.
- Repeals the Transportation Corporation Act and other obsolete provisions related to the Act.
- Includes projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank.
- Expands eligibility of intercity bus companies to compete for federal and state program funding.
- Revises the types of eligible projects and criteria of the Intermodal Development Program.
- Creates the Florida Regional Transportation Finance Authority Act authorizing counties to form a regional tollway authority that can construct, maintain, and operate transportation projects in a region of the state.
- Renames the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority and revises related provisions.
- Creates chapter 345, F.S., to authorize the formation of regional transportation finance authorities.
- Creates the Santa Rosa-Escambia Regional Transportation Finance Authority and the Suncoast Regional Transportation Finance Authority.
- Provides for the transfer of the governance and control of the Mid-Bay Bridge Authority System to the Northwest Florida Regional Transportation Finance Authority.
- Renames the Orlando-Orange County Expressway Authority as the Central Florida Expressway Authority and revises related provisions.
- Transfers all powers, governance, and control of the Osceola County Expressway System to the Central Florida Expressway Authority and repeals part V of ch. 348, F.S., on the same date that the Osceola County Expressway System is transferred.
- Revises provisions relating to mitigation of the environmental impacts of transportation projects.

- Requires public information systems located on water management district property to be approved by the FDOT and the Federal Highway Administration if approval is required by federal law.
- Prohibits the use of public block grant funds to pursue or promote the levy of new or additional taxes through public referenda.
- Repeals obsolete language, clarifies ambiguous language, and makes editorial, grammatical, and conforming changes.
- Provides an effective date.

This bill amends the following sections of the Florida Statutes: 20.23, 110.205, 311.22, 316.545, 331.360, 334.044, 335.06, 337.11, 337.14, 337.168, 337.25, 337.251, 338.161, 338.165, 338.26, 339.175, 339.2821, 339.55, 341.031, 341.053, 343.80, 343.805, 343.81, 343.82, 343.83, 343.835, 343.84, 343.85, 343.875, 343.89, 343.922, 343.922, 348.751, 348.752, 348.753, 348.754, 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, 348.756, 348.757, 348.758, 348.759, 348.760, 348.761, 348.765, 369.317, 369.324, 373.4137, 373.618, and 341.052.

The bill repeals the following sections of the Florida Statutes: 11.45(3)(m), 316.530(3), 339.401, 339.402, 339.403, 339.404, 339.405, 339.406, 339.407, 339.408, 339.409, 339.410, 339.411, 339.412, 339.414, 339.415, 339.416, 339.417, 339.418, 339.419, 339.420, 339.421.

The bill creates the following sections of the Florida Statutes: 332.007(11), and chapter 345, consisting of the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, 345.0014, 345.0015, and 345.0016.

II. Present Situation:

Florida Transportation Corporation Act and Related Audit Authority

Sections 339.401 through 339.421, F.S., create the “Florida Transportation Corporation Act.” This act was created in 1988¹ to allow certain nonprofit corporations authorized by the FDOT to act on FDOT’s behalf in assisting with project planning and design, assembling right-of-way and financial support, and generally promoting projects included in the FDOT’s adopted five-year work program. The act contains various statutory provisions related to the formation, operation, and dissolution of these corporations.

Among the specific activities of transportation corporations authorized under the act are:

- Acquiring, holding, investing, and administering property and transferring title to the FDOT for project development;
- Performing preliminary and final alignment studies;
- Receiving contributions of land for right-of-way and case donations to be applied to the purchase of right-of-way or design and construction projects; and,
- Making official presentations to groups concerning the project and issuing press releases and promotional materials.

¹ s. 3, ch. 88-271, Laws of Florida.

Florida transportation corporations cannot issue bonds and are not empowered to enter into construction contracts or to undertake construction. They are enabled to otherwise borrow money or accept donations to help defray expenses or needs associated with the corporation or a particular transportation project.

According to the FDOT, after a limited number of inquiries immediately following passage of the act, the FDOT has received no further requests for information or other indications of interest in the act, and the provisions of the act have never been used. As a result, the Auditor General's authority to audit corporations acting on behalf of the FDOT in s. 11.45(3)(m), F.S., has never been exercised, and the provisions of Fla. Admin. Code Rule Chapter 14-35, which implement the act, have never been applied.

Overlapping Responsibility for Passenger Rail Systems

Florida Transportation Commission

The Florida Transportation Commission (FTC) has long been charged with periodically reviewing the status of the state transportation system, including rail and other component modes, and with recommending system improvements to the Governor and the Legislature. Beginning in 2007, the Legislature also directed the FTC in s. 20.23(2)(b)8., F.S., to:

Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, F.S.,² including any authority formed using the provisions of part I of ch. 348, F.S., and any authority formed under ch. 343, F.S., which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.

The only publicly funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in ch. 343, F.S.

Florida Statewide Passenger Rail Commission (FSPRC)

In 2009, the Florida Legislature provided a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network.³ The Legislature created the Florida Rail Enterprise, modeled after the Florida Turnpike

² Chapter 343, F.S., entities include the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348, F.S., entities include the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349, F.S., establishes the Jacksonville Transportation Authority.

³ Chapter 2011-271, L.O.F.

Enterprise, to coordinate the development and operation of passenger rail services statewide, and established the FSPRC to monitor, advise, and review publicly-funded passenger rail systems.⁴

Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC in s. 20.23(3)(b)1., F.S., with the function of:

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapters 343, 349, or 163, F.S., if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.

State Public Transportation and Modal Administrator

Recognizing the significant role played by freight mobility as an economic driver for the state, the FDOT recently created an Office of Freight, Logistics, and Passenger Operations, and the 2012 Legislature directed the FDOT to develop a Freight Mobility and Trade Plan to assist in making freight mobility investments that contribute to the economic growth of the state.⁵ As part of its focus on freight and intermodal issues, the FDOT requested approval from the Department of Management Services (DMS) to change the title of an existing Senior Management Service class position, from State Public Transportation and Modal Administrator, to State Freight and Logistics Administrator.⁶ The DMS approved the requested change on September 2, 2011.

Small County Dredging Program

The Small County Dredging Program was created by the Legislature in 2005 assist in financing certain dredging improvements at small ports in counties with a population of less than 300,000 persons based on the last official United States Census, but which were not eligible for existing Florida Seaport Transportation and Economic Development (FSTED) funding.⁷ Under the program, funding is authorized for dredging or deepening of channels, turning basins, or harbors

⁴ The first phase (31 miles) of a commuter rail project, SunRail, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

⁵ Chapter 2012-174, L.O.F.

⁶ Section 110.205(2)(j), F.S.

⁷ Section 311.22, F.S.

on a 25-percent local matching basis with any port authority⁸ that meets environmental permitting and other specified criteria. There are at least seven entities meeting the definition of “port authority” in counties with less than 300,000 population: the Panama City Port Authority; the Citrus County Port Authority; the Port St. Joe Port Authority; the Hernando County Port Authority; the Ocean, Highway, and Port Authority (Nassau County); the Putnam County Port Authority; and the St. Lucie County Port Authority.

The program was initially funded with a \$5 million appropriation to the State Transportation Trust Fund to provide a 50-percent state match. An additional \$9.2 million was provided in the 2006-2007 General Appropriations Acts to provide a 75-percent state match. No further funding has been provided to the program.

Wrecker Permits/Disabled Vehicles

Current s. 316.515(8), F.S., allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over legal weight, provided that the wrecker is operating under a special use permit. This provision was passed during the 1997 session. During the same session, s. 316.550(5), F.S., was passed to authorize the FDOT to issue such overweight permits.⁹ However, s. 316.530(3), F.S., (originally passed as s. 316.205(3) in 1976) which allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, was inadvertently overlooked and still remains in current law, despite the direct conflict with subsequently passed legislation.

As the 1997 changes rendered the provisions of s. 316.530(3), F.S., obsolete, the last-passed provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have been enforced since that time.

Commercial Motor Vehicles/Auxiliary Power Units

Section 756 of the Energy Policy Act of 2005, “Idle Reduction and Energy Conservation Deployment Program,” amended 23 U.S.C. 127(a)(12) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology (“auxiliary power units” or “APUs”)¹⁰ on heavy-duty vehicles. Section 316.545(3)(c), F.S., was created by the 2010 Legislature to provide for a 400-pound reduction in the gross weight of commercial motor vehicles equipped with idling reduction technology when calculating a penalty for exceeding maximum weight limits. The reauthorized Federal-aid highway program, Moving Ahead for Progress in the 21st Century (MAP-21) further amended 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight of APUs.

⁸ Defined in s. 315.02(2), F.S., to mean any port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law.

⁹ These changes are consistent with federal law, specifically 23 U.S.C. 127(a) and 23 C.F.R. 658.17, which authorize states to permit nondivisible loads and vehicles (defined to include emergency response vehicles) exceeding maximum weight limits upon the issuance of special permits in accordance with state law.

¹⁰ An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during resting periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants, as well as noise).

Space Transportation Facilities

The FDOT and Space Florida are currently authorized to enter into a joint participation agreement to effectuate the provisions of ch. 331, F.S., and the FDOT is authorized to allocate funds for such purposes in its five-year work program. The FDOT is prohibited from funding the administrative or operational costs of Space Florida.

Space Florida is required to develop a spaceport master plan for expansion and modernization of space transportation facilities within defined spaceport territories, containing recommended projects, and is required to submit the plan to the FDOT. The FDOT may include the plan within the FDOT's five-year work program of qualifying aerospace discretionary capacity improvement projects and is authorized to participate in the capital cost of eligible spaceport discretionary capacity improvement projects, subject to the availability of appropriated funds. The plan is required to identify appropriate funding levels and include recommendations on appropriate sources of revenue that may be developed to contribute to the STTF. The FDOT's annual LBR must be based on the proposed funding requested for approved spaceport discretionary capacity improvement projects.¹¹

The FDOT Adopted Work Program included \$16 million for spaceport projects in both Fiscal Year 2011-2012 and Fiscal Year 2012-2013. The FDOT Final Tentative Work Program for Fiscal Years 2014-2018 includes \$20 million for Space Florida transportation projects in each of the five years.¹²

State Aviation Program

Section 332.007, F.S., requires the FDOT to prepare and continuously update an aviation and airport work program that separately identifies development projects and discretionary capacity improvement projects. Subject to the availability of appropriated funds, FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects,¹³ unless otherwise directed as specified, at percentage rates that vary depending on factors such as available federal funding. The FDOT is also authorized, subject to the availability of appropriated funds in addition to aviation fuel tax revenues, to participate in the capital cost of eligible public airport and aviation discretionary capacity improvement projects,¹⁴ again at percentage rates that vary. The FDOT notes that the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that the FDOT does not have a similar investment initiative or authority for the Aviation Program.

¹¹ "Spaceport discretionary capacity improvement projects" is defined in s. 331.303(21), F.S., to mean capacity improvements that enhance space transportation capacity at spaceports that have had one or more orbital or suborbital flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled orbital or suborbital flights upon the commitment of funds for stipulated spaceport capital improvements.

¹² FDOT email, February 7, 2013, on file in the Senate Transportation Committee.

¹³ In short, defined in s. 332.004(4), F.S., as "...any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof...."

¹⁴ Defined in s. 332.004(5), F.S., as "...capacity improvements ... which enhance intercontinental capacity at [specified] airports...."

Toll Authorities/Lease-Purchase Agreements

In addition to the FDOT, various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of the FDOT), most, but not all, of the toll authorities are established under ch. 348, F.S., entitled "Expressway and Bridge Authorities." Various sections of ch. 348, F.S., provide the toll authorities the ability to enter into lease-purchase agreements with the FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities are authorized under ch. 343, F.S., to enter into lease-purchase agreements with the FDOT, and a bridge authority established by special act of the Legislature is similarly authorized. The FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

The FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows the FDOT to lend or pay a portion of the operation and maintenance (O&M) and capital costs of any revenue-producing transportation project located on the SHS or that is demonstrated to relieve traffic congestion on the SHS. The FDOT pays such costs using funds from the STTF.

In a typical lease-purchase agreement between the FDOT and a toll authority, the FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or the R&R) costs of the associated toll facility. Upon completion of the lease-purchase agreement, ownership of the facility would be transferred to the State and the FDOT would retain all revenues collected, as well as the O&M responsibility.

As required by existing agreements, the FDOT paid \$9.2 million in the O&M expenses in FY 2011-2012 and an additional \$32.8 million in the R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. These funds accrue to an authority's long-term debt owed to the FDOT. When the O&M and the R&R expenses are not reimbursed by the toll authority on a current basis, *e.g.*, monthly or annually, the STTF monetary advances are added to the authority's long-term debt due to the FDOT. As of June 30, 2012, debt owed to FDOT from various toll authorities for expenses paid totaled approximately \$419.7 million.

Roadside Enhancement and Maintenance Requirements

The FDOT is responsible for enhancing environment benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.¹⁵ The FDOT is required to purchase all plant materials from Florida commercial nursery stock on a uniform competitive basis. This provision conflicts with federal requirements that specify a state transportation department cannot require the use of materials produced in state or restrict the use of materials produced out of state.¹⁶ Failure to comply with federal requirements for purchases of plant material for roadside landscaping may subject the FDOT to a significant federal funds penalty, generally 10 percent of annual highway constructions funds.¹⁷

¹⁵ See s. 334.044(26), F.S.

¹⁶ See 23 C.F.R. s. 635.409.

¹⁷ See 23 U.S.C. s. 131(b).

Access to State Park Roads

Section 335.06, F.S., currently requires the FDOT to maintain any road that is part of the State Highway System and provides access to property within the state park system. Local governments are required to maintain roads that are part of the county road or city street system.

Vehicle Registration/FDOT Contractors

Section 320.02(1), F.S., provides that every owner or person in charge of a motor vehicle operated or driven on the roads of this state shall register the vehicle in this state, except as otherwise provided. Section 320.37, F.S., provides that the registration requirement (and license plate display requirements) does not apply to a motor vehicle owned by a nonresident if the nonresident has complied with the registration law of the foreign country, state, territory, or federal district of the owner's residence. However, s. 320.38, F.S., provides that if a nonresident accepts employment or engages in any trade, profession, or occupation in this state, the nonresident must register his or her motor vehicle in this state within 10 days after beginning such employment.

Section 337.11(13), F.S., requires each road or bridge construction or maintenance contract let by the FDOT to contain a provision requiring the contractor to provide proof to the FDOT, in the form of a notarized affidavit from the contractor, that all motor vehicles that he or she operates or causes to be operated in this state are registered in compliance with ch. 320, F.S.

Transportation Projects/Prequalification/Bidding

Section 337.14(1), F.S., requires that persons "...desiring to bid for the performance of any construction contract in excess of \$250,000 which the department proposes to let must first be certified by the department as qualified...." Section 337.14(2), F.S., provides: "Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than \$250,000." The purpose of certification is to ensure professional and financial competence relating to the performance of construction contracts by evaluating bidders "...with respect to equipment, past record, experience, financial resources, and organizational personnel of the applicant necessary to perform the specific class of work for which the person seeks certification."

This language could be interpreted as being tied to a bid amount, *i.e.*, so long as the *bid* is not in excess of \$250,000, a person would not be required to first be certified prior to bidding. The FDOT's bid solicitation notices, however, currently advise: "A prequalified contractor must have a current certificate of qualification in accordance with Rule Chapter 14-22, F.A.C., on the date of the letting to bid on construction projects over \$250,000 as established by the Department's budget." Consequently, persons seeking to bid on construction contracts in excess of \$250,000 are currently required to be qualified on the date of the letting.

For comparison, revisions to s. 337.14(1), F.S., during the last legislative session with respect to financial statements submitted in connection with the performance of construction contracts of less than \$1 million expressly tied that submission to proposed budget estimates, rather than to the bid amount.

Public Records/Identities of Potential Bidders

Section 337.168(2), F.S., currently 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 the department is confidential and exempt from the provisions of s. 119.07(1), F.S., for the period which begins 2 working days prior to the deadline for obtaining bid packages, plans, or specifications and ends with the letting of the bid. The FDOT maintains a website that posts a list of persons who have requested or obtained bid packages, plans, or specifications for a given project.¹⁸ The list is removed from the website two working days prior to the deadline for obtaining bid packages, plans, or specifications.

The Florida Transportation Builders' Association advises that small contractors need and rely on access to the identities of potential bidders that are not made exempt under s. 337.168(2), F.S., for the purpose of submitting sub-contract bids to general contractors for their use in preparing bids for the FDOT projects.

Disposal and Lease of Real and Personal Property

The FDOT is authorized to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in an FDOT designated rail or transportation corridor. The FDOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.¹⁹

The FDOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item, and the serial number assigned to each.²⁰ The FDOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility. If the property is not located within a transportation corridor or is not needed for a transportation facility, FDOT is authorized to dispose of the property.²¹ According to the FDOT, 85 percent of its currently-owned surplus property is valued at under \$50,000.

¹⁸ http://www.dot.state.fl.us/cc-admin/Letting_Project_Info.shtm: Retrieved March 1, 2013. To access a list, click on a letting date in the near future under "2013 Lettings" and then choose "Proposal Holders" under "Important Letting Documents."

¹⁹ Section 337.25(1), F.S.

²⁰ Section 337.25(2), F.S.

²¹ Section 337.25(3), F.S.

Sale of Property

The FDOT is authorized to sell any land, building, or other real or personal property it acquired if the FDOT determines the property is not needed for a transportation facility.²² The FDOT is required to first offer the property (“first right of refusal”) to the local government in whose jurisdiction the property is located, with the following exceptions:

- If in the FDOT’s discretion, public sale would be inequitable, the sale of the property may be negotiated, at no less than fair market value as determined by an independent appraisal, with the owner holding title to abutting property.²³
- Property acquired for use as a borrow pit may be sold at no less than fair market value to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.²⁴
- Property acquired by a county or the FDOT using constitutional gas tax funds for right of way or borrow pit may be conveyed to a county without consideration if the property is no longer used or needed by the FDOT, and the county may sell the property on receipt of competitive bids.²⁵
- Property donated to the state for transportation purposes, on which a facility as not been constructed for at least 5 years, and for which no plans for construction of a facility have been prepared, and that is not located on a transportation corridor, may be re-conveyed to the original donor of the property by a governmental entity²⁶
- Property which was originally acquired for persons displaced by transportation projects provided the state receives no less than its investment in the properties, or fair market value, whichever is lower. The FDOT may negotiate the sale of property as replacement housing only to persons actually displaced by a project. Dispositions to any other person must be for fair market value.²⁷

Once the FDOT determines the property is not needed for a transportation facility and has extended and received rejection of required first rights of refusal, FDOT is also authorized to:

- Negotiate the sale of property if its value is \$10,000 or less as determined by FDOT estimate;²⁸
- Sell the property to the highest bidder through “due advertisement” of receipt of sealed competitive bids or by public auction if its value exceeds \$10,000 as determined by the FDOT estimate;²⁹
- Determine the fair market value of property through appraisal conducted by an FDOT appraiser, if the FDOT begins the process for disposing of property on its own initiative,

²² Section 337.25(4), F.S.

²³ Section 337.25(4)(c), F.S.

²⁴ Section 337.25(4)(d), F.S.

²⁵ Section 337.25(4)(f), F.S.

²⁶ Section 337.25(4)(g), F.S.

²⁷ Section 337.25(4)(i), F.S.

²⁸ Section 337.25(4)(a), F.S.

²⁹ Section 337.25(4)(b), F.S.

either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction;³⁰

- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose;³¹ and
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the FDOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the FDOT to significant liability risks.³²

Lease of Property

The FDOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:³³ the FDOT may negotiate a lease at the prevailing market value with the owner from whom the property was acquired, with the holders of leasehold estates existing at the time of the FDOT's acquisition, or, if public bidding would be inequitable, with the owner of privately owned abutting property, after reasonable notice to all other abutting property owners.³⁴ All other leases must be by competitive bid,³⁵ and limited to five years; however the FDOT may renegotiate a lease for an additional five year term without rebidding. Each lease must require that any improvements made to the property during the lease term be removed at the lessee's expense.³⁶ Property that is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity may be leased at no cost to a governmental entity or school board.³⁷ If property is to be used for a public purpose, including a fair, art show, or other educational, cultural, or fundraising activity, the property may be leased without consideration to a governmental entity or school board. The FDOT may enter into a long-term lease agreement without compensation with certain public ports for rail corridors used in the operation of a short-line railroad to the port.³⁸

The appraisals currently required under s. 337.25(4)(c) and (d), F.S., must be prepared in accordance with the FDOT guidelines and rules by an independent appraiser certified by the FDOT. When "due advertisement" is required, an advertisement in a newspaper of general circulation in the area of the improvements of not less than 14 calendar days prior to the date of the receipt of bids or the date on which a public auction is to be held satisfies the requirement.³⁹

Unsolicited Lease Proposals

Section 337.251, F.S., *Lease of property for joint public-private development and areas above or below department property*, authorizes the FDOT to request proposals for the lease of the FDOT

³⁰ Section 337.25(4)(e), F.S.

³¹ Section 337.25(4)(h), F.S.

³² Section 337.25(4)(j), F.S.

³³ Section 337.25(5), F.S.

³⁴ Section 337.25(5)(a), F.S.

³⁵ Section 337.25(5)(b), F.S.

³⁶ Section 337.25(5)(d), F.S.

³⁷ Section 337.25(5)(e), F.S.

³⁸ Section 337.25(5)(h), F.S.

³⁹ Section 337.25(8), F.S.

property for joint public-private development or commercial development. The FDOT may also receive and consider unsolicited proposals for such uses. If the FDOT receives an unsolicited proposal to negotiate a lease, the FDOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. The FDOT must also mail a copy of the notice to each local government in the affected area.

Any unsolicited lease proposal must be selected based on competitive bidding, and the FDOT is authorized to consider such factors as the value of property exchanges, the cost of construction, and other recurring costs for the benefit of the FDOT by the lessee in lieu of direct revenue to the FDOT if such other factors are of equal value including innovative proposals to involve minority businesses. Before entering into any lease, the FDOT must determine that the property subject to the lease has a permanent transportation use related to the FDOT responsibilities, has the potential for such future transportation uses, or constitutes airspace or subsurface rights attached to property having such uses, and is therefore not available for sale as surplus property.

Section 334.30, F.S., *Public-private transportation facilities*, authorizes the FDOT to lease certain toll facilities through public-private partnerships and also authorizes the FDOT to receive unsolicited proposals. That section directs the FDOT to establish by rule an application fee sufficient to pay the costs of evaluating a proposal. The FDOT is further authorized to engage the services of private consultants to assist in the evaluation.

Unlike s. 337.251, F.S., before approving a proposal, the FDOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the SHS; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by the FDOT; would have adequate safeguards in place to ensure that the department or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by the FDOT upon completion or termination of the agreement.⁴⁰ In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, the FDOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

If the FDOT receives an unsolicited proposal for a lease through a public-private partnership, the FDOT must publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for two weeks stating that the FDOT has received the proposal and will accept, for 120 days after the initial date of publication, other proposals for the same project purpose. The FDOT must also mail a copy of the notice to each local government in the affected area.

Toll Collection/Interoperable Facilities

During the 2012 Legislative Session, the Legislature passed both HB 599 and SB 1998, and both contained language relating to the FDOT authority to enter into agreements with public or

⁴⁰ The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

private transportation facility owners (whose systems become interoperable with the FDOT’s systems) for the use of the FDOT systems to collect and enforce for the owner tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner’s facility. The language, however, is not identical. Part of the last-passed version of the language contained in HB 599 is potentially ambiguous, leading to more than one possible interpretation, and part of needed language that passed in HB 599 was not included in SB 1998. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Beeline-East Expressway and Navarre Bridge

Section 338.165(4), F.S., authorizes the FDOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects located within the county or counties in which the project is located and contained in the FDOT’s adopted work program. The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.⁴¹ The Navarre Bridge is now county-owned and no longer used for toll revenue. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Alligator Alley Excess Revenues

Section 338.26, F.S., provides that any excess revenues from Alligator Alley, after facility operation and maintenance, contractual obligations, reconstruction and restoration, and the development and operation of a fire station at mile marker 63,⁴² may be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

The FDOT advises that operation of the fire station is expected to begin in FY 2013-2014; and the FDOT finance plan, based on projections provided to the FDOT, contains the following funding for operation of the fire station:⁴³

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2018-19
\$1,200,000	\$1,242,000	\$1,285,470	\$1,330,461	\$1,377,028

With respect to transfers to the SFWMD, the FDOT and the SFWMD entered into a memorandum of understanding on June 30, 1997,⁴⁴ under which the FDOT agreed to a schedule of payments to the SFWMD totaling \$63,589,000. The FDOT expects to be able to meet its obligations under the current payment schedule by Fiscal Year 2016 as follows:⁴⁵

⁴¹ See s. 338.165(10), F.S.

⁴²The FDOT indicates that the fire station is currently under construction, and construction is funded by the FDOT. The FDOT notes that another fire station is located on the Alley in Broward County. Broward County provided the funding for construction of that station and provides the funding for its operation.

⁴³ The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

⁴⁴ On file in the Senate Transportation Committee.

⁴⁵ The FDOT email, March 1, 2013, on file in the Senate Transportation Committee.

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
\$4,400,000	\$5,000,000	\$8,000,000	\$7,064,000

The agreement further provides that prior to its expiration, the FDOT and the SFWMD will renegotiate the terms, conditions, and duration of the agreement, taking into account toll revenues from the Alley, future costs to operate and maintain the Alley, reconstruction and restoration activities of the Alley, the transportation funding needs of Broward and Collier counties pursuant to s. 338.165(2), F.S.,⁴⁶ and the continuing costs of the Everglades restoration projects.

Metropolitan Planning Organizations/Designation/Membership

Based on census data, the U.S. Bureau of the Census designates urbanized areas throughout the state. Federal law and rule (23 U.S.C. 134 and 23 C.F.R 450 Part C) require a metropolitan planning organization (MPO) to be designated for each urbanized area⁴⁷ or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for a MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Section 339.175(2)(a)2., F.S., currently provides that designation of an MPO be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area; however, the unit of general-purpose local government that represents the central city or cities within the MPO jurisdiction, as defined by the United State Bureau of the Census, must be a party to such agreement. This language has been superseded by revisions to 23 U.S.C. 134(d) and 23 C.F.R. 450.310(b), which now require designation to be accomplished by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

An existing MPO may be re-designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the existing population in the area served, including the largest incorporated city.⁴⁸ Re-designation of an MPO is required whenever the existing MPO proposes to make a substantial change in the proportion of voting members on the existing MPO representing the largest incorporated city, other units of general-purpose local government served by the MPO, and the State; or a

⁴⁶ That section requires that if a revenue-producing project is on the State Highway System, any remaining toll revenue after discharge of indebtedness related to such project must be used for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the revenue-producing project is located.

⁴⁷ An urbanized area is defined by the U.S. Bureau of the Census and has a population of 50,000 or more.

⁴⁸ 23 C.F.R. 450.301(h) (2012).

substantial change in the decision-making authority or responsibility of the MPO, or in decision-making procedures established under the MPO bylaws.⁴⁹

Current law does not authorize more than 19 members on an MPO in cases when the MPO is re-designated as a result of the expansion of an MPO to include a new urbanized area or the consolidation of two or more MPOs, even if the membership is already at 19 members.

Economic Development Transportation Projects

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations. One such incentive exists in what is commonly referred to as the Road Fund, which is funded by the STTF and used to assist local government in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company. The amount appropriated for this transfer varies from year to year. The Legislature in 2012 repealed s. 288.063, F.S., in which the Road Fund was statutorily placed, and created s. 339.2821, F.S. The revisions did not change the purpose of the Road Fund but simply moved oversight of the fund from the DEO to the FDOT.⁵⁰

The FDOT, in consultation with the DEO, is authorized under the new section to make and approve expenditures and contract with the appropriate government body for the direct costs of transportation projects. Current law specifies that as part of the contractual agreement between the FDOT and a governmental body, that the FDOT may only transfer funds on a quarterly basis, the governmental body must expend funds received in a timely manner, and the FDOT may only transfer funds after construction has begun on the facility of a business on whose behalf the award was made.

State-Funded Infrastructure Bank/Spaceports

Section 339.55, F.S., creates the state-funded infrastructure bank (SIB), which provides loans to government units and private entities to help fund transportation projects. The loans are repaid from revenues generated by the project, such as a toll road or other pledged resources. The repayments are then re-loaned to fund new transportation projects. A SIB loan may lend capital costs or provide credit enhancements for a transportation facility project on the SHS or for a project which provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals. Loans from the SIB may bear interest at or below market interest rates, as determined by the FDOT. Repayment of any SIB loan must begin no later than 5 years after the project has been complete or, in the case of a highway project, the facility has opened to traffic, whichever is later, and must be repaid in 30 years.

⁴⁹ 23 C.F.R. 450.301(k) (2012).

⁵⁰ Budget Committee Final Analysis of SB 1998:

<http://www.flsenate.gov/Session/Bill/2012/1998/Analyses/M6TO2qtoNCs60=PL=Y=PL=DT9BT2bnWNo=%7C11/Public/Bills/1900-1999/1998/Analysis/s1998z2.TEDAS.PDF>.

Intercity Bus Service/Funding Eligibility

The Federal Transit Administration's Intercity Bus Program (49 U.S.C. 5311(f)), is administered by the FDOT. Its purpose is to support and maintain intercity bus services, in order to preserve service through rural areas of the state. The FDOT provides matching funds as required by s. 339.135(4), F.S. Florida's statutory definition of "intercity bus service" is more restrictive than the federal definition, which limits the number of companies competing for funding.

Section 341.031(11), F.S., defines "intercity bus service" as regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains schedule information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Greyhound Bus Lines is currently the only private, for-profit company operating intercity bus services in Florida that meets the statutory definition to receive federal and state intercity bus program funding, as it is the only company in Florida that maintains schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Intermodal Development Program

Section 341.053, F.S., was originally enacted in 1990 to create the Intermodal Development Program administered by the FDOT to provide for major capital investments in fixed-guideway transportation systems, access to seaports, airports and other transportation terminals, and to assist in the development of dedicated bus lanes. The Legislature in 1999 added direction to the FDOT to develop a proposed intermodal development plan to connect Florida's airports, deepwater seaports, rail systems serving both passenger and freight, and major intermodal connectors to the Florida Intrastate Highway System facilities as the primary system for the movement of people and freight in this state.

Section 341.053(6), F.S., currently authorizes the FDOT to fund projects including major capital investments in public rail and fixed-guideway transportation facilities and systems which provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between seaports, airports, and other transportation terminals; construction of intermodal or multimodal terminals; development and construction of dedicated bus lanes; and projects which otherwise facilitate the intermodal or multimodal movement of people and goods.

Toll Facilities Revolving Trust Fund/Obsolete References

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.⁵¹ That section created the Toll Facilities Revolving Trust Fund, which was a loan program created to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike Enterprise. Two references to the now repealed trust fund remain in statute.

⁵¹ Ch. 2012-128, L.O.F.

Currently Established Toll Authorities

Aside from the FDOT and Florida's Turnpike Enterprise, a number of authorities exist in Florida that operate toll facilities and collect and reinvest toll revenues.⁵²

Miami-Dade Expressway Authority

The Miami-Dade Expressway Authority (MDX) governing body consists of 13 voting members. The Miami-Dade County Commission appoints seven members, the Governor appoints five members, and the FDOT district six secretary is the *ex-officio* member of the Board. Except for the secretary, all members must be residents of Miami-Dade County and each serves a four-year term and may be reappointed.⁵³

The MDX currently oversees, operates and maintains five tolled expressways constituting approximately 34 centerline-miles and 220 lane-miles of roadway in Miami-Dade County: Dolphin Expressway (SR 836); Airport Expressway (SR 112); Don Shula Expressway (SR 874); Gratigny Parkway (SR 924) and Snapper Creek Expressway (SR 878). MDX reported toll and fee revenue of \$121.9 million (net of \$2.8 million of allowance) in Fiscal Year (FY) 2011 based on 220 million transactions.⁵⁴ The FTC report indicates that approximately \$45.5 million in outstanding debt (\$6 million in loans from the now-repealed Toll Facilities Revolving Trust Fund and \$39.5 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.⁵⁵

Tampa-Hillsborough County Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA) governing body consists of seven members, four of which are appointed by the Governor and serve four-year terms. The City of Tampa mayor, a member of the Board of County Commissioners selected by the board, and the FDOT's district seven secretary are *ex-officio* members.⁵⁶

The THEA owns the four-lane Selmon Expressway, which is a 15-mile limited access toll road crossing the City of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The FTC report indicates that beginning in Fiscal Year 2001, the THEA has reimbursed the FDOT for annual O&M expenses pursuant to the adopted budget and that only renewal and replacement costs continue to be added to long-term debt. As of June 30, 2011, the THEA owes the FDOT approximately \$200.7 million for the O&M, renewal and replacement expense advances, and other FDOT loans.⁵⁷

⁵² The Mid-Bay Bridge Authority is also included among these authorities.

⁵³ s. 348.0003, F.S.

⁵⁴ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 22.

⁵⁵ *Id.*

⁵⁶ Section 348.52, F.S.

⁵⁷ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 73.

Tampa Bay Area Regional Transportation Authority

The Tampa Bay Area Regional Transportation Authority (TBARTA) is an agency of the state whose purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the seven-county Tampa Bay region.⁵⁸ The TBARTA's governing body consists of 16 members: one elected official appointed by the respective County Commissions from Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee and Sarasota counties; one member appointed by the West Central Florida Metropolitan Planning Organization Chairs Coordinating Committee who must be a chair of one of the six Metropolitan Planning Organizations in the region; two members who are the mayor or the mayor's designee of the largest municipality within the area served by the Pinellas Suncoast Transit Authority and the Hillsborough Area Transit Authority; one member who is the mayor or the mayor's designee of the largest municipality within Manatee or Sarasota County, providing that the membership rotates every two years; four members who are business representatives appointed by the Governor, each of whom must reside in one of the seven counties of the TBARTA; and one non-voting member who is the secretary of one of the FDOT districts within the seven-county area appointed by the FDOT secretary.⁵⁹

The TBARTA is not currently operating any facility. The FTC report indicates that "TBARTA is beginning to prioritize projects, develop financial strategies for implementation, coordinate the advancement of more detailed planning and environmental analysis for the prioritized projects, and continue public engagement and education efforts." The FTC report lists nine current TBARTA projects (evaluations and studies) funded by the FDOT.⁶⁰ The TBARTA also operates the TBARTA Commuter Services, which is a free, online ride-matching program enabling commuters to connect with each other to share rides and is engaging in additional activities, such as identifying opportunities for collaboration and consolidation with other entities in the region, strengthening existing partnerships and examining the potential for new ones, identify short-term solutions to traffic congestion, and continuing to look for process improvements and potential cost savings.⁶¹

The TBARTA and the FDOT entered into an agreement under which, in 2009, the FDOT advanced \$500,000 from a \$2 million appropriation to pay initial administrative expenses, and the 2009, 2010 and 2011 Legislatures re-appropriated unspent funds from the \$2 million to the TBARTA; however, the 2011 appropriation was vetoed by the Governor.

Northwest Florida Transportation Corridor Authority

The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. The NFTCA is also authorized to issue bonds.⁶² Eight voting members, one

⁵⁸ Section 343.922, F.S.

⁵⁹ Section 343.92, F.S.

⁶⁰ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 177.

⁶¹ *Id.* at 179.

⁶² Section 343.82, F.S.

each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties, are appointed by the Governor to serve four-year terms on the governing body. The FDOT's district three secretary serves as an *ex-officio*, non-voting member.⁶³

The NFTCA is not currently operating any facility. The FTC report indicates:

As part of the Master Plan update, NFTCA's general consultant (HDR) is conducting a business case analysis to help the Authority in selecting and planning transportation projects by assessing their respective economic benefits, developing an investment plan and proposing viable funding strategies. The business case analysis includes an extensive public outreach program involving regional planning councils in the eight-county geographic area covered by the NFTCA and a series of workshops involving other key stakeholders in the region.⁶⁴

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, and regional transportation planning.⁶⁵

Mid-Bay Bridge Authority

The 1986 Legislature created the Mid-Bay Bridge Authority⁶⁶ as the governing body of an independent special district in Okaloosa County for the purpose of planning, constructing, operating, and maintaining a bridge over the Choctawhatchee Bay. The Mid-Bay Bridge Authority operates the tolled, 3.6-mile long Mid-Bay Bridge across the Choctawhatchee Bay and approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. 98 east of Destin, is a link between Interstate 10 and U.S. 98 and provides a more direct route for tourists and residents between northern and southern Okaloosa and Walton Counties.⁶⁷

The FDOT, under the provisions of a lease-purchase agreement with the Mid-Bay Bridge Authority, maintains and operates the existing bridge and remits all of the tolls collected to the authority as lease payments. The term of the lease runs concurrently with the bonds issued by the Mid-Bay Bridge Authority, and when the bonds are matured and fully paid, the FDOT will own the bridge. As of June 30, 2012, the Mid-Bay Bridge Authority's long-term debt obligation to the FDOT for operations and maintenance pursuant to the existing agreement was \$9.5 million. In accordance with bond covenants, this liability is payable from excess toll revenues, after debt service obligations have been met.

The Florida Turnpike Enterprise provides toll plaza operations for the Mid-Bay Bridge Authority. For the fiscal year ending September 2012, toll revenues amounted to \$15,765,967. Earned investment income from Revenue and Reserve Funds of \$1,395,789, plus \$30,886 from

⁶³ Section 343.81, F.S.

⁶⁴ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 160.

⁶⁵ *Id.*

⁶⁶ Re-created by special act, ch. 2000-411.

⁶⁷ Senate Issue Brief 2012-208, *Cost Effectiveness of Regional Expressway and Bridge Authorities*, (September 2011).

SunPass collections, raised total revenue to \$17,192,642.⁶⁸ Florida law reflects no state entity charged with monitoring the efficiency, productivity, and management of the Mid-Bay Bridge Authority, unlike other regional transportation, expressway and bridge authorities.

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT district three secretary is an ex-officio member of the Board. Except for the secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.⁶⁹

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.⁷⁰ Florida's Turnpike Enterprise provides toll operations for the SRBBA, and the FDOT's district three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and O&M expenses, the costs of the O&M are recorded as debt owed to FDOT. The FTC report indicates that the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund, and the balance of these liabilities on June 30, 2011, was \$24.7 million.⁷¹

Orlando-Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four-year terms and may be reappointed. The Orange County mayor and the FDOT's district five secretary are the two ex-officio members of the Board.⁷²

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County: 22 miles of the Spessard L. Holland East-West Expressway (SR 408), 23 miles of the Martin Andersen Beachline Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414). OOCEA reported toll revenue of \$260 million in FY 2011 based on 296 million transactions.⁷³ The FTC report indicates that approximately \$270 million in outstanding debt (\$221 million in advances for O&M expenses, \$14 million in advances for completion of the East-West Expressway, and \$34.8 million in loans from the State Infrastructure Bank) is due to FDOT as of June 30, 2011.⁷⁴

⁶⁸ *Traffic Engineers' Annual Report for Fiscal Year 2012*, prepared by URS for Mid-Bay Bridge Authority: <http://www.mid-bay.com/pdfs/FY2012-Annual-Report.pdf>. Retrieved February 23, 2013.

⁶⁹ Section 348.967, F.S.

⁷⁰ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, pp. 57-58.

⁷¹ *Id.*

⁷² s. 348.753, F.S.

⁷³ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 38.

⁷⁴ *Id.* at 39.

In addition, the OOCEA will independently finance, build, own and manage certain portions of the Wekiva Parkway and, pursuant to direction in SB 1998 (2012), the OOCEA will repay the FDOT for costs of operation and maintenance of the OOCEA system; the FDOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system terminates as specified; and ownership of the system remains with the OOCEA.

Osceola County Expressway Authority

Created in 2010, the Osceola County Expressway Authority (OCX) governing body consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five are appointed by the governing body of the county and the remaining two are appointed by the Governor. The FDOT's district five secretary serves as an *ex-officio*, non-voting member.⁷⁵

The OCX is not currently operating any facility and has no funding or staff. Staff assistance and other support have been provided by Osceola County. The OCX has developed a Master Plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension.⁷⁶

Wekiva River Basin Commission

The Wekiva River Basin Commission is charged with monitoring and ensuring the implementation of the recommendations of the Wekiva river Basin Coordinating Committee for the Wekiva Study Area. The commission is comprised of 19 voting members, 9 of whom are voting members, and nine of whom are ad hoc nonvoting members. A representative of the previously repealed Seminole County Expressway Authority remains in statute as an ad hoc nonvoting member.

Environmental Mitigation for Transportation Projects

Pursuant to s. 373.4137, F.S., the FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to the Water Management Districts (WMD) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the Department of Environmental Protection (DEP). The ability to exclude a project from the mitigation plan is provided to the FDOT, a participating transportation authority, or a WMD.

In 2012, HB 599 modified s. 373.413, F.S., to reflect that adverse impacts may be offset by the use of mitigation banks or the payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory that is created by the FDOT and reflects habitats that would be adversely impacted by transportation projects listed in the next three years of the FDOT's tentative work program. The FDOT provides funding in its work program to the DEP or the WMDs for its mitigation requirements. To fund the programs, the

⁷⁵ Section 348.9952, F.S.

⁷⁶ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2011 Report*, p. 165.

statute directs the FDOT and the authorities to pay \$75,000 per impacted acre, adjusted by a calculation using the Consumer Product Index (CPI).⁷⁷

Pursuant to s. 373.4137, F.S., mitigation plans developed by the WMDs must consider water resource needs and focus on activities in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. The WMDs must also consider the purchase of credits from public and private mitigation banks if the purchase provides equal benefit to water resources and is the most cost effective option. Before transportation projects are added to the WMDs mitigation plans, the FDOT must consider if using mitigation bank credits will be more cost-effective and efficient. The WMD mitigation plans are updated annually to reflect the most recent FDOT work program and transportation authority project list and may be amended throughout the year. The mitigation plans are submitted to the governing board of the WMD or its designee for approval, and to the DEP for final approval.⁷⁸

The FDOT and the participating expressway authorities are required to transfer funds each year to pay for mitigation of the projected impact acreage resulting from projects identified in the inventory. The projected impact acreage and costs are reconciled quarterly with the actual impact acreage, and the costs and balances are adjusted.⁷⁹

Section 373.4137, F.S., provides for exclusion of specific transportation projects from the mitigation plan at the discretion of the FDOT, participating transportation authorities, and the WMDs.

Public Information Systems

Pursuant to s. 373.618, F.S., public information systems may be located on WMD property, provided certain terms and conditions are met. The systems must display messages to the general public concerning water management services, activities, events, watering restrictions, severe weather reports, amber alerts, and other essential public information. The law prohibits the use of WMDs funds to acquire, develop, construct, operate, or manage a public information system. Commercial messages are to be paid for by private sponsors.

Section 479.02, F.S., requires the FDOT to regulate the size, height, lighting, and spacing of signs on the interstate highway system in accordance with state and federal regulations. A permit and annual fee are required by any individual that proposes to erect, operate, use, or maintain any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system. Certain signs do not require a permit as long as the signs are in compliance with the provisions in s. 479.11(4)-(8), F.S.

Section 479.16, F.S, specifies that signs owned by a municipality or county that contain messages related to any commercial enterprise, a commercial sponsor of an event, personal messages, or political messages, are not considered information regarding government services.

⁷⁷ See s. 373.4137 F.S.

⁷⁸ *Id.*

⁷⁹ *Id.*

The FDOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a “controlled area.”⁸⁰

Expenditures by Local Governments

Under current law, a county, municipality, school district, or other political subdivision of the state, and any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of the state, or a person acting on such entity’s behalf, is prohibited from spending or authorizing expenditure of any moneys under the jurisdiction or control of such entity for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state questions, that is subject to a vote of the electors. The prohibition does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information, nor does it preclude an elected official of the local government from expressing an opinion on any issue.

III. Effect of Proposed Changes:

Section 1 repeals s. 11.45(3)(m), F.S., which contains the Auditor General’s power to audit transportation corporations authorized under the Florida Transportation Corporation Act, in connection with sections 21 through 40 of the bill, which repeal the never-used act. This change will also enable the repeal of an unused administrative rule.

Section 2 amends s. 20.23, F.S., to require the FTC to monitor the efficiency, productivity, and management of regional transportation finance authorities created under a new ch. 345, F.S., and to repeal the Florida Statewide Passenger Rail Commission. Overlapping oversight of publicly-funded passenger rail systems is eliminated and remains solely with the FTC.

Section 3 amends s. 110.205(2), F.S., to change the title of the FDOT’s State Public Transportation and Modal Administrator to State Freight and Logistics Administrator.

Section 4 amends s. 311.22, F.S., relating to small county dredging projects, to establish FDOT, rather than FSTED, as the agency responsible for administering any additional funding for dredging projects in counties having a population of fewer than 300,000 according to the last official census and sunsets the program on July 1, 2018.

Section 5 repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit.

Section 6 amends s. 316.545(3)(c), F.S., to increase from 400 to 550 pounds the authorized maximum gross vehicle weight to compensate for the additional weight of auxiliary power units (or idle-reduction technology) installed on commercial motor vehicles, as authorized by recent federal law.

⁸⁰ “Controlled area” means 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system outside an urban area. *See* s. 479.01, F.S.

Section 7 amends s. 331.360, F.S., to require Space Florida to develop a spaceport system plan which contains recommendations for projects that meet current and future commercial, national and state space transportation requirements; and to submit the plan to the FDOT which may include portions of the system plan in the department's 5 year work program.

Beginning in Fiscal Year 2013-2014, the FDOT is authorized to make available from the STTF a minimum of \$15 million annually from funds dedicated to public transportation projects⁸¹ to fund space transportation projects. Project specific criteria must be provided by Space Florida to demonstrate that the project includes transportation and aerospace benefits. The FDOT may fund up to 50 percent of eligible project costs.

FDOT is authorized to fund up to 100 percent of eligible costs if the project provides important access and on-spaceport capacity improvements, capital improvements which will position the state to maximize opportunities of a sustainable and world-leading aerospace industry, meets state goals of an integrated intermodal transportation system, and demonstrates the feasibility of available matching funds.

Section 8 creates s. 332.007(11), F.S., to authorize the FDOT to fund, at up to 100 percent of the project's cost, strategic airport investment projects which provide important access and on-airport capacity improvements, capital improvements which will position the state to maximize opportunities in international trade, logistics, and the aviation industry, meet state goals of an integrated intermodal transportation system, and demonstrate the feasibility of available matching funds.

Section 9 amends s. 334.044(16), F.S., to prohibit the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2013. These provisions have no effect on the existing lease-purchase agreements. This section of the bill also amends subsection (26) of s. 334.044, F.S., to provide that the FDOT purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation. This revision will ensure compliance with federal regulation and avoid a potential federal funds penalty.

Section 10 amends s. 335.06, F.S., to allow but not require the FDOT to improve and maintain a road that is part of a county road system or city street system. If the FDOT does not maintain a county or city road that provides access to the state park system, the road must be maintained by the appropriate county or municipality.

Section 11 amends s. 337.11(13), F.S., to require each road or bridge construction contract or maintenance contract let by FDOT to require all motor vehicles operated by the contractor in this state to be registered in compliance with ch. 320, F.S., eliminating the requirement of proof to the FDOT in the form a notarized affidavit from the contractor.

⁸¹ Section 206.46(3), F.S.

Section 12 amends s. 337.14(1), F.S., to clarify that any person desiring to bid for the performance of any construction contract *with a proposed budget estimate* in excess of \$250,000 must first be certified as qualified prior to bidding in accordance with Rule Chapter 14-22, F.A.C. No change in current practice results, the revisions simply provide internal statute consistency and consistency between statute and rule.

Section 13 amends s. 337.168(2), F.S., to clarify an existing public records exemption by which the identity of a person who has requested or obtained from FDOT, a bid package, plan, or specifications pertaining to any project to be let by FDOT remains a public record until two days prior to the deadline for obtaining the materials.

Section 14 amends s. 337.25, F.S., to revise the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way and to authorize the FDOT to contract for auction services used in the conveyance of real or personal property or leasehold interests and to authorize such contracts to allow the contractor to retain a portion of the proceeds as compensation.

The FDOT is authorized to “convey”, rather than “sell” land, buildings, or other real or personal property after determining the property isn’t needed for a transportation facility and to dispose of property through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the department’s best interest. Due advertisement is required for property valued at more than \$10,000, and no property may be sold at less than fair market value except as specified. The department is authorized, rather than required, to afford a right of first refusal to a political subdivision, or local government in which the parcel is located, except in conveyances when the property has been donated to the state for transportation purposes and a facility has not been constructed for at least 5 years, the property was originally required for replacement housing for persons displaced by transportation projects, or property which the FDOT has determined a sale to anyone other than the abutting land owner would be inequitable.

The FDOT is prohibited from conveying a leasehold interest at a price less than the department’s current estimate of value and specifies that a lease may be created through negotiations, sealed competitive bids, auctions, or any other means deemed to be in the best interest by the department. A lease shall not be for a period of more than 5 years, however, the department may extend the lease for an additional 5 years without rebidding.

The department is required to publish a notice when a proposal to lease property has been received, stating that a proposal has been received and that FDOT will accept other proposals for 120 days after the date of publication for lease of the property. The FDOT is authorized to establish, by rule, an application fee for the submission of the proposals.

The FDOT’s estimate of value must be prepared in accordance with department procedures, guidelines, and rules for valuation of real property. If the value of the property exceeds \$50,000, the sale or lease must be negotiated at a price not less than the estimated value determined by the department.

This section does not modify the eminent domain requirements of s. 73.013, F.S.

Section 15 amends s. 337.251(2), F.S., to require a newspaper publication of 120 days for lease proposals, when the FDOT wishes to consider an unsolicited proposal for a lease of particular property. The FDOT is authorized to establish by rule an application fee for the submission of proposals, sufficient to pay the anticipated costs of evaluating the proposals. Further, the FDOT is required, prior to approval of any proposal, to determine that the proposed lease is in the public's best interest and meets specified criteria.

Section 16 amends s. 338.161(5), F.S., to replace the potentially ambiguous language regarding agreements for use of the FDOT toll collection systems that passed in HB 599 and SB 1998 during the 2012 Legislative Session, thereby avoiding any confusion that might result from ambiguous language or from statutory construction rules.

Section 17 amends s. 338.165(4), F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT.

Section 18 amends s. 338.26(3) and (4), F.S., to remove the obligations of Alligator Alley excess toll revenues to operate and maintain the fire station at mile marker 63, and limits the transfer of annual excess revenue to SFWMD to that which is agreed upon in the June 30, 1997 memorandum of understanding. The SFWMD's authority to issue bonds or notes which pledge the excess toll revenues from the transfer is eliminated.

Section 19 amends s. 339.175, F.S., to revise provisions relating to designation of MPOs to conform to changed federal terminology, and to provide that the voting membership of an MPO re-designated as a result of the expansion of an MPO to include a new urbanized area, or the consolidation of two or more MPOs, may consist of no more than 25 members.

Section 20 amends s. 339.2821, F.S., to include Enterprise Florida, Inc., as an FDOT consultant in making and approving economic development transportation project contracts. Provides authority for the FDOT to terminate a grant award if construction of the transportation project does not begin within four years after the date of the initial grant award; and expands the type of authorized transportation facility projects to include spaceports.

Sections 21-40 repeals ss. 339.401 through 339.421, the never-used Transportation Corporation Act, in connection with the related audit authority repeal in section 1 of the bill.

Section 41 amends s. 339.55, F.S., to include projects that provide intermodal connectivity with spaceports as eligible for loans from the State-funded Infrastructure Bank.

Section 42 amends s. 341.031(11), F.S., to expand eligibility for intercity bus companies to compete for federal and state program funding by removing from the definition of "intercity bus service" the requirements that the carrier maintain schedule information in the National Official Bus Guide and provides package express service incidental to passenger transportation.

Section 43 amends s. 341.053, F.S., to expand the Intermodal Development Program to include access to spaceports, and to further define the activities of the program to include planning and funding the construction of airport, spaceport, seaport, transit and rail projects that facilitate the intermodal or multimodal movement of people and goods.

Projects included in the Intermodal Development Program must support statewide goals as specified in the Florida Transportation Plan, the Strategic Intermodal System Plan, the Freight Mobility and Trade Plan, or other appropriate department modal plan. Eligible projects are expanded to include: planning studies; major capital investments in freight facilities and systems that provide intermodal access; road, rail, intercity bus service, or fixed-guideway access to, from, or between spaceports and intermodal logistics centers; and construction of intermodal or multimodal terminals, including projects on airports, spaceports, intermodal logistics centers or seaports which assist in the movement or transfer of people or goods.

Section 44 amends s. 343.80, F.S., to revise the short title of part III of ch. 343, F.S., from the Northwest Florida Transportation Corridor Authority Law to the Northwest Florida Regional Transportation Finance Authority Law.

Section 45 amends s. 343.805, F.S., to define the “Northwest Florida Regional Transportation Finance authority System” or “system” to mean any and all expressways and appurtenant facilities thereto owned by the authority, including, but not limited to, all approaches, roads, bridges, and avenues of access for said expressway or expressways.

Section 46 amends s. 343.81, F.S., to rename the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority. The bill also revises the composition of the governing board of the authority from eight to five voting members, with two members from Okaloosa County and one each from Walton, Bay, and Gulf Counties. Escambia, Santa Rosa, Franklin, and Walton Counties are removed from voting membership. The bill also revises quorum requirements for the governing board, providing that three, rather than five, members constitutes a quorum, and the vote of at least three members, rather than five, is necessary for any action taken by the authority. Authorization to establish technical advisory committees and related provisions are repealed. Note: the Santa Rosa-Escambia Regional Transportation Finance Authority serving Escambia and Santa Rosa Counties is created in section 55 of the bill, as is the Suncoast Regional Transportation Finance Authority, serving Citrus, Levy, Marion, and Alachua Counties.

Section 47 amends s. 343.82, F.S., granting the NWFTFA the right to acquire, hold, construct, improve, maintain, operate, own and lease in the capacity of lessor, the Northwest Florida Regional Transportation Finance Authority System, thereby expanding the authority’s responsibility beyond the U.S. 98 corridor. The bill also removes direction to the current Corridor Authority to develop and annually update a specified corridor master plan, to undertake projects contained in the plan, and to request funding and technical assistance from the FDOT from specified sources. Further, the bill authorizes the NWFTFA to dispose of any property which the authority and the FDOT determine is not needed for the system. In addition, the bill conforms terminology by removing references limiting the authority to activities along the U.S. 98 corridor and eliminating reference to the Santa Rosa Sound

Section 48 amends s. 343.83, F.S., to change a reference to the Northwest Florida Transportation Corridor Authority to the Northwest Florida Regional Transportation Finance Authority.

Section 49 amends s. 343.835, F.S., to conform terminology by removing references to U.S. 98 corridor improvements. The bill also revises a reference to facilities “constructed” by the authority to those “owned or provided” by the authority, which is also a conforming change. in connection with the provisions of section 50 of the bill.

Section 50 amends s. 343.84, F.S., to provide that the FDOT is the agent of the authority for the purpose of constructing system improvements; and to alternatively allow the authority, with the FDOT’s consent and approval, to appoint a local agency certified by the FDOT as the authority’s agent to administer federal aid projects in accordance with federal law. The bill requires the FDOT to act as the agent of the authority for purposes of operating and maintaining the system and requires the authority to reimburse the FDOT for the costs incurred from system revenues. The bill specifies that the authority remains obligated as principal to operate and maintain its system, and except as otherwise provided by the existing lease-purchase agreement between the FDOT and the Mid-Bay Bridge Authority in connection with its issuance of bonds, the authority’s bondholders do not have a right to compel the FDOT to operate and maintain the system. The Mid-Bay Bridge Authority is transferred to the Northwest Florida Regional Transportation Finance Authority in section 56 of the bill. The bill also directs the authority to establish and collect tolls and other charges for the authority’s facilities as specified.

Section 51 amends s. 343.85, F.S., to conform terminology.

Section 52 amends s. 343.875, F.S., to repeal the current Corridor Authority’s power to receive or solicit proposals and enter into public-private partnership agreements and related provisions.

Section 53 amends s. 343.89, F.S., to conform terminology.

Section 54 amends s. 343.922(4), F.S., to remove a reference to the previously repealed Toll Facilities Revolving Trust Fund.

Section 55 creates ch. 345, F.S., to authorize the formation of regional transportation finance authorities, consisting of sections 345.0001 – 345.0016, F.S., and creates as agencies of the state, the following authorities:

- the Santa Rosa-Escambia Regional Transportation Finance Authority serving Escambia and Santa Rosa counties, and
- the Suncoast Regional Transportation Finance Authority serving Citrus, Levy, Marion, and Alachua counties.

This section authorizes a county, or two or more contiguous counties, to form a regional transportation finance authority for the purposes of financing, constructing, maintaining, and operating transportation projects in a region of this state, if approved by the Legislature and the county commission of each county that will be part of the authority, and specifies that there be only one authority created and operating within the area served by the authority. Other provisions include:

- The governance and powers and duties of the authority;
- The authority to issue bonds and provide for the rights and remedies of bondholders;
- Naming the FDOT as the agent of each authority for the purpose of performing all phases of a project, including constructing improvements and extensions to the system; and for the purpose of operating and maintaining the system;
- Reimbursement to the FDOT for costs incurred for operating and maintaining the system from system revenues; and
- Exemption from certain taxation for an authority.

Section 56 transfers to the Northwest Florida Regional Transportation Finance Authority the governance and control of the Mid-Bay Bridge Authority, including the assets, facilities, tangible and intangible property and any rights in such property, and any other legal rights of the Mid-Bay Bridge Authority, including the bridge system operated by the authority. Activities relating to the Mid-Bay Bridge will be monitored under the Transportation Commission’s existing oversight over entities created pursuant to ch. 343, F.S.

Section 57 amends s. 348.751, F.S., to change the short title of part III of ch. 348, F.S., from the “Orlando-Orange County Expressway Authority Law” to the “Central Florida Expressway Authority Law.”

Section 58 amends s. 348.752, F.S., to define:

- “Central Florida Expressway Authority” (CFX) to mean the body politic and corporate and agency of the state;
- “Central Florida Expressway System,” to mean a transportation facility, expressway, or appurtenant facility, and
- “Transportation facilities” to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance, and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

Research reveals no language elsewhere in ch. 348, F.S., that would include in any definition or in any other provision under current law the “administrative and other office space” of an expressway authority. This definition presumably would allow CFX to finance or even bond expenses for administrative and other office space.

This section of the bill also deletes the definitions of “city” and “county,” revises various definitions to conform terminology to the renaming, and makes various other editorial and grammatical changes.

Section 59 amends s. 348.753, F.S., in which the OOCEA is created, to replace the OOCEA and:

- Create the Central Florida Expressway Authority (CFX), effective July 1, 2014;

- Require that CFX assume the governance and control of the OOCEA System, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property;
- Transfer any rights in such property and other OOCEA legal rights to CFX; and
- Provide that the powers, responsibilities, and obligations of the OOCEA shall succeed to and be assumed by CFX on July 1, 2014.

The bill also provides for eleven members of the CFX governing board as follows:

- Three members appointed by the chairs of the boards of county commissioners of Seminole, Lake, and Osceola Counties, which members may be a commission member or chair;
- Xix citizen members appointed by the Governor, two of which must be Orange County citizens; one member each of which must be a citizen of Seminole, Lake, and Osceola Counties; and one member which may be a citizen of any of the identified counties;
- The tenth member must be the City of Orlando Mayor; and
- The executive director of the Turnpike Enterprise serves as a nonvoting advisor to the governing board of the authority.

The Governor's appointees are to serve four-year terms; county-appointed members are to serve two-year terms; and currently standing OOCEA board members are to complete their terms. A person who is an officer or employee of a municipality or county may not be an appointed member, except as otherwise provided.

In addition, the bill provides for election of CFX officers, provides quorum and voting requirements, makes editorial and grammatical changes, and conforms terminology to the renaming.

Section 60 amends s. 348.754, F.S., setting forth purposes and powers, to:

- Provide, with specified exception, that the CFX area served is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Include in the authority to construct the Central Florida Expressway System rapid transit, trams, fixed guideways, thoroughfares, and boulevards.
- Prohibit CFX, without the prior consent of the FDOT secretary, from constructing an extension, addition, or improvement to the expressway system in Lake County, to ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by the FDOT.
- Authorize CFX to enter into leases, as lessee or lessor, for terms not exceeding 99 years, rather than the 40 years to which the OOCEA is currently limited, to facilitate projects that will require leases of a longer term. For example, stakeholders involved in the All Aboard Florida passenger rail project desire a longer term.
- Authorize CFX to enter into lease-purchase agreements with the FDOT for terms not exceeding 99 years, or until any bonds secured by a pledge of rentals pursuant to the agreement and any refunding pursuant to the agreement are fully paid, whichever is longer.
- Deem CFX a party to the existing lease-purchase agreement with the FDOT.

- Prohibit CFX from entering into other lease-purchase agreements with the FDOT or from amending the existing agreement in a manner that expands or increases the FDOT's obligations unless the FDOT determines the agreement or amendment is necessary to permit the refunding of bonds issued before July 1, 2012.
- Prohibit use of toll revenues from an increase in the toll rates charged on July 1, 2014, to construct or expand a different facility absent a two-thirds majority vote of the members, with specified exceptions.
- Authorize use of revenues of the expressway system within the right-of-way of the system for certain purposes, if the expenditures are consistent with the MPO's adopted long-range plan and notwithstanding s. 338.165, F.S., relating to continuation of tolls.
- Provide that specified bonds must mature not more than 40 years after their issue date.
- Authorize CFX to construct, operate, and maintain transportation facilities (in addition to roads, bridges, avenues of access, thoroughfares, and boulevards, and electronic toll payment systems on such roads and bridges, etc., outside the boundaries of Seminole, Lake, and Osceola Counties (in addition to Orange County) with the consent of the county within whose jurisdiction the activities occur.
- Remove the municipal governing board approval of a project route currently required before acquisition of right-of-way for an OOCEA project within the boundaries of Orange County.
- Require CFX to encourage the inclusion of local-, small-, minority-, and women-owned business in its procurement and contracting opportunities.
- Authorize CFX, within the right-of-way of the system, to finance or refinance the planning, design, construction, extension, maintenance, etc., of an intermodal facility or facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system.
- Remove provisions authorizing the OOCEA to waive payment and performance bonds on certain construction contracts and related small business provisions.
- Make editorial and grammatical changes and conform terminology to the renaming.

Sections 61-67 amend ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547, 348.755, and 348.756, F.S., relating to bond financing authority for improvements, construction and financing of the Northwest Beltway Part A, construction and financing of the Western Beltway Part C, construction and financing of the Wekiva Parkway, construction and financing of the Maitland Boulevard Extension and Northwest Beltway Part A realignment, bonds of the authority, and remedies of the bondholders, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 68 amends s. 348.757, F.S., relating to lease-purchase agreements with the FDOT, to insert references to the *former* OOCEA system, make editorial changes, and conform terminology to the renaming.

Sections 69-74 amend ss. 348.758, 348.759, 348.760, 348.761, 348.765, and 369.317, F.S., relating to appointment of FDOT as construction agent for the authority; acquisition of lands and property; cooperation with other units, boards, agencies, and individuals; covenant of the state; complete and additional authority, and Wekiva Parkway, respectively, to make editorial and grammatical changes and conform terminology to the renaming.

Section 75 amends s. 369.324, F.S., to reduce the membership of the Wekiva River Basin Commission from 19 to 18 members appointed by the Governor, nine of whom remain as voting members, and reducing from ten to nine the number of ad hoc nonvoting members, removing the representative from the previously repealed Seminole County Expressway Authority.

Section 76, effective upon the completion of construction of the Poinciana Parkway, transfers all powers, governance, and control of the Osceola County Expressway System, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, as well as any other legal rights, to CFX, with specified extension of the transfer date until completion of certain projects. This section of the bill also repeals part V, ch. 348, F.S., consisting of ss. 348.9950 – 348.9961, F.S., on the same date that the Osceola County Expressway System is transferred to CFX. This section also requires CFX to reimburse other governmental entities for obligations related to the Osceola County Expressway System.

Section 77 amends s. 373.4137, F.S., to provide that mitigation take place in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness. The bill requires the following for the development of environmental impact inventories for transportation projects proposed by the FDOT or a transportation authority:

- The FDOT must submit an environmental impact inventory of habitat impacts and the anticipated amount of mitigation needed to offset the impacts to the WMDs by July 1, and may include in the inventory the habitat impacts and the anticipated amount of mitigation needed for future projects; and
- The environmental impact inventory must include the proposed amount of mitigation needed based on the Uniform Mitigation Assessment Method (UMAM) and identification of the proposed mitigation option.

The bill requires FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account state and federal requirements, maintenance, and liability.

The bill allows FDOT to implement the mitigation option identified in the environmental impact inventory by:

- Purchasing credits for current and future use directly from a mitigation bank;
- Purchasing mitigation services through the WMDs or the DEP;
- Conducting its own mitigation; or
- Using other mitigation options that meet state and federal requirements.

The bill requires funding for the identified mitigation option in the inventory to be included in FDOT's work program under s. 339.135, F.S., and requires and the amount programmed each year to correspond to an estimated cost of \$150,000 per mitigation credit, multiplied by the projected number of credits identified in the inventory. The estimated cost per credit will be adjusted every two years by FDOT based on the average cost per UMAM credit.

The bill specifies that for mitigation implemented by the WMDs or the DEP, the amount paid each year must be based on mitigation services provided by the WMD or the DEP pursuant to an

approved WMD mitigation plan. The WMDs or the DEP may request payment no sooner than 30 days before the date the funds are needed.

The bill requires that each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The programming of funds must be adjusted to reflect the mitigation as permitted.

FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements, if the:

- WMD excludes a project from an approved WMD mitigation plan;
- WMD cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or
- Proposed mitigation does not meet state and federal requirements.

The bill specifies that the WMD or the DEP, as appropriate, has continuing responsibility for the mitigation project upon final payment for mitigation and FDOT's or the participating transportation authority's obligation is satisfied.

The bill requires each WMD or the DEP to invoice the FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory, beginning with the March 2014 WMD plans. If the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD must exclude that purchase from the mitigation plan and the FDOT must purchase the bank credits.

The bill requires that for mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or the DEP is required to invoice FDOT at \$75,000 per acre multiplied by the projected acres of impact. The cost per acre must be adjusted by a calculation using the CPI.

The WMD must maintain records of the costs incurred including:

- Planning;
- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

The bill requires the funds identified in the FDOT's work program or participating transportation authorities' escrow accounts, for preparing and implementing the mitigation plans, adopted by the WMDs on or before March 1, 2013, to correspond to \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to FDOT or the participating transportation authority. This provision expires June 30, 2014.

The bill requires each WMD to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation. The WMD plan must identify the site where the WMD will mitigate, the scope of the mitigation activities at each mitigation site, and the functional gain at each mitigation site as determined using UMAM. The mitigation plan must be submitted to the WMD's governing board for review and approval. The bill requires that the WMD provide a copy of the draft mitigation plan to the DEP at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP. The bill also requires the plan to describe how the mitigation offsets the impacts of each transportation project and provide a schedule for the mitigation services.

Section 78 amends s. 373.618, F.S., to provide that a public information system located on WMD property that is subject to the Highway Beautification Act of 1965 must be approved by the FDOT and the Federal Highway Administration, if such approval is required by federal law.

Section 79 amends s. 341.052, F.S., relating to the public transit block grant program, to prohibit a public transit provider from using public transit block grant funds to pursue or promote the levy of new or additional taxes through public referenda. It also reduces the amount of a provider's grant to the extent that a public transit provider so uses other public funds and defines the term "public funds" for purposes of the prohibition.

Section 80 provides that the bill takes effect upon becoming law, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

6

Section 6 The increased allowable weight of APUs decreases the potential fine for a commercial motor vehicle overweight violation by no more than \$7.50.

Section 9

Motor fuel tax funds paid by citizens and businesses in a particular locality may be at less risk of diversion to a different area of the state in a manner contrary to the statutory allocation for those funds if the funds were expended by FDOT through its normal work program process, rather than through a lease-purchase agreement.

Section 15

Those wishing to submit proposals for lease of FDOT property that FDOT wishes to consider will be subject to an application fee sufficient to pay the anticipated cost of evaluating the proposal, to be established by FDOT rule. Opportunities for private consultant contracts with FDOT are authorized.

Section 42

Revision of the definition of “intercity bus service” allows companies other than Greyhound Bus Lines to compete for federal and state program funds.

C. Government Sector Impact:

Section 1

The FTC will incur additional expenditures associated with monitoring the regional transportation finance authorities. These expenses are expected to be absorbed within existing resources. However, the FTC notes that, depending on the number of authorities eventually established, additional FTE(s) may be needed to effectively conduct its responsibility.

Section 5

Removing the obsolete language regarding wrecker permits will avoid any negative impact to the state from a potential federal funds penalty for failure to comply with federal commercial motor vehicle requirements, as giving effect to the obsolete provisions would render the state noncompliant with federal law.

Section 6

The increased allowable weight of APUs decreases a potential fine by no more than \$7.50.

Section 15

The FDOT's costs associated with evaluating lease proposals pursuant to s. 337.251, F.S., would presumably be covered by the application fee the FDOT is required to establish by rule, particularly if the fee includes the cost of private consultants the FDOT is authorized to engage to assist in its evaluations.

Section 18

The obligations of Alligator Alley toll revenues to operate a local fire station and of the FDOT to transfer excess toll revenues to the Everglades Restoration Fund beyond that which is agreed to in the Memorandum of Understanding between the FDOT and the SFWMD, are removed. A positive fiscal impact to the state is expected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

Recommended CS by Transportation, Tourism, and Economic Development Appropriations Committee on April 11, 2013:

The proposed committee substitute:

- Removes all language relating to the following issues previously contained in the bill:
 - Bus benches in state road rights-of-way,
 - Local government noise mitigation regulations,
 - Aviation fuel tax revisions,
 - Natural gas fuel taxation, and
 - The FDOT's authority to undertake ancillary development in state-owned rail corridors.
- Adds the following new issues to the bill:
 - Renames and reconfigures the Northwest Florida Transportation Corridor Authority as the Northwest Florida Regional Transportation Finance Authority and revises related provisions;
 - Renames and reconfigures the Orlando-Orange County Expressway Authority as the Central Florida Expressway Authority and revises related provisions, including extending the allowed term of leases from 40 to 99 years;
 - Revises the terms and conditions under which the FDOT may sell or lease properties acquired for transportation rights-of-way;
 - Prohibits the expenditure of public transit block grant funds to pursue or promote the levy of new or additional taxes through public referenda.

- Revises provisions relation to environmental mitigation for transportation projects, state park road maintenance, water management district public information systems, and the FDOT purchase of plant materials for roadside enhancement and maintenance;
 - Authorizes the FDOT to administer the small county dredging program and sunsets the program on July 1, 2018;
 - Repeals the Florida Transportation Corporation Act and related audit authority; and
- Makes technical and conforming changes.

CS by Community Affairs on March 20, 2013:

The committee substitute:

- Removes reference to the Mid-Bay Bridge Authority and inserts a reference to the new ch. 345, F.S., in s. 20.23, F.S. The bill also transfers the Mid-Bay Bridge Authority to the Okaloosa-Bay Regional Tollway Authority, which is governed by the provisions of the new ch. 345, F.S. The reference to the new ch. 345, F.S., subjects the Okaloosa-Bay Regional Tollway Authority, and any other regional tollway authority created in the bill or subsequently created under provisions in the new ch. 345, F.S., to oversight and monitoring by the Florida Transportation Commission, as are various other expressway, road and bridge, and regional transportation authorities. The amendment also strikes a phrase referencing subsection (3), which subsection establishes the Florida Statewide Passenger Rail Commission, as the bill also repeals the Florida Statewide Passenger Rail Commission.
- Provides that the \$15 million minimum annual funding authorized to be made available from the State Transportation Trust Fund for space transportation projects shall be from the funds dedicated to public transportation projects pursuant to s. 206.46(3), F.S.
- Removes from the bill provisions for the “Spaceport Investment Program,” which required allocation of \$5 million annually, for up to 30 years, for the purpose of funding any spaceport project identified in the FDOT’s Adopted Work Program; and authorized the revenues to be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or other forms of indebtedness issued by Space Florida, or used to purchase credit support to permit such borrowings.
- Removes from the bill authorization for installation of parking meters or other time-limit devices within the right-of-way limits of a state road if permitted by the FDOT; removes direction requiring each county and municipality to promptly remit to the FDOT 50 percent of the revenue generated from the fees collected by a parking meter or other time-limit device installed or already existing within the right-of-way limits of a state road under the FDOT’s jurisdiction; and removes the requirements that funds received by the FDOT to be deposited into the STTF and used in accordance with s. 339.08, F.S.
- Adds to the bill the provisions of CS/SB 579, establishing a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning in 2019, eliminating the current decal program for vehicles powered by alternative fuels, and repealing the Local Alternative Fuel User Fee Clearing Trust Fund.

- Adds to the bill the revised bus bench and bus shelter language shifting liability from the cities and counties to the private owner installers of bus benches and bus shelters within the right-of-way of the SHS.
- Makes technical changes.

B. Amendments:

None.

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