



Economic Expansion & Infrastructure Council

Meeting Packet

**March 22, 2007
9:00 am – 12:00 Noon
(4:30 pm – 6:00 pm, if needed)
404 House Office Building**

**Marco Rubio
Speaker**

**Rep. Dean Cannon
Chair**



The Florida House of Representatives

Economic Expansion & Infrastructure Council

Marco Rubio
Speaker

Dean Cannon
Chair

AGENDA

March 22, 2007

9:00 am – 12:00 Noon

(4:30 pm – 6:00 pm, if needed)

- 1. Welcome, call to order and roll call – Chair Dean Cannon**
- 2. Consideration of the following bills:**
 - HB 67 Motor Fuel Taxes by Rep. Murzin**
- 3. Consideration of the following proposed council bills:**
 - PCB EEIC 07-04—An act relating to the distribution of documentary stamps**
 - PCB EEIC 07-05—An act relating to transportation funding**
 - PCB EEIC 07-06—An act relating to mobile home inspections**
- 4. Workshop on Budget Fiscal Year 2007-2008**
- 5. Closing comments—Chair Cannon**
- 6. Adjournment**

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes:

HB 67 refunds certain motor fuel taxes paid by vehicles and equipment used only on commercial airport properties. According to a DOR analysis, 101 companies, including airlines, fixed-based aviation operators, and independent contractors, will benefit from the refund.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida collects several different types of motor fuel taxes, most of which are used to finance state highway and other transportation projects. Motor fuel taxes are expected to generate nearly \$2.38 billion in revenues in fiscal year 2006-2007.¹

Section 206.41, F.S., lists the major motor fuel taxes, their uses, and their distributions. This section also authorizes refunds of certain motor fuel taxes to persons who purchase fuel for use in vehicles and equipment used exclusively on farm property, who purchase fuel for commercial fishing vessels and equipment never operated on public highways, and who purchase fuel for vessels and equipment used exclusively in aquaculture operations that is never operated on public highways. These refunds were estimated at \$230,000 in FY 2004-2005.²

The three motor fuel taxes which are refunded are: the motor fuel sales tax, the State Comprehensive Enhanced Transportation System Tax and the local option fuel tax.

DOR has long-established procedures for collecting and, where authorized, refunding fuel tax revenues. Applications for refunds must be accompanied by a completed application, and applicants are directed to retain all invoices and receipts of fuel purchases in the event that DOR decides to audit or inspect these records.

Effect of Proposed Changes

HB 67 amends s. 206.41(4)(c), F.S., to provide that persons who own vehicles and equipment used exclusively for commercial aviation purposes, and which are never used on public highways, are eligible for motor fuel tax refunds. The type of vehicles and equipment that are envisioned as qualifying for the refund include the vehicles known as "tugs" that deliver luggage, concessions, and other products to airplanes, as well trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

The bill also defines motor fuel used for "commercial aviation purposes" as that which is used in the operation of aviation ground support vehicles or equipment, and which is not used in any vehicle or equipment driven or operated upon the public highways of this state.

DOR in 2006 estimates that 101 companies may be eligible for the refunds.

C. SECTION DIRECTORY:

Section 1: Amends s. 206.41(4), F.S., by providing a refund for any motor fuel used for commercial aviation purposes; provides a definition for the term "commercial aviation purposes."

Section 2: Provides an effective date of July 1, 2007.

¹ 2006 Florida Tax Handbook, page 85. <http://edr.state.fl.us/reports/taxhandbooks/taxhandbook2006.pdf>

² Ibid, page 90.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Impact Estimating Conference met on January 26, 2007, and determined by consensus that HB 67 would have an annual negative fiscal impact on the STTF of about \$200,000 and have an insignificant (less than \$50,000) fiscal impact on the General Revenue Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Impact Estimating Conference estimated that this bill would have an insignificant fiscal impact on gas tax revenues shared with local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, although private companies doing business on airport property, and which purchase fuel for vehicles that never leave airport property, are the largest group of beneficiaries of the proposed motor fuel tax refund.

These companies include American, Continental, Delta, Southwest and United airlines, US Airways and other airlines doing business in Florida; independent contractors who provide security, landscaping, or other services to airport customers and tenants; and fixed-base operators that transport fuel, concessions, and other items on airport properties.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 67 does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds, nor reduce the authority that municipalities have to raise revenues.

The bill does reduce the percentage of a state tax shared with counties or municipalities – in this case, the local-option fuel tax authorized under s. 206.41(1)(g), F.S. However, the Impact Estimating Conference decided at its January 26, 2007, review of this legislation that the annual impact would be “insignificant.” Because the amount of the reduction is insignificant, the exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house for passage.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

It appears that DOR has sufficient existing rule-making authority in s. 206.41(4), F.S., to implement the provisions of this bill. The agency has indicated that it may develop the refund application and filing procedures by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

HB 67 was the substance of a bill in the 2006 Session that unanimously passed the House. This bill would allow tax rebates for motor fuel used in off-road vehicles for commercial aviation purposes. There are similar refund provisions currently in statute for agricultural, aquacultural and commercial fishing purposes.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 8, 2007, this bill was considered by the Committee on Infrastructure. An amendment was adopted which clarified that "highways" means public highways. The bill was reported favorably with one amendment.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. 67

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	<u>X</u>	(Y/N) 2/8/07
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Economic Expansion &
 2 Infrastructure
 3 Committee on Infrastructure offered the following:

Amendment (with title amendments)

4
 5
 6 On page 2, remove line 41 and insert:
 7 the public highways of this state.

8
 9 ===== T I T L E A M E N D M E N T =====

10 Remove line(s) 2-5 and insert:
 11 An act relating to state taxes imposed on motor fuel; amending
 12 s. 206.41, F.S.; providing for refunds on taxes paid for motor
 13 fuel used for commercial aviation purposes; defining the term
 14 "commercial aviation purposes"; providing an effective date.

HB 67

2007

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A bill to be entitled
An act relating to motor fuel taxes; amending s. 206.41,
F.S.; providing for refunding motor fuel taxes paid on
fuel used for certain commercial aviation purposes;
providing a definition; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (4) of section
206.41, Florida Statutes, is amended to read:

206.41 State taxes imposed on motor fuel.--
(4)

(c)1. Any person who uses any motor fuel for agricultural,
aquacultural, ~~or~~ commercial fishing, or commercial aviation
purposes on which fuel the tax imposed by paragraph (1)(e),
paragraph (1)(f), or paragraph (1)(g) has been paid is entitled
to a refund of such tax.

2. For the purposes of this paragraph, "agricultural and
aquacultural purposes" means motor fuel used in any tractor,
vehicle, or other farm equipment which is used exclusively on a
farm or for processing farm products on the farm, ~~and~~ no part of
which fuel is used in any vehicle or equipment driven or
operated upon the public highways of this state. This
restriction does not apply to the movement of a farm vehicle or
farm equipment between farms. The transporting of bees by water
and the operating of equipment used in the apiary of a beekeeper
shall be also deemed an agricultural purpose.

HB 67

2007

28 3. For the purposes of this paragraph, "commercial fishing
29 and aquacultural purposes" means motor fuel used in the
30 operation of boats, vessels, or equipment used exclusively for
31 the taking of fish, crayfish, oysters, shrimp, or sponges from
32 salt or fresh waters under the jurisdiction of the state for
33 resale to the public, ~~and~~ no part of which fuel is used in any
34 vehicle or equipment driven or operated upon the highways of
35 this state; however, the term may in no way be construed to
36 include fuel used for sport or pleasure fishing.

37 4. For the purposes of this paragraph, "commercial
38 aviation purposes" means motor fuel used in the operation of
39 aviation ground support vehicles or equipment, no part of which
40 fuel is used in any vehicle or equipment driven or operated upon
41 the highways of this state.

42 Section 2. This act shall take effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The documentary stamp tax levied under Chapter 201, F.S., provides revenue to the General Revenue Fund and various trust funds. Section 201.15, F.S., provides the distribution of the documentary stamp taxes.

Currently, the Grants and Donations Trust Fund in the Department of Community Affairs receives \$3.25 million each fiscal year from documentary stamp tax. These funds are used as follows:

- \$3 million for planning and technical assistance to local governments and school boards to implement the Growth Management Act.
- \$250,000 to fund the Century Commission created in section 163.3247, F.S.

Effect of the Bill

This bill provides that effective July 1, 2007, the amount distributed from documentary stamp tax collections to the Grants and Donations Trust Fund in the Department of Community Affairs will be redirected to the General Revenue Fund.

C. SECTION DIRECTORY:

Section 1: Amends s. 201.15, F.S., to delete a provision for distributing certain documentary stamp tax proceeds to the Grants and Donations Trust Fund in the Department of Community Affairs for certain purposes.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill reduces the recurring revenues collected from the excise tax on documentary stamp taxes that are currently appropriated to the Grants and Donations Trust Fund in DCA in the amount of \$3.25 million.

The bill increases the amount of documentary stamp taxes going into the General Revenue Fund by the same amount.

2. Expenditures:

These funds will no longer be available on a recurring basis to the Department of Community Affairs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Legislature may elect to continue funding technical assistance and the Century Commission using another source of revenue or non-recurring general revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to distribution of proceeds from the
 3 excise tax on documents; amending s. 201.15, F.S.;
 4 deleting a provision for distributing certain amounts to
 5 the Grants and Donations Trust Fund in the Department of
 6 Community Affairs for certain purposes; providing an
 7 effective date.
 8

9 Be It Enacted by the Legislature of the State of Florida:

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 11 Section 1. Paragraph (d) of subsection (1) of section
 12 201.15, Florida Statutes, is amended to read:

13 201.15 Distribution of taxes collected.--All taxes
 14 collected under this chapter shall be distributed as follows and
 15 shall be subject to the service charge imposed in s. 215.20(1),
 16 except that such service charge shall not be levied against any
 17 portion of taxes pledged to debt service on bonds to the extent
 18 that the amount of the service charge is required to pay any
 19 amounts relating to the bonds:

20 (1) Sixty-two and sixty-three hundredths percent of the
 21 remaining taxes collected under this chapter shall be used for
 22 the following purposes:

23 (d) The remainder of the moneys distributed under this
 24 subsection, after the required payments under paragraphs (a),
 25 (b), and (c), shall be paid into the State Treasury to the credit
 26 of:

27 1. The State Transportation Trust Fund in the Department of
 28 Transportation in the amount of \$541.75 million in each fiscal
 29 year, to be paid in quarterly installments and used for the

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30 following specified purposes, notwithstanding any other law to
 31 the contrary:

32 a. For the purposes of capital funding for the New Starts
 33 Transit Program, authorized by Title 49, U.S.C. s. 5309 and
 34 specified in s. 341.051, 10 percent of these funds;

35 b. For the purposes of the Small County Outreach Program
 36 specified in s. 339.2818, 5 percent of these funds;

37 c. For the purposes of the Strategic Intermodal System
 38 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
 39 of these funds after allocating for the New Starts Transit
 40 Program described in sub-subparagraph a. and the Small County
 41 Outreach Program described in sub-subparagraph b.; and

42 d. For the purposes of the Transportation Regional
 43 Incentive Program specified in s. 339.2819, 25 percent of these
 44 funds after allocating for the New Starts Transit Program
 45 described in sub-subparagraph a. and the Small County Outreach
 46 Program described in sub-subparagraph b.

47 2. The Water Protection and Sustainability Program Trust
 48 Fund in the Department of Environmental Protection in the amount
 49 of \$100 million in each fiscal year, to be paid in quarterly
 50 installments and used as required by s. 403.890.

51 3. The Public Education Capital Outlay and Debt Service
 52 Trust Fund in the Department of Education in the amount of \$105
 53 million in each fiscal year, to be paid in monthly installments
 54 with \$75 million used to fund the Classrooms for Kids Program
 55 created in s. 1013.735, and \$30 million to be used to fund the
 56 High Growth County District Capital Outlay Assistance Grant
 57 Program created in s. 1013.738. If required, new facilities

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BILL

ORIGINAL

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58 | constructed under the Classrooms for Kids Program must meet the
 59 | requirements of s. 1013.372.

60 | ~~4. The Grants and Donations Trust Fund in the Department of~~
 61 | ~~Community Affairs in the amount of \$3.25 million in each fiscal~~
 62 | ~~year to be paid in monthly installments, with \$3 million to be~~
 63 | ~~used to fund technical assistance to local governments and school~~
 64 | ~~boards on the requirements and implementation of this act and~~
 65 | ~~\$250,000 to be used to fund the Century Commission established in~~
 66 | ~~s. 163.3247.~~

67 |
 68 | Moneys distributed pursuant to this paragraph may not be pledged
 69 | for debt service unless such pledge is approved by referendum of
 70 | the voters.

71 | Section 2. This act shall take effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Excise Tax on Documents

Current Situation

The documentary stamp tax levied under Chapter 201, F.S., provides funds to the General Revenue Fund and various trust funds. Section 201.15, F.S., provides the distribution of the documentary stamp taxes.

Currently, the DOT receives \$541.75 million each year from the documentary stamp tax. The \$541.75 million is distributed as follows:

- 10 percent of these funds are specified for the New Starts Transit Program (NSTP), authorized by Title 49, U.S.C. s. 5309 and pursuant to s. 341.051, F.S.;
- 5 percent of these funds are specified for the Small County Outreach Program (SCOP), specified in s. 339.2818;
- 75 percent of the funds remaining after funding the NSTP and SCOP are specified for the Strategic Intermodal System (SIS), pursuant to ss. 339.61, 339.62, 339.63, and 339.64, F.S.; and
- 25 percent of the funds remaining after funding the NSTP and SCOP are specified for the Transportation Regional Incentive Program (TRIP), pursuant to s. 339.2819, F.S.

Proposed Changes

PCB EEIC 07-05 provides that effective July 1, 2007, the amounts distributed from documentary stamp tax collections to the DOT may not exceed \$441.75 million in each fiscal year.

The \$441.75 million is distributed as follows:

- 10 percent of these funds are specified for the NSTP, authorized by Title 49, U.S.C. s. 5309 and pursuant to s. 341.051, F.S.;
- 5 percent of these funds are specified for the SCOP, specified in s. 339.2818;
- 75 percent of the funds remaining after funding the NSTP and SCOP are specified for the SIS, pursuant to ss. 339.61, 339.62, 339.63, and 339.64, F.S.; and
- 25 percent of the funds remaining after funding the NSTP and SCOP are specified for the TRIP, pursuant to s. 339.2819, F.S.

The bill will reduce funds to the DOT by \$100 million each fiscal year and increase General Revenue by the same amount.

DOT Fixed-Guideway Funding

Current Situation

A "fixed-guideway transportation system" is a public transit system for transporting people by a conveyance, or a series of interconnected conveyances, specifically designed for travel on a stationary

rail or other guideway. Section 215.615, F.S., authorizes DOT or commuter rail authorities and regional transportation authorities to issue revenue bonds to fund fixed guideway projects. Each party is contractually liable for an equal share of the bond debt service. Projects must comply with DOT's major capital investment policy guidelines, and must be included in the work program. The DOT's share of debt service is payable from, and is limited to, a maximum of 2 percent of all state revenues deposited into the STTF. These debt service payments are part of the 15-percent of transportation revenues committed to public transportation projects pursuant to s. 206.46, F.S. The local share is payable from any available revenues other than revenues of DOT.

To date, the fixed-guideway revenue bond financing option has not been used. However, DOT is negotiating with local governmental entities and a private railroad company in Central Florida to develop a fixed-guideway commuter or light rail system. Bond counsel assisting DOT with the financing component of the project has suggested changes to the existing s. 215.615, F.S. The proposed changes allow for various matching scenarios with DOT's share being established per an interlocal agreement at "up to 50 percent" of the eligible project costs, which may include debt service. The changes would clear up terminology issues and allow local authorities to contribute more local dollars when the state's available match is insufficient to finance 50 percent of the project.

Proposed Changes

PCB EEIC 07-05 deletes the 50/50 state/local matching requirement for fixed guideway revenue bonds. The proposed changes allow for various matching scenarios with an upward limit on DOT's share being established at up to 50 percent of the eligible project cost. This would allow local authorities to contribute more local dollars when the state's available match is insufficient to finance 50 percent of the project.

DOT Contracting Issues

Current Situation

Pursuant to s. 337.18, F.S., for transportation contracts and s. 255.05, F.S. for all other state or local governmental projects, any person or entity entering into a contract for the construction or repair of a public building or public works, must execute, deliver to the owner, and record a payment and performance bond purchased from a surety company. A payment bond guarantees that the contractor will pay certain subcontractors, laborers, and material suppliers associated with the project. A performance bond protects the owner from financial loss should the contractor fail to perform the contract in accordance with its terms and conditions. A surety bond is equal to 100 percent of the contract price, to enable DOT to complete the project should the contractor fail to complete the project according to the terms of the contract.

Certain contracts may be exempted from the bond requirement, depending on the amount of the contract and whether the governmental entity agrees. For example, s. 337.18, F.S., allows DOT to waive all or a portion of surety bond requirements for contracts of no more than \$150,000 if the project is non-critical and if non-performance of the contract will not endanger the public health, safety, or property. Also, DOT may accept other types of financial guarantees (such as certified checks or postal money orders) for contracts valued at no more than \$25,000. Also, s. 337.11, F.S., requires DOT to advertise in a local newspaper of general circulation a solicitation for bids on all construction projects with a contract price of no more than \$250,000.

The rising material and labor costs of transportation projects are resulting in project bids coming in much higher than DOT has projected. Contractors for so-called "mega projects" costing more than \$500 million are discovering that few surety bond companies worldwide are writing coverage in excess of that amount. Also, DOT is awarding more multi-year contracts than it used to, but surety bonds typically are an upfront, and not phased-in, cost based on the entire amount of the contract. For these reasons, the agency believes adjustments to its surety bond requirements would facilitate the "mega" and "multi-year" projects as described above.

Proposed Changes

PCB EEIC 07-05 makes a number of changes to DOT's contracting procedures specified in c. 337, F.S.

The bill:

- Amends s. 337.11(3), F.S., to specify that the newspaper advertising requirement doesn't apply to construction contracts valued at less than \$500,000 for which DOT has waived prequalification requirements;
- Amends s. 337.14(1), F.S., to waive pre-qualification requirements for construction contracts of no more than \$500,000 if DOT determines the project is non-critical in nature and failure to complete the project as agreed does not endanger the public health, safety, or property; and
- Amends s. 337.18, F.S., to allow DOT to waive, at its discretion, incremental annual surety bonds for multi-year maintenance contracts. The bill also amends this section of law to increase the minimum threshold from \$150,000 to \$250,000 for contracts that need a surety bond and to give the agency the discretion to reduce surety bond requirements or require alternative financial security for contracts valued at a minimum \$250 million. Alternative security in lieu of a surety bond could include a line-of-credit, parent company guarantees, or cash collateral.

Florida Turnpike Bond Cap

Current Situation

Florida's Turnpike Enterprise is a 450-mile system of limited-access toll highways. The Turnpike's mainline passes through 11 counties from North Miami to a junction with Interstate 75 in north central Florida. In addition to the 265-mile mainline, the Turnpike system includes: the 47-mile Homestead Extension, which takes motorists to the top of the Florida Keys; the 23-mile Sawgrass Expressway/Toll 869 in Broward County; the 19-mile Seminole Expressway/Toll 417 in Seminole County; the 15-mile Veterans Expressway/Toll 589 in Tampa; an eight-mile portion of the Bee Line Expressway/Toll 528 in Orlando; the six-mile Southern Connector Extension of the Central Florida GreeneWay/Toll 417 in Orlando; the 25-mile Polk Parkway; and the 42-mile Suncoast Parkway.

The 1990 Florida Legislature passed legislation implementing a financing plan for Florida's Turnpike system to use the bonding capacity of the Turnpike to finance new transportation projects on a statewide basis. The bonds are repaid through tolls collected over time. Section 338.2275, Florida Statutes, establishes a ceiling on the amount of Turnpike bonds that can be issued to fund Turnpike projects. In 1997, the Florida Legislature authorized the continued expansion of Florida's Turnpike System by approving additional initiatives such as increasing the Turnpike's bonding capability from \$1.5 billion to \$3 billion and identifying additional statewide projects. In 2003, the bond cap was again increased to reach its current \$4.5 billion level.

The current Work Program includes planned bond issues which will exhaust the Turnpike's current legislative bond cap by Fiscal Year 2010. The Work Program supports:

- The completion of the Western Beltway, Part C;
- Adding 150 lane miles through widening of the Turnpike System at a cost of nearly \$1 billion;
- Adding 4 new interchanges and improving 3 other interchanges at a cost of \$200 million to improve access to the Turnpike System;
- Converting the Sawgrass Expressway to a fully electronic, open road tolling project and adding SunPass Express lanes at other locations;
- Improving Toll and Intelligent Transportation System (ITS) to better manage the System and increase capacity and throughput at the toll plazas; and
- Continuing improvements for safety and preservation of the existing System.

In order to fund the significant capital program during the upcoming five-year period, the Turnpike is planning five bond issues totaling approximately \$2.2 billion. The long-range financial planning model for the Turnpike includes numerous system improvements providing access and capacity to the existing system, as well as significant funding for preservation, safety, modernization, and replacement of toll equipment technology.

Proposed Changes

PCB EEIC 07-05 raises the cap on Turnpike bonds from \$4.5 billion to \$10 billion, and changes the limitation to a maximum amount outstanding rather than amount issued, thereby providing for a "line of credit" that the Turnpike can utilize for long-term planning. According to DOT staff, this cap increase will allow the Turnpike to complete currently planned projects and to continue a proactive approach to building tolled facilities to handle future transportation needs. This would give the Turnpike Enterprise financial capacity to bond at a higher level, and add up to \$900 million in new transportation improvements over the next five to ten years.

An increase in the bond cap will not impact the state of Florida's debt affordability index, because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

C. SECTION DIRECTORY:

Section 1. Amends s. 201.15, F.S., to revise the amount of funds appropriated to the STTF from revenues collected for excise tax on documents.

Section 2. Amends s. 215.615, F.S., to make technical changes to fixed-guideway revenue bonding statute.

Sections 3-5. Amends ss. 337.11, 337.14, and 337.18, F.S., to make various changes to DOT's requirements on performance and surety bonds. Raises the minimum contract amount needing a surety bond \$150,000 to \$250,000. Allows multi-year maintenance contracts to obtain annual surety bonds. Allows DOT to waive surety bond requirement for projects in excess of \$250 million if other less-traditional financial guarantees are available.

Section 6. Amends s. 338.2275, F.S., to change the Florida Turnpike's bond cap to \$10 billion of bonds outstanding.

Section 7. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Section 1 of the bill reduces the recurring revenues collected from the excise tax on documents stamps that are currently appropriated to the STTF from \$541.75 million to \$441.75 in each fiscal year. This section also increases the General Revenue Fund by \$100 million each fiscal year.

Section 6 of the bill would raise the Florida Turnpike Enterprise's bond cap from an absolute \$4.5 billion in bonds issued to a limit of \$10 billion in bonds outstanding. Therefore, as the Turnpike retires outstanding bond issues, the Turnpike may issue more, as long as it does not exceed \$10 billion outstanding at any time. This would give the Turnpike Enterprise financial capacity to bond at a higher level, and add up to \$900 million in new transportation improvements over the next five to ten years.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

An increase in the bond cap will not impact the State of Florida's debt affordability index, because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

The Legislature last raised the Turnpike bond cap in 2003, from \$3 billion to \$4.5 billion.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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PCBFEIC 01-05

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to transportation funding; amending s.
 3 201.15, F.S.; revising amount of funds from certain taxes
 4 distributed to the State Transportation Trust Fund;
 5 directing the Department of Transportation to ensure that
 6 certain projects are not impacted; amending s. 215.615,
 7 F.S.; revising the Department of Transportation's
 8 requirement to share certain costs of fixed-guideway
 9 system projects; revising criteria for an interlocal
 10 agreement to establish bond financing for fixed-guideway
 11 system projects; revising provisions for sources of funds
 12 for the payment of bonds; amending s. 337.11, F.S.;
 13 providing that certain construction projects be advertised
 14 for bids in local newspapers; amending s. 337.14, F.S.;
 15 authorizing the department to waive specified
 16 prequalification requirements for certain transportation
 17 projects under certain conditions; amending s. 337.18,
 18 F.S.; revising surety bond requirements for construction
 19 or maintenance contracts; providing for incremental annual
 20 surety bonds for multiyear maintenance contracts under
 21 certain conditions; revising the threshold for
 22 transportation projects eligible for a waiver of surety
 23 bond requirements; authorizing the department to provide
 24 for phased surety bond coverage or an alternate means of
 25 security for a portion of the contract amount in lieu of
 26 the surety bond; amending s. 338.2275, F.S.; raising the
 27 limit on outstanding bonds to fund turnpike projects;
 28 providing an effective date.
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BILL ORIGINAL YEAR

30 Be It Enacted by the Legislature of the State of Florida:

31

32 Section 1. Paragraph (d) of subsection (1) of section
33 201.15, Florida Statutes, is amended to read:

34 201.15 Distribution of taxes collected.--All taxes
35 collected under this chapter shall be distributed as follows and
36 shall be subject to the service charge imposed in s. 215.20(1),
37 except that such service charge shall not be levied against any
38 portion of taxes pledged to debt service on bonds to the extent
39 that the amount of the service charge is required to pay any
40 amounts relating to the bonds:

41 (1) Sixty-two and sixty-three hundredths percent of the
42 remaining taxes collected under this chapter shall be used for
43 the following purposes:

44 (d) The remainder of the moneys distributed under this
45 subsection, after the required payments under paragraphs (a),
46 (b), and (c), shall be paid into the State Treasury to the credit
47 of:

48 1. The State Transportation Trust Fund in the Department of
49 Transportation in the amount of \$441.75 ~~\$541.75~~ million in each
50 fiscal year, to be paid in quarterly installments and used for
51 the following specified purposes, notwithstanding any other law
52 to the contrary:

53 a. For the purposes of capital funding for the New Starts
54 Transit Program, authorized by Title 49, U.S.C. s. 5309 and
55 specified in s. 341.051, 10 percent of these funds;

56 b. For the purposes of the Small County Outreach Program
57 specified in s. 339.2818, 5 percent of these funds;

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58 c. For the purposes of the Strategic Intermodal System
 59 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent
 60 of these funds after allocating for the New Starts Transit
 61 Program described in sub-subparagraph a. and the Small County
 62 Outreach Program described in sub-subparagraph b.; and

63 d. For the purposes of the Transportation Regional
 64 Incentive Program specified in s. 339.2819, 25 percent of these
 65 funds after allocating for the New Starts Transit Program
 66 described in sub-subparagraph a. and the Small County Outreach
 67 Program described in sub-subparagraph b.

68 e. Notwithstanding sub-subparagraphs a.-d. and s.
 69 339.135(4)(a)1., in fiscal year 2007-2008 only, the Department of
 70 Transportation shall ensure, to the maximum extent practicable,
 71 that projects that have been advertised for contract lettings for
 72 the fiscal year beginning July 1, 2007, are not impacted by
 73 revised funding levels provided in this subsection.

74 2. The Water Protection and Sustainability Program Trust
 75 Fund in the Department of Environmental Protection in the amount
 76 of \$100 million in each fiscal year, to be paid in quarterly
 77 installments and used as required by s. 403.890.

78 3. The Public Education Capital Outlay and Debt Service
 79 Trust Fund in the Department of Education in the amount of \$105
 80 million in each fiscal year, to be paid in monthly installments
 81 with \$75 million used to fund the Classrooms for Kids Program
 82 created in s. 1013.735, and \$30 million to be used to fund the
 83 High Growth County District Capital Outlay Assistance Grant
 84 Program created in s. 1013.738. If required, new facilities
 85 constructed under the Classrooms for Kids Program must meet the
 86 requirements of s. 1013.372.

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87 4. The Grants and Donations Trust Fund in the Department of
 88 Community Affairs in the amount of \$3.25 million in each fiscal
 89 year to be paid in monthly installments, with \$3 million to be
 90 used to fund technical assistance to local governments and school
 91 boards on the requirements and implementation of this act and
 92 \$250,000 to be used to fund the Century Commission established in
 93 s. 163.3247.

94
 95 Moneys distributed pursuant to this paragraph may not be pledged
 96 for debt service unless such pledge is approved by referendum of
 97 the voters.

98 Section 2. Subsection (1) of section 215.615, Florida
 99 Statutes, is amended to read:

100 215.615 Fixed-guideway transportation systems funding.--

101 (1) The issuance of revenue bonds by the Division of Bond
 102 Finance, on behalf of the Department of Transportation, pursuant
 103 to s. 11, Art. VII of the State Constitution, is authorized,
 104 pursuant to the State Bond Act, to finance or refinance fixed
 105 capital expenditures for fixed-guideway transportation systems,
 106 as defined in s. 341.031, including facilities appurtenant
 107 thereto, costs of issuance, and other amounts relating to such
 108 financing or refinancing. ~~Such revenue bonds shall be matched on~~
 109 ~~a 50-50 basis with funds from sources other than revenues of the~~
 110 ~~Department of Transportation, in a manner acceptable to the~~
 111 ~~Department of Transportation.~~ The Division of Bond Finance is
 112 authorized to consider innovative financing techniques that
 113 ~~technologies which~~ may include, but are not limited to,
 114 innovative bidding and structures of potential financings
 115 ~~findings~~ that may result in negotiated transactions.

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116 (a) The department and any participating commuter rail
 117 authority or regional transportation authority established under
 118 chapter 343, local governments, or local governments collectively
 119 by interlocal agreement having jurisdiction of a fixed-guideway
 120 transportation system may enter into an interlocal agreement to
 121 promote the efficient and cost-effective financing or refinancing
 122 of fixed-guideway transportation system projects by revenue bonds
 123 issued pursuant to this subsection. The terms of such interlocal
 124 agreements shall include provisions for the Department of
 125 Transportation to request the issuance of the bonds on behalf of
 126 the parties; shall provide that the department's share may be up
 127 to 50 percent of the eligible project cost, which may include a
 128 share of the annual ~~each party to the agreement is contractually~~
 129 ~~liable for an equal share of funding an amount equal to the debt~~
 130 service requirements of such bonds; and shall include any other
 131 terms, provisions, or covenants necessary to the making of and
 132 full performance under such interlocal agreement. Repayments made
 133 to the department under any interlocal agreement are not pledged
 134 to the repayment of bonds issued hereunder, and failure of the
 135 local governmental authority to make such payment shall not
 136 affect the obligation of the department to pay debt service on
 137 the bonds.

138 (b) Revenue bonds issued pursuant to this subsection shall
 139 not constitute a general obligation of, or a pledge of the full
 140 faith and credit of, the State of Florida. Bonds issued pursuant
 141 to this section shall be payable from funds available pursuant to
 142 s. 206.46(3), or other funds available to the project, subject to
 143 annual appropriation. The amount of revenues available for debt

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144 service shall never exceed a maximum of 2 percent of all state
 145 revenues deposited into the State Transportation Trust Fund.

146 (c) The projects to be financed or refinanced with the
 147 proceeds of the revenue bonds issued hereunder are designated as
 148 state fixed capital outlay projects for purposes of s. 11(d),
 149 Art. VII of the State Constitution, and the specific projects to
 150 be financed or refinanced shall be determined by the Department
 151 of Transportation in accordance with state law and appropriations
 152 from the State Transportation Trust Fund. Each project to be
 153 financed with the proceeds of the bonds issued pursuant to this
 154 subsection must first be approved by the Legislature by an act of
 155 general law.

156 (d) Any complaint for validation of bonds issued pursuant
 157 to this section shall be filed in the circuit court of the county
 158 where the seat of state government is situated, the notice
 159 required to be published by s. 75.06 shall be published only in
 160 the county where the complaint is filed, and the complaint and
 161 order of the circuit court shall be served only on the state
 162 attorney of the circuit in which the action is pending.

163 (e) The state does hereby covenant with holders of such
 164 revenue bonds or other instruments of indebtedness issued
 165 hereunder, that it will not repeal or impair or amend these
 166 provisions in any manner that will materially and adversely
 167 affect the rights of such holders as long as bonds authorized by
 168 this subsection are outstanding.

169 (f) This subsection supersedes any inconsistent provisions
 170 in existing law.

171

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172 Notwithstanding this subsection, the lien of revenue bonds issued
 173 pursuant to this subsection on moneys deposited into the State
 174 Transportation Trust Fund shall be subordinate to the lien on
 175 such moneys of bonds issued under ss. 215.605, 320.20, and
 176 215.616, and any pledge of such moneys to pay operating and
 177 maintenance expenses under s. 206.46(5) and chapter 348, as may
 178 be amended.

179 Section 3. Paragraph (a) of subsection (3) of section
 180 337.11, Florida Statutes, is amended to read:

181 337.11 Contracting authority of department; bids; emergency
 182 repairs, supplemental agreements, and change orders; combined
 183 design and construction contracts; progress payments; records;
 184 requirements of vehicle registration.--

185 (3)(a) On all construction contracts of \$250,000 or less,
 186 as well as any construction contract of less than \$500,000 for
 187 which the department has waived prequalification pursuant to s.
 188 337.14, the department shall advertise for bids in a newspaper
 189 having general circulation in the county where the proposed work
 190 is located. Publication shall be at least once a week for no less
 191 than 2 consecutive weeks, and the first publication shall be no
 192 less than 14 days prior to the date on which bids are to be
 193 received.

194 Section 4. Subsection (1) of section 337.14, Florida
 195 Statutes, is amended to read:

196 337.14 Application for qualification; certificate of
 197 qualification; restrictions; request for hearing.--

198 (1) Any person desiring to bid for the performance of any
 199 construction contract in excess of \$250,000 which the department
 200 proposes to let must first be certified by the department as

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201 | qualified pursuant to this section and rules of the department.
 202 | The rules of the department shall address the qualification of
 203 | persons to bid on construction contracts in excess of \$250,000
 204 | and shall include requirements with respect to the equipment,
 205 | past record, experience, financial resources, and organizational
 206 | personnel of the applicant necessary to perform the specific
 207 | class of work for which the person seeks certification. The
 208 | department is authorized to limit the dollar amount of any
 209 | contract upon which a person is qualified to bid or the aggregate
 210 | total dollar volume of contracts such person is allowed to have
 211 | under contract at any one time. Each applicant seeking
 212 | qualification to bid on construction contracts in excess of
 213 | \$250,000 shall furnish the department a statement under oath, on
 214 | such forms as the department may prescribe, setting forth
 215 | detailed information as required on the application. Each
 216 | application for certification shall be accompanied by the latest
 217 | annual financial statement of the applicant completed within the
 218 | last 12 months. If the annual financial statement shows the
 219 | financial condition of the applicant more than 4 months prior to
 220 | the date on which the application is received by the department,
 221 | then an interim financial statement must also be submitted. The
 222 | interim financial statement must cover the period from the end
 223 | date of the annual statement and must show the financial
 224 | condition of the applicant no more than 4 months prior to the
 225 | date on which the application is received by the department. Each
 226 | required annual or interim financial statement must be audited
 227 | and accompanied by the opinion of a certified public accountant
 228 | or a public accountant approved by the department. The
 229 | information required by this subsection is confidential and

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230 exempt from the provisions of s. 119.07(1). The department shall
 231 act upon the application for qualification within 30 days after
 232 the department determines that the application is complete. The
 233 department may waive the requirements of this subsection for
 234 projects having a contract price of \$500,000 or less if the
 235 department determines that the project is of a noncritical nature
 236 and noncompliance with the subsection will not endanger public
 237 health, safety, or property.

238 Section 5. Paragraph (a) of subsection (1) of section
 239 337.18, Florida Statutes, is amended to read:

240 337.18 Surety bonds for construction or maintenance
 241 contracts; requirement with respect to contract award; bond
 242 requirements; defaults; damage assessments.--

243 (1) (a) A surety bond shall be required of the successful
 244 bidder in an amount equal to the awarded contract price. However,
 245 the department may choose, in its discretion and applicable only
 246 to multiyear maintenance contracts, to allow for incremental
 247 annual contract bonds that cumulatively total the full, awarded
 248 multiyear contract price. For a project for which the contract
 249 price is \$250,000 ~~\$150,000~~ or less, the department may waive the
 250 requirement for all or a portion of a surety bond if it
 251 determines the project is of a noncritical nature and
 252 nonperformance will not endanger public health, safety, or
 253 property. If the Secretary of Transportation or the secretary's
 254 designee determines that it is in the best interests of the
 255 department to do so and that a reduced bonding requirement for a
 256 project will not endanger public health, safety, or property, the
 257 department may waive the requirement of a surety bond in an
 258 amount equal to the awarded contract price for a project having a

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259 contract price of \$250 million or more, and, in its place, may
 260 set a surety bond amount that is a portion of the total contract
 261 price and provide an alternate means of security for the balance
 262 of the contract amount which is not covered by the surety bond or
 263 provide for incremental surety bonding and provide an alternate
 264 means of security for the balance of the contract amount which is
 265 not covered by the surety bond. Such alternate means of security
 266 may include letters of credit, United States bonds and notes,
 267 parent company guarantees, and cash collateral. The department
 268 may require alternate means of security if a surety bond is
 269 waived. The surety on such bond shall be a surety company
 270 authorized to do business in the state. All bonds shall be
 271 payable to the department and conditioned for the prompt,
 272 faithful, and efficient performance of the contract according to
 273 plans and specifications and within the time period specified,
 274 and for the prompt payment of all persons defined in s. 713.01
 275 furnishing labor, material, equipment, and supplies for work
 276 provided in the contract; however, whenever an improvement,
 277 demolition, or removal contract price is \$25,000 or less, the
 278 security may, in the discretion of the bidder, be in the form of
 279 a cashier's check, bank money order of any state or national
 280 bank, certified check, or postal money order. The department
 281 shall adopt rules to implement this subsection. Such rules shall
 282 include provisions under which the department shall refuse to
 283 accept bonds on contracts when a surety wrongfully fails or
 284 refuses to settle or provide a defense for claims or actions
 285 arising under a contract for which the surety previously
 286 furnished a bond.

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287 Section 6. Subsection (1) of section 338.2275, Florida
 288 Statutes, is amended to read:
 289 338.2275 Approved turnpike projects.--
 290 (1) Legislative approval of the department's tentative work
 291 program that contains the turnpike project constitutes approval
 292 to issue bonds as required by s. 11(f), Art. VII of the State
 293 Constitution. No more than \$10 Turnpike projects approved to be
 294 ~~included in future tentative work programs include, but are not~~
 295 ~~limited to, projects contained in the 2003-2004 tentative work~~
 296 ~~program. A maximum of \$4.5~~ billion of bonds may be issued to fund
 297 approved turnpike projects.
 298 Section 7. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EEIC 07-06 An act relating to mobile home inspections
SPONSOR(S): Economic Expansion & Infrastructure Council
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: Economic Expansion & Infrastructure Council, ANALYST: Fox R.F., STAFF DIRECTOR: Tinker TBT. Rows 2-6 are empty.

SUMMARY ANALYSIS

This bill eliminates the Department of Highway Safety and Motor Vehicle's (DHSMV) responsibility for the enforcement of the federal standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (act). Florida entered into two contracts with the Department of Housing and Urban Development (HUD) in 1976 to carry out the enforcement of the federal program. The Bureau of Mobile Home and Recreational Vehicle Construction within the DHSMV has since administered the contracts.

The DHSMV will still continue to license mobile home dealers and manufacturers. The inspections of mobile home construction will now be done, in coordination with HUD by third party inspection agencies. These third party agencies will certify and inspect each manufacturing plant to assure construction is in compliance with HUD's regulations. HUD's contractor will also monitor the performance of third party inspection agencies.

This bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited Government –this bill provides less government by reducing full-time employees and eliminates the DHSMV's role for providing mobile home inspections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The National Manufactured Housing Construction and Safety Standards Act of 1974 (act) established federal construction and safety standards for manufactured homes. The 2000 amendments to this act provided this title may be cited as the "Manufactured Housing Improvement Act." HUD was directed to develop a federal standard building code for mobile homes. The intent of the program is to reduce personal injuries, deaths, property damage, insurance costs, and to improve the quality and durability of manufactured homes. These standards supersede any state standards regarding mobile home construction or safety. Thus, federal regulations preempt any state regulations to the extent the local or state regulations are governed by the federal act and the corresponding rules promulgated by HUD.

With the approval of the secretary of HUD, states may assume responsibility for enforcement of the federal standards established under the act. Florida entered into two contracts with HUD in 1976 to carry out the enforcement of the federal program. The Bureau of Mobile Home and Recreational Vehicle Construction (bureau) within DHSMV has since administered the contracts. The bureau includes the Bureau Chief's Office (in-plant inspection and consumer complaint programs), and the Engineering, Seals, Labels, and Installer Licensing sections.

The bureau is the "State Administrative Agency" (SAA) for monitoring all manufactured housing produced or installed in Florida. The bureau inspects manufacturer facilities and dealer lots for compliance with the federal code; investigates and resolves consumer complaints against manufacturers and dealers; monitors retail lots; approves alterations made by retailers; and monitors the installation of mobile homes. The state's responsibilities for the installation program include regulating the installation of mobile homes by testing and licensing mobile home installers, testing and approving anchoring and tie-down products for use in Florida. The counties and cities are responsible for the actual onsite inspections of the mobile home installations. In addition, the bureau conducts training for city and county building officials on how to inspect for proper installation, and consults with these officials on a regular basis regarding installation issues.

Florida is one of 38 states approved by the secretary of HUD to perform these functions. Ten of those 38 states also perform as an In-plant Primary Inspection Agency (IPIA) under a second contract. Florida is one of these states. According to the contract with IPIA, DHSMV must certify a manufacturer is following approved quality control procedures and must provide on-going in-plant inspection of the manufacturing process to assure conformance with the federal code standards. If the manufacturer complies, a federal certification label is then issued and affixed to each newly completed mobile home manufactured in Florida. The fee for a certification label is \$32 and is paid by the manufacturer to DHSMV.

Effect of Proposed Changes

This bill eliminates the Department of Highway Safety and Motor Vehicle's (DHSMV) responsibility for enforcement of the federal standards established under the act for mobile home inspections. The DHSMV will still continue to license mobile home dealers and manufacturers. In addition, this bill amends current language for clarification and reference purposes. Specifically the bill:

- Removes the definition of "seal" or "label";
- Repeals s. 320.824, F.S., regarding the authority of the DHSMV to enter any place where mobile homes are manufactured, sold, or offered for sale for certain purposes. This also includes the language regarding mobile home standards as approved and published by the Department of Housing and Urban Development;
- Deletes the language in s. 320.8245 (3), F.S., regarding the authority of the DHSMV to promulgate rules and regulations pursuant to alterations and modifications which must be made by qualified personnel;
- Deletes the language in s. 320.8245 (4)(b), F.S., regarding the DHSMV certifying people to perform mobile home alterations or modifications;
- Deletes the language in s. 320.8245 (4)(c), F.S., regarding the DHSMV determining which counties and localities have licensing or competency requirements adequate to eliminate the requirement of certification;
- Repeals s. 320.8255 F.S., regarding Mobile Home Inspections;
- Deletes the language in 320.827, F.S., regarding the labels that may be issued by the DHSMV and the label being displayed in a manner to be prescribed by the DHSMV;
- Changes the reference in 320.834, F.S., from DHSMV's inspection program to DHSMV's licensing program. It also deletes the intent language that the DHSMV share responsibility for warranting mobile homes with manufacturers and dealers;
- The bill has an effective date of July 1, 2007.

With this bill, the inspections of mobile home construction will now be done, in coordination with HUD, by third party inspection agencies. Third party agencies are established under the Manufactured Housing Program to check and approve designs and calculations used in the construction of manufactured homes. They can certify and inspect each manufacturing plant to assure construction in compliance with the standards and with approved design. HUD's contractor also monitors third party inspection agencies to assure adequate performance.

The Manufactured Housing Program is a national program established to protect the health and safety of the owners of manufactured (mobile) homes. Under this program that HUD administers, it will issue, monitor, and enforce Federal manufactured home construction and safety standards. The intent of the HUD program is to reduce personal injuries, deaths, property damage, insurance costs, and to improve the quality and durability of manufactured homes. The standards of HUD will preempt state and local laws which are not identical to the Federal standards. The standards may be enforced by HUD directly. HUD has the authority to inspect factories and obtain records needed to enforce the standards. If a manufactured home does not conform to Federal standards, the manufacturer may be required to notify the consumer. If the home contains a defect which presents an unreasonable risk of injury or death, the manufacturer may be required to correct the defect.

The National Manufactured Housing Construction and Safety Standards Act of 1974 were created to protect consumers through regulation and enforcement of HUD design and construction standards for manufactured homes. The act gives HUD broad investigatory authority to conduct inspections, issue subpoenas and issue orders. HUD may bring administrative actions against manufacturers or inspection agencies for violations of the Act or regulations. The Act also provides for injunctive actions in Federal court and civil money penalties and criminal sanctions. HUD also allows for this program to provide a system for handling consumer complaints relating to failures to conform in the construction of homes.

C. SECTION DIRECTORY:

Section 1 – Amends s. 320.822, F.S., by removing the definition of "seal or "label"

Section 2 – Repeals s. 320.824, F.S.

Section 3 – Amends s. 320.8245, F.S. by modifying and deleting language regarding the limitation of alteration or modifications to mobile homes or recreational vehicles.

Section 4 – Repeals s. 320.8255, F.S.

Section 5 – Amends s. 320.827, F.S., by deleting language regarding the labels that may be issued by the DHSMV

Section 6 – Amends s. 320.834, F.S., by modifying the intent of the Legislature regarding the safety and welfare of mobile home owners and residents.

Section 7 – Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Negative impact is \$500,000 to General Revenue

2. Expenditures:

Expenditures from the Highway Safety Operating Trust Fund will be reduced by \$959,738

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

26 Full Time Employees of the DHSMV will be eliminated. The bill will have a negative impact of \$500,000 to General Revenue and the expenditures from the Highway Safety Operating Trust Fund will be reduced by \$959,738.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

Bill deletes rulemaking authority of the DHSMV for the mobile home inspection programs that are eliminated.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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PCB EEIC 01-06

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1 A bill to be entitled
 2 An act relating to mobile homes; amending s. 320.822,
 3 F. S.; removing definition of "seal" or "label";
 4 repealing s. 320.824, F.S., relating to the authority
 5 of the Department of Highway Safety and Motor
 6 Vehicles to enter any place where mobile homes are
 7 manufactured, sold, or offered for sale for certain
 8 purposes; amending s. 320.8245, F.S.; removing
 9 authority of the department to promulgate rules and
 10 regulations regarding alterations or modifications of
 11 mobile homes or recreational vehicles; revising
 12 qualifications for the designation of persons
 13 qualified to alter or modify a mobile home or
 14 recreational vehicle; repealing s. 320.8255, F.S.,
 15 relating to mobile home inspections by the
 16 department; amending s. 320.827, F.S.; removing a
 17 provision authorizing the department to issue labels;
 18 requiring mobile homes manufactured in this state to
 19 bear a label and certification that the mobile home
 20 meets or exceeds the code of the United States
 21 Department of Housing and Urban Development; amending
 22 s. 320.834, F.S.; revising legislative purpose and
 23 intent; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 320.822, Florida Statutes, is
 28 amended to read:

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29 320.822 Definitions; ss. 320.822-320.862.-In
 30 construing ss. 320.822-320.862, unless the context otherwise
 31 requires, the following words or phrases have the following
 32 meanings:

33 ~~(13) "Seal" or "label" means a device issued by the~~
 34 ~~department certifying that a mobile home or recreational~~
 35 ~~vehicle meets the appropriate code, which device is to be~~
 36 ~~displayed on the exterior of the mobile home or recreational~~
 37 ~~vehicle.~~

38 Section 2. Section 320.824, Florida Statutes, is
 39 repealed.

40 Section 3. Section 320.8245, Florida Statutes, is
 41 amended to read:

42 320.8245 Limitation of alteration or modification to
 43 mobile homes or recreational vehicles.--

44 (1) LIMITATION OF ALTERATIONS OR MODIFICATIONS.--No
 45 alteration or modification shall be made to a mobile home or
 46 recreational vehicle by a licensed dealer after shipment
 47 from the manufacturer's plant unless such alteration or
 48 modification is authorized in this section.

49 (2) EFFECT ON MOBILE HOME WARRANTY.--Unless an
 50 alteration or modification is performed by a qualified
 51 person as defined in subsection (3) ~~(4)~~, the warranty
 52 responsibility of the manufacturer as to the altered or
 53 modified item shall be void.

54 (a) An alteration or modification performed by a
 55 mobile home or recreational vehicle dealer or his or her
 56 agent or employee shall place warranty responsibility for
 57 the altered or modified item upon the dealer. If the

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58 manufacturer fulfills, or is required to fulfill, the
 59 warranty on the altered or modified item, he or she shall be
 60 entitled to recover damages in the amount of his or her
 61 costs and attorneys' fees from the dealer.

62 (b) An alteration or modification performed by a
 63 mobile home or recreational vehicle owner or his or her
 64 agent shall render the manufacturer's warranty as to that
 65 item void. A statement shall be displayed clearly and
 66 conspicuously on the face of the warranty that the warranty
 67 is void as to the altered or modified item if the alteration
 68 or modification is performed by other than a qualified
 69 person. Failure to display such statement shall result in
 70 warranty responsibility on the manufacturer.

71 ~~(3) AUTHORITY OF THE DEPARTMENT. The department is~~
 72 ~~authorized to promulgate rules and regulations pursuant to~~
 73 ~~chapter 120 which define the alterations or modifications~~
 74 ~~which must be made by qualified personnel. The department~~
 75 ~~may regulate only those alterations and modifications which~~
 76 ~~substantially impair the structural integrity or safety of~~
 77 ~~the mobile home.~~

78 (3) (4) DESIGNATION AS A QUALIFIED PERSON.--

79 (a) In order to be designated as a person qualified to
 80 alter or modify a mobile home or recreational vehicle, a
 81 person must comply with local or county licensing or
 82 competency requirements in skills relevant to performing
 83 alterations or modifications on mobile homes or recreational
 84 vehicles.

85 ~~(b) When no local or county licensing or competency~~
 86 ~~requirements exist, the department may certify persons to~~

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87 | ~~perform mobile home alterations or modifications. The~~
 88 | ~~department shall by rule or regulation determine what skills~~
 89 | ~~and competency requirements are requisite to the issuance of~~
 90 | ~~a certification. A fee sufficient to cover the costs of~~
 91 | ~~issuing certifications may be charged by the department. The~~
 92 | ~~certification shall be valid for a period which terminates~~
 93 | ~~when the county or other local governmental unit enacts~~
 94 | ~~relevant competency or licensing requirements. The~~
 95 | ~~certification shall be valid only in counties or localities~~
 96 | ~~without licensing or competency requirements.~~

97 | ~~(c) The department shall determine which counties and~~
 98 | ~~localities have licensing or competency requirements~~
 99 | ~~adequate to eliminate the requirement of certification. This~~
 100 | ~~determination shall be based on a review of the relevant~~
 101 | ~~county or local standards for adequacy in regulating persons~~
 102 | ~~who perform alterations or modifications to mobile homes.~~
 103 | ~~The department shall find local or county standards adequate~~
 104 | ~~when minimal licensing or competency standards are provided.~~

105 | Section 4. Section 320.8255, Florida Statutes, is
 106 | repealed.

107 | Section 5. Section 320.827, Florida Statutes, is
 108 | amended to read:

109 | 320.827 Label; procedures for issuance; certification;
 110 | requirements.--No dealer shall sell or offer for sale in
 111 | this state any new mobile home manufactured after January 1,
 112 | 1968, unless the mobile home bears a label and the
 113 | certification by the manufacturer that the mobile home to
 114 | which the label is attached meets or exceeds the appropriate
 115 | code. Any mobile home bearing the insignia of approval

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116 | pursuant to this section shall be deemed to comply with the
 117 | requirements of all local government ordinances or rules
 118 | which govern construction, and no mobile home bearing an ~~the~~
 119 | ~~department~~ insignia of approval shall be in any way modified
 120 | except in compliance with this chapter. ~~Labels may be issued~~
 121 | ~~by the department when applied for with an affidavit~~
 122 | ~~certifying that the dealer or manufacturer applying will not~~
 123 | ~~attach a label to any new mobile home that does not meet or~~
 124 | ~~exceed the appropriate code.~~ No mobile home may be
 125 | manufactured in this state unless it bears a label and
 126 | certification that the mobile home meets or exceeds the code
 127 | of the United States Department of Housing and Urban
 128 | Development. ~~The label for each mobile home shall be~~
 129 | ~~displayed in a manner to be prescribed by the department.~~

130 | Section 6. Section 320.834, Florida Statutes, is
 131 | amended to read:

132 | 320.834 Purpose.--It is the intent of the Legislature
 133 | to ensure the safety and welfare of residents of mobile
 134 | homes through a licensing ~~an inspection~~ program conducted by
 135 | the Department of Highway Safety and Motor Vehicles. Mobile
 136 | homes are a primary affordable housing resource of many of
 137 | the residents of the state and satisfy a large segment of
 138 | statewide housing needs. It is the further intent of the
 139 | Legislature that ~~the department~~, mobile home dealers, and
 140 | mobile home manufacturers continue to work together to meet
 141 | the applicable code requirements for mobile homes and that
 142 | such dealers and manufacturers share the responsibilities of
 143 | warranting mobile homes in accordance with applicable codes

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

→

BILL

ORIGINAL

YEAR

144 | and resolving legitimate consumer complaints in a timely,
145 | efficient manner.

146 | Section 7. This act shall take effect July 1, 2007.