



ECONOMIC AFFAIRS COMMITTEE

Meeting Packet

Volume 2

**Thursday, April 21, 2011
11:00 AM
Reed Hall (102 HOB)**

**Dean Cannon
Speaker**

**Dorothy L. Hukill
Chair**

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1351 South Broward Drainage District, Broward County
SPONSOR(S): Jenne
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 0 N	Duncan	Hoagland
2) Finance & Tax Committee	23 Y, 0 N	Flieger	Langston
3) Economic Affairs Committee		Duncan <i>add</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The South Broward Drainage District (District) is an independent special district created in 1967 with drainage and water control powers derived from ch. 298, F.S. The 7-member Board of Commissioners (Board) of the District is elected by landowners of the District. The District has jurisdiction over 46,600 acres (approximately 73 square miles) in southwest Broward County which includes 150 linear miles of fresh-water canals and 7,500 acres of lakes for stormwater storage. Included in the District's authority is the power to:

- Establish, construct, operate, and maintain a system of main and lateral canals, drains, ditches, levees, dikes, dams, sluices, locks, revetments, reservoirs, holding basins, floodways, pumping stations, siphons, culverts, and storm sewers, and to connect some or any of them to drain and reclaim the lands within the District.
- Construct or enlarge any and all bridges or culverts that may be needed in or out of the District, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, tract, grade, fill, or cut; to construct roadways over levees and embankments; to construct any and all of said works and improvements across, through, or over any public highway, railroad right-of-way, track, grade, fill, or cut in or out of the District; and to remove any fence, building, or other improvements, in or out of the District for purposes of drainage and reclamation.
- Assess and impose upon all of the lands in the District an annual drainage tax, administrative tax, and maintenance tax.
- To impose and foreclose special assessment liens.

This bill clarifies the District's authority to carry out water management activities and, in various provisions throughout the bill, replaces "reclamation" with "water management" or "water control" to provide consistency throughout the District's charter. In addition, the bill:

- Amends the definitions of the term "assessable improvements" and defines the term "drainage and water management facilities" rather than "drainage and reclamation facilities." The bill also defines the term "five-year certification plan."
- Revises the District's powers to incorporate its water management responsibilities and to reflect an Interlocal Agreement regarding water elevations between the District and the Town of Southwest Ranches.
- Amends the process for declaring a winner when an election of the Board results in a tie.
- Authorizes the Treasurer to prepare the District's proposed budget, rather than the Secretary.
- Removes the requirement for the engineer to carry out the administrative duties associated with the District's process for levying special assessments to permit the District's director to carry out these administrative functions.
- Includes the property appraiser as one of the entities to which the Board must certify information regarding special assessments levied.
- Additionally, the bill updates the District's administrative and operational provisions, removes obsolete language, and amends several sections to provide consistency throughout the District's charter.

The bill provides that nothing in this act supersedes ch. 99-468, L.O.F.; requires that a certified copy of the act be recorded in the Broward County Public Records by the District; and includes a severability clause.

The bill is effective upon becoming law.

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

STORAGE NAME: h1351e.EAC.DOCX

DATE: 4/19/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The South Broward Drainage District (District), known as the Hollywood Reclamation District until 1986, was created by the Florida Legislature in 1927 out of a portion of the Napoleon B. Broward Drainage District.¹ with drainage and water control powers derived from ch. 298, F.S. The 7-member Board of Commissioners (Board) of the District is elected by landowners of the District. The District has jurisdiction over 46,600 acres (approximately 73 square miles) in southwest Broward County which includes 150 linear miles of fresh-water canals and 7,500 acres of lakes for stormwater storage.²

The District is authorized to:

- Establish, construct, operate, and maintain a system of main and lateral canals, drains, ditches, levees, dikes, dams, sluices, locks, revetments, reservoirs, holding basins, floodways, pumping stations, siphons, culverts, and storm sewers, and to connect some or any of them to drain and reclaim the lands within the District.
- Clean out, widen, or change the course and flow, alter, or deepen any canal, ditch, drain, river, water course, or natural stream to drain and reclaim the lands within the District.
- Construct or enlarge any and all bridges or culverts that may be needed in or out of the District, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, tract, grade, fill, or cut; to construct roadways over levees and embankments; to construct any and all of said works and improvements across, through, or over any public highway, railroad right-of-way, track, grade, fill, or cut in or out of the District; and to remove any fence, building, or other improvements, in or out of the District for purposes of drainage and reclamation.
- Hold, control, and acquire by donation, purchase, or condemnation, any easement, reservation, or dedication in or out of the District.
- Assess and impose upon all of the lands in the District an annual drainage tax, administrative tax, and maintenance tax.
- To impose and foreclose special assessment liens.
- To prohibit, regulate, and restrict by appropriate resolution all structures, materials, and things, whether solid, liquid, or gas, whether permanent or temporary in nature, which come upon, come into, connect to, or be a part of any of the main or lateral drains, ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations, and siphons which have been created or constructed.
- Construct, improve, and maintain roadways and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for cultivation, settlement, urban subdivision, homesites and other beneficial developments as a result of the drainage operations of the District.
- To make use of any dedication to public use or platted reservations within the boundaries of the District.
- Exercise any and all other powers conferred upon drainage districts by ch. 298, F.S., including but not limited to, the power to acquire and construct drainage improvements, to issue bonds to the pay the cost of such improvements, and to levy and collect drainage taxes benefited by the improvements.

¹ South Broward Drainage District Charter, <http://www.sbdd.org/pdfs/SBDDCHARTER.pdf> (last visited April 8th, 2011)

² South Broward Drainage District, Overview, <http://www.sbdd.org/> (last visited March 22, 2011).

“Assessable improvements” includes, without limitation, any and all drainage and land reclamation works and facilities, sewer systems, storm sewers and drains, water systems, streets, roads, or other projects of the District local in nature and of special benefit to the premises or lands served by the District, and any and all modifications, improvements, and enlargements.

“Drainage and reclamation facilities” means canals, ditches, or other drainage facilities, reservoirs, dams, levees, sluiceways, dredging, holding basins, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and includes all real and personal property, rights, easements, and franchises relating to such drainage and reclamation facilities necessary for the acquisition, construction, operation, or maintenance of the District.

The Town of Southwest Ranches, Water Control Elevations, and Revisions to the District’s Charter

The Town of Southwest Ranches (Town) is concerned that the designated water control elevation within the part of the Town located within the boundaries of the District may be requested to be increased by permit application, regulatory requirement, state law, or some other means. In response to that concern, the District and the Town entered into a Memorandum of Agreement (MOA) with the South Florida Water Management District and the Florida Department of Agriculture and Consumer Services on June 16, 2010, to establish a pilot project to investigate revisions to the water management system operations and water quality improvements within the District’s S-9 and S-10 Basins. As part of the MOA, the Town and the District will install intermediate water control gates to allow the water control elevation within the Town limits to be lowered during the wet season to match the water elevation of the C-11 Canal.³

In 2010, the District’s Board adopted a resolution⁴ authorizing the District to enter into an interlocal agreement with the Town providing that the District would provide written notification to the Town of any potential increase or decrease in a designated water control elevation within the boundaries of the Town at least 30 days prior to the District’s request to the South Florida Water Management District. In addition, the Town would not oppose or object to the District’s proposed charter revisions requested for approval during the 2011 Legislative session.⁵

Effect of the Proposed Changes

This bill clarifies the District’s authority to carry out water management activities and, in various provisions throughout the bill, replaces “reclamation” with “water management,” “plan of reclamation” with “water control plan,” and replaces “reclaim” with “water management.” The bill also updates the District’s administrative and operational provisions, removes obsolete language, and amends several sections to provide consistency throughout the District’s charter.

Definitions

The bill amends the definition of “assessable improvements” to replace “reclamation water management works and facilities” with “water management works and facilities.”

The bill replaces the term “drainage and reclamation facilities” with “drainage and water management facilities.” The definition of “drainage and water management facilities” is defined to include water management areas and provides that the terms “drainage” and “water management” must be used interchangeably and further provides that the term means the “conservation, control, management, conveyance, flowage, storage, detention, retention, absorption, run-off, pumping, and discharge of

³ Interlocal Agreement between South Broward Drainage District and Town of Southwest Ranches relating to Water Control Elevations, documents hand delivered to House Community & Military Affairs Subcommittee staff, March 9, 2011.

⁴ Resolution No. 2010-18 adopted Dec. 16, 2010, South Broward Drainage District, documents hand delivered to House Community & Military Affairs Subcommittee staff, March 9, 2011.

⁵ *Id.*

water or stormwater and any purposes appurtenant, necessary, or incidental thereto. This definition shall in no way be deemed to expand or reduce the District's powers."

The bill defines the term "five-year certification program," which is the District's program that requires the District's 5-year surface water management operation and maintenance permit for drainage facilities to be renewed at the end of every 5 years by the permittee or landowner and requires the permitted surface water management and drainage system to be operational and in compliance with the District's rules, regulations, and criteria.

Election of the District's Board of Commissioners (When an Election Results in a Tie)

The District's governing body is composed of seven commissioners who are elected from seven single-member zones. The District's elections process provides that the candidate receiving the highest number of votes cast for commissioner for each respective zone at each respective election is declared elected to office. If the vote results in a tie, then the outcome must be determined by lot. The bill amends this procedure to provide that if the vote results in a tie, the outcome must be determined by drawing a card from a standard unopened sealed deck of 52 cards provided by the District's director. The candidate that draws the highest card will be declared elected to office.

Powers of the District

The bill replaces the term "reclaim" with "water management services" and replaces the term "reclamation" with "water management" relative to the District's power. The bill also amends this section to clarify the District's authority to construct or enlarge any bridges or culverts and to construct any works or improvements in or out of the District. The bill clarifies the District's power to assess and impose taxes by removing the list of specific taxes and using the term "annual assessment" instead.

The bill adds a provision relating to the District's power to prohibit, regulate, and restrict certain structures and materials providing that it may be necessary for the District to take appropriate action should it be required by another governmental agency with jurisdiction over the District. The South Florida Water Management District is an example of an agency with jurisdiction over the District.

In response to the Interlocal Agreement formed between the District and the Town of Southwest Ranches, this specific power is further amended to provide that the District's designated water control elevations must be maintained in accordance with the terms of the District's South Florida Water Management District permits and any agreements that may be entered into between the District, the South Florida Water Management District, and any other governmental entity. In addition, when reviewing all permit applications, the District must take into consideration the water control elevations in the design, construction, and maintenance of all drainage and water management facilities such that the design, construction, and maintenance within the District will not adversely impact the designated water control levels.

The bill includes dedicated easements with respect to the District's power to make use of any dedication to public use, platted, or reservations and provides that such power is applied within or without the District's boundaries.

The bill further amends the powers of the District to make them consistent with other sections of the charter.

Annual Budget

The bill requires the treasurer or the director, rather than the secretary or the director, to prepare the District's proposed budget.

Water Control Plan

All references to the “plan of reclamation” are replaced with “water control plan.” The bill clarifies that the water control plan pertains to water management facilities and water management works.

Assessing Land for Drainage and Water Management

Currently, the charter requires the secretary or the District’s director to prepare a list of all taxes levied, which becomes the District’s tax record, and to sign and certify this document. The bill includes the Board’s treasurer as one of those persons authorized to prepare the list of all taxes levied known as the District’s tax record, and to sign and certify the document. These provisions are also amended to provide consistency throughout the District’s charter.

Administrative Tax

The bill moves, but does not amend, the maintenance tax provisions currently in a separate section of the District’s charter to the administrative tax section. The bill also renames this section “Administrative, maintenance, and operations tax.”

Special Assessments

Currently, the District is authorized to levy special assessments to pay for the construction or reconstruction of assessable improvements. The engineer is required to manage several administrative aspects of this process. The bill removes the specific reference to the engineer to direct the District and/or the director to carry out these administrative functions. This change does not appear to impact the duties of the engineer⁶ as prescribed by law.

Currently, the Board is required to annually certify to the county revenue (tax) collector a list of all special assessments including a description and the names of, properties against which assessments have been levied, as well as the amounts due. The bill requires the Board to certify this information to both the county revenue collector and the county property appraiser. The bill also provides that all charges of the county revenue collector, the county property appraiser, or the District relating to the assessment issues pursuant to the charter are deemed costs of the operation and maintenance of any drainage improvements in connection with the special assessments levied. The costs, fees, and expenses must be mutually agreed upon between the Board, the county revenue collector, and the county property appraiser.

The bill also corrects cross-references and makes technical changes.

Maintenance of Projects

The bill revises this section to make it consistent with other provisions in the District’s charter and clarifies that the District has the power to construct, maintain, and operate its projects and drainage and water management facilities in, along, on, or under any dedications to the public, platted or dedicated rights-of-way, platted or dedicated reservations, streets, easements, water management areas, alleys, highways, or other public places or ways, and across any drain, ditch, canal, floodway, holding basin, excavation, railroad right-of-way, easement, reservation, or water management area, track, grade, fill, or cut within or without the District. The bill also renames the section “Maintenance and operation of projects and drainage and water management facilities.”

Enforcement and Penalties

The bill adds a new provision to this section which states, “a person may not willfully, or otherwise, obstruct any canal, drain, ditch, watercourse, or water management area or destroy any drainage

⁶ See ss. 298.16, 298.26, 298.301, F.S.

works constructed in or maintained by the District or obstruct or damage any easement, right-of-way, or other property dedicated to the District or the public or fail to comply with the District's 5-year certification program, rules, criteria, or regulations." The bill also renames the section, "Obstructions, damage, and destruction prohibited; enforcement; penalties."

The bill provides that nothing in this act supersedes ch. 99-468, L.O.F.; requires that a certified copy of the act be recorded in the Broward County Public Records by the District; and includes a severability clause.

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

- Section 1: Amends subsections (1) and (10) of s.9, subsection (6) of s. 10, and ss. 13, 19, 21,22, 23, 41, and 42 of s. 2 of ch. 98-524, L.O.F., as amended by ch. 2004-459 and ch. 2007-308, L.O.F., and adds subsection (14) to s. 9; relating to definitions; the board of commissioners; powers; annual budget; water control plan and the adoption of the plan; assessing land; and the administrative tax.
- Section 2: Renumbers ss. 43-74 of s. 2 of ch. 98-524, L.O.F., as ss. 42-73, amends present s.45, subsection (1) of present s. 46, subsection (1) of present s. 49, present ss. 50, 52, 55, and 58, subsection (2) of present s. 59, and present ss. 64, 65, 68, 70, and 72, and adds subsection (4) to present s. 62; relating to special assessments; issuance of certificates of indebtedness based on assessments for assessable improvements; changing boundary lines; unit development; mandatory use of certain district facilities and services; maintenance of projects across rights-of-ways; fees; subdivision regulation; enforcement and penalties; Bailey Drainage District; Broward County responsible for operation and maintenance of certain roadways; South Broward Drainage District to have all power and authority and jurisdiction over certain lands.
- Section 3: Provides that nothing in the act supersedes ch. 99-468, L.O.F.
- Section 4: Requires a certified copy of the act to be recorded in the Broward County public records by the South Broward Drainage District.
- Section 5: Provides a severability clause.
- Section 6: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 20, 2011

WHERE? Sun-Sentinel published daily and distributed in Broward, Palm Beach, and Miami-Dade Counties, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The tiebreaking provision for elections for commissioner is changed from “by lot”⁷ to “the drawing of a card from a standard unopened sealed deck of 52 cards provided by the district director. The candidate drawing the highest card shall be declared elected to such office.”

The use of a game of chance, including a deck of cards, to settle an election resulting in a tie is used in states such as Nebraska, Wisconsin, Arizona, and Nevada. As an alternative to a run-off election, which can be costly, in 2010, an Arizona judge used a shuffled deck of cards to determine the winner of a city council election.⁸ As recently as April 11, 2011, a Wisconsin town’s chairman race was determined by drawing the highest card from a deck of unopened cards. In this case, before the cards were drawn, the hierarchy of suits was determined and agreed upon, Jokers were removed, and the deck of cards was passed and shuffled by members of the election board.⁹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

⁷ “Lot” means “one of a set of objects, as straws or pebbles, drawn or thrown from a container to decide a question by choice or chance; or the casting or drawing of such objects as a method of deciding something; to choose a person by lot.”

<http://dictionary.reference.com/browse/lot> last visited April 12, 2011.

⁸ New York Times, *Election at a Draw, Arizona Town Cuts a Deck*, June 16, 2009, <http://www.nytimes.com/2009/06/17/us/17cavecreek.html> last visited April 12, 2011.

⁹ The Lakeland Times, *Schmidt wins in Winchester*, April 7, 2011, <http://www.lakelandtimes.com/main.asp?SectionID=9&SubSectionID=111&ArticleID=12978> last visited April 12, 2011.

1 A bill to be entitled
 2 An act relating to the South Broward Drainage District,
 3 Broward County; amending chapter 98-524, Laws of Florida,
 4 as amended; revising and providing definitions; conforming
 5 terminology; deleting and updating obsolete provisions;
 6 revising inconsistent provisions; revising the method of
 7 deciding elections of commissioners in the event of a tie
 8 vote; clarifying language relating to the imposition of
 9 district assessments and taxes; clarifying the type of
 10 property subject to district rules, criteria, and
 11 regulations; authorizing the board to take appropriate
 12 action as may be required of the district by another
 13 governmental agency; requiring the district to take
 14 designated water control elevations into consideration for
 15 all projects within the district; authorizing the
 16 treasurer, rather than the secretary, of the board to be
 17 involved in the preparation of the district's budget;
 18 clarifying procedures relating to special assessments;
 19 authorizing the treasurer to prepare the district tax
 20 record; requiring the district to prepare plans,
 21 specifications, and estimates for improvements;
 22 authorizing the district director to implement certain
 23 activities and receive documents relating to special
 24 assessments; conforming cross-references; prohibiting
 25 obstruction, damage, or destruction of district facilities
 26 and noncompliance with the district's 5-year
 27 recertification program rules, criteria, or regulations;

28 clarifying applicability; providing severability;
 29 providing an effective date.

30

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

32

33 Section 1. Subsections (1) and (10) of section 9,
 34 subsection (6) of section 10, and sections 13, 19, 21, 22, 23,
 35 41, and 42 of section 2 of chapter 98-524, Laws of Florida, as
 36 amended by chapters 2004-459 and 2007-308, Laws of Florida, are
 37 amended, and subsection (14) is added to section 9 of that
 38 section, to read:

39

Section 9. Definitions.—

40

(1) "Assessable improvements" includes, without
 41 limitation, any and all drainage, ~~and~~ land, and water management
 42 ~~reclamation~~ works and facilities, sewer systems, storm sewers
 43 and drains, water systems, streets, roads, or other projects of
 44 the district, or that portion or portions thereof, local in
 45 nature and of special benefit to the premises or lands served
 46 thereby, and any and all modifications, improvements, and
 47 enlargements thereof.

48

(10) "Drainage and water management ~~reclamation~~
 49 facilities" means any canals, ditches, water management areas,
 50 or other drainage facilities, reservoirs, dams, levees,
 51 sluiceways, dredging, holding basins, floodways, pumping
 52 stations, or any other works, structures, or facilities for the
 53 conservation, control, development, utilization, management, and
 54 disposal of water, and any purposes appurtenant, necessary, or
 55 incidental thereto, and includes all real and personal property

56 and any interest therein, rights, easements, and franchises of
 57 any nature relating to any such drainage and water management
 58 ~~reclamation~~ facilities or necessary or convenient for the
 59 acquisition, construction, reconstruction, operation, or
 60 maintenance thereof. The terms "drainage" and "water management"
 61 shall be used interchangeably and shall mean the conservation,
 62 control, utilization, management, collection, disposal,
 63 conveyance, flowage, storage, detention, retention, absorption,
 64 run-off, pumping, and discharge of water or stormwater and any
 65 purposes appurtenant, necessary, or incidental thereto. This
 66 definition shall in no way be deemed to expand or reduce the
 67 district's powers.

68 (14) "Five-year recertification program" means the
 69 district's program that requires the district's 5-year surface
 70 water management operation and maintenance permit for drainage
 71 facilities to be renewed at the end of every 5 years by the
 72 permittee or landowner and that requires that the permitted
 73 surface water management and drainage system is operational and
 74 complies with the district's rules, regulations, and criteria.

75 Section 10. Board of commissioners; election;
 76 organization; terms of office; benefits; quorum; report and
 77 minutes.-

78 (6) Except as stated in this act, the board shall be
 79 composed of seven members as follows:

80 (a) In the general election of November 2008 and in the
 81 November general election of every 4th year thereafter, one
 82 commissioner shall be elected from Zone 1, one commissioner
 83 shall be elected from Zone 3, and one commissioner shall be

84 | elected from Zone 6. The commissioners elected in November 2008
 85 | shall serve until their terms expire in November 2012.

86 | (b) In the general election of November 2010, and in the
 87 | November general election of every 4th ~~fourth~~ year thereafter,
 88 | one commissioner shall be elected from Zone 2, one commissioner
 89 | shall be elected from Zone 4, one commissioner shall be elected
 90 | from Zone 5, and one commissioner shall be elected from Zone 7.
 91 | The commissioners elected in November 2010 shall serve until
 92 | their terms expire in November 2014.

93 | (c) If only one candidate qualifies for an office, that
 94 | candidate shall be deemed elected. If two or more candidates
 95 | qualify for an office, the names of those candidates shall be
 96 | placed on the ballot for the designated November general
 97 | election.

98 | (d) The candidate receiving the highest number of votes
 99 | cast for the office of commissioner for each respective zone at
 100 | each respective election shall be declared elected to such
 101 | office. If the vote results in a tie, the outcome shall be
 102 | determined by the drawing of a card from a standard unopened
 103 | sealed deck of 52 cards provided by the district director. The
 104 | candidate drawing the highest card shall be declared elected to
 105 | such office ~~let~~.

106 | (e) Commissioners elected or reelected shall be inducted
 107 | into office at the first regularly scheduled meeting of the
 108 | board following certification of the election.

109 | Section 13. Powers.—The district shall have, and the board
 110 | may exercise, any or all the following powers:

111 | (1) To contract and be contracted with; to sue and be sued

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112 in the name of the district; to adopt and use a seal; to
 113 acquire, by purchase, gift, devise, condemnation, eminent
 114 domain, or otherwise, property, real or personal, or any estate
 115 therein, within or without the district, to be used for any
 116 purpose necessary or to meet the needs of any of the purposes of
 117 this act.

118 (2) To establish, construct, operate, and maintain a
 119 system of main and lateral canals, drains, ditches, levees,
 120 dikes, dams, sluices, locks, revetments, reservoirs, holding
 121 basins, floodways, pumping stations, syphons, culverts, and
 122 storm sewers, and to connect some or any of them as within the
 123 judgment of the board is deemed advisable to drain and provide
 124 water management services for ~~reclaim~~ the lands within the
 125 district.

126 (3) To acquire and maintain appropriate sites for storage
 127 and maintenance of the equipment of the district; and to acquire
 128 and maintain and construct a suitable building to house the
 129 office and records of the district.

130 (4) To clean out, straighten, widen, open up, or change
 131 the course and flow, alter, or deepen any canal, ditch, drain,
 132 river, water course, or natural stream as within the judgment of
 133 the board is deemed advisable to drain and provide water
 134 management services for ~~reclaim~~ the lands within the district;
 135 to acquire, purchase, operate, and maintain pumps, plants, and
 136 pumping systems for drainage purposes; and to construct,
 137 operate, and maintain irrigation works and machinery in
 138 connection with the purposes herein set forth.

139 (5) To regulate and set forth by appropriate resolution

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140 the drainage and water management requirements and conditions to
 141 be met for the land within the district and for plats to be
 142 entitled to record on any land within the district, including
 143 authority to require as a condition precedent for any platting,
 144 that good and sufficient bond be posted to assure proper
 145 drainage and water management for the area to be platted.

146 (6) To borrow money and issue bonds, certificates,
 147 warrants, notes, or other evidences of indebtedness of the
 148 district as hereinafter provided.

149 (7) To build and construct any other works and
 150 improvements deemed necessary to preserve and maintain the works
 151 in or out of the district; to acquire, construct, operate,
 152 maintain, use, sell, convey, transfer, or otherwise provide for
 153 machines and equipment for drainage and water management
 154 ~~reclamation~~ purposes; and to contract for the purchase,
 155 construction, operation, maintenance, use, sale, conveyance, and
 156 transfer of the said machinery and equipment.

157 (8) To construct or enlarge, or cause to be constructed or
 158 enlarged, any and all bridges or culverts that may be needed in
 159 or out of the district, across any drain, ditch, canal,
 160 floodway, holding basin, excavation, public highway, railroad
 161 right-of-way, easement, reservation, tract, grade, fill, or cut;
 162 to construct roadways over levees and embankments; to construct
 163 any and all of said works and improvements across, through, or
 164 over any drain, ditch, canal, floodway, holding basin,
 165 excavation, public highway, railroad right-of-way, easement,
 166 reservation, track, grade, fill, or cut in or out of the
 167 district; and to remove any fence, building, or other

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168 improvements, in or out of the district for purposes of drainage
 169 and water management ~~reclamation~~.

170 (9) To hold, control, and acquire by donation, purchase,
 171 or condemnation, any easement, reservation, or dedication in or
 172 out of the district, for any of the purposes herein provided. To
 173 condemn or acquire, by purchase or grant or by exercise of the
 174 right of eminent domain, for use in the district, any land or
 175 property within or without the district and acquire or condemn
 176 any other property within or without the district. To exercise
 177 the right of eminent domain as provided by chapters 73 and 74,
 178 Florida Statutes.

179 (10) To assess and impose ~~upon all of the lands in the~~
 180 ~~district~~ an annual assessment or drainage tax, an administrative
 181 ~~tax, and a maintenance~~ tax as hereinafter provided on all
 182 assessable property within the district for the purposes as
 183 herein provided.

184 (11) To impose and foreclose special assessment liens as
 185 hereinafter provided.

186 (12) To prohibit, regulate, and restrict by appropriate
 187 resolution all structures, materials, and things, whether solid,
 188 liquid, or gas, whether permanent or temporary in nature, which
 189 come upon, come into, connect to, or be a part of any of the
 190 main or lateral drains, ditches, canals, levees, dikes, dams,
 191 sluices, revetments, reservoirs, holding basins, floodways,
 192 pumping stations, and syphons which may have been heretofore
 193 created or may hereafter be created or hereafter constructed,
 194 and if deemed necessary, to take appropriate action as may be
 195 required of the district by another governmental agency having

196 jurisdiction over the district. Notwithstanding the above, the
 197 district's designated water control elevations shall be
 198 maintained in accordance with the terms of the district's South
 199 Florida Water Management District permits and any agreements
 200 that may be entered into between the district, South Florida
 201 Water Management District, and any other governmental entity.
 202 When reviewing all submitted permit applications, including, but
 203 not limited to, all district projects, the district shall take
 204 into consideration the water control elevations in the design,
 205 construction, and maintenance of all drainage and water
 206 management facilities such that the design, construction, and
 207 maintenance within the district will not adversely impact the
 208 designated water control elevations.

209 (13) To administer and provide for the enforcement of all
 210 of the provisions herein, including the making, adopting,
 211 promulgating, amending, and repealing of all rules, criteria,
 212 and regulations necessary or convenient for the carrying out of
 213 the duties, obligations, and powers conferred on the district
 214 created herein.

215 (14) To cooperate with or contract with other drainage
 216 districts or other governmental agencies as may be necessary,
 217 convenient, incidental, or proper in connection with any of the
 218 powers, duties, or purposes of the district as stated in this
 219 act.

220 (15) To employ engineers, attorneys, agents, employees,
 221 and representatives as the board of commissioners may from time
 222 to time determine necessary and to fix their compensation and
 223 duties.

224 (16) To exercise all of the powers necessary, convenient,
 225 incidental, or proper in connection with any of the powers,
 226 duties, or purposes of said district as stated in this act.

227 (17) To construct, improve, and maintain roadways and
 228 roads necessary and convenient to provide access to and
 229 efficient development of areas made suitable and available for
 230 cultivation, settlement, urban subdivision, homesites, and other
 231 beneficial developments as a result of the drainage and water
 232 management operations of the district.

233 (18) To make use of any dedication to public use, ~~or~~
 234 platted and dedicated easements, or reservations within or
 235 without the boundaries of the district.

236 (19) To exercise any and all other powers conferred upon
 237 drainage and water control districts by chapter 298, Florida
 238 Statutes, including, but not limited to, the power to acquire
 239 and construct drainage and water management improvements, to
 240 issue bonds to pay the cost thereof, and to levy and collect
 241 assessments and ~~drainage~~ taxes upon lands benefited by the
 242 improvements.

243 Section 19. Annual budget.—Prior to the end of each fiscal
 244 year ~~after this act is effective~~, the treasurer of the board or
 245 the secretary ~~or~~ director of the district shall prepare a
 246 proposed budget to be submitted to the board for approval. The
 247 proposed budget shall include an estimate of all necessary
 248 expenditures of the district for the next ensuing fiscal year
 249 and an estimate of income to the district from the taxes and
 250 assessments provided in this act. The board shall consider the
 251 proposed budget item by item and may either approve the budget

252 as proposed by the treasurer or secretary ~~or~~ director or modify
 253 the same in part or in whole. The board shall indicate their
 254 approval of the budget by resolution, which resolution shall
 255 provide for a hearing on the budget as approved. Notice of the
 256 hearing on the budget shall be published in a newspaper of
 257 general circulation in Broward County once a week for 2
 258 consecutive weeks, provided that the second publication shall
 259 not be less than 7 days after the first publication. The notice
 260 shall be directed to all landowners in the district and shall
 261 state the purpose of the meeting. The notice shall further
 262 contain a designation of the date, time, and place of the public
 263 hearing, which shall be not less than 7 days after the second
 264 publication. At the time and place designated in the notice, the
 265 board shall hear all objections to the budget as proposed, and
 266 make such changes as the board deems necessary. At the
 267 conclusion of the budget hearing the board shall, by resolution,
 268 adopt the budget as finally approved by the board.

269 Section 21. Water control plan ~~of reclamation; proceedings~~
 270 ~~thereon.~~—The district's water control plan for the drainage and
 271 water management ~~reclamation~~ of lands which is in effect prior
 272 to the effective date of this act shall remain in full force and
 273 effect after the effective date of this act.

274 Section 22. Adoption, revision, and revocation of water
 275 control plan ~~of reclamation.~~—In addition to and not in
 276 limitation of its power to provide for and adopt a water control
 277 plan ~~of reclamation~~ provided in section 21 and under chapter
 278 298, Florida Statutes, and amendments thereto, the board may at
 279 any time and from time to time adopt, revoke, or modify, in

280 whole or in part, any water control plan ~~of reclamation~~ or any
 281 plan providing for the drainage and water management of lands
 282 within the district, and may provide for such new and additional
 283 drainage and water management facilities, canals, ditches,
 284 levees, and other works as the board may determine. In
 285 connection with the revision of any water control plan ~~of~~
 286 ~~reclamation~~ or the providing of any new or additional drainage
 287 and water management facilities, canals, ditches, levees, or
 288 other works, or in the event that the total taxes and
 289 assessments theretofore levied or the funds derived from the
 290 sale of bonds are insufficient to pay the cost of any drainage
 291 or water management works, benefits may be reassessed,
 292 additional assessments made, and taxes levied in accordance with
 293 the procedures provided in this act or in chapter 298, Florida
 294 Statutes. The board may at any time approve and make effective
 295 technical changes or modifications in any water control plan ~~of~~
 296 ~~reclamation or drainage~~ not affecting assessed benefits, levy of
 297 taxes, or the security of bondholders.

298 Section 23. Assessing land for drainage and water
 299 management ~~reclamation~~; apportionment of tax; ~~drainage~~ tax
 300 record.—The board shall, without any unnecessary delay, levy a
 301 tax of such portion of benefits of the district's water control
 302 plan ~~of reclamation~~ on all lands in the district to which
 303 benefits have been assessed, as may be found necessary by the
 304 board to pay the costs of the completion of the proposed works
 305 and water management and drainage improvements, as shown in said
 306 water control plan ~~of reclamation~~ and in carrying out the
 307 objectives ~~objects~~ of said district; and, in addition thereto,

308 | 10 percent of said total amount for emergencies. The said tax
 309 | shall be apportioned to, and levied on, each tract or parcel of
 310 | land in said district ~~in proportion to the benefits assessed,~~
 311 | ~~and not in excess thereof;~~ and in case bonds are issued, as
 312 | provided in this act, a tax shall be levied in a sum not less
 313 | than an amount 90 percent of which shall be equal to the
 314 | principal of said bonds. The amount of bonds to be issued for
 315 | paying the cost of the works as set forth in the water control
 316 | ~~plan of reclamation~~ shall be ascertained and determined by the
 317 | board; however, the total amount of all bonds to be issued by
 318 | the district shall in no case exceed 90 percent of the benefits
 319 | assessed upon the lands of the district. The amount of the
 320 | interest, as estimated by said board, which will accrue on such
 321 | bonds, shall be included and added to the said tax, but the
 322 | interest to accrue on account of the issuing of said bonds shall
 323 | not be construed as a part of the costs of construction in
 324 | determining whether or not the expenses and costs of making said
 325 | improvements are equal to, or in excess of, the benefits
 326 | assessed. The secretary or treasurer of the board, or the
 327 | director, as soon as said total tax is levied, shall, at the
 328 | expense of the district, prepare a list of all taxes ~~taxes~~
 329 | levied, in the form of a well bound book, which book shall be
 330 | endorsed and named "DRAINAGE TAX RECORD OF SOUTH BROWARD
 331 | DRAINAGE DISTRICT, BROWARD COUNTY, FLORIDA," which endorsement
 332 | shall be printed or written at the top of each page in said
 333 | book, and shall be signed and certified by the chairperson and
 334 | secretary or treasurer of the board, attested by affixing the
 335 | seal of the district, and the same shall thereafter become a

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336 permanent record in the office of said secretary, treasurer, or
 337 director. In the alternative, so long as the Broward County
 338 property appraiser or revenue collector assesses and collects
 339 the taxes and assessments authorized by this section, the
 340 records of the Broward County property appraiser shall satisfy
 341 the requirements of the ~~drainage~~ tax record of the district.

342 Section 41. ~~Operation and~~ Administrative, maintenance, and
 343 operations tax.—To carry on the business of the district and to
 344 pay the administrative, maintenance, and operational costs
 345 thereof and in addition to any other tax or assessment
 346 authorized to be levied, the district is authorized to levy a
 347 tax on all the lands within the district as determined by the
 348 board for said purpose. This tax shall be a lien until paid on
 349 the property against which assessed and enforceable in like
 350 manner as county taxes. The amount of the tax shall be
 351 determined by the board based upon a report of the secretary or
 352 treasurer of the board or the director and assessed by the board
 353 upon such lands, which may be all of the lands within the
 354 district. This tax shall be evidenced to and certified by the
 355 board each year to the property appraiser and shall be entered
 356 by the property appraiser on the county tax rolls and shall be
 357 collected by the revenue collector in the same manner and time
 358 as county taxes and the proceeds therefrom paid to the district.

359 ~~Section 42. Maintenance tax. To maintain and preserve the~~
 360 ~~drainage improvements of the district, a maintenance tax shall~~
 361 ~~be evidenced to and certified by the board each year to the~~
 362 ~~property appraiser and shall be entered by the property~~
 363 ~~appraiser on the county tax rolls and shall, be collected by the~~

364 ~~revenue collector in the same manner and time as county taxes~~
 365 ~~and the proceeds therefrom paid to the district. The tax shall~~
 366 ~~be a lien until paid on the property against which assessed and~~
 367 ~~enforceable in like manner as county taxes. The amount of said~~
 368 ~~maintenance tax shall be determined by the board based upon a~~
 369 ~~report of the chief engineer or director and assessed by the~~
 370 ~~board upon such lands, which may be all of the lands within the~~
 371 ~~district, benefited by the maintenance thereof.~~

372 Section 2. Sections 43 through 74 of section 2 of chapter
 373 98-524, Laws of Florida, as amended by chapter 2007-308, Laws of
 374 Florida, are renumbered as sections 42 through 73, respectively,
 375 present section 45, subsection (1) of present section 46,
 376 subsection (1) of present section 49, present sections 50, 52,
 377 55, and 58, subsection (2) of present section 59, and present
 378 sections 64, 65, 68, 70, and 72 are amended, and subsection (4)
 379 is added to present section 62 of that section, to read:

380 Section 44 ~~45~~. Special assessments.—The board may provide
 381 for the construction or reconstruction of assessable
 382 improvements as defined in section 9, and for the levying of
 383 special assessments upon benefited property for the payment
 384 thereof, under provisions of this section. Such special
 385 assessments may be levied and assessed in either of the
 386 alternate methods provided in subsections (2) and (3), and
 387 except for such procedure, all the other provisions of this
 388 section and this act shall apply to levy of such special
 389 assessments under either subsection (2) or subsection (3).

390 (1) The initial proceeding under subsection (2) or
 391 subsection (3) shall be the passage by the board of a resolution

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392 ordering the construction or reconstruction of such assessable
 393 improvements, indicating the location by terminal points and
 394 routes and either giving a description of the improvements by
 395 its material, nature, character, and size or giving two or more
 396 descriptions with the directions that the material, nature,
 397 character, and size shall be subsequently determined in
 398 conformity with one of such descriptions. Drainage improvements
 399 need not be continuous and may be in more than one locality. The
 400 resolution ordering any such improvement may give any short and
 401 convenient designation to each improvement ordered thereby, and
 402 the property against which assessments are to be made for the
 403 cost of such improvement may give any short and convenient
 404 designation to each improvement ordered thereby, and the
 405 property against which assessments are to be made for the cost
 406 of such improvement may be designated as an assessment district,
 407 followed by a letter or number or name to distinguish it from
 408 other assessment districts, after which it shall be sufficient
 409 to refer to such improvement and property by such designation in
 410 all proceedings and assessments, except in the notices required
 411 by this section. As soon as possible after the passage of such
 412 resolution, ~~the engineer for~~ the district shall prepare, in
 413 duplicate, plans and specifications for each improvement ordered
 414 thereby and an estimate of the cost thereof. Such cost shall
 415 include, in addition to the items of cost as defined in this
 416 act, the cost of relaying streets and sidewalks necessarily torn
 417 up or damaged and the following items of incidental expenses:

- 418 (a) Printing and publishing notices and proceedings.
- 419 (b) Costs of abstracts of title.

420 (c) Any other expense necessary or proper in conducting
 421 the proceedings and work provided for in this section, including
 422 the estimated amount of discount, if any, financial expenses
 423 upon the sale of assessment bonds or any other obligations
 424 issued hereunder for which such special assessment bonds or any
 425 other obligations issued hereunder for which such special
 426 assessments are to be pledged, and interest prior to and until
 427 not more than 2 years after the completion of said assessable
 428 improvements. If the resolution shall provide alternative
 429 descriptions of material, nature, character, and size, such
 430 estimate shall include an estimate of the cost of the
 431 improvement of each such description.

432
 433 The district ~~engineer~~ shall next prepare, in duplicate, a
 434 tentative apportionment of the estimated total cost of the
 435 improvement as between the district and each lot or parcel of
 436 land subject to special assessment under the resolution, such
 437 apportionment to be made in accordance with the provisions of
 438 the resolution and in relation to apportionment of cost provided
 439 herein for the preliminary assessment roll. Such tentative
 440 apportionment of total estimated cost shall not be held to limit
 441 or restrict the duties of the director ~~engineer~~ in the
 442 preparation of such preliminary assessment roll under subsection
 443 (2). One of the duplicates of such plans, specifications, and
 444 estimates and such tentative apportionment shall be filed with
 445 the secretary of the board and the other duplicate shall be
 446 retained by the director ~~engineer~~ in his or her files, all
 447 thereof to remain open to public inspection.

448 (2)(a) If the special assessments are to be levied under
 449 this subsection, the secretary of the board, or the director,
 450 upon the filing with the secretary of such plans,
 451 specifications, estimates, and tentative apportionment of cost,
 452 shall publish once in a newspaper published in the county where
 453 the benefited land is located and of general circulation in the
 454 county, a notice stating that at a meeting of the board on a
 455 certain day and hour, not earlier than 15 days from such
 456 publication, the board will hear objections of all interested
 457 persons to the confirmation of such resolution, which notice
 458 shall state in brief and general terms a description of the
 459 proposed assessable improvements with the location thereof, and
 460 shall also state that plans, specifications, estimates, and
 461 tentative apportionment of cost thereof are on file with the
 462 secretary of the board or the director. A copy of the notice
 463 shall be mailed to the landowners of the land to be benefited by
 464 construction of the assessable improvements ~~improvement~~. The
 465 landowners shall be determined by reference to the last
 466 available tax roll of Broward County. The secretary of the board
 467 or the director shall keep a record in which shall be inscribed,
 468 at the request of any person, firm, or corporation having or
 469 claiming to have any interest in any lot or parcel of land, the
 470 name and post office address of such person, firm, or
 471 corporation, together with a brief description or designation of
 472 such lot or parcel, and it shall be the duty of the secretary of
 473 the board or the director to mail a copy of such notice to such
 474 person, firm, or corporation at such address at least 10 days
 475 before the time for the hearing as stated in such notice, but

476 | the failure of the secretary of the board or the director to
 477 | keep such record or so to inscribe any name or address or to
 478 | mail any such notice shall not constitute a valid objection to
 479 | holding the hearing as provided in this section or to any other
 480 | action taken under the authority of this section.

481 | (b) At the time named in such notice, or to which an
 482 | adjournment may be taken by the board, the board shall receive
 483 | any objections of interested persons and may then or thereafter
 484 | repeal or confirm such resolution with such amendments, if any,
 485 | as may be desired by the board and which do not cause any
 486 | additional property to be specially assessed.

487 | (c) All objections to any such resolution on the ground
 488 | that it contains items which cannot be properly assessed against
 489 | property, or that it is, for any default or defect in the
 490 | passage or character of the resolution or the plans or
 491 | specifications or estimate, void or voidable in whole or in
 492 | part, or that it exceeds the power of the board, shall be made
 493 | in writing, in person or by attorney, and filed with the
 494 | secretary of the board or the director at or before the time or
 495 | adjourned time of such hearing. Any objections against the
 496 | making of any assessable improvements not so made shall be
 497 | considered as waived, and, if any objections shall be made and
 498 | overruled or shall not be sustained, the confirmation of the
 499 | resolution shall be the final adjudication of the issue
 500 | presented unless proper steps shall be taken in a court of
 501 | competent jurisdiction to secure relief within 20 days.

502 | (d) Whenever any resolution providing for the construction
 503 | or reconstruction of assessable improvements and for the levying

504 of special assessments upon benefited property for the payment
 505 thereof has been confirmed, and the special assessments are
 506 levied under this subsection, or at any time thereafter, the
 507 board may issue assessment bonds payable out of such assessments
 508 when collected. Such bonds shall mature not later than 2 years
 509 after the maturity of the last annual installment in which the
 510 special assessments may be paid, as provided in subsection (4),
 511 and shall bear interest as provided by section 31. Such
 512 assessment bonds shall be executed, shall have such provisions
 513 for redemption prior to maturity, and shall be sold in the
 514 manner and be subject to all of the applicable provisions
 515 contained in this act applicable to other bonds, except as the
 516 same are inconsistent with the provisions of this section. The
 517 amount of such assessment bonds for any assessable improvement~~7~~
 518 prior to the confirmation of the preliminary assessment roll
 519 provided for in this subsection shall not exceed the estimated
 520 amount of the cost of such assessable improvements which are to
 521 be specially assessed against the lands and real estate referred
 522 to in this section.

523 (e) After the passage of the resolution authorizing the
 524 construction or reconstruction of assessable improvements has
 525 been confirmed where special assessments are levied under this
 526 subsection or after the final confirmation of the assessment
 527 roll where such assessments are levied under subsection (3), the
 528 board may publish at least once in a newspaper published and of
 529 general circulation in the county where the benefited land is
 530 located~~7~~ a notice calling for sealed bids to be received by the
 531 board on a date not earlier than 15 days after the first

532 publication for the construction of the work, unless in the
 533 initial resolution the board has declared its intention to have
 534 the work done by district forces without contract. The notice
 535 shall refer in general terms to the extent and nature of the
 536 improvements and may identify the same by the short designation
 537 indicated in the initial resolution and by reference to the
 538 plans and specifications on file. If the initial resolution has
 539 given two or more alternative descriptions of the assessable
 540 improvements as to its material, nature, character, and size,
 541 and, if the board has not theretofore determined upon a definite
 542 description, the notice shall call for bids upon each of such
 543 descriptions. Bids may be requested for the work as a whole or
 544 for any part thereof separately and bids may be asked for any
 545 one or more of such assessable improvements authorized by the
 546 same or different resolutions, but any bid covering work upon
 547 more than one improvement shall be in such form as to permit a
 548 separation of cost as to each improvement. The notice shall
 549 require bidders to file with their bids either a certified check
 550 drawn upon an incorporated bank or trust company in such amount
 551 or percentage of their respective bids, as the board deems
 552 advisable, or a bid bond in like amount with corporate surety
 553 satisfactory to the board to ensure the execution of a contract
 554 to carry out the work in accordance with such plans and
 555 specifications and ensure the filing, at the making of such
 556 contract, of a bond in the amount of the contract price with
 557 corporate surety satisfactory to the board conditioned for the
 558 performance of the work in accordance with such contract. The
 559 board shall have the right to reject any or all bids, and, if

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560 all bids are rejected, the board may readvertise or may
 561 determine to do the work by the district forces without
 562 contract.

563 (f) Promptly after the completion of the work, in the case
 564 of special assessments levied under this subsection, the
 565 director, or his or her designee ~~engineer for the district~~, who
 566 is hereby designated as the official of the district to make the
 567 preliminary assessment of benefits from assessable improvements,
 568 shall prepare a preliminary assessment roll and file the same
 569 with the secretary of the board which roll shall contain the
 570 following:

571 1. A description of abutting lots and parcels of land or
 572 lands which will benefit from such assessable improvements and
 573 the amount of such benefits to each such lot or parcel of land.
 574 There shall also be given the name of the owner of record of
 575 each lot or parcel, where practicable, and, in all cases, there
 576 shall be given a statement of the method of assessment used ~~by~~
 577 ~~the engineer~~ for determining the benefits.

578 2. The total cost of the improvements and the amount of
 579 incidental expense.

580 (g) The preliminary roll shall be advisory only and shall
 581 be subject to the action of the board as hereafter provided.
 582 Upon the filing with the secretary of the board or the director
 583 of the preliminary assessment roll, the secretary of the board
 584 or the director shall publish at least once in a newspaper
 585 published and of general circulation in the county where the
 586 benefited land is located, a notice stating that at a meeting of
 587 the board to be held on a certain day and hour, not less than 15

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588 days after the date of such publication, which meeting may be a
 589 regular, adjourned, or special meeting, all interested persons
 590 may appear and file written objections to the confirmation of
 591 such roll. Such notice shall state the class of the assessable
 592 improvements and the location thereof by terminal points and
 593 route.

594 (h) At the time and place stated in such notice the board
 595 shall meet and receive the objections in writing of all
 596 interested persons as stated in such notice. The board may
 597 adjourn the hearing from time to time. After the completion
 598 thereof the board shall either annul or sustain or modify in
 599 whole or in part the prima facie assessment as indicated on such
 600 roll, either by confirming the prima facie assessment against
 601 any or all lots or parcels described therein or by canceling,
 602 increasing, or reducing the same, according to the special
 603 benefits which the board decides each lot or parcel has received
 604 or will receive on account of such improvement. If any property
 605 which may be chargeable under this section has been omitted from
 606 the preliminary roll or if the prima facie assessment has not
 607 been made against it, the board may place on such roll an
 608 apportionment to such property. The board shall not confirm any
 609 assessment in excess of the special benefits to the property
 610 assessed, and the assessments so confirmed shall be in
 611 proportion to the special benefits. Forthwith after such
 612 confirmation such assessment roll shall be delivered to the
 613 secretary of the board or the director. The assessment so made
 614 shall be final and conclusive as to each lot or parcel assessed
 615 unless proper steps be taken within 30 days in a court of

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616 competent jurisdiction to secure relief. If the assessment
 617 against any property shall be sustained or reduced or abated by
 618 the court, the secretary of the board or the director shall note
 619 that fact on the assessment roll opposite the description of the
 620 property affected thereby. The amount of the special assessment
 621 against any lot or parcel which may be abated by the court,
 622 unless the assessment upon all benefited property be abated, or
 623 the amount by which such assessment is so reduced, may, by
 624 resolution of the board, be made chargeable against the district
 625 at large; or, at the discretion of the board, a new assessment
 626 roll may be prepared and confirmed in the manner herein provided
 627 for the preparation and confirmation of the original assessment
 628 roll.

629 (i) Pending the final confirmation of such special
 630 assessments in the manner provided in this subsection, the
 631 district shall have a lien on all such lands and real estate
 632 after the passage of the initial resolution, subject, however,
 633 to the final confirmation thereof in the manner provided in this
 634 subsection.

635 (3) (a) The district ~~engineer~~, under the procedure provided
 636 for in this subsection shall next, after passage of the initial
 637 resolution and filing of the plans and estimates of cost ~~by the~~
 638 ~~district engineer~~, prepare an assessment roll for the district
 639 in duplicate, which assessment roll shall contain an
 640 apportionment of the estimated total cost of the improvement as
 641 between the district and each lot or parcel of land subject to
 642 the special assessment under the initial resolution, such
 643 apportionment to be made in accordance with the provisions of

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644 the initial resolution. One of the duplicates of said assessment
 645 roll shall be filed with the secretary of the board and the
 646 other duplicate shall be retained by the director ~~district~~
 647 ~~engineer~~ in his or her files, all thereof to remain open to
 648 public inspection.

649 (b) Upon the completion and filing of said assessment
 650 roll, the secretary ~~of~~ of the board or the director shall cause
 651 a copy thereof to be published once in a newspaper published in
 652 the county where the benefited land is located and of general
 653 circulation in the county, together with a notice directed to
 654 all property owners interested in the special assessments
 655 stating that at a meeting of the board on a certain day and
 656 hour, not earlier than 15 days after such publication, the board
 657 sitting as an equalizing board, will hear objections of all
 658 interested persons to the final confirmation of such assessment
 659 roll, and will finally confirm such assessment roll or take such
 660 action relative thereto as it deems necessary and advisable. A
 661 copy of the notice shall be mailed to the landowners of the land
 662 to be benefited by construction of the assessable improvements
 663 ~~improvement~~. The landowners shall be determined by reference to
 664 the last available tax roll of Broward County. The secretary of
 665 the board or the director shall keep a record in which shall be
 666 inscribed, at the request of any person, firm, or corporation
 667 having or claiming to have any interest in any lot or parcel of
 668 land, the name and post office address of such ~~each~~ person,
 669 firm, or corporation, together with a brief description or
 670 designation of such lot or parcel, and it shall be the duty of
 671 the secretary of the board or the director to mail a copy of

672 such notice to such person, firm, or corporation at such address
 673 at least 10 days before the time for the hearing as stated in
 674 such notice, but the failure of the secretary of the board or
 675 the director to keep such record or so to inscribe any name or
 676 address or to mail any such notice shall not constitute a valid
 677 objection to holding the hearing as provided in this section or
 678 to any other action taken under the authority of this section.

679 (c) At the time and place named in the notice provided for
 680 in paragraph (b), the board shall meet as an equalizing board to
 681 hear and consider any and all complaints as to the special
 682 assessments, and shall adjust and equalize the special
 683 assessments on a basis of justice and right, and, when so
 684 equalized and approved, such special assessment shall stand
 685 confirmed and remain legal, valid, and binding liens upon the
 686 properties upon which such special assessments are made, until
 687 paid in accordance with the provisions of this act. However,
 688 upon the completion of the improvements, if the actual cost of
 689 the assessable improvements is less than the amount of such
 690 special assessments levied, the district shall rebate to the
 691 owners of any properties which shall have been specially
 692 assessed for the assessable improvements the difference in the
 693 special assessments as originally made, levied, and confirmed,
 694 and the proportionate part of the actual cost of said assessable
 695 improvements as finally determined upon the completion of said
 696 assessable improvements. In the event that the actual cost of
 697 said assessable improvements shall be more than the amount of
 698 the special assessments confirmed, levied, and as finally
 699 determined upon the completion of said assessable improvements,

700 the proportionate part of such excess cost of such assessable
 701 improvements may be levied against all of the lands and
 702 properties against which such special assessments were
 703 originally levied, or, in the alternative, the board may, in its
 704 discretion, pay such excess cost from any legally available
 705 funds.

706 (d) All objections to any such assessment roll on the
 707 ground that it contains items which cannot be properly assessed
 708 against property, or that it is, for any default or defect in
 709 the passage or character of the assessment roll or the plans or
 710 specifications or estimate, void or voidable in whole or in
 711 part, or that it exceeds the power of the board, shall be made
 712 in writing, in person or by attorney, and filed with the
 713 secretary of the board or the director at or before the time or
 714 adjourned time of such hearing on the assessment roll. Any
 715 objections against the making of any assessable improvements not
 716 so made shall be considered as waived, and, if any objections
 717 shall be made and overruled or shall not be sustained, the
 718 confirmation of the assessment roll shall be the final
 719 adjudication of the issue presented unless proper steps are
 720 taken in a court of competent jurisdiction to secure relief
 721 within 20 days.

722 (e) All the provisions of subsection (2) not inconsistent
 723 with this subsection shall apply to the levy of special
 724 assessments under this subsection.

725 (4) (a) Any assessment may be paid at the office of the
 726 secretary of the board or the director within 60 days after the
 727 confirmation thereof, without interest. Thereafter all

728 assessments shall be payable in equal installments, with
 729 interest as provided by section 31 from the expiration of the 60
 730 days in each of the succeeding number of years which the board
 731 shall determine by resolution, not exceeding 20. However, the
 732 board may provide that any assessment may be paid at any time
 733 before due, together with interest accrued thereon to the date
 734 of payment, if such prior payment shall be permitted by the
 735 proceedings authorizing any assessment bonds or other
 736 obligations for the payment of which such special assessments
 737 have been pledged.

738 (b) All such special assessments levied pursuant to this
 739 act may, in the discretion of the board, be collected by the
 740 revenue collector of the county at the same time as the general
 741 county taxes are collected by the revenue collector of the
 742 county, and the board shall in such event certify to the county
 743 revenue collector and county property appraiser in each year a
 744 list of all such special assessments and a description of, and
 745 names of the owners of, the properties against which such
 746 special assessments have been levied and the amounts due thereon
 747 in such year, and interest thereon for any deficiencies for
 748 prior years. The amount to be so certified by the board to the
 749 county revenue collector and county property appraiser to be
 750 collected in such year may include, in the discretion of the
 751 board, the principal installment of such special assessments
 752 which will become due at any time in the next succeeding fiscal
 753 year, and all or any part of the interest which will become due
 754 on such special assessments during such next fiscal year,
 755 together with any deficiencies for prior years.

756 (c) The board may, in lieu of providing for the collection
 757 of the special assessments by the revenue collector of the
 758 county, provide for the collection of said special assessments
 759 by the district under such terms and conditions as the board
 760 shall determine. In such event, the bills or statements for the
 761 amounts due in any fiscal year shall be mailed to the owners of
 762 all properties affected by such special assessments at such time
 763 or times as the board shall determine and such bills or
 764 statements may include all or any part of the principal and
 765 interest which will mature and become due on the annual
 766 installments of such special assessments during the fiscal year
 767 in which installments of such assessments are payable.

768 (d) All charges of the county revenue collector, the
 769 county property appraiser, or ~~of~~ the district, and the fees,
 770 costs, and expenses of any paying agents, trustees, or other
 771 fiduciaries for assessment bonds issued under this act, are
 772 deemed to be costs of the operation and maintenance of any
 773 drainage improvements in connection with which such special
 774 assessments were levied and the board shall be authorized and
 775 directed to provide for the payment each year of such costs of
 776 collection, fees, and other expenses from the administrative,
 777 maintenance, and operations tax as provided in this act as shall
 778 be mutually agreed upon between the board and the county revenue
 779 collector and county property appraiser as additional
 780 compensation for their ~~his or her~~ services for each such
 781 assessment district in which the special assessments are
 782 collected ~~by him or her~~.

783 (e) All assessments shall constitute a lien upon the

784 property so assessed, from the date of final confirmation
 785 thereof, of the same nature and to the same extent as the lien
 786 for general county taxes falling due in the same year or years
 787 in which such assessments or installments thereof fall due, and
 788 any assessment or installment not paid when due shall be
 789 collectible with such interest and with a reasonable attorney's
 790 fee and costs, but without penalties, by the district by
 791 proceedings in a court of equity to foreclose the line of
 792 assessments as a lien for mortgages is or may be foreclosed
 793 under the laws of the state; provided that any such proceedings
 794 to foreclose shall embrace all installments of principal
 795 remaining unpaid with accrued interest thereon, which
 796 installments shall, by virtue of the institution of such
 797 proceedings, immediately become due and payable. Nevertheless,
 798 if, prior to any sale of the property under decree of
 799 foreclosure in such proceedings, payment be made of the
 800 installment or installments which are shown to be due under the
 801 provisions of subsection ~~subsections~~ (2) or subsection (3), and
 802 by this subsection, and all costs, including interest and
 803 attorney's fees, such payment shall have the effect of restoring
 804 the remaining installments to their original maturities as
 805 provided by the resolution passed pursuant to this subsection
 806 and the proceedings shall be dismissed. It shall be the duty of
 807 the board to enforce the prompt collection of assessment by the
 808 means herein provided, and such duty may be enforced at the suit
 809 of any holder of bonds issued under this act in a court of
 810 competent jurisdiction by mandamus or other appropriate
 811 proceedings or action. Not later than 30 days after the annual

812 | installments are due and payable, it shall be the duty of the
 813 | board to direct the attorney for the district to institute
 814 | actions within 2 months after such direction to enforce
 815 | collection of all special assessments for assessable
 816 | improvements made under this section and remaining due and
 817 | unpaid at the time of such direction. Such action shall be
 818 | prosecuted in the manner and under the conditions in and under
 819 | which mortgages are foreclosed under the laws of the state. It
 820 | shall be lawful to join in one action the collection of
 821 | assessments against any or all property assessed by virtue of
 822 | the same assessment roll unless the court shall deem such
 823 | joinder prejudicial to the interest of any defendant. The court
 824 | shall allow a reasonable attorney's fee for the attorney for the
 825 | district, and the same shall be collectible as a part of or in
 826 | addition to the costs of the action. At the sale pursuant to
 827 | decree in any such action, the district may be a purchaser to
 828 | the same extent as an individual person or corporation, except
 829 | that the part of the purchase price represented by the
 830 | assessments sued upon and the interest thereon need not be paid
 831 | in cash. Property so acquired by the district may be sold or
 832 | otherwise disposed of.

833 | (f) All assessments and charges made under the provisions
 834 | of this section for the payment of all or any part of the cost
 835 | of any assessable improvements for which assessment bonds shall
 836 | have been issued under the provisions of this act, or which have
 837 | been pledged as additional security for any other bonds or
 838 | obligations issued under this act, shall be used only for the

839 | payment of principal or interest on such assessment bonds or
 840 | other bonds or obligations issued under this act.

841 | Section 45 ~~46~~. Issuance of certificates of indebtedness
 842 | based on assessments for assessable improvements; assessment
 843 | bonds.—

844 | (1) The board may, after any assessments for assessable
 845 | improvements are made, determined, and confirmed as provided in
 846 | section 44 ~~45~~, issue certificates of indebtedness for the amount
 847 | so assessed against the abutting property or property otherwise
 848 | benefited, as the case may be, and separate certificates shall
 849 | be issued against each part or parcel of land or property
 850 | assessed, which certificates shall state the general nature of
 851 | the improvement for which the said assessment is made. Said
 852 | certificates shall be payable in annual installments in
 853 | accordance with the installments of the special assessment for
 854 | which they are issued. The board may determine the interest to
 855 | be borne by such certificates as provided by section 31, and may
 856 | sell such certificates at either private or public sale and
 857 | determine the form, manner of execution, and other details of
 858 | such certificates. Such certificates shall recite that they are
 859 | payable only from the special assessments levied and collected
 860 | from the part or parcel of land or property against which they
 861 | are issued. The proceeds of such certificates may be pledged for
 862 | the payment of principal of and interest on any revenue bonds or
 863 | general obligation bonds issued to finance in whole or in part
 864 | such assessable improvement, or, if not so pledged, may be used
 865 | to pay the cost or part of the cost of such assessable
 866 | improvements.

867 Section ~~48~~ 49. Changing boundary lines; annexation and
 868 exclusion of lands.-

869 (1) Whenever the owners of a majority of the acreage of
 870 the land within a prescribed area adjacent to the boundaries of
 871 the district petitions the board to include a specific area of
 872 lands within the boundaries of the district or when the board by
 873 resolution proposes that an area of land adjacent to the
 874 boundaries of the district be included within the boundaries of
 875 the district, the board shall publish a notice once a week for 2
 876 consecutive weeks in a newspaper of general circulation
 877 published in Broward County describing the boundaries of the
 878 area which is proposed to be taken into the boundaries of the
 879 district. The notice shall be directed to the landowners within
 880 the area proposed to be taken into the boundaries of the
 881 district and shall direct said landowners to show cause in
 882 writing before the board at a time and place to be stated in
 883 such notice why such area of land should not be brought into the
 884 boundaries of the district and why the proceedings and powers
 885 authorized by this act should not be exercised by the board. At
 886 the time and place stated in said notice, the board shall hear
 887 all objections of any landowner within the area proposed to be
 888 taken into the boundaries of the district and if no objections
 889 are made or if said objections, if made, are overruled by the
 890 board, the board shall enter in its minutes its findings and
 891 adopt a final resolution of annexation confirming the new
 892 boundaries of the district as they may be extended. Thereafter,
 893 the board may proceed with the development, drainage, and water
 894 management ~~reclamation~~ of the new area of land brought into the

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895 district. If the board shall overrule any landowners' objections
 896 as provided herein or if such landowner shall deem himself or
 897 herself aggrieved by the aforesaid action of the board, such
 898 landowner may within 20 days after the board adopts its final
 899 resolution of annexation invoke the jurisdiction of the circuit
 900 court for Broward County. When said resolution annexing the new
 901 area to the boundaries of the district shall have been adopted
 902 by the board, or by a court of competent jurisdiction if such
 903 proposed action shall have been challenged by a landowner by the
 904 judicial proceedings hereinabove authorized, the board may adopt
 905 a water control plan ~~of reclamation~~ for the newly annexed area
 906 and thereafter proceed in a like manner as prescribed in this
 907 act. Upon the adoption of the final resolution of annexation,
 908 all provisions of this act shall apply to the newly annexed area
 909 of land. Lands lying within the boundaries of the district may
 910 be deannexed in the same manner as the procedure for annexation.

911 Section ~~49~~ 50. Unit development; powers of board to
 912 designate units of district and adopt system of progressive
 913 drainage by units; water control plans ~~of reclamation~~ and
 914 financing assessments for each unit; amendment of unit plan.-

915 (1) The board is authorized in its discretion to drain and
 916 provide water management ~~reclaim~~ and place under water control
 917 or more completely and intensively to drain and provide water
 918 management ~~reclaim~~ and place under water control the lands in
 919 the district by designated areas or parts of the district to be
 920 called "units." The units into which the district may be so
 921 divided shall be given appropriate numbers or names by the
 922 board, so that the units may be readily identified and

923 distinguished. The board shall have the power to fix and
 924 determine the location, area, and boundaries of lands to be
 925 included in each and all such units, the order of development
 926 thereof, and the method of carrying on the work in each unit.
 927 The unit system of drainage and water management provided by
 928 this section may be conducted and all of the proceedings by this
 929 section and this act authorized in respect to such unit or units
 930 may be carried on and conducted at the same time as or after the
 931 work of draining and providing water management for ~~reclaiming~~
 932 ~~of~~ the entire district has been or is being or shall be
 933 instituted or carried on under the provisions of this act or
 934 under chapter 298, Florida Statutes, or both.

935 (2) If the board determines that it is ~~it~~ advisable to
 936 conduct the work of draining and providing water management for
 937 ~~reclaiming~~ the lands in the district by units, as authorized by
 938 this section, the board shall, by resolution, declare its
 939 purpose to conduct such work accordingly, and shall fix the
 940 number, location, and boundaries of and description of lands
 941 within such unit or units and give them appropriate numbers or
 942 names. The entire district may also be designated as a unit for
 943 the proper allocation of such part of the water control and
 944 drainage plan ~~of reclamation and drainage~~ as benefits the entire
 945 district.

946 (3) As soon as practicable after the adoption of such
 947 resolution, the board shall publish notice once a week for 2
 948 consecutive weeks in a newspaper or newspapers published and of
 949 general circulation in Broward County, briefly describing the
 950 units into which the district has been divided and the lands

951 embraced in each unit, giving the name, number, or other
 952 designation of such units, requiring all owners of lands in the
 953 district to show cause in writing before the board at a time and
 954 place to be stated in such notice why such division of the
 955 district into such units should not be approved, and the system
 956 of development by units should not be adopted and given effect
 957 by the board, and why the proceedings and powers authorized by
 958 this section should not be had, taken, and exercised. At the
 959 time and place stated in the notice, the board shall hear all
 960 objections or causes of objection, all of which shall be in
 961 writing, of any landowner in the district who may appear in
 962 person or by attorney, to the matters mentioned and referred to
 963 in such notice, and, if no objections are made, or, if
 964 objections are made and overruled by the board, then the board
 965 shall enter in its minutes its finding and order confirming the
 966 resolution, and may thereafter proceed with the development,
 967 drainage, and water management ~~reclamation~~ of the district by
 968 units pursuant to such resolution and to the provisions of this
 969 act. The failure to make objections as provided in this
 970 subsection shall constitute a waiver of such objection, and, if
 971 any objection shall be made and overruled or otherwise not
 972 sustained, confirmation of the resolution shall be the final
 973 adjudication of the issues presented unless a judicial
 974 proceeding is initiated within 10 days after such ruling.

975 (4) The board may, as a result of any objections or of
 976 other matters brought forth at such hearing, modify or amend
 977 said resolution in whole or in part, confirm said resolution
 978 after overruling all objections, or reject said resolution and,

979 if such resolution is confirmed, modified, or amended, may
 980 proceed thereafter in accordance with said resolution as
 981 confirmed, modified, or amended. The sustaining of such
 982 objections and the rescinding of such resolutions shall not
 983 exhaust the power of the board under this section, but the board
 984 may at any time adopt other resolutions under this section and
 985 thereupon proceed on due notice in like manner as provided in
 986 this section. If the board shall overrule or refuse to sustain
 987 any such objections in whole or in part made by any landowner in
 988 the district, or if any such landowner shall deem himself or
 989 herself aggrieved by any action of the board in respect to any
 990 objections so filed, such landowner may, within 10 days after
 991 the ruling of the board, invoke the jurisdiction of the circuit
 992 court for the 17th circuit; and such suits shall be conducted
 993 like other chancery suits, except that said suits shall have
 994 preference over all other pending actions except criminal
 995 actions and writs of habeas corpus.

996 (5) When the resolutions creating the unit system shall be
 997 confirmed by the board, or by the circuit court, if such
 998 proposed action shall be challenged by a landowner by the
 999 judicial proceedings authorized in this section, the board may
 1000 adopt a water control plan or plans ~~of reclamation~~ for and in
 1001 respect to any or all such units, and to have the benefits and
 1002 damages resulting therefrom assessed and apportioned in like
 1003 manner as is provided by chapter 298, Florida Statutes, in
 1004 regard to water control plans ~~of reclamation~~ for the assessments
 1005 of benefits and damages of the entire district, or in like
 1006 manner as is provided for in this act for the assessments of

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1007 | benefits. The board shall have the same powers in respect to
 1008 | each and all of such units as is vested in them with respect to
 1009 | the entire district. All the provisions of this act shall apply
 1010 | to the drainage, water management ~~reclamation~~, and improvement
 1011 | of each, any, and all such units, and the enumeration of or
 1012 | reference to specific powers or duties of the commissioners or
 1013 | any other officers or other matters in this act, as set forth in
 1014 | this act, shall not limit or restrict the application of any and
 1015 | all of the proceedings and powers herein to the drainage and
 1016 | water management ~~reclamation~~ of such units as fully and
 1017 | completely as if such unit or units were specifically and
 1018 | expressly named in every section and clause of this act where
 1019 | the entire district is mentioned or referred to. Unless the
 1020 | board by resolution otherwise provides, all assessments, levies,
 1021 | taxes, bonds, and other obligations made, levied, assessed, or
 1022 | issued for or in respect to any such unit or units shall be a
 1023 | lien and charge solely and only upon the lands in such unit or
 1024 | units, respectively, for the benefit of which the same shall be
 1025 | levied, made, or issued, and not upon the remaining units or
 1026 | lands in the district.

1027 | (6) The board may at any time amend its resolution by
 1028 | changing the location and description of lands in any unit or
 1029 | units, provided that if the location of or description of lands
 1030 | located in any unit or units is so changed, notice of the change
 1031 | shall be published as required in this section for notice of the
 1032 | formation or organization of such unit or units, and all
 1033 | proceedings shall be had and done in that regard as are provided
 1034 | in this section for the original creation of such unit or units.

1035 (7) If, after the determination of benefits with respect
 1036 to any unit or units or the issuance of bonds or other
 1037 obligations which are payable from taxes or assessments for
 1038 benefits levied upon lands within such unit or units, the board
 1039 finds the water control plan ~~of reclamation~~ of any such unit or
 1040 units insufficient or inadequate for efficient development, the
 1041 water control plan ~~of reclamation~~ may be amended or changed as
 1042 provided in chapter 298, Florida Statutes, or as provided in
 1043 this act, and the unit or units may be amended or changed as
 1044 provided in this section by changing the location and
 1045 description of lands in such unit or units or by detaching lands
 1046 therefrom or by adding lands thereto, but only upon the approval
 1047 or consent of not less than the holders of a majority in
 1048 principal amount of such bonds or other obligations, or such
 1049 other percentage as may be required by the terms of such bonds
 1050 or other obligations, or without such consent or approval, if
 1051 the proceedings authorizing such bonds provide that such action
 1052 may be taken without the consent or approval of the holders
 1053 thereof. In the event of such amendment or change, all
 1054 assessments, levies, taxes, bonds, or other obligations made,
 1055 levied, assessed, incurred, or issued for or in respect to any
 1056 such unit or units shall be allocated and apportioned to the
 1057 amended unit or units in proportion to the benefits assessed
 1058 with respect to the amended water control plan ~~of reclamation~~.
 1059 In the event of the change of the boundaries of any unit as
 1060 provided in this section and the allocation and apportionment to
 1061 the amended unit or units or assessments, levies, taxes, bonds,
 1062 and other obligations in proportion to the benefits assessed for

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1063 the amended water control plan ~~of reclamation~~, the holders of
 1064 bonds or other obligations hereafter issued for the original
 1065 unit shall be entitled to all rights and remedies against any
 1066 lands added to the amended unit or units as fully and to the
 1067 same extent as if such added lands had formed and constituted a
 1068 part of the original unit or units at the time of the original
 1069 issuance of such bonds or other obligations, and regardless of
 1070 whether the holders of such bonds or other obligations are the
 1071 original holders thereof or the holders from time to time
 1072 hereafter, and the rights and remedies of such holders against
 1073 the lands in the amended unit or units, including any lands
 1074 added thereto, under such allocation and apportionment, shall
 1075 constitute vested and irrevocable rights and remedies to the
 1076 holders from time to time of such bonds or other obligations as
 1077 fully and to the same extent as if such bonds or other
 1078 obligations had been originally issued to finance the
 1079 improvements in such amended unit or units under such amended
 1080 water control plan ~~of reclamation~~. Conversely, in the event of
 1081 the change of the boundaries of any unit wherein lands are
 1082 detached therefrom, as provided for in this section, said lands
 1083 so detached shall be relieved and released from any further
 1084 liability for the assessment, levy, or payment of any taxes for
 1085 the purpose of paying the principal or interest on any bonds
 1086 originally issued for the original unit from which said lands
 1087 were detached.

1088 Section 51 ~~52~~. Mandatory use of certain district
 1089 facilities and services.—The district may require all lands,
 1090 buildings, and premises, and all persons, firms, and

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1091 corporations, within the district to use the drainage and water
 1092 management ~~reclamation~~ facilities of the district. Subject to
 1093 such exceptions as may be provided by the resolutions, rules, or
 1094 bylaws of the board, and subject to the terms and provisions of
 1095 any resolution authorizing any bonds and agreements with
 1096 bondholders, no drainage or water management ~~and reclamation~~
 1097 facilities shall be constructed or operated within the district
 1098 unless the board gives consent thereto and approves the plans
 1099 and specifications therefor. The violation of the foregoing
 1100 requirements is declared to be a criminal offense and
 1101 misdemeanor within the meaning of s. 775.08, Florida Statutes,
 1102 and shall be punishable as provided by general law.

1103 Section 54 ~~55~~. Maintenance and operation of projects and
 1104 drainage and water management facilities ~~across rights-of-ways.~~
 1105 The district shall have the power to construct, maintain, and
 1106 operate its projects and drainage and water management
 1107 facilities in, along, on, or under any dedications to the
 1108 public, platted or dedicated rights-of-way, platted or dedicated
 1109 reservations, streets, easements, water management areas,
 1110 alleys, highways, or other public places or ways, and across any
 1111 drain, ditch, canal, floodway, holding basin, excavation,
 1112 railroad right-of-way, easement, reservation, water management
 1113 area, track, grade, fill, or cut, within or without the
 1114 district.

1115 Section 57 ~~58~~. Fees, rentals, tolls, fares, and charges;
 1116 procedure for adoption and modification; minimum revenue
 1117 requirements.—The district shall have the power to prescribe,
 1118 fix, establish, and collect rates, fees, rentals, tolls, fares,

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1119 or other charges, hereinafter sometimes referred to as
 1120 "revenues," and to revise the same from time to time, for the
 1121 facilities and services furnished or to be furnished by the
 1122 district, including, but not limited to, drainage and water
 1123 management facilities.

1124 Section 58 ~~59~~. Subdivision regulation.-

1125 (2) Any division of a parcel of land as a subdivision as
 1126 defined in this act shall be subject to such plat and
 1127 subdivision regulations hereafter adopted, amended, or modified
 1128 by the district under the authority of law. Such regulations may
 1129 provide for streets in the subdivision to be of such width,
 1130 grade, and location as to facilitate drainage and water
 1131 management; provide that adequate easements and rights-of-way be
 1132 provided for drainage and water management and that the lay-out
 1133 of the subdivision conform to the comprehensive water control
 1134 plan for drainage and water management for the area; and provide
 1135 for the drainage and water management requirements to be met.
 1136 The district shall not approve any subdivision plat unless the
 1137 land included within the subdivision is suitable or shall be
 1138 made suitable to the various purposes for which it is intended
 1139 to be used, and, in particular, unless all land intended for
 1140 building sites can be used safely for building purposes, without
 1141 the danger from flood or other inundation, or from any such
 1142 menace to health, safety, or public welfare. ~~After the effective~~
 1143 ~~date of this act,~~ It shall be unlawful for anyone being an
 1144 owner, or agent of an owner, of any land to transfer, sell,
 1145 agree to sell, or negotiate to sell such land by reference to,
 1146 or exhibition of, or by any other use of a plat or subdivision

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1147 of such land, without having submitted a plat of such
 1148 subdivision to the district and obtaining its approval as
 1149 required by this act. The unlawful use of a plat by the owner,
 1150 or the agent of the owner, of such land before it is properly
 1151 approved by the district is declared to be a criminal offense
 1152 and misdemeanor within the meaning of s. 775.08, Florida
 1153 Statutes, and shall be punishable as provided by general law.
 1154 The description by metes and bounds in the instrument of
 1155 transfer or other document used in the process of transferring
 1156 shall not exempt the transaction from such penalties.

1157 Section 61 ~~62~~. Obstructions, damage, and destruction
 1158 prohibited; damages; enforcement; and penalties.-

1159 (4) A person may not willfully, or otherwise, obstruct any
 1160 canal, drain, ditch, watercourse, or water management area or
 1161 destroy any drainage works constructed in or maintained by the
 1162 district or obstruct or damage any easement, right-of-way, or
 1163 other property dedicated to the district or the public or fail
 1164 to comply with the district's 5-year recertification program
 1165 rules, criteria, or regulations.

1166 Section 63 ~~64~~. Bailey Drainage District abolished and
 1167 assets transferred to South Broward Drainage District.--That
 1168 effective October 1, 1992, the Bailey Drainage District hereto
 1169 created by the Florida Legislature pursuant to chapter 67-950,
 1170 Laws of Florida, and amendments thereto, was abolished. Except
 1171 as provided by sections 67 and 68 ~~and 69~~, the easements, rights-
 1172 of-way, dikes, ditches, facilities, equipment, files, papers,
 1173 plans, and all other assets, real or personal, of whatever
 1174 description and wheresoever situate of said Bailey Drainage

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1175 District, on October 1, 1992, were surrendered to the Board of
 1176 Supervisors of the South Broward Drainage District and such
 1177 easements, rights-of-way, dikes, ditches, facilities, equipment,
 1178 files, papers, plans, and all other assets of the Bailey
 1179 Drainage District shall, by operations and provisions of this
 1180 section of this law, become and remain easements, rights-of-way,
 1181 dikes, ditches, facilities, equipment, files, papers, plans, and
 1182 all other assets of the South Broward Drainage District.

1183 Section 64 ~~65~~. Bailey Drainage District powers,
 1184 indebtedness, and liabilities transferred to South Broward
 1185 Drainage District.—Commencing on October 1, 1992, all powers,
 1186 duties, responsibilities, obligations, and functions of Bailey
 1187 Drainage District except as stated in sections 67 and 68 and ~~69~~,
 1188 shall be performed by South Broward Drainage District and South
 1189 Broward Drainage District shall assume all indebtedness of
 1190 Bailey Drainage District. Commencing on October 1, 1992, except
 1191 as stated in sections 67 and 68 and ~~69~~, South Broward Drainage
 1192 District shall assume all liabilities of Bailey Drainage
 1193 District both known and unknown as of October 1, 1992.

1194 Section 67 ~~68~~. Bailey Drainage District road right-of-way
 1195 and responsibility for roadways transferred to Board of
 1196 Commissioners of Broward County.—Notwithstanding the provisions
 1197 of sections 63, 64, 65, and 66, and ~~67~~, the South Broward
 1198 Drainage District shall have no requirements or responsibility
 1199 for maintaining or improving any roadways located within the
 1200 lands described in section 62, ~~63~~ and on October 1, 1992, all
 1201 road rights-of-way described in section 68 ~~69~~ along with the
 1202 roadways constructed therein were surrendered to the Board of

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1203 Commissioners of Broward County and by operation and provisions
 1204 of this section became and shall remain rights-of-way and
 1205 property of Broward County, subject to all drainage easements
 1206 previously dedicated to Bailey Drainage District which as of
 1207 October 1, 1992, are drainage easements of South Broward
 1208 Drainage District.

1209 Section 69 ~~70~~. Broward County responsible for operation
 1210 and maintenance of roadways within lands described in section 68
 1211 ~~69~~.—Pursuant to the provisions of chapters 335 and 336, Florida
 1212 Statutes, Broward County shall, from October 1, 1992, be the
 1213 governmental entity responsible for operation and maintenance of
 1214 all roads within the lands described in section 62 ~~63~~ and
 1215 located within the right-of-way described in section 68 ~~69~~, said
 1216 roads to be part of the Broward County road system.

1217 Section 71 ~~72~~. South Broward Drainage District to have all
 1218 of its power and authority and jurisdiction over lands described
 1219 in section 62 ~~63~~.—Commencing on October 1, 1992, the South
 1220 Broward Drainage District shall have all of the powers and
 1221 authority and jurisdiction over and within the territory
 1222 described in section 62 ~~63~~ hereof and of the inhabitants thereof
 1223 and the property located therein as it had over and within its
 1224 boundaries prior to October 1, 1992; and all of the laws,
 1225 regulations, and resolutions of or pertaining to the South
 1226 Broward Drainage District shall apply to and have the same force
 1227 and effect on all the territory described in section 62 ~~63~~ as if
 1228 such territory had been a part of said South Broward Drainage
 1229 District at the time of passage and approval of such laws,
 1230 regulations, and resolutions.

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1231 Section 3. Nothing in this act supersedes chapter 99-468,
1232 Laws of Florida.

1233 Section 4. A certified copy of this act shall be recorded
1234 in the Broward County Public Records by the South Broward
1235 Drainage District.

1236 Section 5. If any provision of this act or its application
1237 to any person or circumstance is held invalid, the invalidity
1238 does not affect other provisions or applications of this act
1239 which can be given effect without the invalid provision or
1240 application, and to this end the provisions of this act are
1241 severable.

1242 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1353 Department of Highway Safety and Motor Vehicles
SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee, Transportation & Highway Safety Subcommittee, Albritton
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Brown	Brown
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N, As CS	Rayman	Davis
3) Economic Affairs Committee		Brown <i>RLB</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The bill contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or the department). In addition to technical and conforming changes, the bill:

- consolidates the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services;
- authorizes health care providers to notify a law enforcement officer after detecting the presence of controlled substances in the blood of a person injured in a motor vehicle crash;
- modernizes the format of motor vehicle certificates of title, clarifies provisions regarding issuance of certificates of title on mobile homes; and creates a "bonded title" program;
- permits DHSMV to use electronic methods to title motor vehicles and vessels, and to collect and use e-mail addresses for various customer notifications;
- exempts active-duty military members who are Florida residents from a requirement to provide a Florida residential address on an application for vehicle registration;
- specifies all electronic registration records must be retained by DHSMV for at least 10 years;
- creates a definition in Ch. 316 and 320, F.S., for the term "swamp buggy," and clarifies the definition of "motor vehicle";
- modifies the types of "helper motor" permitted on a motorized bicycle;
- conforms a bicycle helmet safety standard to the current federal standard;
- clarifies bicycle operation requirements, to allow bicycles to avoid interruptions in a lane of travel;
- creates new voluntary charitable contributions on motor vehicle registrations and driver's license applications, and authorizes DHSMV to annually retain an amount sufficient to defray the department's costs from the first proceeds derived from such contributions;
- allows DHSMV to conduct a pilot project using alternative license plates on state vehicles only;
- adds temporary license plates to the list of documents that are unlawful to alter;
- removes a requirement that salvage-vehicle dealers carry personal injury protection and garage liability insurance;
- provides requirements regarding recreational vehicle dealers' application for vehicle titles using a manufacturer's certificate of origin;
- revises the distribution of certain proceeds from temporary disabled parking permits intended for the Florida Endowment Foundation for Vocational Rehabilitation;
- revises requirements by which an applicants for a driver license or identification card may prove non-immigrant status;
- deletes the requirement that DHSMV conduct motorcycle examinations and specifies the motorcycle safety course for a first-time applicant include a final examination;
- clarifies that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state;

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

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DATE: 4/19/2011

- eliminates the requirement that applicants for a Class A, B, and C driver's licenses must appear in person within the state for issuance of a color photographic or digitally-imaged driver's license;
- creates a new specialty driver license and identification card program;
- creates a "Combat Infantry Badge" Special Use license plate;
- requires driver improvement school for drivers receiving careless driving citations;
- requires driver improvement schools to include in their curricula information on the dangers of distracted driving and the use of technology while driving;
- modifies provisions regarding formal hearings at DHSMV, and allows subpoenas to be filed in criminal cases related to the issues arising in the formal hearings;
- repeals obsolete references to a "chauffeur's license;"
- allows DHSMV to inform applicants of a voluntary emergency contact program; and
- revises several Federal Motor Carrier Safety Administration regulations.

The department estimates savings of \$600,000 related to the consolidation into Division of Motor Services. Please refer to Section II, the Fiscal Analysis and the Economic Impact Statement, within this analysis for more specific detail.

The bill has an effective date of July 1, 2011, unless otherwise specified.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Motorist Services Merger (Sections 1, 3, 4, 9, 22, 33, 44, 47, 48, 62, 63, 64, 74)

Present Situation

Section 20.24, F.S., provides for the creation of the Department of Highway Safety and Motor Vehicles (“DHSMV” or “the Department”) and the establishment within the Department of the Division of the Florida Highway Patrol (“FHP”), the Division of Driver Licenses (“DDL”), and the Division of Motor Vehicles (“DMV”). This section also specifies that the Governor and Cabinet are the head of the department. Although the statute does not explicitly mention an Executive Director, in practice an Executive Director is appointed by the Governor with the approval of the Cabinet. The Executive Director supervises, directs, coordinates, and administers all activities of the department.

Proposed Changes

The bill expressly provides that an Executive Director of DHSMV serves at the pleasure of the Governor and Cabinet. The Executive Director is authorized to establish a command, operational, and administrative services structure to assist, manage, and support the department in operating programs and delivering services.

The bill amends s. 20.24, F.S., to eliminate the DDL and DMV and consolidate their activities into a single Division of Motorist Services. Merging the divisions is intended to streamline operations and may result in significant cost savings. Other sections of the bill make conforming changes to reflect the Division of Motorist Services consolidation. The bill also amends s. 321.02, F.S., to clarify that the division director of the FHP is designated “Colonel.”

Health Care Provider Authorization (Section 8)

Current Situation

Section 316.1933(2)(a)1., F.S., provides that notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, if a health care provider providing medical care in a health care facility to a person injured in a motor vehicle crash becomes aware, as a result of any blood test performed in the course of that medical treatment, that the person’s blood-alcohol level meets or exceeds the blood-alcohol level specified in s. 316.193(1)(b), F.S., the health care provider may notify any law enforcement officer or law enforcement agency. Any such notice must be given within a reasonable time after the health care provider receives the test results. Any such notice shall be used only for the purpose of providing the law enforcement officer with reasonable cause to request the withdrawal of a blood sample.

Proposed Changes

The bill amends s. 316.1933, F.S., to authorize health care providers to notify any law enforcement officer or law enforcement agency after detecting the presence of controlled substances (as defined in Ch. 893, F.S.) in the blood of a person injured in a motor vehicle crash, in addition to the presence of alcohol.

Bicycle Regulations (Sections 5, 10)

Current Situation

Section 316.003 defines a “bicycle,” in part, as every vehicle proposed solely by human power, and every “motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour...”¹

¹ Section 316.003(2), F.S.

Under current law, a bicycle rider or passenger who is less than 16 years of age must wear a bicycle helmet properly fitted and fastened securely by a strap. The helmet must meet the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the Department of Highway Safety and Motor Vehicles.

The federal Child Safety Protection Act of 1994 requires the Consumer Product Safety Commission (CPSC) to develop mandatory bicycle helmet standards. The CPSC published 16 CFR Part 1203 in March, 1998 to apply to all helmets manufactured since March 1999. The rule mandates several performance requirements related to impact protection, children's helmets' head coverage, and chin strap strength and stability. Helmets meeting the requirements display a label indicating compliance with the standards.

A law enforcement officer or school crossing guard is specifically authorized to issue a bicycle safety brochure and a verbal warning to a rider or passenger who violates the helmet law. A law enforcement officer is authorized to issue a citation and the violator will be assessed a \$15 fine plus applicable court costs and fees. An officer may issue a traffic citation for a violation of this provision only if the violation occurs on a bicycle path or road. A court is required to dismiss the charge against a bicycle rider or passenger for a first violation of the provision upon proof of purchase of a bicycle helmet in compliance with the law. Further, a court is authorized to waive, reduce or suspend payment of any fine imposed for a violation of the helmet law.

Section 316.2065, F.S., requires bicyclists on the roadway to ride in the marked bicycle lane if the roadway is marked for bicycle use or if no lane is marked, as close as practicable to the right-hand curb or edge of the roadway, with the following exceptions:

- When overtaking and passing another bicycle or vehicle moving in the same direction;
- When preparing to turn left; or
- When "reasonably necessary" to avoid unsafe conditions such as fixed objects, surface hazards, parked vehicles, etc.

Law enforcement officers are authorized to issue noncriminal traffic citations for violations of s. 316.2065, F.S.

Currently, every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear, each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or its rider may be equipped with lights or reflectors in addition to those required by law. Violation of bicycle lighting requirements is a non-criminal traffic infraction punishable as a pedestrian violation by a \$15 fine plus applicable court costs and fees.

Proposed Changes

The bill amends the definition of bicycle to remove the qualifier "electric" from the "helper motor" provision. The bill also amends s. 316.2065(3), F.S., to require compliance with the federal safety standard for bicycle helmets contained in 16 C.F.R., part 1203. Helmets purchased prior to October 1, 2011, in compliance with the existing statutory standards may continue to be worn legally by riders or passengers until January 1, 2015.

Section 316.2065(5), F.S., is amended to clarify situations in which a bicyclist is not required to ride in the marked bicycle lane (if the roadway is marked for bicycle use) or as close as practicable to the right-hand curb or edge of the roadway. The bill clarifies that a bicyclist is exempt from this requirement when a "potential conflict" or a turn lane interrupts the roadway or bicycle lane.

The bill amends s. 316.2065(8), F.S., to allow law enforcement officers to issue bicycle safety brochures and verbal warnings to bicycle riders and passengers who violate bicycle lighting equipment standards in lieu of issuing a citation. At the discretion of the law enforcement officer, a bicycle rider who violates the bicycle lighting equipment standards may still be issued a citation and assessed a fine as described above. However, the bill requires the court to dismiss the charge against a bicycle rider

for a first violation of this offense upon proof of purchase and installation of the proper lighting equipment.

Motorcycle Tags (Section 11)

Current Situation

Section 316.2085, F.S., provides that the license tag of a motorcycle or moped must be permanently affixed to the vehicle and may not be capable of being “flipped up.” The section also prohibits any “device for or method of concealing or obscuring” the tag.

Proposed Changes

The bill clarifies s. 316.2085, F.S., by requiring the tag of a motorcycle or moped to “remain clearly visible from the rear at all times.” The bill also clarifies the prohibited action of concealing a tag by eliminating the prohibition on a specific device or method and instead explicitly stating that “any deliberate act to conceal or obscure” the legibility of a tag is prohibited.

Driver Improvement Schools; Traffic Law and Substance Abuse Education Programs (Sections 21, 49, 57)

Current Situation

Section 318.1451, F.S., requires HSMV to approve the courses and technology used by driver improvement schools. In approving a driver improvement school, DHSMV must consider course content regarding safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve drivers’ performance from a safety viewpoint.² Currently, s. 318.1451, F.S., does not include specific criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. However, DHSMV notes that “hazardous acts while driving are discussed in any driver improvement course curricula.”³

Section 322.095, F.S., requires DHSMV to approve traffic law and substance abuse education (TLSAE) courses. Curricula of these courses must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and laws relating to the operation of a motor vehicle. The course provider must obtain certification from DHSMV that the course complies with these requirements. Currently, s. 322.095, F.S., does not include criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. As with driver improvement schools (discussed above), DHSMV notes that “hazardous acts while driving are discussed in the TLSAE curricula.”⁴

Section 322.0261, F.S., requires motor vehicle operators to attend a driver improvement course to maintain driving privileges after receiving a citation for violating a traffic control device,⁵ failing to stop for a school bus,⁶ racing,⁷ or reckless driving.⁸

Proposed Changes

The bill amends ss. 318.1451 and 322.095, F.S., to create a new curriculum requirement for both driver improvement schools and TLSAE courses. These programs must discuss the dangers of driving while distracted, specifically including the use of technology while driving.

² Section 318.1451(2)(a), F.S.

³ *Department of Highway Safety and Motor Vehicles Agency Bill Analysis: HB 689*, Feb. 16, 2011.

⁴ *Id.*

⁵ Sections 316.074(1) and 316.075(1)(c)1., F.S.

⁶ Section 316.172, F.S.

⁷ Section 316.191, F.S.

⁸ Section 316.192, F.S.

The bill amends s. 322.0261, F.S., to include violations for careless driving⁹ and aggressive careless driving¹⁰ in the list of offenses that require a motor vehicle operator to attend a driver improvement course.

Forms

Certificates of Repossession (Sections 19, 26, 27)

Current Situation

Section 319.28, F.S., requires a lien holder who has repossessed a motor vehicle to apply to the tax collector's office or DHSMV for a "certificate of repossession," or to DHSMV for a certificate of title.

Section 317.0016, F.S., requires DHSMV to provide, through its agents, expedited service for the issuance of a "certificate of repossession" relating to off-highway vehicles, and s. 319.323, F.S., provides the same expedited service requirement for motor vehicles and mobile homes.

Proposed Changes

DHSMV notes that, because a title must be in the lien holder's possession when he or she sells an off-highway vehicle, vehicle, or mobile home, there is no longer any need for the "certificate of repossession."¹¹ The term has become obsolete and the bill removes it throughout the above-referenced statutes.

Transfers and Reassignments - Certificate of Title; Power of Attorney (Section 24)

Current Situation

Section 319.225, F.S., provides for procedures and regulations regarding the transfer and reassignment of motor vehicle titles. Currently, when a motor vehicle owner sells a vehicle, the owner must sign and transfer a paper odometer disclosure form to the buyer in order to comply with federal and state laws.

Section 319.225(1), F.S., requires an odometer disclosure notice to be printed on the title's "reverse side." Section 319.225(6), F.S., provides that if a certificate of title is physically held by a lien holder (or is lost or otherwise unavailable), the transferor may give a power of attorney for the purpose of odometer disclosure. The power of attorney must be on a form issued or authorized by DHSMV.

Proposed Changes

The bill amends s. 319.225, F.S., to modernize the form and format of motor vehicle certificates of title. The bill eliminates the requirements for certain statements or actions to be taken "on the back" or "on the reverse side" of a certificate of title form, and to allow odometer disclosures and reassignments to take place on forms provided by HSMV.

The bill amends s. 319.225(6)(b), F.S., relating to power of attorney forms to provide that, if the dealer sells the vehicle to an out-of-state resident or an out-of-state dealer and the power of attorney form is applicable to the transaction, the dealer must photocopy the completed original of the form and mail it directly to DHSMV within 5 business days after the certificate of title and dealer reassignment form are delivered by the dealer to the purchaser.

The bill creates s. 319.225(7), F.S., which allows titles to remain electronic in sales of a motor vehicle. This process is subject to approval of the National Highway Traffic Safety Administration or any other applicable authority, and will allow the transferor and transferee to complete the federally-required odometer disclosure on a "secure reassignment document." Both the transferor and transferee must execute the secure reassignment document at a tax collector office or license plate agency. A dealer acquiring a motor vehicle that has an electronic title must use a secure reassignment document signed

⁹ Section 316.1925, F.S.

¹⁰ Section 316.1923, F.S.

¹¹ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

by the person from whom the dealer acquired the motor vehicle. Upon transfer of the motor vehicle to another person, a separate reassignment document must be executed.

Transfers and Reassignments – Mobile Homes; Bonded Titles (Section 25)

Current Situation

Section 319.23, F.S., provides procedures for applying for a certificate of title to a motor vehicle or mobile home. If the motor vehicle has not been previously titled, the application for title must include a bill of sale, as well as sworn affidavits from the seller and purchaser.¹² In the case of a transfer of a motor vehicle or mobile home, the application for a certificate of title or reassignment must be filed with DHSMV “within 30 days after the delivery of the motor vehicle or mobile home.”

When a previously-titled vehicle is sold in a private transaction, the seller of the vehicle signs and delivers the certificate of title to the buyer. The buyer is obligated to apply for a certificate of title by presenting to DHSMV the duly assigned certificate of title from the seller,¹³ along with an application fee for a new certificate.¹⁴

Proposed Changes

The bill amends s. 319.23(6), F.S., to modify title transfers of mobile homes. The bill provides that with respect to mobile homes, the application for a certificate of title or reassignment must be filed within 30 days after the “consummation of the sale” of the mobile home, in lieu of 30 days after delivery.

The bill creates a bonded-title provision in s. 319.23, F.S. In the event that a motor vehicle owner is unable to provide DHSMV with a certificate of title assigning a prior owner’s transfer of ownership to the current owner, DHSMV may accept instead an affidavit identifying the Vehicle Identification Number and the applicant’s ownership therein. The affidavit must be accompanied by an application for title along with a bond that meets certain criteria. The bond must be in a form prescribed by the agency, and must be:

- Executed by the applicant,
- Issued by a person authorized to conduct a surety business in this state,
- In an amount equal to two times the value of the motor vehicle, as determined by DHSMV,
- Conditioned to indemnify all prior owners and lien holders, as well as all subsequent purchasers who acquire a security interest in the vehicle, against any expense, loss, or damage occurring because of the issuance of the title issuance or any defective or unknown security interest on the right, title, or interest of the applicant in the motor vehicle

Any interested person has the right to recover on the bond, for a breach of any of the bond’s conditions. The bond expires after 3 years have elapsed since the issuance of the title.

Definitions; Custom and Street Rod Vehicles; Swamp Buggies (Sections 5, 23, 29)

Current Situation

Section 320.01, F.S., defines a “motor vehicle” in part as “an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power...”

Section 316.003, F.S., defines “special mobile equipment” as “any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump trucks,

¹² Section 319.23(3), F.S.

¹³ Section 319.23(1), F.S.

¹⁴ The fee is generally \$70 for a certificate of title, but see s. 319.32, F.S., for exceptions and additional charges.

truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.”

Section 320.0863(1)(b), F.S., defines "custom vehicle" to mean a motor vehicle that:

- Is 25 years old or older and of a model year after 1948 or was manufactured to resemble a vehicle that is 25 years old or older and of a model year after 1948; and
- Has been altered from the manufacturer's original design or has a body constructed from non-original materials.

Section 320.0863(1)(c), F.S., defines "street rod" to mean a motor vehicle that:

- Is of a model year of 1948 or older or was manufactured after 1948 to resemble a vehicle of a model year of 1948 or older; and
- Has been altered from the manufacturer's original design or has a body constructed from non-original materials.

Section 320.0863(2), F.S., provides that the model year and year of manufacture which the body of a custom vehicle or street rod resembles shall be the model year and year of manufacture listed on the certificate of title, regardless of when the vehicle was actually manufactured.

Currently, Ch. 320, F.S. ("Motor Vehicle Licenses"), provides for unique license plates for custom and street rod vehicles; however, Ch. 319, F.S. ("Title Certificates"), does not provide for a unique titling process for custom and street rod vehicles. According to DHSMV, this has caused a lack of direction for Tax Collectors and regional offices in terms of titling these vehicles. Custom vehicles and street rod vehicles fall into the same category as motor vehicles registered as rebuilt vehicles and non-conforming vehicles. Consequently, DHSMV has been titling custom vehicles and street rods according to those requirements when such a vehicle is offered for sale.¹⁵

Currently, DHSMV performs a physical inspection of rebuilt vehicles to assure the identity of the vehicle and that any major component parts repaired or replaced have proper ownership documentation and are not stolen. DHSMV does not have specific statutory authority to require damaged major component parts to be repaired or replaced as a condition of inspection and or issuing a rebuilt title.¹⁶

Proposed Changes

The bill amends s. 319.14, F.S., to include definitions of "custom vehicle" and "street rod vehicle" to conform to existing definitions in Ch. 320, F.S. Section 319.14(1)(b), F.S., is amended to state that a motor vehicle may not be inspected or issued a rebuilt title until all major component parts¹⁷ that are damaged have been repaired or replaced.

The bill creates a definition of "swamp buggy" in ss. 316.003(89), F.S., and 320.01(45), F.S. The bill defines a "swamp buggy" as a "motorized off-road vehicle designed to travel over swampy terrain, which may utilize large tires or tracks operated from an elevated platform, and may be used upon varied terrain." The definition provides that the term "swamp buggy" does not include any vehicle defined in ch. 261, F.S.,¹⁸ or defined or classified in ch. 316, F.S. The definition also provides that swamp buggies may not be operated upon the public roads, streets, or highways, "except to the extent specifically authorized by a state or federal agency to be used exclusively upon lands, managed, owned, or leased by that agency."

¹⁵ Department of Highway Safety and Motor Vehicles, *2011 Agency Bill Analysis: HB 1353*.

¹⁶ *Id.*

¹⁷ Section 319.30, F.S., defines a "major component part," as any "fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag."

¹⁸ Chapter 261, F.S., addresses all-terrain vehicles (ATVs), off-highway motorcycles (OHMs), off-highway vehicles (OHVs), and recreational off-highway vehicles (ROVs).

The bill amends s. 320.01, F.S., to clarify that neither a “special mobile vehicle,” as defined in ch. 316, F.S., nor a “swamp buggy,” are included in the definition of “motor vehicle.” The bill also makes this clarification in s. 316.003(21), F.S., with respect to swamp buggies.

Electronic Transactions - Motor Vehicle Certificates of Title, Motor Vehicle Licenses and Vessel Registration (Sections 28, 30, 46, 55, 73)

Current Situation

Section 319.40, F.S., authorizes DHSMV to accept motor vehicle title applications by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses or the issuing of electronic titles in lieu of printing paper titles.

Section 320.95, F.S., authorizes DHSMV to accept motor vehicle registration applications by “electronic or telephonic means;” however, it does not specifically allow the collection and use of email addresses from motor vehicle owners and registrants.

Section 322.08, F.S., provides requirements for driver license applications. It does not specifically allow the collection and use of email addresses from driver license applicants.

Chapter 328, F.S., governs title certificates and registration of vessels in Florida. Section 328.30, F.S., authorizes the DHSMV to accept any application required under Ch. 328 by “electronic or telephonic means,” relating to vessel titles.

Proposed Changes

The bill amends s. 319.40, F.S., to authorize DHSMV to issue electronic certificates of title. It also allows DHSMV to collect e-mail addresses of vehicle owners and registrants for notification purposes related to motor vehicle titles, in lieu of notification via the United States Postal Service (USPS). The bill amends s. 320.95, F.S., to expressly permit DHSMV to collect and use e-mail addresses of motor vehicle owners and registrants as a method of notification relating to motor vehicle registrations in lieu of the USPS, and amends s. 320.02, F.S., to clarify that electronic registration records must be retained for not less than 10 years.

The bill creates s. 322.08(8), F.S., to authorize DHSMV to collect and use e-mail addresses for the purpose of providing driver license renewal notices in lieu of the USPS.

The bill amends s. 328.30, F.S., to permit DHSMV to issue an electronic certificate of title for vessels in lieu of printing a paper title and to permit DHSMV to collect and use e-mail addresses as a method of notification regarding vessel titles and registration in lieu of the USPS.

Motor Vehicle Registration

Permanent Address Requirements - Active Duty Military Members (Section 30)

Current Situation

Section 320.02, F.S., requires every owner or person in charge of a motor vehicle operated or driven on the roads of this state to register the vehicle in this state. The owner or person in charge must apply to DHSMV or its authorized agent for registration of the vehicle. The application for registration must include the street address of the owner’s permanent residence or the address of his or her permanent place of business and must be accompanied by personal or business identification information which may include, but need not be limited to, a driver’s license number, Florida identification card number, or federal employer identification number.

Proposed Changes

The bill amends s. 320.02(2), F.S., to exempt active-duty military members who are Florida residents from the requirement to provide a Florida residential address on an application for vehicle registration.

Replacement Driver's Licenses Due to Address Change (Section 30)

Current Situation

Section 320.02(4), F.S., requires an owner of a registered motor vehicle to notify DHSMV in writing of any change of address within 20 days of such change. The notification must include the registration license plate number, the vehicle identification number (VIN) or title certificate number, year of vehicle make, and the owner's full name. Notwithstanding this requirement, it is possible for a licensed driver and motor vehicle owner to update his or her address on a motor vehicle registration without updating the address on his or her driver license.

Proposed Changes

The bill amends s. 320.02(4), F.S., to require an owner or registrant to obtain a driver's license replacement that reflects changes to the residence or mailing address before changing the address on a motor vehicle registration.

Procedures Manual (Section 33)

Current Situation

Section 320.05, F.S., authorizes DHSMV to charge \$25 for a Procedures Manual regarding the Division of Motor Vehicles.

Proposed Changes

The Procedures Manual is now maintained online and hard copies are no longer available for sale. The bill 1353 amends s. 320.05, F.S., to delete a \$25 fee for a copy of the manual.

Alternative License Plate Technologies Pilot Program (Section 34)

Current Situation

Section 320.06, F.S., requires registration license plates be made of metal specially treated with a retro reflection material, as specified by DHSMV. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary (to accommodate motorcycles, mopeds, or similar smaller vehicles). Validation stickers must also be treated with a retro reflection material and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and/or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the bottom of the plate must contain the name of the county in which it is sold, the state motto, or the words "Sunshine State."

Proposed Changes

The bill amends s. 320.06, F.S., to allow DHSMV to perform a pilot program limited to state-owned vehicles, in order to evaluate designs, concepts, and alternative technologies for license plates. The section also specifies all license plates issued by DHSMV are the property of the state.

Motor Carrier Compliance

The Federal Motor Carrier Safety Administration (FMCSA) requires states to implement and maintain certain commercial motor vehicle and licensing regulations. The FMCSA has requested the following modifications to current Florida law regarding commercial motor vehicle issues.

International Registration Plan; Apportioned Motor Vehicles; Definitions (Sections 16, 29, 32, 36, 37)

Current Situation

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all U.S. states except Alaska and Hawaii, the District of Columbia, and the Canadian provinces except Yukon and the Northwest Territories.

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee and then distributes the fees to the other jurisdictions based on the percentage of miles the carrier will travel or has traveled in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.01, F.S., defines the terms "apportioned motor vehicle" "apportionable vehicle" and "commercial motor vehicle." Section 320.03(7), F.S., requires the DHSMV to register apportioned motor vehicles under the provisions of the IRP and allows DHSMV to adopt rules to implement and enforce the provisions of the plan.

Section 320.071, F.S., provides that an owner of any apportioned motor vehicle currently registered in the state may apply for renewal of the registration with the department any time during the three months preceding the date of expiration of the registration period.

Section 320.0715(1), F.S., requires all commercial motor vehicles domiciled in Florida and engaged in interstate commerce to be registered in accordance with the provisions of the IRP and display apportioned license plates.

Section 320.0715(3), F.S., provides that DHSMV may not issue a temporary operational permit for a commercial motor vehicle to any applicant until the applicant has shown that all sales or use taxes due on the registration of the vehicle are paid and insurance requirements have been met in accordance with ss. 320.02(5) and 627.7415, F.S.

Proposed Changes

The bill deletes the definition of "apportioned motor vehicle" in s. 320.01, F.S., and replaces that term with "apportionable vehicle," throughout the sections described above, in order to conform to current definitions in the International Registration Plan. The bill also slightly revises the gross vehicle weight (from 26,001 pounds to 26,000 pounds) for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle."

Driver Improvement Courses; Withhold of Adjudication (Section 20)

Current Situation

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver's license and who is cited for a traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by DHSMV.¹⁹ In such case, adjudication must be withheld, points may not be assessed, and the civil penalty must be reduced by 18 percent; however, a person may not elect to attend such course if he or she has attended the course within the preceding 12 months. In addition, a person may make no more than five elections in a lifetime.

Section 318.14(10), F.S., provides that any person who does not hold a commercial driver's license and who is cited for an infraction involving an invalid driver license, registration, or proof of insurance may, in lieu of payment of the fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of court, designated official, or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld. A person may not make this election if he or she has made a similar election in the preceding 12 months and no person may make more than three elections in a lifetime.

Proposed Changes

¹⁹ The election is not available for certain infractions, including but not limited to speeding in excess of a posted speed limit more than 30 mph or more, driving without a valid registration, and driving without possession of a valid driver license.

The bill amends s. 318.14, F.S., to comply with a federal regulation that denies the elections described above to persons cited for traffic violations who either (i) hold a commercial driver license (regardless of the vehicle being driven), or (ii) hold a regular operator license but are cited while driving a vehicle that requires a commercial driver license.

The bill provides that eligibility for the withhold-of-adjudication election is restricted to drivers who have regular motor vehicle operator's licenses and were not driving a commercial motor vehicle when cited.

Temporary Commercial Instruction Permits (Section 54)

Current Situation

Section 322.07(3), F.S., provides that a person may apply for and receive a temporary commercial instruction permit if:

- The applicant possesses a valid driver's license issued in any state; and
- The applicant, while operating a commercial motor vehicle, is accompanied by a licensed driver who is 21 years of age or older, who is licensed to operate the class of vehicle being operated, and who is actually occupying the closest seat to the right of the driver.

The permit holder must keep the permit in his or her immediate possession at all times while operating a commercial motor vehicle.

Proposed Changes

The bill amends s. 322.07(3), F.S., to require that the applicant hold a valid Florida driver license, before being issued a temporary commercial instruction permit.

Farm Vehicles and Straight Trucks (Section 67)

Current Situation

Section 322.53, F.S., requires every person driving a commercial vehicle to possess a commercial driver's license (CDL). The section also lists several exemptions from this requirement, including:

- Drivers of authorized emergency vehicles;
- Military personnel driving vehicles operated for military purposes;
- Farmers transporting farm supplies or farm machinery within 150 miles of their farm, or transporting agricultural products to or from the first place of storage or processing or directly to or from market, within 150 miles of their farm;
- Drivers of recreational vehicles;
- Drivers of straight trucks that are exclusively transporting their own tangible personal property which is not for sale; and
- Employees of a public transit system when moving the vehicle for maintenance or parking.

Notwithstanding these exemptions, all drivers of for-hire commercial motor vehicles are required to possess a valid CDL.

Proposed Changes

The bill amends s. 322.53(2), F.S., to clarify two of the exemptions to the requirement for drivers of commercial motor vehicles to possess a CDL. Section 322.53(2)(c), F.S., is amended to clarify that farmers are exempt from CDL requirements only when transporting agricultural products, farm machinery, or farm supplies to or from their farms (as long as such transport is also within 150 miles of the farm).

Section 322.53(2)(e), F.S., is amended to clarify the exemption for drivers of straight trucks used exclusively for transporting their own personal property which is not for sale. In compliance with federal regulations, the bill clarifies that in order for the exemption to apply the vehicle must not be engaged in commerce, or be for-hire.

Commercial Motor Vehicle Weight (Section 68)

Current Situation

Section 322.54, F.S., provides for the classification of vehicles and driver's licenses. Currently, any vehicle with a declared and actual weight of 26,001 pounds or more is classified as a commercial motor vehicle for CDL purposes. Motor vehicle weight classifications are typically based on the Gross Vehicle Weight Rating (GVWR) ascribed to each vehicle by the manufacturer. The GVWR is commonly identified by in the Vehicle Identification Number (VIN) plate or by a separate plate attached to the vehicle. There is currently no provision for classifying a vehicle in situations where a GVWR or VIN plate is not available.

Proposed Changes

The bill creates s. 322.54(5), F.S., to allow the vehicle's actual weight to be used in the determination of the class of CDL required, in situations where the GVWR or a separate VIN plate identifying the weight of the vehicle is missing or otherwise not available.

Federal Medical Certification (Section 70)

Current Situation

Section 322.59, F.S., provides that DHSMV shall not issue a CDL to any person who is required by the laws of this state or by federal law to possess a medical examiner's certificate, unless such person presents a valid certificate prior to licensure.

Proposed Changes

The bill amends s. 322.59, F.S., to provide a citation to the federal medical examiner's certificate requirement,²⁰ and to require DHSMV to disqualify a driver holding a CDL who fails to comply with such requirement.

Disqualifications Generally (Section 71)

Current Situation

Section 322.61(3), F.S., provides that if any driver is convicted of committing one of the following violations while operating a commercial motor vehicle, or if a CDL-holder is convicted of committing one of these violations while operating a non-commercial motor vehicle, he or she will be disqualified for one year from operating a commercial motor vehicle:

- Driving a motor vehicle under the influence;
- Driving a commercial motor vehicle with a blood alcohol content (BAC) of .04 percent or higher;
- Leaving the scene of a crash involving a commercial motor vehicle driven by the driver;
- Using a motor vehicle in the commission of a felony;
- Driving a commercial motor vehicle while in possession of a controlled substance;
- Refusing to submit to test of alcohol concentration while driving a motor vehicle;
- Driving a commercial motor vehicle while the commercial driver's license is suspended, revoked, cancelled, or while the driver is disqualified from driving a commercial motor vehicle; or
- Causing a fatality through the negligent operation of a commercial motor vehicle.

Section 322.61(5), F.S., specifies that any holder of a commercial driver's license who is convicted of two of the violations listed above, which were committed while operating a noncommercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle.

Proposed Changes

²⁰ 49 C.F.R. s. 383.71.

The bill amends s. 322.61, F.S., to provide that any CDL-holder who is convicted of two violations of specified offenses listed in s. 322.61(3), F.S., which were committed while operating any motor vehicle arising in separate incidents, shall be permanently disqualified from operating a commercial motor vehicle.

Disqualifications - DUI (Section 72)

Current Situation

Section 322.64, F.S., provides that law enforcement officers or correctional officers shall disqualify commercial vehicle operators who have been arrested for a violation of driving with an unlawful blood alcohol level or have refused to submit to a breath, urine, or blood test from operating a commercial motor vehicle. Such officers shall provide the person disqualified with a 10-day temporary driving permit for the operation of a noncommercial vehicle, if otherwise eligible for the driving privilege, and also issue the person a notice of disqualification.

Section 322.64(8), F.S., provides that DHSMV must sustain the disqualification:

- For a period of one year, if the person was driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher; or
- Permanently, if the person has been previously disqualified from operating a commercial motor vehicle or his or her driving privilege has been previously suspended for driving or in actual physical control of a commercial motor vehicle, or any motor vehicle if the driver holds a commercial driver's license, and had an unlawful BAL of 0.08 percent or higher.

Proposed Changes

The bill amends s. 322.64, F.S., to provide that a notice of disqualification from operating a commercial motor vehicle acts as a conviction for purposes of certain federal restrictions imposed for the offense of operating a commercial motor vehicle while under the influence of alcohol. It also inserts federal CFR references related to this subject, in order to negate the need to continuously modify state law with FMCSA regulations.²¹

Motor Vehicle Registration and Driver License Applications; Voluntary Check-offs (Sections 30, 55)

Current Situation

Section 320.023, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized organizations during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.²²

Section 322.081, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding

²¹ See Section III.C. of this analysis, "DRAFTING ISSUES OR OTHER COMMENTS," for a brief discussion of this issue.

²² Section 320.023(4)(a), F.S.

voluntary check-off on a driver's license application. The check-off allows a person applying for or renewing a Florida driver's license to voluntarily contribute to one or more of the authorized organizations during the driver's license transaction. Before the organization is eligible, it must submit the following to the DHSMV at least 90 days before the convening of the regular session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray the DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.²³

Chapter 2010-223, L.O.F., established a moratorium on new voluntary check offs. DHSMV "may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, F.S., or the driver's license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013." An exemption to the moratorium allows those charities that were in the process of complying with s. 322.081, F.S., in 2010 to continue to seek a check-off. DHSMV has identified five charitable organizations that fall within the exemption from the moratorium.²⁴

Proposed Changes

The bill amends s. 320.02, F.S., to create four \$1 voluntary checkoffs on application and renewal forms for motor vehicle registrations. The entities and causes are:

- End Hunger in Florida – Contributions shall be distributed monthly to the Florida Association of Food Banks, Inc, for the purpose of ending hunger in Florida.
- Take Stock in Children – Contributions shall be transferred to Take Stock in Children, Inc. This charity provides scholarships to Florida's low-income and at-risk students.
- Autism Services and Supports – Contributions are distributed monthly to the Achievement and Rehabilitation Centers, Inc., Autism Services Fund.
- Support Our Troops – Contributions shall be distributed monthly to Support Our Troops, Inc., a Florida not-for-profit organization.

The bill amends s. 322.08, F.S., to create two \$1 voluntary checkoffs on original, renewal, and replacement driver license applications. The checkoffs are created for Support Our Troops, Inc., and Autism Services and Supports, each of which is described above.

Administrative Costs of Voluntary Contribution Check-offs (Sections 31, 56)

Current Situation

As discussed above, ss. 320.02(15) and 322.08(7), F.S., require motor vehicle applications and driver license applications provided by DHSMV to include language permitting applicants to make a \$1 voluntary contribution to several charities. DHSMV incurs administrative costs including renewal notices, postage, and distribution costs, as well as costs associated with auditing the organizations' compliance. DHSMV is not authorized to retain any proceeds derived from the voluntary contributions program to defray such costs. Funds collected are distributed in full to the respective organizations as provided by law.

Proposed Changes

The bill amends s. 320.023, F.S., to authorize DHSMV to annually retain, from the first proceeds derived from voluntary contributions collected relating to motor vehicle registrations, an amount

²³ Section 322.081(4)(a), F.S.

²⁴ Letter from DHSMV Executive Director Julie L. Jones to the Florida House of Representatives, Transportation and Highway Safety Subcommittee, January 19, 2011. This letter is on file with the subcommittee.

sufficient to defray a pro rata share of costs incurred by the department. The balance of the proceeds from voluntary contribution collections are to be distributed as provided by law. The bill similarly amends s. 322.081, F.S., with respect to driver license applications and renewals.

Motorcycle Specialty License Plates (Section 39)

Current Situation

Section 320.08068, F.S., creates a specialty license plate for motorcycles. A motorcycle owner wishing to receive this plate must pay an additional \$20 annual use fee, which is distributed to The Able Trust, which is permitted to use up to 10 percent of the proceeds for administrative costs. Pursuant to s. 320.08068(4), F.S., the remaining proceeds must be distributed as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund.
- Twenty percent to Prevent Blindness Florida.
- Twenty percent to the Blind Services Foundation of Florida.
- Twenty percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program pursuant to s. 413.402.
- Twenty percent to the Florida Association of Centers for Independent Living to be used to leverage additional funding and new sources of revenue for the centers for independent living in this state.

Proposed Changes

The bill removes the requirement that funds received by the Florida Association of Centers for Independent Living must be used “to leverage additional funding and new sources of revenue for the centers for independent living in this state.”

Temporary License Plates (Section 35)

Current Situation

Section 320.061, F.S., prohibits altering the original appearance of any motor vehicle registration certificates, license plates, mobile home stickers, or validation stickers; however, the prohibition does not include temporary license plates. A violation of this provision is a noncriminal traffic infraction punishable as a moving violation as provided in Ch. 318, F.S.

Proposed Changes

The bill amends s. 320.061, F.S., to include a prohibition on the alteration of temporary license plates as well.

Temporary Disabled Parking Permits – Florida Governor’s Alliance for the Employment of Disabled Citizens, Inc. (Section 41)

Current Situation

Section 320.0848, F.S., provides for the disbursement of the \$15 fee for a temporary disabled parking permit. Specifically, from the proceeds of each temporary disabled parking permit fee:

- DHSMV must receive \$3.50, to be deposited into the Highway Safety Operating Trust Fund and used for implementing the real-time disabled parking permit database and for administering the disabled parking permit program.
- The tax collector, for processing, must receive \$2.50.
- The remainder must be distributed monthly as follows:
 - \$4 to the Florida Governor’s Alliance for the Employment of Disabled Citizens for the purpose of improving employment and training opportunities for persons who have disabilities, with special emphasis on removing transportation barriers. These fees must be deposited into the Transportation Disadvantaged Trust Fund for transfer to the Florida Governor’s Alliance for Employment of Disabled Citizens.
 - \$5 to the Transportation Disadvantaged Trust Fund to be used for funding matching grants to counties for the purpose of improving transportation of persons who have disabilities.

Proposed Changes

The bill amends s. 320.0848, F.S., to replace the name “Florida Governor’s Alliance for the Employment of Disabled Citizens” with the “Florida Endowment Foundation for Vocational Rehabilitation, known as ‘The Able Trust,’”²⁵ as the recipient organization of the \$4 proceeds from temporary disabled parking permits. The bill also provides that DHSMV must deposit these fees directly with the Florida Endowment Foundation for Vocational Rehabilitation. For practical purposes, the recipient of these funds is not changed, the bill simply streamlines the process for the distribution of these proceeds.

Salvage Motor Vehicle Dealers (Section 43)

Current Situation

Section 320.27, F.S., provides for the licensing and certification of motor vehicle dealers. Section 320.27(1)(c)5., F.S., defines a “salvage motor vehicle dealer” as “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.”

Subsection (3) of s. 320.27, F.S., provides for an application process for motor vehicle dealers to be licensed by DHSMV. Among the requirements to receive a license, the motor vehicle dealer must provide to DHSMV “evidence that the applicant is insured under a garage liability insurance policy²⁶ or a general liability insurance policy coupled with a business automobile policy,²⁷ which shall include, at a minimum, \$25,000 combined single-limit liability coverage including bodily injury and property damage protection and \$10,000 personal injury protection.”

Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy.

Proposed Changes

The bill amends s. 320.27(3), F.S., to provide that salvage motor vehicle dealers are exempt from the requirements for garage liability insurance and personal injury protection.

Recreational Vehicle Dealers; Certificates of Title and Statements of Origin (Section 45)

Current Situation

Section 320.771, F.S., requires recreational vehicle (RV) dealers to be licensed by DHSMV, and provides a number of regulations for RV dealers relating to dealer licensing and RV titling. Currently, s. 320.771, F.S., provides no specific guidance to DHSMV regarding the authorization of an RV dealer to apply for a title for certain RVs by providing a manufacturer’s statement of origin to the agency.

Proposed Changes

The bill amends s. 320.771, F.S., to specify circumstances under which a RV dealer may apply for a certificate of title to a RV using a manufacturer’s statement of origin. The bill provides that RV dealers may apply for a certificate of title on RVs within a given line-make only if:

- The dealer is authorized by a manufacturer/dealer agreement to buy, sell, or deal in that line-make, and
- The dealer is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on that line-make.

²⁵ The Florida Endowment Foundation for Vocational Rehabilitation, or “Able Trust,” is a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, as established in s. 413.615, F.S.

²⁶ “Garage liability insurance” is a form of business insurance generally covering liability for the premises, operations, products, and completed operations within a commercial garage.

²⁷ A “business insurance policy” generally covers a company’s use of cars, trucks, and other vehicles in the course of carrying out its business.

Persons Exempt from Obtaining a Florida Driver's License (Section 50)

Current Situation

A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country may operate a motor vehicle of the type for which a Class E driver's license is required in Florida.²⁸ A nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver's license issued to the nonresident in his or her home state or country may operate any motor vehicle, other than a commercial motor vehicle, in Florida.²⁹

Proposed Changes

The bill revises s. 322.04, F.S., to permit international visitors to use an International Driving Permit (IDP) issued by the person's country of residence to operate a motor vehicle of the type for which a Class E driver's license is required. The person must be in immediate possession of both an IDP and a valid driver license issued in the person's country of residence.

Identity Documents (Sections 51, 55)

Current Situation

Sections 322.051 and 322.08, F.S., provide requirements for the issuance of an identification card or driver's license. An applicant must submit the following proof of identity:

- 1) Full name (first, middle or maiden, and last), gender, proof of social security card number satisfactory to the department, county of residence, mailing address, proof of residential address satisfactory to the department, country of birth, and a brief description;
- 2) Proof of birth date satisfactory to the department; and
- 3) Proof of identity satisfactory to DHSMV. Such proof must include one of the following documents issued to the applicant:
 - a) A driver's license record or identification card record from another jurisdiction that required the applicant to submit a document for identification which is substantially similar to a document required under sub-subparagraphs b. through g., below;
 - b) A certified copy of a United States birth certificate;
 - c) A valid, unexpired United States passport;
 - d) A naturalization certificate issued by the United States Department of Homeland Security;
 - e) A valid, unexpired alien registration receipt card (green card);
 - f) A Consular Report of Birth Abroad provided by the United States Department of State;
 - g) An unexpired employment authorization card issued by the United States Department of Homeland Security; or
 - h) Proof of nonimmigrant classification provided by the United States Department of Homeland Security, for an original identification card. In order to prove such nonimmigrant classification, applicants may produce but are not limited to the following documents:
 - A notice of hearing from an immigration court scheduling a hearing on any proceeding.
 - A notice from the Board of Immigration Appeals acknowledging pendency of an appeal.
 - Notice of the approval of an application for adjustment of status issued by the United States Bureau of Citizenship and Immigration Services.
 - Any official documentation confirming the filing of a petition for asylum or refugee status or any other relief issued by the United States Bureau of Citizenship and Immigration Services.
 - Notice of action transferring any pending matter from another jurisdiction to Florida, issued by the United States Bureau of Citizenship and Immigration Services.
 - Order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States including, but not limited to asylum.

²⁸ Section 322.04(1)(c), F.S.

²⁹ Section 322.04(1)(d), F.S.

- Evidence that an application is pending for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States, if a visa number is available having a current priority date for processing by the United States Bureau of Citizenship and Immigration Services.
- On or after January 1, 2010, an unexpired foreign passport with an unexpired United States Visa affixed, accompanied by an approved I-94, documenting the most recent admittance into the United States.

Presentation of any of the documents described in (3)(g) or (3)(h), above, entitles the applicant to a driver's license or temporary permit for a period not to exceed the expiration date of the document presented or 1 year, whichever occurs first.

Proposed Changes

The bill amends s. 322.051(1) and 322.08(2), F.S., to revise the requirements by which an applicant for an ID card or driver license may prove non-immigrant status. Every applicant must have documents to prove evidence of lawful presence, and DHSMV is authorized to require additional documents from those listed in the statute in order to establish the applicant's efforts to maintain continuous lawful presence in the United States. Section 322.08(2), F.S., is amended to ensure that the revised documentary evidence described above only entitles the applicant for a license or permit that is valid for a period not to exceed one year from the date of issue or until the date of expiration of the document, whichever first occurs; it does not entitle the applicant to a permanent license.

Expired Driver's Licenses (Section 53)

Current Situation

Section 322.03(5), F.S., provides that it is a violation of law to operate a motor vehicle with a driver license that has been expired for more than 6 months. Section 322.065, F.S., provides that a person whose driver's license is expired for four months or less and who drives a motor vehicle upon the highways of this state is guilty of an infraction and subject to penalty provided in s. 318.18, F.S.

Proposed Changes

The bill amends s. 322.065, F.S., revising the period of expiration that constitutes the offense of driving with an expired driver license from four months to six months, to conform to s. 322.03, F.S.

Specialty Driver Licenses and Identification Cards (Sections 61, 64)

Proposed Changes

The bill creates s. 322.1415, F.S., to establish a specialty driver's license and identification card program. DHSMV is required to issue to any qualified applicant a specialty driver's license or identification card upon payment of a \$25 fee. The bill provides that specialty driver's licenses and identification cards must, at a minimum, be available for state and independent universities domiciled in Florida, all Florida professional sports teams designated in s. 320.08058(9)(a), F.S.,³⁰ and all branches of the United States military.

The bill provides that the design and use of each specialty driver's license and identification card must be approved by DHSMV and the organization that is recognized by the driver's license or card. The design must be in the form of a mark approximately .375 inches square.

The bill amends s. 322.21(1), F.S., to provide a \$25 fee for a specialty license or identification card, in addition to existing fees. The bill provides that the fee shall be distributed as follows:

³⁰ This section, relating to specialty license plates, does not name specific teams, but provides that plates shall be made available for all "Major League Baseball, National Basketball Association, National Football League, Arena Football Teams, and National Hockey League teams domiciled in this state."

- Twenty percent must be distributed to the appropriate state or independent university foundation, the Florida Sports Foundation, or the State Homes for Veterans Trust Fund, as designated by the purchaser, for deposit into an unrestricted account; and,
- Eighty percent must be distributed to the department for department costs directly related to the specialty driver's license and identification card program and to defray costs of production enhancements and distribution.

Examination of Motorcycle Applicants (Section 58)

Current Situation

Section. 322.12(5), F.S., requires every first-time applicant, regardless of age, for licensure to operate a motorcycle to provide proof of completion of a DHSMV-approved motorcycle safety course (as provided in s. 322.0255, F.S.) prior to the applicant being issued a license to operate a motorcycle. Motorcycle education courses are now provided by private training schools authorized by the department, and DHSMV itself no longer offers a motorcycle examination. As a result, the portion of s. 322.12(5), F.S., containing provisions directing the DHSMV to formulate a separate motorcycle examination is effectively obsolete.

Proposed Changes

The bill deletes the requirement that DHSMV conduct motorcycle examinations, and specifies that the motorcycle safety course for a first-time applicant must include a final examination. This modification conforms the law to current practices.

Military Driver's License Extensions (Section 59)

Current Situation

Section 322.121(5), F.S., grants members of the Armed Forces, or dependents residing with them, an automatic extension for the expiration of their driver licenses without reexamination while serving on active duty outside the state. The extension is valid for 90 days after the member of the Armed Forces is either discharged or returns to Florida to live.

Proposed Changes

The bill amends s. 322.121, F.S., to clarify that military personnel shall be granted an automatic extension on the expiration of a Class E license when on active duty outside the state.

Driver's License Photographs (Section 60)

Current Situation

Section 322.14, F.S., requires applicants qualifying to receive a Class A, Class B, or Class C driver's license must appear in person within the state for issuance of a color photographic or digital imaged driver's license. DHSMV has confirmed that all such license holders have complied with the requirement and had a digital photograph issued.

Proposed Changes

The bill removes the requirement that Class A, B, and C license holders appear in person for a digital photograph. This change allows these license holders to renew or replace licenses online.

Driver's License Renewals (Section 64)

Current Situation

Section 322.21(4), F.S., provides a licensee shall be issued a renewal license, after reexamination if required, during the 30 days immediately preceding his or her birthday upon presenting a renewal notice, his or her current license, and the renewal fee.

Proposed Changes

The bill amends s. 322.21(4), F.S., to allow a license holder to renew up to 18 months early.

DHSMV Formal Hearings (Section 66)

Current Situation

Currently, when an individual is arrested for a violation of s. 316.193, F.S. (driving under the influence), and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood, or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest.³¹ The person is issued a 10-day temporary permit, if he or she is otherwise eligible to drive, and the person is subject to license suspension after review by DHSMV.

Section 316.2615, F.S., sets forth procedures for requesting a formal hearing, in order to review the license suspension. The statute provides a process that must be followed by DHSMV for sustaining, amending, or invalidating the suspension. These formal hearings are administered by hearing officers employed by DHSMV.³²

Among its other provisions, s. 316.2615, F.S., allows parties to the formal hearing to issue subpoenas for officers and witnesses identified in relevant documents.³³ In order to enforce such subpoenas, the law provides that a party may seek enforcement of a subpoena by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with subpoena resides.³⁴

Proposed Changes

The bill amends s. 316.2615(6)(b), F.S., to provide that hearings may be conducted by persons "designated" by DHSMV. The bill amends s. 316.2165(c), F.S., to allow a party seeking enforcement of a subpoena to file a motion for enforcement in a related criminal case, if any such case is pending.

Chauffeurs' Licenses (Section 69)

Current Situation

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of chauffeur's licenses to transfer to uniform Commercial Driver's License requirements. The phasing out period ended on April 1, 1991, after which time chauffeurs' licenses were no longer issued nor recognized as valid.

Proposed Changes

The bill repeals the obsolete s. 322.58, F.S.

Special Use License Plates (Section 42)

Current Situation

DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a 10 year period and are replaced upon renewal at the end of the 10 year period.³⁵ The license plate fee for both an original issuance and replacement is \$28.00.³⁶ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight; for a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

³¹ Section 322.2615(1)(a), F.S.

³² Section 316.2165(6)(b), F.S.

³³ *Id.*

³⁴ Section 3216.2615(6)(c), F.S.

³⁵ Section 320.06, F.S.

³⁶ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application with DHSMV, pay an application fee, and obtain authority from the Florida Legislature.³⁷ The recipient must pay applicable taxes pursuant to s. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution as provided in s. 320.08056 (4)(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.³⁸
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15, pursuant to s. 320.0805, F.S.
- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of Ch. 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Pearl Harbor, Iraqi Freedom, and Enduring Freedom plates,³⁹ Disabled Veteran plates,⁴⁰ and Paralyzed Veterans of America plates.⁴¹

Proposed Changes

The bill amends s. 320.089, F.S., to create a Special Use plate for recipients of the Combat Infantry Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, the applicant may receive a Special Use plate bearing the words "Combat Infantry Badge," followed by the serial number of the license plate. This section is effective October 1, 2011.

DHSMV Emergency Contact Information Program (Section 76)

The bill creates an unnumbered section of law regarding DHSMV's "Emergency Contact Information" program. The bill allows DHSMV to educate law enforcement and the general public about the importance of this program, and provides for signage in driver license offices to advertise the program. The program allows all drivers to register the names of up to two individuals to be contacted in the event of an emergency. These provisions of the bill are given a short title: The "To Inform Families First Act."

Technical Changes (Sections 2, 6, 7, 12, 13, 14, 15, 17, 18, 38, 40, 52, 65, 75)

The bill contains a number of sections that make technical revisions or correct cross-references. The bill also re-enacts ss. 316.065 and 316.066, F.S., in order to incorporate cross-references in s. 316.065, F.S., made by HB 971 in 2010.

³⁷ See generally s. 320.08056, F.S.

³⁸ The moratorium on new specialty license plates is created by s. 45, ch. 2008-176, Laws of Florida, as amended by s. 21, ch. 2010-223, Laws of Florida.

³⁹ Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

⁴⁰ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

⁴¹ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

Effective Date (Section 77)

The bill has an effective date of July 1, 2011, except as otherwise provided in the act.

B. SECTION DIRECTORY:

- Section 1** amends s. 20.24, F.S.; specifying that the executive director of the department serves at the pleasure of the Governor and Cabinet; creating a Division of Motorist Services within the department; eliminating the Division of Driver Licenses and the Division of Motor Vehicles;
- Section 2** amends s. 261.03, F.S.; conforming cross-references;
- Section 3** amends s. 288.816, F.S., relating to Consul Corps license plates to conform a reference;
- Section 4** amends s. 311.121, F.S., relating to membership of the Seaport Security Officer Qualification, Training, and Standards Coordinating Council; conforms provisions to changes made by the act;
- Section 5** amends s. 316.0003, F.S., revising definitions and defining the word "swamp buggy."
- Section 6** reenacts s. 316.065(4), F.S., relating to crash reports, to incorporate changes made to s. 316.066, F.S., by chapter 2010-163, Laws of Florida;
- Section 7** reenacts s. 316.066, F.S., relating to crash reports.
- Section 8** amends s. 316.1933, F.S.; authorizing a health care provider to notify a law enforcement agency after detecting the presence of a controlled substance in the blood of a person injured in a motor vehicle crash;
- Section 9** amends s. 316.1957, F.S., relating to parking violations to conform a reference;
- Section 10** amends s. 316.2065, F.S., revising safety standards for bicycle helmets; clarifying provisions relating to when a bicycle operator must ride in the bicycle lane or along the curb or edge of the roadway; providing for enforcement of requirements for bicycle lighting equipment;
- Section 11** amends s. 316.2085, F.S.; requiring the license tag of a motorcycle or moped to remain clearly visible from the rear; prohibiting deliberate acts to conceal or obscure the tag;
- Section 12** amends s. 316.2122, F.S., to conform cross-references;
- Section 13** amends s. 316.2124, F.S., to conform cross-references;
- Section 14** amends s. 316.21265, F.S., to conform cross-references;
- Section 15** amends s. 316.3026, F.S., to conform cross-references;
- Section 16** amends s. 316.545, F.S.; providing for the regulation of apportionable vehicles;
- Section 17** amends s. 316.550, F.S., to conform cross-references;
- Section 18** amends s. 317.0003, F.S., relating to off-highway vehicles, to conform a cross-reference;

- Section 19** amends s. 317.0016, F.S.; eliminating a requirement that the department provide expedited service for certificates of repossession;
- Section 20** amends s. 318.14, F.S.; clarifying provisions authorizing a person cited for a noncriminal traffic infraction to elect to attend a driver improvement course or enter a plea of nolo contendere;
- Section 21** amends s. 318.1451, F.S., relating to the curricula of driver improvement schools; requiring curricula to include instruction on the dangers of driving while distracted;
- Section 22** amends s. 318.15, F.S., relating to the suspension of driving privileges, to conform a reference;
- Section 23** amends s. 319.14, F.S.; prohibiting a person from knowingly offering for sale, selling, or exchanging certain vehicles unless the department has stamped in a conspicuous place on the certificate of title words stating that the vehicle is a custom vehicle or street rod vehicle; defining the terms "custom vehicle" and "street rod"; providing requirements for inspection and issuance of a rebuilt title;
- Section 24** amends s. 319.225, F.S.; revising provisions for vehicle certificates of title; revising requirements for the transfer and reassignment forms for vehicles; revising dealer submission requirements; requiring a dealer selling a vehicle out of state to mail a copy of the power of attorney form to the department; providing for the electronic transfer of a vehicle title;
- Section 25** amends s. 319.23, F.S., to provide that an application for certificate of title, corrected certificate, or assignment or reassignment of a mobile home must be filed from the consummation of the sale of the mobile home; authorizing the department to accept a bond for certain applicants seeking a certificate of title; providing requirements for such bond;
- Section 26** amends s. 319.28, F.S.; eliminating certain requirements that a lien holder obtain a certificate of repossession following repossession of a vehicle or mobile home;
- Section 27** amends s. 319.323, F.S., relating to title offices for expedited service; conforms provisions to changes made by the act;
- Section 28** amends s. 319.40, F.S.; authorizing the department to issue electronic certificates of title and use electronic mail addresses for purposes of notification;
- Section 29** amends s. 320.01, F.S.; revising definitions; excluding special mobile equipment and swamp buggies from the meaning of the term "motor vehicle"; deleting an obsolete definition; revising the gross vehicle weight for purposes of defining the terms "apportionable vehicle" and "commercial motor vehicle"; defining the term "swamp buggy";
- Section 30** amends s. 320.02, F.S.; providing that an active-duty military member is exempt from the requirement to provide an address on an application for vehicle registration; requiring the application forms for motor vehicle registration and renewal of registration to include language permitting the applicant to make a voluntary contribution to End Hunger in Florida, Take Stock In Children, Autism Services and Supports, and Support Our Troops; requiring that the department retain certain records for a specified period;
- Section 31** amends s. 320.023, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions program to cover certain specified costs to the department;

- Section 32** amends s. 320.03, F.S., relating to the International Registration Plan, to conform provisions to changes made by the act;
- Section 33** amends s. 320.05, F.S.; deleting a provision requiring that the department provide a procedures manual for a fee; clarifying that the creation and maintenance of records by the Division of Motorist Services is not a law enforcement function of agency recordkeeping;
- Section 34** amends s. 320.06, F.S.; authorizing the department to conduct a pilot program to evaluate alternative license plate technologies for use on government-owned motor vehicles; exempting plates in the pilot program from specified license plate design and construction requirements; specifying that all license plates issued by the department are the property of the state;
- Section 35** amends s. 320.061, F.S.; providing that it is a noncriminal traffic infraction to alter a temporary license plate;
- Section 36** amends s. 320.071, F.S.; providing for the renewal of registration for an apportionable vehicle that is registered under the International Registration Plan;
- Section 37** amends s. 320.0715, F.S.; clarifying provisions requiring the registration of apportionable vehicles under the International Registration Plan;
- Section 38** amends s. 320.08, F.S., relating to license taxes, to conform cross-references;
- Section 39** amends s. 320.08068, F.S., revising use of funds received from the sale of motorcycle specialty license plates;
- Section 40** amends s. 320.0847, F.S., relating to license plates for mini trucks and low-speed vehicles, to conform cross-references;
- Section 41** amends s. 320.0848, F.S.; revising the requirements for the deposit of fee proceeds from temporary disabled parking permits;
- Section 42** provides an effective date; amends s. 320.089, F.S., providing for the issuance of a Combat Infantry Badge license plate; providing qualifications and requirements for the plate;
- Section 43** amends s. 320.27, F.S., exempting salvage motor vehicle dealers from certain security requirements;
- Section 44** amends s. 320.275, F.S., relating to the Automobile Dealers Industry Advisory Board, to conform provisions to the elimination of the Division of Motor Vehicles within the department;
- Section 45** amends s. 320.771, F.S., providing criteria for a dealer to apply for a certificate of title to a recreational vehicle under certain circumstances;
- Section 46** amends s. 320.95, F.S.; authorizing the department to use electronic mail addresses for the purpose of providing license renewal notices;
- Section 47** amends s. 321.02, F.S.; designating the director of the Division of Highway Patrol of the department as the Colonel of the Florida Highway Patrol;
- Section 48** amends s. 322.02, F.S.; providing for a director of the Division of Motorist Services;

- Section 49** amends s. 322.0261, F.S., requiring a person who violates provisions relating to careless driving or aggressive careless driving to attend a driver improvement course to maintain his or her driving privileges;
- Section 50** amends s. 322.04, F.S.; revising provisions exempting a nonresident from the requirement to obtain a driver's license under certain circumstances;
- Section 51** amends s. 322.051, F.S.; revising requirements by which an applicant for an identification card may prove nonimmigrant classification; clarifying the validity of an identification card based on specified documents;
- Section 52** amends s. 322.058, F.S., relating to renewal of motor vehicle registrations; conforming a cross-reference.
- Section 53** amends s. 322.065, F.S.; revising the period of expiration that constitutes the offense of driving with an expired driver's license;
- Section 54** amends s. 322.07, F.S.; revising qualifications for obtaining a temporary commercial instruction permit;
- Section 55** amends s. 322.08, F.S.; revising requirements by which an applicant for a driver's license may prove nonimmigrant classification; clarifying the validity of a license based on specified documents; providing for driver's license application forms to allow the applicant to make a voluntary contribution to Autism Services and Supports and Support Our Troops, Inc.; authorizing the department to use electronic mail addresses for the purposes of providing license renewal notices;
- Section 56** amends s. 322.081, F.S.; authorizing the department to retain certain proceeds derived from the voluntary contributions made on driver's license applications to cover certain specified costs to the department;
- Section 57** amends s. 322.095, F.S., relating to the curricula of traffic law and substance abuse education courses; requiring curricula to include instruction on the dangers of driving while distracted;
- Section 58** amends s. 322.12, F.S.; deleting provisions requiring a separate examination for applicants for a license to operate a motorcycle; requiring that the motorcycle safety course for a first-time applicant include a final examination; requiring that completion of the course be indicated on the license;
- Section 59** amends s. 322.121, F.S.; clarifying provisions authorizing the automatic extension of a license for members of the Armed Forces or their dependents while serving on active duty outside the state;
- Section 60** amends s. 322.14, F.S.; deleting a requirement that applicants for specified licenses appear in person for issuance of a color photographic or digital imaged driver's license; providing for the department to suspend a person's driver's license for violating certain restrictions on his or her authorization to drive;
- Section 61** creates s. 322.1415, F.S., requiring the department to issue a specialty driver's license or identification card to qualified applicants; specifying that, at a minimum, the specialty driver's licenses and identification cards must be available for certain state and independent universities and professional sports teams and all of the branches of the United States military; requiring that the design of each specialty driver's license and identification card be approved by the department;

- Section 62** amends s. 322.20, F.S., relating to department records, to conform provisions to changes made by the act;
- Section 63** amends s. 322.202, F.S.; clarifying that the Division of Motorist Services is not a law enforcement agency;
- Section 64** amends s. 322.21, F.S.; conforming provisions to changes made by the act; authorizes a driver to renew his or her driver's license during a specified period before the license expiration date;
- Section 65** amends s. 322.22, F.S.; clarifying provisions authorizing the department to cancel a driver's license; authorizing the department to cancel a license upon determining that the licensee is not entitled to the license;
- Section 66** amends s. 322.2615, F.S., relating to a person's right to review of a license suspension; revising provisions for a formal review hearing and enforcement of a subpoena;
- Section 67** amends s. 322.53, F.S.; revising provisions exempting certain farmers and drivers who operate straight trucks from the requirement to obtain a commercial driver's license;
- Section 68** amends s. 322.54, F.S.; requiring that the weight of a commercial motor vehicle be based on the vehicle's actual weight under certain circumstances;
- Section 69** repeals s. 322.58, F.S., relating to holders of chauffeur's licenses;
- Section 70** amends s. 322.59, F.S.; requiring that the department disqualify a driver holding a commercial driver's license who fails to comply with specified federal certification requirements;
- Section 71** amends s. 322.61, F.S.; providing that the holder of a commercial driver's license is permanently disqualified from operating a commercial motor vehicle following two violations of specified offenses committed while operating any vehicle;
- Section 72** amends s. 322.64, F.S.; providing that a notice of disqualification from operating a commercial motor vehicle acts as a conviction for purposes of certain federal restrictions imposed for the offense of operating a commercial motor vehicle while under the influence of alcohol; deletes provisions authorizing the department to impose certain alternative restrictions for such offense;
- Section 73** amends s. 328.30, F.S.; authorizing the department to issue electronic certificates of title for vessels and use electronic mail addresses for purposes of providing renewal notices;
- Section 74** amends s. 413.012, F.S., relating to a prohibition on disclosing confidential records held by the department; conforms provisions to changes made by the act;
- Section 75** amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles; conforming a cross-reference;
- Section 76** provides a short title; provides for a voluntary emergency contact information program established by the department;
- Section 77** provides an effective date of July 1, 2011 unless otherwise specified.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments for estimated savings with the consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services.

The bill permits HSMV to use electronic notifications for driver license and vehicle/vessel registration. This may reduce the department's administrative costs relating to printing and postage of such notifications. The amount of the reduction is indeterminate, and based upon the number of persons choosing to receive electronic notifications.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who elect to donate to a charitable cause on a motor vehicle registration application or renewal or a driver license application or renewal, will be required to pay an additional \$1 for each check-off they elect. It is impossible to determine how many people will elect to donate on applications or renewals. Therefore, the aggregate impact to the private sector cannot be determined.

Persons who elect to purchase a specialty driver's license or identification card will be required to pay an additional \$25 fee.

Related to driver improvement schools and education programs for driver's license applicants, course providers not currently including information related to hand held electronic communication devices while operating a motor vehicle in their curricula will likely experience a direct, but indeterminate fiscal impact due to the need to expand curricula to meet the bill requirements.

D. FISCAL COMMENTS:

The DHSMV proposed consolidation of the Division of Driver Licenses and the Division of Motor Vehicles into a single Division of Motorist Services will result in efficiency reductions of ten positions eliminated in the reorganization and estimated at \$600,000 in savings. Further reductions will be identified as the Motorist Services merger continues.

The bill authorizes the department to annually retain, from the first proceeds derived from voluntary contributions collected relating to motor vehicle registrations, an amount sufficient to defray a pro rata share of administrative costs associated with the voluntary contribution checkoff program. The balance of the proceeds from the voluntary contributions collected will be distributed as provided by law. Related to requests to establish voluntary checkoff on motor vehicle registration application, it is estimated that the department may retain annually between \$3,089 and \$9,266 of the proceeds. Related to requests to establish voluntary checkoff on driver's license application, it is estimated that the department may retain annually between \$2,794 and \$8,382 of the proceeds from the voluntary contribution collections.

The bill provides for the deposit of the fees collected from the sale of temporary disabled parking permits directly with the Florida Endowment Foundation for Vocational Rehabilitation, a direct-support organization of the Division of Vocational Rehabilitation within the Department of Education, rather than deposited as a pass through with the Governor's Alliance for the Employment of Disabled Persons. For practical purposes, the recipient of these funds is not changed, the bill simply streamlines the process for the distribution of these proceeds.

Amending s. 320.771, F.S., related to recreational vehicle dealers, as provided in the bill, will have an operational and fiscal impact. DHSMV indicated operationally, the tax collectors will no longer title a recreational vehicle unless the dealer is authorized to buy, sell, or deal in the specified model within the line-make. Fiscally, this will require programming to identify a model number associated with each line-make. This section will also require programming for vendors that provide the industry access to the department's Florida Real-Time Vehicle Information System (FRVIS) system for titling and registration via the electronic filing system.

The bill provides the application form for motor vehicle registration shall include language permitting the voluntary contribution of \$1 per applicant for additional charitable organizations that have met the filing requirements set forth in s. 320.023, F.S. The application fee for the organizations added in the bill will be deposited with the department to cover the department's costs for reviewing the application and developing the check off. The bill provides this same authorization regarding driver license applications and renewals.

The bill provides the Combat Infantry Badge license plate for service members qualifying for the special use plate. The cost of creating the license plate is covered with current operations.

The bill creates provisions for specialty driver's licenses or identification cards issued pursuant to s. 322.1415, F.S. This includes a \$25 specialty fee where twenty percent of the proceeds are distributed to specified entities as designated by the purchaser, and eighty percent are distributed to the department to cover the department's costs related to the specialty driver's license and identification card program, defraying costs of production and distribution.

Revisions to Commercial Motor Vehicle and Commercial Driver License statutes throughout the bill are intended to ensure ongoing compliance with US Department of Transportation requirements; compliance with these federal regulations is necessary to ensure the continuation of federal transportation funds to the State of Florida.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill inserts references to the Code of Federal Regulations (CFRs) and re-enacts other existing references to certain CFRs. Florida courts have stated that the Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body "that are in existence

and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.”⁴² Future changes by the federal government, to the referred CFRs, would not be reflected in the laws of Florida unless or until the Florida Legislature chose to amend or re-enact statutes with such references.

The bill amends s. 322.0261, F.S., to require attendance at a driver improvement school for violations of s. 316.1923, F.S. Section 316.1923, F.S., defines the behaviors that constitute “aggressive careless driving;” however, it is not an offense for which a citation can be issued.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Transportation & Highway Safety Subcommittee reported the bill favorably with two amendments. The first amendment:

- Removes proposed changes to motor vehicle registration suspensions for failure to maintain adequate insurance, pursuant to s. 316.646, F.S.
- Revises s. 319.23, F.S., to:
 - Provide that certificates of title for mobile homes shall transfer “upon consummation of the sale” of the mobile home, rather than “upon delivery.”
 - Create a “bonded title” program allowing DHSMV to issue certificates of title to certain vehicle owners, upon submission of an affidavit and a financial security.
- Clarifies that “special mobile equipment” as defined in ch. 316, F.S., is not included in the definition of “motor vehicle” in s. 320.01, F.S.
- Clarifies that an international visitor may operate a motor vehicle in Florida, if the person is in possession of an International Driving Permit *and* a valid driver license issued by the person’s country of residence.
- Amends s. 316.2615, F.S., to provide that DHSMV may “designate,” rather than employ, hearing officers to perform certain formal hearings, and to allow certain subpoenas to be filed in criminal cases related to the issues arising in the formal hearings.

The second amendment amends s. 320.089, F.S., to authorize a Special Use license plate for recipients of the Combat Infantry Badge.

On April 6, 2011, the Transportation & Economic Development Appropriations Subcommittee reported the bill favorably with two amendments. The first amendment:

- Creates four voluntary checkoffs for DHSMV-approved charities on motor vehicle applications,
- Creates two voluntary checkoffs for DHSMV-approved charities on driver license applications,
- revising use of funds received from the sale of motorcycle specialty license plates,
- Creates a specialty driver license and identification card program, provides that the specialty mark may be no larger than .375 inches square, and provides for a \$25 fee for such license or card,
- Requires driver improvement school attendance for careless driving violations,
- Conforms a bicycle helmet safety standard to the current federal standard,
- Clarifies provisions relating to when a bicycle operator must ride in the bicycle lane or along the curb or edge of the roadway, and providing for enforcement of requirements for bicycle lighting equipment,
- Defines the term “swamp buggy” in Chs. 316 and 320, F.S., and provides that a “swamp buggy” is expressly excluded from the definition of “motor vehicle,”
- Removes the term “electric” from definition of “bicycle” in s. 316.003, F.S.,
- Removes a requirement that salvage motor vehicle dealers carry PIP or garage liability insurance,
- Creates a requirement regarding RV dealers’ applications for a “certificate of origin” in certain circumstances,
- Changes the effective date of the Combat Infantry Badge special use plate to October 1, 2011,
- Corrects a grammatical error in language regarding International Driving Permits, and
- Allows DHSMV to inform applicants of a voluntary emergency contact system.

⁴² *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

The second amendment amends ss. 318.1451, and 322.095, F.S., to create curricula requirements regarding driving while distracted for driving schools and traffic law and substance abuse courses.

This analysis is drawn to the Committee Substitute for the Committee Substitute.

1 A bill to be entitled
2 An act relating to the Department of Highway Safety and
3 Motor Vehicles; amending s. 20.24, F.S.; specifying that
4 the executive director of the department serves at the
5 pleasure of the Governor and Cabinet; creating a Division
6 of Motorist Services within the department; eliminating
7 the Division of Driver Licenses and the Division of Motor
8 Vehicles; amending s. 261.03, F.S.; conforming cross-
9 references; amending s. 288.816, F.S., relating to Consul
10 Corps license plates; conforming a reference; amending s.
11 311.121, F.S., relating to membership of the Seaport
12 Security Officer Qualification, Training, and Standards
13 Coordinating Council; conforming provisions to changes
14 made by the act; amending s. 316.003, F.S.; revising
15 definitions and defining the term "swamp buggy" for
16 purposes of the Florida Uniform Traffic Control Law;
17 reenacting s. 316.065(4), F.S., relating to crash reports,
18 to incorporate changes made to s. 316.066, F.S., by
19 chapter 2010-163, Laws of Florida; amending s. 316.1933,
20 F.S.; authorizing a health care provider to notify a law
21 enforcement agency after detecting the presence of a
22 controlled substance in the blood of a person injured in a
23 motor vehicle crash; amending s. 316.1957, F.S., relating
24 to parking violations; conforming a reference; amending s.
25 316.2065, F.S.; revising safety standard requirements for
26 bicycle helmets that must be worn by certain riders and
27 passengers; clarifying provisions relating to when a
28 bicycle operator must ride in a bicycle lane or along the

29 curb or edge of the roadway; providing for enforcement of
 30 requirements for bicycle lighting equipment; providing
 31 penalties for violations; providing for dismissal of the
 32 charge following a first offense under certain
 33 circumstances; amending s. 316.2085, F.S.; requiring the
 34 license tag of a motorcycle or moped to remain clearly
 35 visible from the rear; prohibiting deliberate acts to
 36 conceal or obscure the tag; amending ss. 316.2122,
 37 316.2124, 316.21265, 316.3026, and 316.550, F.S., relating
 38 to the operation of low-speed vehicles, motorized
 39 disability access vehicles, and all-terrain or utility
 40 vehicles, the unlawful operation of motor carriers, and
 41 special permits, respectively; conforming cross-
 42 references; amending s. 316.545, F.S.; providing for the
 43 regulation of apportionable vehicles; amending s.
 44 317.0003, F.S., relating to off-highway vehicles;
 45 conforming a cross-reference; amending s. 317.0016, F.S.;
 46 eliminating a requirement that the department provide
 47 expedited service for certificates of repossession;
 48 amending s. 318.14, F.S.; clarifying provisions
 49 authorizing a person cited for a noncriminal traffic
 50 infraction to elect to attend a driver improvement course
 51 or enter a plea of nolo contendere; amending s. 318.1451,
 52 F.S.; requiring the curricula of driver improvement
 53 schools to include instruction on the dangers of driving
 54 while distracted; amending s. 318.15, F.S., relating to
 55 the suspension of driving privileges; conforming a
 56 reference; amending s. 319.14, F.S.; prohibiting a person

57 from knowingly offering for sale, selling, or exchanging
 58 certain vehicles unless the department has stamped in a
 59 conspicuous place on the certificate of title words
 60 stating that the vehicle is a custom vehicle or street rod
 61 vehicle; defining the terms "custom vehicle" and "street
 62 rod"; providing requirements for inspection and issuance
 63 of a rebuilt title; amending s. 319.225, F.S.; revising
 64 provisions for vehicle certificates of title; revising
 65 requirements for the transfer and reassignment forms for
 66 vehicles; revising dealer submission requirements;
 67 requiring a dealer selling a vehicle out of state to mail
 68 a copy of the power of attorney form to the department;
 69 providing for the electronic transfer of a vehicle title;
 70 amending s. 319.23, F.S.; providing for the application
 71 for a certificate of title, corrected certificate, or
 72 assignment or reassignment to be filed from the
 73 consummation of the sale of a mobile home; authorizing the
 74 department to accept a bond if the applicant for a
 75 certificate of title is unable to provide a title that
 76 assigns the prior owner's interest in the motor vehicle;
 77 providing requirements for the bond and the affidavit;
 78 providing for future expiration of the bond; amending s.
 79 319.28, F.S.; eliminating certain requirements that a
 80 lienholder obtain a certificate of repossession following
 81 repossession of a vehicle or mobile home; amending s.
 82 319.323, F.S., relating to title offices for expedited
 83 service; conforming provisions to changes made by the act;
 84 amending s. 319.40, F.S.; authorizing the department to

85 | issue electronic certificates of title and use electronic
 86 | mail addresses for purposes of notification; amending s.
 87 | 320.01, F.S.; revising definitions; excluding special
 88 | mobile equipment and swamp buggies from the meaning of the
 89 | term "motor vehicle"; deleting an obsolete definition;
 90 | revising the gross vehicle weight for purposes of defining
 91 | the terms "apportionable vehicle" and "commercial motor
 92 | vehicle"; defining the term "swamp buggy"; amending s.
 93 | 320.02, F.S.; providing that an active-duty military
 94 | member is exempt from the requirement to provide an
 95 | address on an application for vehicle registration;
 96 | requiring that a Florida driver's license or
 97 | identification card be changed following a change of
 98 | residence or mailing address before the vehicle
 99 | registration is changed; requiring the application forms
 100 | for motor vehicle registration and renewal of registration
 101 | to include language permitting the applicant to make a
 102 | voluntary contribution to End Hunger in Florida, Take
 103 | Stock In Children, Autism Services and Supports, and
 104 | Support Our Troops; requiring that the department retain
 105 | certain records for a specified period; amending s.
 106 | 320.023, F.S.; authorizing the department to retain
 107 | certain proceeds derived from the voluntary contributions
 108 | program to cover certain specified costs to the
 109 | department; amending s. 320.03, F.S., relating to the
 110 | International Registration Plan; conforming provisions to
 111 | changes made by the act; amending s. 320.05, F.S.;
 112 | deleting a provision requiring that the department provide

113 a procedures manual for a fee; clarifying that the
 114 creation and maintenance of records by the Division of
 115 Motorist Services is not a law enforcement function of
 116 agency recordkeeping; amending s. 320.06, F.S.;

117 authorizing the department to conduct a pilot program to
 118 evaluate alternative license plate technologies for use on
 119 government-owned motor vehicles; exempting plates in the
 120 pilot program from specified license plate design and
 121 construction requirements; specifying that all license
 122 plates issued by the department are the property of the
 123 state; amending s. 320.061, F.S.; providing that it is a
 124 noncriminal traffic infraction to alter a temporary
 125 license plate; amending s. 320.071, F.S.; providing for
 126 the renewal of registration for an apportionable vehicle
 127 that is registered under the International Registration
 128 Plan; amending s. 320.0715, F.S.; clarifying provisions
 129 requiring the registration of apportionable vehicles under
 130 the International Registration Plan; amending s. 320.08,
 131 F.S., relating to license taxes; conforming cross-
 132 references; amending s. 320.08068, F.S.; revising use of
 133 funds received from the sale of motorcycle specialty
 134 license plates; amending s. 320.0847, F.S., relating to
 135 license plates for mini trucks and low-speed vehicles;
 136 conforming cross-references; amending s. 320.0848, F.S.;

137 revising the requirements for the deposit of fee proceeds
 138 from temporary disabled parking permits; amending s.
 139 320.089, F.S.; providing for the issuance of a Combat
 140 Infantry Badge license plate; providing qualifications and

141 requirements for the plate; providing for the use of
 142 proceeds from the sale of the plate; amending s. 320.27,
 143 F.S.; exempting salvage motor vehicle dealers from certain
 144 security requirements; amending s. 320.275, F.S., relating
 145 to the Automobile Dealers Industry Advisory Board;
 146 conforming provisions to the elimination of the Division
 147 of Motor Vehicles within the department; amending s.
 148 320.771, F.S.; providing criteria for a dealer to apply
 149 for a certificate of title to a recreational vehicle under
 150 certain circumstances; amending s. 320.95, F.S.;

151 authorizing the department to use electronic mail
 152 addresses for the purpose of providing license renewal
 153 notices; amending s. 321.02, F.S.; designating the
 154 director of the Division of Highway Patrol of the
 155 department as the Colonel of the Florida Highway Patrol;
 156 amending s. 322.02, F.S.; providing for a director of the
 157 Division of Motorist Services; amending s. 322.0261, F.S.;

158 requiring a person who violates provisions relating to
 159 careless driving or aggressive careless driving to attend
 160 a driver improvement course to maintain his or her driving
 161 privileges; amending s. 322.04, F.S.; revising provisions
 162 exempting a nonresident from the requirement to obtain a
 163 driver's license under certain circumstances; amending s.
 164 322.051, F.S.; revising requirements by which an applicant
 165 for an identification card may prove nonimmigrant
 166 classification; clarifying the validity of an
 167 identification card based on specified documents; amending
 168 s. 322.058, F.S., relating to renewal of motor vehicle

169 registration; conforming a cross-reference; amending s.
 170 322.065, F.S.; revising the period of expiration that
 171 constitutes the offense of driving with an expired
 172 driver's license; amending s. 322.07, F.S.; revising
 173 qualifications for obtaining a temporary commercial
 174 instruction permit; amending s. 322.08, F.S.; revising
 175 requirements by which an applicant for a driver's license
 176 may prove nonimmigrant classification; clarifying the
 177 validity of a license based on specified documents;
 178 providing for driver's license application forms to allow
 179 the applicant to make a voluntary contribution to Autism
 180 Services and Supports and Support Our Troops, Inc.;
 181 authorizing the department to use electronic mail
 182 addresses for the purposes of providing license renewal
 183 notices; amending s. 322.081, F.S.; authorizing the
 184 department to retain certain proceeds derived from the
 185 voluntary contributions made on driver's license
 186 applications to cover certain specified costs to the
 187 department; amending s. 322.095, F.S.; requiring the
 188 curricula of traffic law and substance abuse education
 189 courses to include instruction on the dangers of driving
 190 while distracted; amending s. 322.12, F.S.; deleting
 191 provisions requiring a separate examination for applicants
 192 for a license to operate a motorcycle; requiring that the
 193 motorcycle safety course for a first-time applicant
 194 include a final examination; requiring that completion of
 195 the course be indicated on the license; amending s.
 196 322.121, F.S.; clarifying provisions authorizing the

197 | automatic extension of a license for members of the Armed
 198 | Forces or their dependents while serving on active duty
 199 | outside the state; amending s. 322.14, F.S.; deleting a
 200 | requirement that applicants for specified licenses appear
 201 | in person for issuance of a color photographic or digital
 202 | imaged driver's license; providing for the department to
 203 | suspend a person's driver's license for violating certain
 204 | restrictions on his or her authorization to drive;
 205 | creating s. 322.1415, F.S.; requiring the Department of
 206 | Highway Safety and Motor Vehicles to issue a specialty
 207 | driver's license or identification card to qualified
 208 | applicants; specifying that, at a minimum, the specialty
 209 | driver's licenses and identification cards must be
 210 | available for certain state and independent universities
 211 | and professional sports teams and all of the branches of
 212 | the United States military; requiring that the design of
 213 | each specialty driver's license and identification card be
 214 | approved by the department; amending s. 322.20, F.S.,
 215 | relating to department records; conforming provisions to
 216 | changes made by the act; amending s. 322.202, F.S.;
 217 | clarifying that the Division of Motorist Services is not a
 218 | law enforcement agency; amending s. 322.21, F.S.;
 219 | providing for the distribution of funds collected from the
 220 | specialty driver's license and identification card fees;
 221 | conforming provisions to changes made by the act;
 222 | authorizing a driver to renew his or her driver's license
 223 | during a specified period before the license expiration
 224 | date; amending s. 322.22, F.S.; clarifying provisions

225 | authorizing the department to cancel a driver's license;
 226 | authorizing the department to cancel a license upon
 227 | determining that the licensee is not entitled to the
 228 | license; amending s. 322.2615, F.S., relating to a
 229 | person's right to review of a license suspension; revising
 230 | provisions for a formal review hearing and enforcement of
 231 | a subpoena; amending s. 322.53, F.S.; revising provisions
 232 | exempting certain farmers and drivers who operate straight
 233 | trucks from the requirement to obtain a commercial
 234 | driver's license; amending s. 322.54, F.S.; requiring that
 235 | the weight of a commercial motor vehicle be based on the
 236 | vehicle's actual weight under certain circumstances;
 237 | repealing s. 322.58, F.S., relating to holders of
 238 | chauffeur's licenses; amending s. 322.59, F.S.; requiring
 239 | that the department disqualify a driver holding a
 240 | commercial driver's license who fails to comply with
 241 | specified federal certification requirements; amending s.
 242 | 322.61, F.S.; providing that the holder of a commercial
 243 | driver's license is permanently disqualified from
 244 | operating a commercial motor vehicle following two
 245 | violations of specified offenses committed while operating
 246 | any vehicle; amending s. 322.64, F.S.; providing that a
 247 | notice of disqualification from operating a commercial
 248 | motor vehicle acts as a conviction for purposes of certain
 249 | federal restrictions imposed for the offense of operating
 250 | a commercial motor vehicle while under the influence of
 251 | alcohol; deleting provisions authorizing the department to
 252 | impose certain alternative restrictions for such offense;

253 amending s. 328.30, F.S.; authorizing the department to
 254 issue electronic certificates of title for vessels and use
 255 electronic mail addresses for purposes of providing
 256 renewal notices; amending s. 413.012, F.S., relating to a
 257 prohibition on disclosing confidential records held by the
 258 department; conforming provisions to changes made by the
 259 act; amending s. 713.78, F.S., relating to renewal of
 260 motor vehicle registration; conforming a cross-reference;
 261 providing a short title; providing for a voluntary
 262 emergency contact information program established by the
 263 department; providing effective dates.

264

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

266

267 Section 1. Section 20.24, Florida Statutes, is amended to
 268 read:

269 20.24 Department of Highway Safety and Motor Vehicles.—
 270 There is created a Department of Highway Safety and Motor
 271 Vehicles.

272 (1) The head of the Department of Highway Safety and Motor
 273 Vehicles is the Governor and Cabinet. An executive director
 274 shall serve at the pleasure of the Governor and Cabinet. The
 275 executive director may establish a command, operational, and
 276 administrative services structure to assist, manage, and support
 277 the department in operating programs and delivering services.

278 (2) The following divisions, ~~and bureaus within the~~
 279 ~~divisions,~~ of the Department of Highway Safety and Motor
 280 Vehicles are established:

281 (a) Division of the Florida Highway Patrol.

282 (b) Division of Motorist Services.

283 ~~(b) Division of Driver Licenses.~~

284 ~~(c) Division of Motor Vehicles.~~

285 Section 2. Subsection (9) of section 261.03, Florida
286 Statutes, is amended to read:

287 261.03 Definitions.—As used in this chapter, the term:

288 (9) "ROV" means any motorized recreational off-highway
289 vehicle 64 inches or less in width, having a dry weight of 2,000
290 pounds or less, designed to travel on four or more nonhighway
291 tires, having nonstraddle seating and a steering wheel, and
292 manufactured for recreational use by one or more persons. The
293 term "ROV" does not include a golf cart as defined in ss.
294 320.01~~(22)~~ and 316.003(68) or a low-speed vehicle as defined in
295 s. 320.01~~(42)~~.

296 Section 3. Paragraph (e) of subsection (2) of section
297 288.816, Florida Statutes, is amended to read:

298 288.816 Intergovernmental relations.—

299 (2) The Office of Tourism, Trade, and Economic Development
300 shall be responsible for all consular relations between the
301 state and all foreign governments doing business in Florida. The
302 office shall monitor United States laws and directives to ensure
303 that all federal treaties regarding foreign privileges and
304 immunities are properly observed. The office shall promulgate
305 rules which shall:

306 (e) Verify entitlement to issuance of special motor
307 vehicle license plates by ~~the Division of Motor Vehicles~~ of the
308 Department of Highway Safety and Motor Vehicles to honorary

309 consuls or such other officials representing foreign governments
 310 who are not entitled to issuance of special Consul Corps license
 311 plates by the United States Government.

312 Section 4. Paragraph (a) of subsection (3) of section
 313 311.121, Florida Statutes, is amended to read:

314 311.121 Qualifications, training, and certification of
 315 licensed security officers at Florida seaports.—

316 (3) The Seaport Security Officer Qualification, Training,
 317 and Standards Coordinating Council is created under the
 318 Department of Law Enforcement.

319 (a) The executive director of the Department of Law
 320 Enforcement shall appoint 11 members to the council, to include:

321 1. The seaport administrator of the Department of Law
 322 Enforcement.

323 2. The Commissioner of Education or his or her designee.

324 3. The director of the Division of Licensing of the
 325 Department of Agriculture and Consumer Services.

326 4. The administrator of the Florida Seaport Transportation
 327 and Economic Development Council.

328 5. Two seaport security directors from seaports designated
 329 under s. 311.09.

330 6. One director of a state law enforcement academy.

331 7. One representative of a local law enforcement agency.

332 8. Two representatives of contract security services.

333 9. One representative of ~~the Division of Driver Licenses~~
 334 ~~of~~ the Department of Highway Safety and Motor Vehicles.

335 Section 5. Subsections (2) and (21) of section 316.003,
 336 Florida Statutes, are amended, and subsection (89) is added to

337 that section, to read:

338 316.003 Definitions.—The following words and phrases, when
 339 used in this chapter, shall have the meanings respectively
 340 ascribed to them in this section, except where the context
 341 otherwise requires:

342 (2) BICYCLE.—Every vehicle propelled solely by human
 343 power, and every motorized bicycle propelled by a combination of
 344 human power and a ~~an electric~~ helper motor capable of propelling
 345 the vehicle at a speed of not more than 20 miles per hour on
 346 level ground upon which any person may ride, having two tandem
 347 wheels, and including any device generally recognized as a
 348 bicycle though equipped with two front or two rear wheels. The
 349 term does not include such a vehicle with a seat height of no
 350 more than 25 inches from the ground when the seat is adjusted to
 351 its highest position or a scooter or similar device. No person
 352 under the age of 16 may operate or ride upon a motorized
 353 bicycle.

354 (21) MOTOR VEHICLE.—Any self-propelled vehicle not
 355 operated upon rails or guideway, but not including any bicycle,
 356 motorized scooter, electric personal assistive mobility device,
 357 swamp buggy, or moped.

358 (89) SWAMP BUGGY.—A motorized off-road vehicle designed to
 359 travel over swampy terrain, which may use large tires or tracks
 360 operated from an elevated platform, and may be used upon varied
 361 terrain. A swamp buggy does not include any vehicle defined in
 362 chapter 261 or otherwise defined or classified in this chapter.
 363 A swamp buggy may not be operated upon the public roads,
 364 streets, or highways of this state, except to the extent

365 specifically authorized by a state or federal agency to be used
 366 exclusively upon lands, managed, owned, or leased by that
 367 agency.

368 Section 6. For the purpose of incorporating the amendment
 369 made by chapter 2010-163, Laws of Florida, to section 316.066,
 370 Florida Statutes, in a reference thereto, subsection (4) of
 371 section 316.065, Florida Statutes, is reenacted retroactive to
 372 July 1, 2010, to read:

373 316.065 Crashes; reports; penalties.—

374 (4) Any person who knowingly repairs a motor vehicle
 375 without having made a report as required by subsection (3) is
 376 guilty of a misdemeanor of the first degree, punishable as
 377 provided in s. 775.082 or s. 775.083. The owner and driver of a
 378 vehicle involved in a crash who makes a report thereof in
 379 accordance with subsection (1) or s. 316.066(1) is not liable
 380 under this section.

381 Section 7. Subsection (1) of section 316.066, Florida
 382 Statutes, as amended by chapter 2010-163, Laws of Florida,
 383 reads:

384 316.066 Written reports of crashes.—

385 (1)(a) A Florida Traffic Crash Report, Long Form is
 386 required to be completed and submitted to the department within
 387 10 days after completing an investigation by every law
 388 enforcement officer who in the regular course of duty
 389 investigates a motor vehicle crash:

390 1. That resulted in death or personal injury.

391 2. That involved a violation of s. 316.061(1) or s.

392 316.193.

393 3. In which a vehicle was rendered inoperative to a degree
 394 that required a wrecker to remove it from traffic, if such
 395 action is appropriate, in the officer's discretion.

396 (b) In every crash for which a Florida Traffic Crash
 397 Report, Long Form is not required by this section, the law
 398 enforcement officer may complete a short-form crash report or
 399 provide a short-form crash report to be completed by each party
 400 involved in the crash. The short-form report must include:

- 401 1. The date, time, and location of the crash.
- 402 2. A description of the vehicles involved.
- 403 3. The names and addresses of the parties involved.
- 404 4. The names and addresses of witnesses.
- 405 5. The name, badge number, and law enforcement agency of
 406 the officer investigating the crash.
- 407 6. The names of the insurance companies for the respective
 408 parties involved in the crash.

409 (c) Each party to the crash shall provide the law
 410 enforcement officer with proof of insurance to be included in
 411 the crash report. If a law enforcement officer submits a report
 412 on the accident, proof of insurance must be provided to the
 413 officer by each party involved in the crash. Any party who fails
 414 to provide the required information commits a noncriminal
 415 traffic infraction, punishable as a nonmoving violation as
 416 provided in chapter 318, unless the officer determines that due
 417 to injuries or other special circumstances such insurance
 418 information cannot be provided immediately. If the person
 419 provides the law enforcement agency, within 24 hours after the
 420 crash, proof of insurance that was valid at the time of the

421 crash, the law enforcement agency may void the citation.

422 (d) The driver of a vehicle that was in any manner
 423 involved in a crash resulting in damage to any vehicle or other
 424 property in an amount of \$500 or more, which crash was not
 425 investigated by a law enforcement agency, shall, within 10 days
 426 after the crash, submit a written report of the crash to the
 427 department or traffic records center. The entity receiving the
 428 report may require witnesses of crashes to render reports and
 429 may require any driver of a vehicle involved in a crash of which
 430 a written report must be made as provided in this section to
 431 file supplemental written reports whenever the original report
 432 is deemed insufficient by the receiving entity.

433 (e) Short-form crash reports prepared by law enforcement
 434 shall be maintained by the law enforcement officer's agency.

435 Section 8. Paragraph (a) of subsection (2) of section
 436 316.1933, Florida Statutes, is amended to read:

437 316.1933 Blood test for impairment or intoxication in
 438 cases of death or serious bodily injury; right to use reasonable
 439 force.—

440 (2)(a) Only a physician, certified paramedic, registered
 441 nurse, licensed practical nurse, other personnel authorized by a
 442 hospital to draw blood, or duly licensed clinical laboratory
 443 director, supervisor, technologist, or technician, acting at the
 444 request of a law enforcement officer, may withdraw blood for the
 445 purpose of determining the alcoholic content thereof or the
 446 presence of chemical substances or controlled substances
 447 therein. However, the failure of a law enforcement officer to
 448 request the withdrawal of blood shall not affect the

449 | admissibility of a test of blood withdrawn for medical purposes.

450 | 1. Notwithstanding any provision of law pertaining to the
 451 | confidentiality of hospital records or other medical records, if
 452 | a health care provider, who is providing medical care in a
 453 | health care facility to a person injured in a motor vehicle
 454 | crash, becomes aware, as a result of any blood test performed in
 455 | the course of that medical treatment, that the person's blood-
 456 | alcohol level meets or exceeds the blood-alcohol level specified
 457 | in s. 316.193(1)(b), or detects the presence of a controlled
 458 | substance listed in chapter 893, the health care provider may
 459 | notify any law enforcement officer or law enforcement agency.
 460 | Any such notice must be given within a reasonable time after the
 461 | health care provider receives the test result. Any such notice
 462 | shall be used only for the purpose of providing the law
 463 | enforcement officer with reasonable cause to request the
 464 | withdrawal of a blood sample pursuant to this section.

465 | 2. The notice shall consist only of the name of the person
 466 | being treated, the name of the person who drew the blood, the
 467 | blood-alcohol level indicated by the test, and the date and time
 468 | of the administration of the test.

469 | 3. Nothing contained in s. 395.3025(4), s. 456.057, or any
 470 | applicable practice act affects the authority to provide notice
 471 | under this section, and the health care provider is not
 472 | considered to have breached any duty owed to the person under s.
 473 | 395.3025(4), s. 456.057, or any applicable practice act by
 474 | providing notice or failing to provide notice. It shall not be a
 475 | breach of any ethical, moral, or legal duty for a health care
 476 | provider to provide notice or fail to provide notice.

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477 4. A civil, criminal, or administrative action may not be
 478 brought against any person or health care provider participating
 479 in good faith in the provision of notice or failure to provide
 480 notice as provided in this section. Any person or health care
 481 provider participating in the provision of notice or failure to
 482 provide notice as provided in this section shall be immune from
 483 any civil or criminal liability and from any professional
 484 disciplinary action with respect to the provision of notice or
 485 failure to provide notice under this section. Any such
 486 participant has the same immunity with respect to participating
 487 in any judicial proceedings resulting from the notice or failure
 488 to provide notice.

489 Section 9. Section 316.1957, Florida Statutes, is amended
 490 to read:

491 316.1957 Parking violations; designated parking spaces for
 492 persons who have disabilities.—When evidence is presented in any
 493 court of the fact that any motor vehicle was parked in a
 494 properly designated parking space for persons who have
 495 disabilities in violation of s. 316.1955, it is prima facie
 496 evidence that the vehicle was parked and left in the space by
 497 the person, firm, or corporation in whose name the vehicle is
 498 registered and licensed according to the records of the
 499 department ~~Division of Motor Vehieles~~.

500 Section 10. Paragraph (d) of subsection (3) and
 501 subsections (5) and (8) of section 316.2065, Florida Statutes,
 502 are amended to read:

503 316.2065 Bicycle regulations.—

504 (3)

505 (d) A bicycle rider or passenger who is under 16 years of
 506 age must wear a bicycle helmet that is properly fitted and is
 507 fastened securely upon the passenger's head by a strap, and that
 508 meets the federal safety standard for bicycle helmets, final
 509 rule, 16 C.F.R. part 1203. Helmets purchased before October 1,
 510 2011, and meeting standards of the American National Standards
 511 Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards
 512 of the Snell Memorial Foundation (1984 Standard for Protective
 513 Headgear for Use in Bicycling), or any other nationally
 514 recognized standards for bicycle helmets adopted by the
 515 department may continue to be worn by riders or passengers until
 516 January 1, 2015. As used in this subsection, the term
 517 "passenger" includes a child who is riding in a trailer or
 518 semitrailer attached to a bicycle.

519 (5) (a) Any person operating a bicycle upon a roadway at
 520 less than the normal speed of traffic at the time and place and
 521 under the conditions then existing shall ride in the lane marked
 522 for bicycle use or, if no lane is marked for bicycle use, as
 523 close as practicable to the right-hand curb or edge of the
 524 roadway except under any of the following situations:

- 525 1. When overtaking and passing another bicycle or vehicle
 526 proceeding in the same direction.
- 527 2. When preparing for a left turn at an intersection or
 528 into a private road or driveway.
- 529 3. When reasonably necessary to avoid any condition or
 530 potential conflict, including, but not limited to, a fixed or
 531 moving object, parked or moving vehicle, bicycle, pedestrian,
 532 animal, surface hazard, turn lane, or substandard-width lane,

533 which ~~that~~ makes it unsafe to continue along the right-hand curb
 534 or edge or within a bicycle lane. For the purposes of this
 535 subsection, a "substandard-width lane" is a lane that is too
 536 narrow for a bicycle and another vehicle to travel safely side
 537 by side within the lane.

538 (b) Any person operating a bicycle upon a one-way highway
 539 with two or more marked traffic lanes may ride as near the left-
 540 hand curb or edge of such roadway as practicable.

541 (8) Every bicycle in use between sunset and sunrise shall
 542 be equipped with a lamp on the front exhibiting a white light
 543 visible from a distance of at least 500 feet to the front and a
 544 lamp and reflector on the rear each exhibiting a red light
 545 visible from a distance of 600 feet to the rear. A bicycle or
 546 its rider may be equipped with lights or reflectors in addition
 547 to those required by this section. A law enforcement officer may
 548 issue a bicycle safety brochure and a verbal warning to a
 549 bicycle rider who violates this subsection. A bicycle rider who
 550 violates this subsection may be issued a citation by a law
 551 enforcement officer and assessed a fine for a pedestrian
 552 violation, as provided in s. 318.18. The court shall dismiss the
 553 charge against a bicycle rider for a first violation of this
 554 subsection upon proof of purchase and installation of the proper
 555 lighting equipment.

556 Section 11. Subsection (3) of section 316.2085, Florida
 557 Statutes, is amended to read:

558 316.2085 Riding on motorcycles or mopeds.—

559 (3) The license tag of a motorcycle or moped must be
 560 permanently affixed to the vehicle and remain clearly visible

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561 | from the rear at all times ~~may not be adjusted or capable of~~
 562 | ~~being flipped up.~~ Any deliberate act to conceal or obscure ~~Ne~~
 563 | ~~device for or method of concealing or obscuring~~ the legibility
 564 | of the license tag of a motorcycle is prohibited ~~shall be~~
 565 | ~~installed or used.~~ The license tag of a motorcycle or moped may
 566 | be affixed horizontally to the ground so that the numbers and
 567 | letters read from left to right. Alternatively, a license tag
 568 | for a motorcycle or moped for which the numbers and letters read
 569 | from top to bottom may be affixed perpendicularly to the ground,
 570 | provided that the registered owner of the motorcycle or moped
 571 | maintains a prepaid toll account in good standing and a
 572 | transponder associated with the prepaid toll account is affixed
 573 | to the motorcycle or moped.

574 | Section 12. Section 316.2122, Florida Statutes, is amended
 575 | to read:

576 | 316.2122 Operation of a low-speed vehicle or mini truck on
 577 | certain roadways.—The operation of a low-speed vehicle as
 578 | defined in s. 320.01~~(42)~~ or a mini truck as defined in s.
 579 | 320.01~~(45)~~ on any road as defined in s. 334.03(15) or (33) is
 580 | authorized with the following restrictions:

581 | (1) A low-speed vehicle or mini truck may be operated only
 582 | on streets where the posted speed limit is 35 miles per hour or
 583 | less. This does not prohibit a low-speed vehicle or mini truck
 584 | from crossing a road or street at an intersection where the road
 585 | or street has a posted speed limit of more than 35 miles per
 586 | hour.

587 | (2) A low-speed vehicle must be equipped with headlamps,
 588 | stop lamps, turn signal lamps, taillamps, reflex reflectors,

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589 | parking brakes, rearview mirrors, windshields, seat belts, and
 590 | vehicle identification numbers.

591 | (3) A low-speed vehicle or mini truck must be registered
 592 | and insured in accordance with s. 320.02 and titled pursuant to
 593 | chapter 319.

594 | (4) Any person operating a low-speed vehicle or mini truck
 595 | must have in his or her possession a valid driver's license.

596 | (5) A county or municipality may prohibit the operation of
 597 | low-speed vehicles or mini trucks on any road under its
 598 | jurisdiction if the governing body of the county or municipality
 599 | determines that such prohibition is necessary in the interest of
 600 | safety.

601 | (6) The Department of Transportation may prohibit the
 602 | operation of low-speed vehicles or mini trucks on any road under
 603 | its jurisdiction if it determines that such prohibition is
 604 | necessary in the interest of safety.

605 | Section 13. Section 316.2124, Florida Statutes, is amended
 606 | to read:

607 | 316.2124 Motorized disability access vehicles.—The
 608 | Department of Highway Safety and Motor Vehicles is directed to
 609 | provide, by rule, for the regulation of motorized disability
 610 | access vehicles as described in s. 320.01~~(34)~~. The department
 611 | shall provide that motorized disability access vehicles shall be
 612 | registered in the same manner as motorcycles and shall pay the
 613 | same registration fee as for a motorcycle. There shall also be
 614 | assessed, in addition to the registration fee, a \$2.50 surcharge
 615 | for motorized disability access vehicles. This surcharge shall
 616 | be paid into the Highway Safety Operating Trust Fund. Motorized

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617 disability access vehicles shall not be required to be titled by
 618 the department. The department shall require motorized
 619 disability access vehicles to be subject to the same safety
 620 requirements as set forth in this chapter for motorcycles.

621 Section 14. Subsection (1) of section 316.21265, Florida
 622 Statutes, is amended to read:

623 316.21265 Use of all-terrain vehicles, golf carts, low-
 624 speed vehicles, or utility vehicles by law enforcement
 625 agencies.—

626 (1) Notwithstanding any provision of law to the contrary,
 627 any law enforcement agency in this state may operate all-terrain
 628 vehicles as defined in s. 316.2074, golf carts as defined in s.
 629 320.01~~(22)~~, low-speed vehicles as defined in s. 320.01~~(42)~~, or
 630 utility vehicles as defined in s. 320.01~~(43)~~ on any street,
 631 road, or highway in this state while carrying out its official
 632 duties.

633 Section 15. Subsection (1) of section 316.3026, Florida
 634 Statutes, is amended to read:

635 316.3026 Unlawful operation of motor carriers.—

636 (1) The Office of Motor Carrier Compliance of the
 637 Department of Transportation may issue out-of-service orders to
 638 motor carriers, as defined in s. 320.01~~(33)~~, who have after
 639 proper notice failed to pay any penalty or fine assessed by the
 640 department, or its agent, against any owner or motor carrier for
 641 violations of state law, refused to submit to a compliance
 642 review and provide records pursuant to s. 316.302(5) or s.
 643 316.70, or violated safety regulations pursuant to s. 316.302 or
 644 insurance requirements found in s. 627.7415. Such out-of-service

645 orders shall have the effect of prohibiting the operations of
 646 any motor vehicles owned, leased, or otherwise operated by the
 647 motor carrier upon the roadways of this state, until such time
 648 as the violations have been corrected or penalties have been
 649 paid. Out-of-service orders issued under this section must be
 650 approved by the Secretary of Transportation or his or her
 651 designee. An administrative hearing pursuant to s. 120.569 shall
 652 be afforded to motor carriers subject to such orders.

653 Section 16. Subsection (3) of section 316.545, Florida
 654 Statutes, is amended to read:

655 316.545 Weight and load unlawful; special fuel and motor
 656 fuel tax enforcement; inspection; penalty; review.—

657 (3) Any person who violates the overloading provisions of
 658 this chapter shall be conclusively presumed to have damaged the
 659 highways of this state by reason of such overloading, which
 660 damage is hereby fixed as follows:

661 (a) When the excess weight is 200 pounds or less than the
 662 maximum herein provided, the penalty shall be \$10;

663 (b) Five cents per pound for each pound of weight in
 664 excess of the maximum herein provided when the excess weight
 665 exceeds 200 pounds. However, whenever the gross weight of the
 666 vehicle or combination of vehicles does not exceed the maximum
 667 allowable gross weight, the maximum fine for the first 600
 668 pounds of unlawful axle weight shall be \$10;

669 (c) For a vehicle equipped with fully functional idle-
 670 reduction technology, any penalty shall be calculated by
 671 reducing the actual gross vehicle weight or the internal bridge
 672 weight by the certified weight of the idle-reduction technology

673 or by 400 pounds, whichever is less. The vehicle operator must
 674 present written certification of the weight of the idle-
 675 reduction technology and must demonstrate or certify that the
 676 idle-reduction technology is fully functional at all times. This
 677 calculation is not allowed for vehicles described in s.
 678 316.535(6);

679 (d) An apportionable ~~apportioned motor~~ vehicle, as defined
 680 in s. 320.01, operating on the highways of this state without
 681 being properly licensed and registered shall be subject to the
 682 penalties as herein provided; and

683 (e) Vehicles operating on the highways of this state from
 684 nonmember International Registration Plan jurisdictions which
 685 are not in compliance with the provisions of s. 316.605 shall be
 686 subject to the penalties as herein provided.

687 Section 17. Paragraph (a) of subsection (5) and subsection
 688 (10) of section 316.550, Florida Statutes, are amended to read:

689 316.550 Operations not in conformity with law; special
 690 permits.-

691 (5)(a) The Department of Transportation may issue a
 692 wrecker special blanket permit to authorize a wrecker as defined
 693 in s. 320.01~~(40)~~ to tow a disabled vehicle as defined in s.
 694 320.01~~(38)~~ where the combination of the wrecker and the disabled
 695 vehicle being towed exceeds the maximum weight limits as
 696 established by s. 316.535.

697 (10) Whenever any motor vehicle, or the combination of a
 698 wrecker as defined in s. 320.01~~(40)~~ and a towed motor vehicle,
 699 exceeds any weight or dimensional criteria or special
 700 operational or safety stipulation contained in a special permit

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701 | issued under the provisions of this section, the penalty
 702 | assessed to the owner or operator shall be as follows:

703 | (a) For violation of weight criteria contained in a
 704 | special permit, the penalty per pound or portion thereof
 705 | exceeding the permitted weight shall be as provided in s.
 706 | 316.545.

707 | (b) For each violation of dimensional criteria in a
 708 | special permit, the penalty shall be as provided in s. 316.516
 709 | and penalties for multiple violations of dimensional criteria
 710 | shall be cumulative except that the total penalty for the
 711 | vehicle shall not exceed \$1,000.

712 | (c) For each violation of an operational or safety
 713 | stipulation in a special permit, the penalty shall be an amount
 714 | not to exceed \$1,000 per violation and penalties for multiple
 715 | violations of operational or safety stipulations shall be
 716 | cumulative except that the total penalty for the vehicle shall
 717 | not exceed \$1,000.

718 | (d) For violation of any special condition that has been
 719 | prescribed in the rules of the Department of Transportation and
 720 | declared on the permit, the vehicle shall be determined to be
 721 | out of conformance with the permit and the permit shall be
 722 | declared null and void for the vehicle, and weight and
 723 | dimensional limits for the vehicle shall be as established in s.
 724 | 316.515 or s. 316.535, whichever is applicable, and:

725 | 1. For weight violations, a penalty as provided in s.
 726 | 316.545 shall be assessed for those weights which exceed the
 727 | limits thus established for the vehicle; and

728 | 2. For dimensional, operational, or safety violations, a

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729 penalty as established in paragraph (c) or s. 316.516, whichever
 730 is applicable, shall be assessed for each nonconforming
 731 dimensional, operational, or safety violation and the penalties
 732 for multiple violations shall be cumulative for the vehicle.

733 Section 18. Subsection (9) of section 317.0003, Florida
 734 Statutes, is amended to read:

735 317.0003 Definitions.—As used in this chapter, the term:

736 (9) "ROV" means any motorized recreational off-highway
 737 vehicle 64 inches or less in width, having a dry weight of 2,000
 738 pounds or less, designed to travel on four or more nonhighway
 739 tires, having nonstraddle seating and a steering wheel, and
 740 manufactured for recreational use by one or more persons. The
 741 term "ROV" does not include a golf cart as defined in ss.
 742 320.01~~(22)~~ and 316.003(68) or a low-speed vehicle as defined in
 743 s. 320.01~~(42)~~.

744 Section 19. Section 317.0016, Florida Statutes, is amended
 745 to read:

746 317.0016 Expedited service; applications; fees.—The
 747 department shall provide, through its agents and for use by the
 748 public, expedited service on title transfers, title issuances,
 749 duplicate titles, and recordation of liens, ~~and certificates of~~
 750 ~~repossession~~. A fee of \$7 shall be charged for this service,
 751 which is in addition to the fees imposed by ss. 317.0007 and
 752 317.0008, and \$3.50 of this fee shall be retained by the
 753 processing agency. All remaining fees shall be deposited in the
 754 Incidental Trust Fund of the Division of Forestry of the
 755 Department of Agriculture and Consumer Services. Application for
 756 expedited service may be made by mail or in person. The

757 department shall issue each title applied for pursuant to this
 758 section within 5 working days after receipt of the application
 759 except for an application for a duplicate title certificate
 760 covered by s. 317.0008(3), in which case the title must be
 761 issued within 5 working days after compliance with the
 762 department's verification requirements.

763 Section 20. Subsection (9) and paragraph (a) of subsection
 764 (10) of section 318.14, Florida Statutes, are amended to read:

765 318.14 Noncriminal traffic infractions; exception;
 766 procedures.—

767 (9) Any person who does not hold a commercial driver's
 768 license and who is cited while driving a noncommercial motor
 769 vehicle for an infraction under this section other than a
 770 violation of s. 316.183(2), s. 316.187, or s. 316.189 when the
 771 driver exceeds the posted limit by 30 miles per hour or more, s.
 772 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s.
 773 322.61, or s. 322.62 may, in lieu of a court appearance, elect
 774 to attend in the location of his or her choice within this state
 775 a basic driver improvement course approved by the Department of
 776 Highway Safety and Motor Vehicles. In such a case, adjudication
 777 must be withheld and points, as provided by s. 322.27, may not
 778 be assessed. However, a person may not make an election under
 779 this subsection if the person has made an election under this
 780 subsection in the preceding 12 months. A person may make no more
 781 than five elections within his or her lifetime under this
 782 subsection. The requirement for community service under s.
 783 318.18(8) is not waived by a plea of nolo contendere or by the
 784 withholding of adjudication of guilt by a court. If a person

785 makes an election to attend a basic driver improvement course
 786 under this subsection, 18 percent of the civil penalty imposed
 787 under s. 318.18(3) shall be deposited in the State Courts
 788 Revenue Trust Fund; however, that portion is not revenue for
 789 purposes of s. 28.36 and may not be used in establishing the
 790 budget of the clerk of the court under that section or s. 28.35.

791 (10)(a) Any person who does not hold a commercial driver's
 792 license and who is cited while driving a noncommercial motor
 793 vehicle for an offense listed under this subsection may, in lieu
 794 of payment of fine or court appearance, elect to enter a plea of
 795 nolo contendere and provide proof of compliance to the clerk of
 796 the court, designated official, or authorized operator of a
 797 traffic violations bureau. In such case, adjudication shall be
 798 withheld; however, no election shall be made under this
 799 subsection if such person has made an election under this
 800 subsection in the 12 months preceding election hereunder. No
 801 person may make more than three elections under this subsection.
 802 This subsection applies to the following offenses:

803 1. Operating a motor vehicle without a valid driver's
 804 license in violation of the provisions of s. 322.03, s. 322.065,
 805 or s. 322.15(1), or operating a motor vehicle with a license
 806 that has been suspended for failure to appear, failure to pay
 807 civil penalty, or failure to attend a driver improvement course
 808 pursuant to s. 322.291.

809 2. Operating a motor vehicle without a valid registration
 810 in violation of s. 320.0605, s. 320.07, or s. 320.131.

811 3. Operating a motor vehicle in violation of s. 316.646.

812 4. Operating a motor vehicle with a license that has been

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813 | suspended under s. 61.13016 or s. 322.245 for failure to pay
 814 | child support or for failure to pay any other financial
 815 | obligation as provided in s. 322.245; however, this subparagraph
 816 | does not apply if the license has been suspended pursuant to s.
 817 | 322.245(1).

818 | 5. Operating a motor vehicle with a license that has been
 819 | suspended under s. 322.091 for failure to meet school attendance
 820 | requirements.

821 | Section 21. Paragraph (a) of subsection (2) of section
 822 | 318.1451, Florida Statutes, is amended to read:

823 | 318.1451 Driver improvement schools.—

824 | (2)(a) In determining whether to approve the courses
 825 | referenced in this section, the department shall consider course
 826 | content designed to promote safety, driver awareness, crash
 827 | avoidance techniques, the dangers of driving while distracted,
 828 | which must specifically include the use of technology while
 829 | driving, and other factors or criteria to improve driver
 830 | performance from a safety viewpoint.

831 | Section 22. Paragraph (a) of subsection (1) of section
 832 | 318.15, Florida Statutes, is amended to read:

833 | 318.15 Failure to comply with civil penalty or to appear;
 834 | penalty.—

835 | (1)(a) If a person fails to comply with the civil
 836 | penalties provided in s. 318.18 within the time period specified
 837 | in s. 318.14(4), fails to enter into or comply with the terms of
 838 | a penalty payment plan with the clerk of the court in accordance
 839 | with ss. 318.14 and 28.246, fails to attend driver improvement
 840 | school, or fails to appear at a scheduled hearing, the clerk of

841 | the court shall notify the ~~Division of Driver Licenses of the~~
 842 | Department of Highway Safety and Motor Vehicles of such failure
 843 | within 10 days after such failure. Upon receipt of such notice,
 844 | the department shall immediately issue an order suspending the
 845 | driver's license and privilege to drive of such person effective
 846 | 20 days after the date the order of suspension is mailed in
 847 | accordance with s. 322.251(1), (2), and (6). Any such suspension
 848 | of the driving privilege which has not been reinstated,
 849 | including a similar suspension imposed outside Florida, shall
 850 | remain on the records of the department for a period of 7 years
 851 | from the date imposed and shall be removed from the records
 852 | after the expiration of 7 years from the date it is imposed.

853 | Section 23. Section 319.14, Florida Statutes, is amended
 854 | to read:

855 | 319.14 Sale of motor vehicles registered or used as
 856 | taxicabs, police vehicles, lease vehicles, ~~or~~ rebuilt vehicles,
 857 | ~~and~~ nonconforming vehicles, custom vehicles, or street rod
 858 | vehicles.-

859 | (1)(a) A ~~No~~ person may not ~~shall~~ knowingly offer for sale,
 860 | sell, or exchange any vehicle that has been licensed,
 861 | registered, or used as a taxicab, police vehicle, or short-term-
 862 | lease vehicle, or a vehicle that has been repurchased by a
 863 | manufacturer pursuant to a settlement, determination, or
 864 | decision under chapter 681, until the department has stamped in
 865 | a conspicuous place on the certificate of title of the vehicle,
 866 | or its duplicate, words stating the nature of the previous use
 867 | of the vehicle or the title has been stamped "Manufacturer's Buy
 868 | Back" to reflect that the vehicle is a nonconforming vehicle. If

869 the certificate of title or duplicate was not so stamped upon
 870 initial issuance thereof or if, subsequent to initial issuance
 871 of the title, the use of the vehicle is changed to a use
 872 requiring the notation provided for in this section, the owner
 873 or lienholder of the vehicle shall surrender the certificate of
 874 title or duplicate to the department before ~~prior to~~ offering
 875 the vehicle for sale, and the department shall stamp the
 876 certificate or duplicate as required herein. If ~~When~~ a vehicle
 877 has been repurchased by a manufacturer pursuant to a settlement,
 878 determination, or decision under chapter 681, the title shall be
 879 stamped "Manufacturer's Buy Back" to reflect that the vehicle is
 880 a nonconforming vehicle.

881 (b) A ~~No~~ person may not ~~shall~~ knowingly offer for sale,
 882 sell, or exchange a rebuilt vehicle until the department has
 883 stamped in a conspicuous place on the certificate of title for
 884 the vehicle words stating that the vehicle has been rebuilt or
 885 assembled from parts, or is a kit car, glider kit, replica, ~~or~~
 886 flood vehicle, custom vehicle, or street rod vehicle unless
 887 proper application for a certificate of title for a vehicle that
 888 is rebuilt or assembled from parts, or is a kit car, glider kit,
 889 replica, ~~or~~ flood vehicle, custom vehicle, or street rod vehicle
 890 has been made to the department in accordance with this chapter
 891 and the department has conducted the physical examination of the
 892 vehicle to assure the identity of the vehicle and all major
 893 component parts, as defined in s. 319.30(1), which have been
 894 repaired or replaced. Thereafter, the department shall affix a
 895 decal to the vehicle, in the manner prescribed by the
 896 department, showing the vehicle to be rebuilt. A vehicle may not

897 be inspected or issued a rebuilt title until all major component
 898 parts, as defined in s. 319.30, which were damaged have been
 899 repaired or replaced.

900 (c) As used in this section, the term:

901 1. "Police vehicle" means a motor vehicle owned or leased
 902 by the state or a county or municipality and used in law
 903 enforcement.

904 2.a. "Short-term-lease vehicle" means a motor vehicle
 905 leased without a driver and under a written agreement to one or
 906 more persons from time to time for a period of less than 12
 907 months.

908 b. "Long-term-lease vehicle" means a motor vehicle leased
 909 without a driver and under a written agreement to one person for
 910 a period of 12 months or longer.

911 c. "Lease vehicle" includes both short-term-lease vehicles
 912 and long-term-lease vehicles.

913 3. "Rebuilt vehicle" means a motor vehicle or mobile home
 914 built from salvage or junk, as defined in s. 319.30(1).

915 4. "Assembled from parts" means a motor vehicle or mobile
 916 home assembled from parts or combined from parts of motor
 917 vehicles or mobile homes, new or used. "Assembled from parts"
 918 does not mean a motor vehicle defined as a "rebuilt vehicle" in
 919 subparagraph 3., which has been declared a total loss pursuant
 920 to s. 319.30.

921 5. "Kit car" means a motor vehicle assembled with a kit
 922 supplied by a manufacturer to rebuild a wrecked or outdated
 923 motor vehicle with a new body kit.

924 6. "Glider kit" means a vehicle assembled with a kit

925 supplied by a manufacturer to rebuild a wrecked or outdated
 926 truck or truck tractor.

927 7. "Replica" means a complete new motor vehicle
 928 manufactured to look like an old vehicle.

929 8. "Flood vehicle" means a motor vehicle or mobile home
 930 that has been declared to be a total loss pursuant to s.
 931 319.30(3)(a) resulting from damage caused by water.

932 9. "Nonconforming vehicle" means a motor vehicle which has
 933 been purchased by a manufacturer pursuant to a settlement,
 934 determination, or decision under chapter 681.

935 10. "Settlement" means an agreement entered into between a
 936 manufacturer and a consumer that occurs after a dispute is
 937 submitted to a program, or an informal dispute settlement
 938 procedure established by a manufacturer or is approved for
 939 arbitration before the New Motor Vehicle Arbitration Board as
 940 defined in s. 681.102.

941 11. "Custom vehicle" means a motor vehicle that:
 942 a. Is 25 years of age or older and of a model year after
 943 1948, or was manufactured to resemble a vehicle that is 25 years
 944 of age or older and of a model year after 1948; and
 945 b. Has been altered from the manufacturer's original
 946 design or has a body constructed from nonoriginal materials.

947
 948 The model year and year of manufacture which the body of a
 949 custom vehicle resembles is the model year and year of
 950 manufacture listed on the certificate of title, regardless of
 951 when the vehicle was actually manufactured.

952 12. "Street rod" means a motor vehicle that:

953 a. Is a model year of 1948 or older or was manufactured
 954 after 1948 to resemble a vehicle of a model year of 1948 or
 955 older; and

956 b. Has been altered from the manufacturer's original
 957 design or has a body constructed from nonoriginal materials.

958
 959 The model year and year of manufacture which the body of a
 960 street rod resembles is the model year and year of manufacture
 961 listed on the certificate of title, regardless of when the
 962 vehicle was actually manufactured.

963 (2) A ~~No~~ person may not shall knowingly sell, exchange, or
 964 transfer a vehicle referred to in subsection (1) without, before
 965 ~~prior to~~ consummating the sale, exchange, or transfer,
 966 disclosing in writing to the purchaser, customer, or transferee
 967 the fact that the vehicle has previously been titled,
 968 registered, or used as a taxicab, police vehicle, or short-term-
 969 lease vehicle, ~~or~~ is a vehicle that is rebuilt or assembled from
 970 parts, or is a kit car, glider kit, replica, or flood vehicle,
 971 or is a nonconforming vehicle, custom vehicle, or street rod
 972 vehicle, as the case may be.

973 (3) Any person who, with intent to offer for sale or
 974 exchange any vehicle referred to in subsection (1), knowingly or
 975 intentionally advertises, publishes, disseminates, circulates,
 976 or places before the public in any communications medium,
 977 whether directly or indirectly, any offer to sell or exchange
 978 the vehicle shall clearly and precisely state in each ~~such~~ offer
 979 that the vehicle has previously been titled, registered, or used
 980 as a taxicab, police vehicle, or short-term-lease vehicle or

981 that the vehicle or mobile home is a vehicle that is rebuilt or
 982 assembled from parts, ~~or~~ is a kit car, glider kit, replica, or
 983 flood vehicle, or is a nonconforming vehicle, custom vehicle, or
 984 street rod vehicle, as the case may be. Any person who violates
 985 this subsection commits a misdemeanor of the second degree,
 986 punishable as provided in s. 775.082 or s. 775.083.

987 (4) If ~~When~~ a certificate of title, including a foreign
 988 certificate, is branded to reflect a condition or prior use of
 989 the titled vehicle, the brand must be noted on the registration
 990 certificate of the vehicle and such brand shall be carried
 991 forward on all subsequent certificates of title and registration
 992 certificates issued for the life of the vehicle.

993 (5) Any person who knowingly sells, exchanges, or offers
 994 to sell or exchange a motor vehicle or mobile home contrary to
 995 ~~the provisions of~~ this section or any officer, agent, or
 996 employee of a person who knowingly authorizes, directs, aids in,
 997 or consents to the sale, exchange, or offer to sell or exchange
 998 a motor vehicle or mobile home contrary to ~~the provisions of~~
 999 this section commits a misdemeanor of the second degree,
 1000 punishable as provided in s. 775.082 or s. 775.083.

1001 (6) Any person who removes a rebuilt decal from a rebuilt
 1002 vehicle with the intent to conceal the rebuilt status of the
 1003 vehicle commits a felony of the third degree, punishable as
 1004 provided in s. 775.082, s. 775.083, or s. 775.084.

1005 (7) This section applies to a mobile home, travel trailer,
 1006 camping trailer, truck camper, or fifth-wheel recreation trailer
 1007 only when the ~~such~~ mobile home or vehicle is a rebuilt vehicle
 1008 or is assembled from parts.

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1009 (8) A ~~no~~ person is not ~~shall be~~ liable or accountable in
 1010 any civil action arising out of a violation of this section if
 1011 the designation of the previous use or condition of the motor
 1012 vehicle is not noted on the certificate of title and
 1013 registration certificate of the vehicle which was received by,
 1014 or delivered to, such person, unless the ~~such~~ person has
 1015 actively concealed the prior use or condition of the vehicle
 1016 from the purchaser.

1017 (9) Subsections (1), (2), and (3) do not apply to the
 1018 transfer of ownership of a motor vehicle after the motor vehicle
 1019 has ceased to be used as a lease vehicle and the ownership has
 1020 been transferred to an owner for private use or to the transfer
 1021 of ownership of a nonconforming vehicle with 36,000 or more
 1022 miles on its odometer, or 34 months whichever is later and the
 1023 ownership has been transferred to an owner for private use. Such
 1024 owner, as shown on the title certificate, may request the
 1025 department to issue a corrected certificate of title that does
 1026 not contain the statement of the previous use of the vehicle as
 1027 a lease vehicle or condition as a nonconforming vehicle.

1028 Section 24. Section 319.225, Florida Statutes, is amended
 1029 to read:

1030 319.225 Transfer and reassignment forms; odometer
 1031 disclosure statements.—

1032 (1) Every certificate of title issued by the department
 1033 must contain the following statement ~~on its reverse side~~:
 1034 "Federal and state law require the completion of the odometer
 1035 statement set out below. Failure to complete or providing false
 1036 information may result in fines, imprisonment, or both."

1037 (2) Each certificate of title issued by the department
 1038 must contain ~~on its reverse side~~ a form for transfer of title by
 1039 the titleholder of record, which form must contain an odometer
 1040 disclosure statement in the form required by 49 C.F.R. s. 580.5.

1041 (3) Each certificate of title issued by the department
 1042 must contain ~~on its reverse side~~ as many forms as space allows
 1043 for reassignment of title by a licensed dealer as permitted by
 1044 s. 319.21(3), which form or forms shall contain an odometer
 1045 disclosure statement in the form required by 49 C.F.R. s. 580.5.
 1046 When all dealer reassignment forms ~~provided on the back of the~~
 1047 ~~title certificate~~ have been filled in, a dealer may reassign the
 1048 title certificate by using a separate dealer reassignment form
 1049 issued by the department in compliance with 49 C.F.R. ss. 580.4
 1050 and 580.5, which form shall contain an original, ~~two carbon~~
 1051 ~~copies one of~~ which shall be submitted ~~directly~~ to the
 1052 department by the dealer ~~within 5 business days after the~~
 1053 ~~transfer~~ and a copy, ~~one of~~ which shall be retained by the
 1054 dealer in his or her records for 5 years. The provisions of this
 1055 subsection ~~shall~~ also apply to vehicles not previously titled in
 1056 this state and vehicles whose title certificates do not contain
 1057 the forms required by this section.

1058 (4) Upon transfer or reassignment of a certificate of
 1059 title to a used motor vehicle, the transferor shall complete the
 1060 odometer disclosure statement provided for by this section and
 1061 the transferee shall acknowledge the disclosure by signing and
 1062 printing his or her name in the spaces provided. This subsection
 1063 does not apply to a vehicle that has a gross vehicle rating of
 1064 more than 16,000 pounds, a vehicle that is not self-propelled,

1065 or a vehicle that is 10 years old or older. A lessor who
 1066 transfers title to his or her vehicle without obtaining
 1067 possession of the vehicle shall make odometer disclosure as
 1068 provided by 49 C.F.R. s. 580.7. Any person who fails to complete
 1069 or acknowledge a disclosure statement as required by this
 1070 subsection commits ~~is guilty of~~ a misdemeanor of the second
 1071 degree, punishable as provided in s. 775.082 or s. 775.083. The
 1072 department may not issue a certificate of title unless this
 1073 subsection has been complied with.

1074 (5) The same person may not sign a disclosure statement as
 1075 both the transferor and the transferee in the same transaction
 1076 except as provided in subsection (6).

1077 (6)(a) If the certificate of title is physically held by a
 1078 lienholder, the transferor may give a power of attorney to his
 1079 or her transferee for the purpose of odometer disclosure. The
 1080 power of attorney must be on a form issued or authorized by the
 1081 department, which form must be in compliance with 49 C.F.R. ss.
 1082 580.4 and 580.13. The department shall not require the signature
 1083 of the transferor to be notarized on the form; however, in lieu
 1084 of notarization, the form shall include an affidavit with the
 1085 following wording: UNDER PENALTY OF PERJURY, I DECLARE THAT I
 1086 HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT
 1087 ARE TRUE. The transferee shall sign the power of attorney form,
 1088 print his or her name, and return a copy of the power of
 1089 attorney form to the transferor. Upon receipt of a title
 1090 certificate, the transferee shall complete the space for mileage
 1091 disclosure on the title certificate exactly as the mileage was
 1092 disclosed by the transferor on the power of attorney form. If

1093 the transferee is a licensed motor vehicle dealer who is
 1094 transferring the vehicle to a retail purchaser, the dealer shall
 1095 make application on behalf of the retail purchaser as provided
 1096 in s. 319.23(6) and shall submit the original power of attorney
 1097 form to the department with the application for title and the
 1098 transferor's title certificate; otherwise, a dealer may reassign
 1099 the title certificate by using the dealer reassignment form in
 1100 the manner prescribed in subsection (3), and, at the time of
 1101 physical transfer of the vehicle, the original power of attorney
 1102 shall be delivered to the person designated as the transferee of
 1103 the dealer on the dealer reassignment form. ~~A copy of the~~
 1104 ~~executed power of attorney shall be submitted to the department~~
 1105 ~~with a copy of the executed dealer reassignment form within 5~~
 1106 ~~business days after the certificate of title and dealer~~
 1107 ~~reassignment form are delivered by the dealer to its transferee.~~

1108 (b) If the certificate of title is lost or otherwise
 1109 unavailable, the transferor may give a power of attorney to his
 1110 or her transferee for the purpose of odometer disclosure. The
 1111 power of attorney must be on a form issued or authorized by the
 1112 department, which form must be in compliance with 49 C.F.R. ss.
 1113 580.4 and 580.13. The department shall not require the signature
 1114 of the transferor to be notarized on the form; however, in lieu
 1115 of notarization, the form shall include an affidavit with the
 1116 following wording: UNDER PENALTY OF PERJURY, I DECLARE THAT I
 1117 HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT
 1118 ARE TRUE. The transferee shall sign the power of attorney form,
 1119 print his or her name, and return a copy of the power of
 1120 attorney form to the transferor. Upon receipt of the title

1121 certificate or a duplicate title certificate, the transferee
 1122 shall complete the space for mileage disclosure on the title
 1123 certificate exactly as the mileage was disclosed by the
 1124 transferor on the power of attorney form. If the transferee is a
 1125 licensed motor vehicle dealer who is transferring the vehicle to
 1126 a retail purchaser, the dealer shall make application on behalf
 1127 of the retail purchaser as provided in s. 319.23(6) and shall
 1128 submit the original power of attorney form to the department
 1129 with the application for title and the transferor's title
 1130 certificate or duplicate title certificate; otherwise, a dealer
 1131 may reassign the title certificate by using the dealer
 1132 reassignment form in the manner prescribed in subsection (3),
 1133 and, at the time of physical transfer of the vehicle, the
 1134 original power of attorney shall be delivered to the person
 1135 designated as the transferee of the dealer on the dealer
 1136 reassignment form. If the dealer sells the vehicle to an out-of-
 1137 state resident or an out-of-state dealer and the power of
 1138 attorney form is applicable to the transaction, the dealer must
 1139 photocopy the completed original of the form and mail it
 1140 directly to the department within 5 business days after the
 1141 certificate of title and dealer reassignment form are delivered
 1142 by the dealer to the purchaser. A copy of the executed power of
 1143 attorney shall be submitted to the department with a copy of the
 1144 executed dealer reassignment form within 5 business days after
 1145 the duplicate certificate of title and dealer reassignment form
 1146 are delivered by the dealer to its transferee.

1147 (c) If the mechanics of the transfer of title to a motor
 1148 vehicle in accordance with the provisions of paragraph (a) or

1149 paragraph (b) are determined to be incompatible with and
 1150 unlawful under the provisions of 49 C.F.R. part 580, the
 1151 transfer of title to a motor vehicle by operation of this
 1152 subsection can be effected in any manner not inconsistent with
 1153 49 C.F.R. part 580 and Florida law; provided, any power of
 1154 attorney form issued or authorized by the department under this
 1155 subsection shall contain an original, ~~two carbon copies, one of~~
 1156 which shall be submitted ~~directly~~ to the department by the
 1157 dealer ~~within 5 business days of use by the dealer~~ to effect
 1158 transfer of a title certificate as provided in paragraphs (a)
 1159 and (b) and a copy, ~~one of~~ which shall be retained by the dealer
 1160 in its records for 5 years.

1161 (d) Any person who fails to complete the information
 1162 required by this subsection or to file with the department the
 1163 forms required by this subsection commits ~~is guilty of~~ a
 1164 misdemeanor of the second degree, punishable as provided in s.
 1165 775.082 or s. 775.083. The department shall not issue a
 1166 certificate of title unless this subsection has been complied
 1167 with.

1168 (7) Subject to approval by the National Highway Traffic
 1169 Safety Administration or any other applicable authority, if a
 1170 title is held electronically and the transferee agrees to
 1171 maintain the title electronically, the transferor and transferee
 1172 shall complete a secure reassignment document that discloses the
 1173 odometer reading and is signed by both the transferor and
 1174 transferee at the tax collector's office or license plate
 1175 agency. A dealer acquiring a motor vehicle that has an
 1176 electronic title shall use a secure reassignment document signed

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1177 by the person from whom the dealer acquired the motor vehicle.
 1178 Upon transferring the motor vehicle to a purchaser, a separate
 1179 reassignment document shall be executed.

1180 (8)~~(7)~~ Each certificate of title issued by the department
 1181 must contain ~~on its reverse side~~ a minimum of three ~~four~~ spaces
 1182 for notation of the name and license number of any auction
 1183 through which the vehicle is sold and the date the vehicle was
 1184 auctioned. Each separate dealer reassignment form issued by the
 1185 department must also have the space referred to in this section.
 1186 When a transfer of title is made at a motor vehicle auction, the
 1187 reassignment must note the name and address of the auction, but
 1188 the auction shall not thereby be deemed to be the owner, seller,
 1189 transferor, or assignor of title. A motor vehicle auction is
 1190 required to execute a dealer reassignment only when it is the
 1191 owner of a vehicle being sold.

1192 (9)~~(8)~~ Upon transfer or reassignment of a used motor
 1193 vehicle through the services of an auction, the auction shall
 1194 complete the information in the space provided for by subsection
 1195 (8) ~~(7)~~. Any person who fails to complete the information as
 1196 required by this subsection commits ~~is guilty of~~ a misdemeanor
 1197 of the second degree, punishable as provided in s. 775.082 or s.
 1198 775.083. The department shall not issue a certificate of title
 1199 unless this subsection has been complied with.

1200 (10)~~(9)~~ This section shall be construed to conform to 49
 1201 C.F.R. part 580.

1202 Section 25. Subsection (6) of section 319.23, Florida
 1203 Statutes, is amended, present subsections (7) through (11) of
 1204 that section are renumbered as subsections (8) through (12),

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1205 respectively, and a new subsection (7) is added to that
 1206 section, to read:

1207 319.23 Application for, and issuance of, certificate of
 1208 title.-

1209 (6) (a) In the case of the sale of a motor vehicle or
 1210 mobile home by a licensed dealer to a general purchaser, the
 1211 certificate of title must be obtained in the name of the
 1212 purchaser by the dealer upon application signed by the
 1213 purchaser, and in each other case such certificate must be
 1214 obtained by the purchaser. In each case of transfer of a motor
 1215 vehicle or mobile home, the application for a certificate of
 1216 title, a corrected certificate, or an assignment or reassignment
 1217 must be filed within 30 days after the delivery of the motor
 1218 vehicle or from consummation of the sale of a mobile home to the
 1219 purchaser. An applicant must pay a fee of \$20, in addition to
 1220 all other fees and penalties required by law, for failing to
 1221 file such application within the specified time. In the case of
 1222 the sale of a motor vehicle by a licensed motor vehicle dealer
 1223 to a general purchaser who resides in another state or country,
 1224 the dealer is not required to apply for a certificate of title
 1225 for the motor vehicle; however, the dealer must transfer
 1226 ownership and reassign the certificate of title or
 1227 manufacturer's certificate of origin to the purchaser, and the
 1228 purchaser must sign an affidavit, as approved by the department,
 1229 that the purchaser will title and register the motor vehicle in
 1230 another state or country.

1231 (b) If a licensed dealer acquires a motor vehicle or
 1232 mobile home as a trade-in, the dealer must file with the

1233 department, within 30 days, a notice of sale signed by the
 1234 seller. The department shall update its database for that title
 1235 record to indicate "sold." A licensed dealer need not apply for
 1236 a certificate of title for any motor vehicle or mobile home in
 1237 stock acquired for stock purposes except as provided in s.
 1238 319.225.

1239 (7) If an applicant for a certificate of title is unable
 1240 to provide the department with a certificate of title that
 1241 assigns the prior owner's interest in the motor vehicle, the
 1242 department may accept a bond in the form prescribed by the
 1243 department, along with an affidavit in a form prescribed by the
 1244 department, which includes verification of the vehicle
 1245 identification number and an application for title.

1246 (a) The bond must be:

1247 1. In a form prescribed by the department;

1248 2. Executed by the applicant;

1249 3. Issued by a person authorized to conduct a surety
 1250 business in this state;

1251 4. In an amount equal to two times the value of the
 1252 vehicle as determined by the department; and

1253 5. Conditioned to indemnify all prior owners and
 1254 lienholders and all subsequent purchasers of the vehicle or
 1255 persons who acquire a security interest in the vehicle, and
 1256 their successors in interest, against any expense, loss, or
 1257 damage, including reasonable attorney's fees, occurring because
 1258 of the issuance of the certificate of title for the vehicle or
 1259 for a defect in or undisclosed security interest on the right,
 1260 title, or interest of the applicant to the vehicle.

1261 (b) An interested person has a right to recover on the
 1262 bond for a breach of the bond's condition. The aggregate
 1263 liability of the surety to all persons may not exceed the amount
 1264 of the bond.

1265 (c) A bond under this subsection expires on the third
 1266 anniversary of the date the bond became effective.

1267 (d) The affidavit must:

1268 1. Be in a form prescribed by the department;
 1269 2. Include the facts and circumstances through which the
 1270 applicant acquired ownership and possession of the motor
 1271 vehicle;

1272 3. Disclose that no security interests, liens, or
 1273 encumbrances against the motor vehicle are known to the
 1274 applicant against the motor vehicle; and

1275 4. State that the applicant has the right to have a
 1276 certificate of title issued.

1277 Section 26. Paragraph (b) of subsection (2) of section
 1278 319.28, Florida Statutes, is amended to read:

1279 319.28 Transfer of ownership by operation of law.—

1280 (2)

1281 (b) In case of repossession of a motor vehicle or mobile
 1282 home pursuant to the terms of a security agreement or similar
 1283 instrument, an affidavit by the party to whom possession has
 1284 passed stating that the vehicle or mobile home was repossessed
 1285 upon default in the terms of the security agreement or other
 1286 instrument shall be considered satisfactory proof of ownership
 1287 and right of possession. At least 5 days before ~~prior to~~ selling
 1288 the repossessed vehicle, any subsequent lienholder named in the

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1289 last issued certificate of title shall be sent notice of the
 1290 repossession by certified mail, on a form prescribed by the
 1291 department. If such notice is given and no written protest to
 1292 the department is presented by a subsequent lienholder within 15
 1293 days after ~~from~~ the date on which the notice was mailed, the
 1294 certificate of title ~~or the certificate of repossession~~ shall be
 1295 issued showing no liens. If the former owner or any subsequent
 1296 lienholder files a written protest under oath within such 15-day
 1297 period, the department shall not issue the certificate of title
 1298 ~~or certificate of repossession~~ for 10 days thereafter. If within
 1299 the 10-day period no injunction or other order of a court of
 1300 competent jurisdiction has been served on the department
 1301 commanding it not to deliver the certificate of title ~~or~~
 1302 ~~certificate of repossession~~, the department shall deliver the
 1303 certificate of title ~~or repossession~~ to the applicant or as may
 1304 otherwise be directed in the application showing no other liens
 1305 than those shown in the application. Any lienholder who has
 1306 repossessed a vehicle in this state in compliance with the
 1307 provisions of this section must apply to a tax collector's
 1308 office in this state or to the department for a ~~certificate of~~
 1309 ~~repossession or to the department for a~~ certificate of title
 1310 pursuant to s. 319.323. Proof of the required notice to
 1311 subsequent lienholders shall be submitted together with regular
 1312 title fees. ~~A lienholder to whom a certificate of repossession~~
 1313 ~~has been issued may assign the certificate of title to the~~
 1314 ~~subsequent owner.~~ Any person who violates ~~found guilty of~~
 1315 ~~violating~~ any requirements of this paragraph commits ~~shall be~~
 1316 ~~guilty of~~ a felony of the third degree, punishable as provided

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1317 in s. 775.082, s. 775.083, or s. 775.084.

1318 Section 27. Section 319.323, Florida Statutes, is amended
1319 to read:

1320 319.323 Expedited service; applications; fees.—The
1321 department shall establish a separate title office which may be
1322 used by private citizens and licensed motor vehicle dealers to
1323 receive expedited service on title transfers, title issuances,
1324 duplicate titles, and recordation of liens, ~~and certificates of~~
1325 ~~repossession~~. A fee of \$10 shall be charged for this service,
1326 which fee is in addition to the fees imposed by s. 319.32. The
1327 fee, after deducting the amount referenced by s. 319.324 and
1328 \$3.50 to be retained by the processing agency, shall be
1329 deposited into the General Revenue Fund. Application for
1330 expedited service may be made by mail or in person. The
1331 department shall issue each title applied for under this section
1332 within 5 working days after receipt of the application except
1333 for an application for a duplicate title certificate covered by
1334 s. 319.23(4), in which case the title must be issued within 5
1335 working days after compliance with the department's verification
1336 requirements.

1337 Section 28. Section 319.40, Florida Statutes, is amended
1338 to read:

1339 319.40 Transactions by electronic or telephonic means.—

1340 (1) The department may ~~is authorized to~~ accept any
1341 application provided for under this chapter by electronic or
1342 telephonic means.

1343 (2) The department may issue an electronic certificate of
1344 title in lieu of printing a paper title.

1345 (3) The department may collect and use electronic mail
 1346 addresses as a notification method in lieu of the United States
 1347 Postal Service.

1348 Section 29. Paragraph (a) of subsection (1) of section
 1349 320.01, Florida Statutes, is amended, present subsections (24)
 1350 through (45) are renumbered as subsections (23) through (44),
 1351 respectively, present subsections (23), (25), and (26) are
 1352 amended, and a new subsection (45) is added to that section, to
 1353 read:

1354 320.01 Definitions, general.—As used in the Florida
 1355 Statutes, except as otherwise provided, the term:

1356 (1) "Motor vehicle" means:

1357 (a) An automobile, motorcycle, truck, trailer,
 1358 semitrailer, truck tractor and semitrailer combination, or any
 1359 other vehicle operated on the roads of this state, used to
 1360 transport persons or property, and propelled by power other than
 1361 muscular power, but the term does not include traction engines,
 1362 road rollers, special mobile equipment as defined in chapter
 1363 316, such vehicles as run only upon a track, bicycles, swamp
 1364 buggies, or mopeds.

1365 ~~(23) "Apportioned motor vehicle" means any motor vehicle~~
 1366 ~~which is required to be registered, or with respect to which an~~
 1367 ~~election has been made to register it, under the International~~
 1368 ~~Registration Plan.~~

1369 (24)~~(25)~~ "Apportionable vehicle" means any vehicle, except
 1370 recreational vehicles, vehicles displaying restricted plates,
 1371 city pickup and delivery vehicles, buses used in transportation
 1372 of chartered parties, and government-owned vehicles, which is

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1373 used or intended for use in two or more member jurisdictions
 1374 that allocate or proportionally register vehicles and which is
 1375 used for the transportation of persons for hire or is designed,
 1376 used, or maintained primarily for the transportation of property
 1377 and:

1378 (a) Is a power unit having a gross vehicle weight in
 1379 excess of 26,000 ~~26,001~~ pounds;

1380 (b) Is a power unit having three or more axles, regardless
 1381 of weight; or

1382 (c) Is used in combination, when the weight of such
 1383 combination exceeds 26,000 ~~26,001~~ pounds gross vehicle weight.

1384
 1385 Vehicles, or combinations thereof, having a gross vehicle weight
 1386 of 26,000 ~~26,001~~ pounds or less and two-axle vehicles may be
 1387 proportionally registered.

1388 ~~(25)(26)~~ "Commercial motor vehicle" means any vehicle that
 1389 ~~which~~ is not owned or operated by a governmental entity, that
 1390 ~~which~~ uses special fuel or motor fuel on the public highways,
 1391 and that ~~which~~ has a gross vehicle weight of 26,001 pounds or
 1392 more, or has three or more axles regardless of weight, or is
 1393 used in combination when the weight of such combination exceeds
 1394 26,000 ~~26,001~~ pounds gross vehicle weight. A vehicle that
 1395 occasionally transports personal property to and from a closed-
 1396 course motorsport facility, as defined in s. 549.09(1)(a), is
 1397 not a commercial motor vehicle if the use is not for profit and
 1398 corporate sponsorship is not involved. As used in this
 1399 subsection, the term "corporate sponsorship" means a payment,
 1400 donation, gratuity, in-kind service, or other benefit provided

1401 to or derived by a person in relation to the underlying
 1402 activity, other than the display of product or corporate names,
 1403 logos, or other graphic information on the property being
 1404 transported.

1405 (45) SWAMP BUGGY.—A motorized off-road vehicle designed to
 1406 travel over swampy terrain, which may utilize large tires or
 1407 tracks operated from an elevated platform, and may be used upon
 1408 varied terrain. A swamp buggy does not include any vehicle
 1409 defined in chapter 261 or otherwise defined or classified in
 1410 this chapter. A swamp buggy may not be operated upon the public
 1411 roads, streets, or highways of this state, except to the extent
 1412 specifically authorized by a state or federal agency to be used
 1413 exclusively upon lands, managed, owned, or leased by that
 1414 agency.

1415 Section 30. Subsections (2) and (4) of section 320.02,
 1416 Florida Statutes, are amended, paragraphs (o), (p), (q), and (r)
 1417 are added to subsection (15), and subsection (18) is added to
 1418 that section, to read:

1419 320.02 Registration required; application for
 1420 registration; forms.—

1421 (2)(a) The application for registration shall include the
 1422 street address of the owner's permanent residence or the address
 1423 of his or her permanent place of business and shall be
 1424 accompanied by personal or business identification information
 1425 which may include, but need not be limited to, a driver's
 1426 license number, Florida identification card number, or federal
 1427 employer identification number. If the owner does not have a
 1428 permanent residence or permanent place of business or if the

1429 owner's permanent residence or permanent place of business
 1430 cannot be identified by a street address, the application shall
 1431 include:

1432 1. If the vehicle is registered to a business, the name
 1433 and street address of the permanent residence of an owner of the
 1434 business, an officer of the corporation, or an employee who is
 1435 in a supervisory position.

1436 2. If the vehicle is registered to an individual, the name
 1437 and street address of the permanent residence of a close
 1438 relative or friend who is a resident of this state.

1439

1440 If the vehicle is registered to an active-duty military member
 1441 who is a Florida resident, the member is exempt from the
 1442 requirement to provide a Florida residential address.

1443 (b) The department shall prescribe a form upon which motor
 1444 vehicle owners may record odometer readings when registering
 1445 their motor vehicles.

1446 (4) The owner of any motor vehicle registered in the state
 1447 shall notify the department in writing of any change of address
 1448 within 20 days of such change. The notification shall include
 1449 the registration license plate number, the vehicle
 1450 identification number (VIN) or title certificate number, year of
 1451 vehicle make, and the owner's full name. Any owner or registrant
 1452 who possesses a Florida driver's license or identification card
 1453 and changes residence or mailing address must obtain a
 1454 replacement as provided for in s. 322.19(2) before changing the
 1455 address on the motor vehicle record.

1456 (15)

1457 (o) The application form for motor vehicle registration
 1458 and renewal registration must include language permitting the
 1459 voluntary contribution of \$1 to End Hunger in Florida. The
 1460 proceeds shall be distributed monthly by the department to the
 1461 Florida Association of Food Banks, Inc., a corporation not for
 1462 profit under s. 501(c)(3) of the Internal Revenue Code. The
 1463 funds shall be used by the organization for the purpose of
 1464 ending hunger in Florida.

1465 (p) The application form for motor vehicle registration
 1466 and renewal of registration must include language permitting a
 1467 voluntary contribution of \$1 to Take Stock In Children. Such
 1468 contributions shall be transferred by the department each month
 1469 to Take Stock In Children, Inc.

1470 (q) The application form for motor vehicle registration
 1471 and renewal of registration must include language permitting a
 1472 voluntary contribution of \$1 per applicant for Autism Services
 1473 and Supports. Such contributions must be transferred by the
 1474 department each month to the Achievement and Rehabilitation
 1475 Centers, Inc., Autism Services Fund.

1476 (r) The application form for motor vehicle registration
 1477 and renewal of registration must include language permitting a
 1478 voluntary contribution of \$1 to Support Our Troops, which shall
 1479 be distributed monthly to Support Our Troops, Inc., a Florida
 1480 not-for-profit organization.

1481
 1482 For the purpose of applying the service charge provided in s.
 1483 215.20, contributions received under this subsection are not
 1484 income of a revenue nature.

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1485 (18) All electronic registration records shall be retained
 1486 by the department for not less than 10 years.

1487 Section 31. Subsection (9) is added to section 320.023,
 1488 Florida Statutes, to read:

1489 320.023 Requests to establish voluntary checkoff on motor
 1490 vehicle registration application.-

1491 (9) The department may annually retain from the first
 1492 proceeds derived from the voluntary contributions collected an
 1493 amount sufficient to defray for each voluntary contribution the
 1494 pro rata share of the department's costs directly related to the
 1495 voluntary contributions program. Such costs include renewal
 1496 notices, postage, distribution costs, direct costs to the
 1497 department, and costs associated with reviewing each
 1498 organization's compliance with the audit and attestation
 1499 requirements of this section. The balance of the proceeds from
 1500 the voluntary contributions collected shall be distributed as
 1501 provided by law.

1502 Section 32. Subsections (7) and (8) of section 320.03,
 1503 Florida Statutes, are amended to read:

1504 320.03 Registration; duties of tax collectors;
 1505 International Registration Plan.-

1506 (7) The Department of Highway Safety and Motor Vehicles
 1507 shall register apportionable ~~apportioned~~ motor vehicles under
 1508 the provisions of the International Registration Plan. The
 1509 department may adopt rules to implement and enforce the
 1510 provisions of the plan.

1511 (8) If the applicant's name appears on the list referred
 1512 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a

1513 license plate or revalidation sticker may not be issued until
 1514 that person's name no longer appears on the list or until the
 1515 person presents a receipt from the governmental entity or the
 1516 clerk of court that provided the data showing that the fines
 1517 outstanding have been paid. This subsection does not apply to
 1518 the owner of a leased vehicle if the vehicle is registered in
 1519 the name of the lessee of the vehicle. The tax collector and the
 1520 clerk of the court are each entitled to receive monthly, as
 1521 costs for implementing and administering this subsection, 10
 1522 percent of the civil penalties and fines recovered from such
 1523 persons. As used in this subsection, the term "civil penalties
 1524 and fines" does not include a wrecker operator's lien as
 1525 described in s. 713.78(13). If the tax collector has private tag
 1526 agents, such tag agents are entitled to receive a pro rata share
 1527 of the amount paid to the tax collector, based upon the
 1528 percentage of license plates and revalidation stickers issued by
 1529 the tag agent compared to the total issued within the county.
 1530 The authority of any private agent to issue license plates shall
 1531 be revoked, after notice and a hearing as provided in chapter
 1532 120, if he or she issues any license plate or revalidation
 1533 sticker contrary to the provisions of this subsection. This
 1534 section applies only to the annual renewal in the owner's birth
 1535 month of a motor vehicle registration and does not apply to the
 1536 transfer of a registration of a motor vehicle sold by a motor
 1537 vehicle dealer licensed under this chapter, except for the
 1538 transfer of registrations which is inclusive of the annual
 1539 renewals. This section does not affect the issuance of the title
 1540 to a motor vehicle, notwithstanding s. 319.23(8)~~(7)~~(b).

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1541 Section 33. Paragraph (b) of subsection (3) and subsection
 1542 (5) of section 320.05, Florida Statutes, are amended to read:
 1543 320.05 Records of the department; inspection procedure;
 1544 lists and searches; fees.—

1545 (3)

1546 (b) Fees therefor shall be charged and collected as
 1547 follows:

1548 1. For providing lists of motor vehicle or vessel records
 1549 for the entire state, or any part or parts thereof, divided
 1550 according to counties, a sum computed at a rate of not less than
 1551 1 cent nor more than 5 cents per item.

1552 2. For providing noncertified photographic copies of motor
 1553 vehicle or vessel documents, \$1 per page.

1554 3. For providing noncertified photographic copies of
 1555 micrographic records, \$1 per page.

1556 4. For providing certified copies of motor vehicle or
 1557 vessel records, \$3 per record.

1558 5. For providing noncertified computer-generated printouts
 1559 of motor vehicle or vessel records, 50 cents per record.

1560 6. For providing certified computer-generated printouts of
 1561 motor vehicle or vessel records, \$3 per record.

1562 7. For providing electronic access to motor vehicle,
 1563 vessel, and mobile home registration data requested by tag,
 1564 vehicle identification number, title number, or decal number, 50
 1565 cents per item.

1566 8. For providing electronic access to driver's license
 1567 status report by name, sex, and date of birth or by driver
 1568 license number, 50 cents per item.

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1569 9. For providing lists of licensed mobile home dealers and
 1570 manufacturers and recreational vehicle dealers and
 1571 manufacturers, \$15 per list.

1572 10. For providing lists of licensed motor vehicle dealers,
 1573 \$25 per list.

1574 11. For each copy of a videotape record, \$15 per tape.

1575 ~~12. For each copy of the Division of Motor Vehicles~~
 1576 ~~Procedures Manual, \$25.~~

1577 (5) The creation and maintenance of records by the
 1578 Division of Motorist Services within the department and ~~the~~
 1579 ~~Division of Motor Vehicles~~ pursuant to this chapter shall not be
 1580 regarded as law enforcement functions of agency recordkeeping.

1581 Section 34. Paragraph (d) is added to subsection (1) of
 1582 section 320.06, Florida Statutes, and subsection (5) is added to
 1583 that section, to read:

1584 320.06 Registration certificates, license plates, and
 1585 validation stickers generally.-

1586 (1)

1587 (d) The department may conduct a pilot program to evaluate
 1588 designs, concepts, and technologies for alternative license
 1589 plate technologies. The pilot program shall investigate the
 1590 feasibility and use of alternative license plate technologies
 1591 and shall be limited to license plates that are used on
 1592 government-owned motor vehicles, as defined in s. 320.0655.
 1593 Government license plates in the pilot program are exempt from
 1594 current license plate requirements in paragraph (3)(a).

1595 (5) All license plates issued pursuant to this chapter are
 1596 the property of the State of Florida.

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1597 Section 35. Section 320.061, Florida Statutes, is amended
 1598 to read:

1599 320.061 Unlawful to alter motor vehicle registration
 1600 certificates, temporary license plates, license plates, mobile
 1601 home stickers, or validation stickers or to obscure license
 1602 plates; penalty.—No person shall alter the original appearance
 1603 of any registration license plate, temporary license plate,
 1604 mobile home sticker, validation sticker, or vehicle registration
 1605 certificate issued for and assigned to any motor vehicle or
 1606 mobile home, whether by mutilation, alteration, defacement, or
 1607 change of color or in any other manner. No person shall apply or
 1608 attach any substance, reflective matter, illuminated device,
 1609 spray, coating, covering, or other material onto or around any
 1610 license plate that interferes with the legibility, angular
 1611 visibility, or detectability of any feature or detail on the
 1612 license plate or interferes with the ability to record any
 1613 feature or detail on the license plate. Any person who violates
 1614 this section commits a noncriminal traffic infraction,
 1615 punishable as a moving violation as provided in chapter 318.

1616 Section 36. Subsection (1) of section 320.071, Florida
 1617 Statutes, is amended to read:

1618 320.071 Advance registration renewal; procedures.—
 1619 (1) (a) The owner of any motor vehicle or mobile home
 1620 currently registered in this state may file an application for
 1621 renewal of registration with the department, or its authorized
 1622 agent in the county wherein the owner resides, any time during
 1623 the 3 months preceding the date of expiration of the
 1624 registration period. The registration period may not exceed 27

1625 months.

1626 (b) The owner of any apportionable ~~apportioned motor~~
 1627 vehicle currently registered in this state under the provisions
 1628 of the International Registration Plan may file an application
 1629 for renewal of registration with the department any time during
 1630 the 3 months preceding the date of expiration of the
 1631 registration period.

1632 Section 37. Subsections (1) and (3) of section 320.0715,
 1633 Florida Statutes, are amended to read:

1634 320.0715 International Registration Plan; motor carrier
 1635 services; permits; retention of records.-

1636 (1) All apportionable ~~commercial motor~~ vehicles domiciled
 1637 in this state ~~and engaged in interstate commerce~~ shall be
 1638 registered in accordance with the provisions of the
 1639 International Registration Plan ~~and shall display apportioned~~
 1640 ~~license plates.~~

1641 (3)(a) If the department is unable to immediately issue
 1642 the apportioned license plate to an applicant currently
 1643 registered in this state under the International Registration
 1644 Plan or to a vehicle currently titled in this state, the
 1645 department or its designated agent is authorized to issue a 60-
 1646 day temporary operational permit. The department or agent of the
 1647 department shall charge a \$3 fee and the service charge
 1648 authorized by s. 320.04 for each temporary operational permit it
 1649 issues.

1650 (b) The department shall in no event issue a temporary
 1651 operational permit for any apportionable ~~commercial motor~~
 1652 vehicle to any applicant until the applicant has shown that:

1653 1. All sales or use taxes due on the registration of the
 1654 vehicle are paid; and

1655 2. Insurance requirements have been met in accordance with
 1656 ss. 320.02(5) and 627.7415.

1657 (c) Issuance of a temporary operational permit provides
 1658 ~~commercial motor vehicle~~ registration privileges in each
 1659 International Registration Plan member jurisdiction designated
 1660 on said permit and therefore requires payment of all applicable
 1661 registration fees and taxes due for that period of registration.

1662 (d) Application for permanent registration must be made to
 1663 the department within 10 days following ~~from~~ issuance of a
 1664 temporary operational permit. Failure to file an application
 1665 within this 10-day period may result in cancellation of the
 1666 temporary operational permit.

1667 Section 38. Paragraph (d) of subsection (5) of section
 1668 320.08, Florida Statutes, is amended to read:

1669 320.08 License taxes.—Except as otherwise provided herein,
 1670 there are hereby levied and imposed annual license taxes for the
 1671 operation of motor vehicles, mopeds, motorized bicycles as
 1672 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
 1673 and mobile homes, as defined in s. 320.01, which shall be paid
 1674 to and collected by the department or its agent upon the
 1675 registration or renewal of registration of the following:

1676 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
 1677 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

1678 (d) A wrecker, as defined in s. 320.01~~(40)~~, which is used
 1679 to tow a vessel as defined in s. 327.02(39), a disabled,
 1680 abandoned, stolen-recovered, or impounded motor vehicle as

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1681 defined in s. 320.01~~(38)~~, or a replacement motor vehicle as
 1682 defined in s. 320.01~~(39)~~: \$41 flat, of which \$11 shall be
 1683 deposited into the General Revenue Fund.

1684 Section 39. Paragraph (e) of subsection (4) of section
 1685 320.08068, Florida Statutes, is amended to read:

1686 320.08068 Motorcycle specialty license plates.—

1687 (4) A license plate annual use fee of \$20 shall be
 1688 collected for each motorcycle specialty license plate. Annual
 1689 use fees shall be distributed to The Able Trust as custodial
 1690 agent. The Able Trust may retain a maximum of 10 percent of the
 1691 proceeds from the sale of the license plate for administrative
 1692 costs. The Able Trust shall distribute the remaining funds as
 1693 follows:

1694 (e) Twenty percent to the Florida Association of Centers
 1695 for Independent Living ~~to be used to leverage additional funding~~
 1696 ~~and new sources of revenue for the centers for independent~~
 1697 ~~living in this state.~~

1698 Section 40. Subsection (1) of section 320.0847, Florida
 1699 Statutes, is amended to read:

1700 320.0847 Mini truck and low-speed vehicle license plates.—

1701 (1) The department shall issue a license plate to the
 1702 owner or lessee of any vehicle registered as a low-speed vehicle
 1703 as defined in s. 320.01~~(42)~~ or a mini truck as defined in s.
 1704 320.01~~(45)~~ upon payment of the appropriate license taxes and
 1705 fees prescribed in s. 320.08.

1706 Section 41. Subsection (4) of section 320.0848, Florida
 1707 Statutes, is amended to read:

1708 320.0848 Persons who have disabilities; issuance of

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1709 disabled parking permits; temporary permits; permits for certain
 1710 providers of transportation services to persons who have
 1711 disabilities.-

1712 (4) From the proceeds of the temporary disabled parking
 1713 permit fees:

1714 (a) The Department of Highway Safety and Motor Vehicles
 1715 must receive \$3.50 for each temporary permit, to be deposited
 1716 into the Highway Safety Operating Trust Fund and used for
 1717 implementing the real-time disabled parking permit database and
 1718 for administering the disabled parking permit program.

1719 (b) The tax collector, for processing, must receive \$2.50
 1720 for each temporary permit.

1721 (c) The remainder must be distributed monthly as follows:

1722 1. To the Florida Endowment Foundation for Vocational
 1723 Rehabilitation, known as "The Able Trust," ~~Florida Governor's~~
 1724 ~~Alliance for the Employment of Disabled Citizens~~ for the purpose
 1725 of improving employment and training opportunities for persons
 1726 who have disabilities, with special emphasis on removing
 1727 transportation barriers, \$4. These fees must be directly
 1728 deposited into the Florida Endowment Foundation for Vocational
 1729 Rehabilitation as established in s. 413.615 ~~Transportation~~
 1730 ~~Disadvantaged Trust Fund for transfer to the Florida Governor's~~
 1731 ~~Alliance for Employment of Disabled Citizens.~~

1732 2. To the Transportation Disadvantaged Trust Fund to be
 1733 used for funding matching grants to counties for the purpose of
 1734 improving transportation of persons who have disabilities, \$5.

1735 Section 42. Effective October 1, 2011, subsection (1) of
 1736 section 320.089, Florida Statutes, is amended to read:

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1737 320.089 Members of National Guard and active United States
 1738 Armed Forces reservists; former prisoners of war; survivors of
 1739 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
 1740 Freedom and Operation Enduring Freedom Veterans; Combat Infantry
 1741 Badge recipients; special license plates; fee.-

1742 (1)(a) Each owner or lessee of an automobile or truck for
 1743 private use or recreational vehicle as specified in s.
 1744 320.08(9)(c) or (d), which is not used for hire or commercial
 1745 use, who is a resident of the state and an active or retired
 1746 member of the Florida National Guard, a survivor of the attack
 1747 on Pearl Harbor, a recipient of the Purple Heart medal, ~~or~~ an
 1748 active or retired member of any branch of the United States
 1749 Armed Forces Reserve, or a recipient of the Combat Infantry
 1750 Badge shall, upon application to the department, accompanied by
 1751 proof of active membership or retired status in the Florida
 1752 National Guard, proof of membership in the Pearl Harbor
 1753 Survivors Association or proof of active military duty in Pearl
 1754 Harbor on December 7, 1941, proof of being a Purple Heart medal
 1755 recipient, ~~or~~ proof of active or retired membership in any
 1756 branch of the Armed Forces Reserve, or proof of membership in
 1757 the Combat Infantrymen's Association, Inc., or other proof of
 1758 being a recipient of the Combat Infantry Badge, and upon payment
 1759 of the license tax for the vehicle as provided in s. 320.08, be
 1760 issued a license plate as provided by s. 320.06, upon which, in
 1761 lieu of the serial numbers prescribed by s. 320.06, shall be
 1762 stamped the words "National Guard," "Pearl Harbor Survivor,"
 1763 "Combat-wounded veteran," ~~or~~ "U.S. Reserve," or "Combat Infantry
 1764 Badge," as appropriate, followed by the serial number of the

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1765 license plate. Additionally, the Purple Heart plate may have the
 1766 words "Purple Heart" stamped on the plate and the likeness of
 1767 the Purple Heart medal appearing on the plate.

1768 (b) Notwithstanding any other provision of law to the
 1769 contrary, beginning with fiscal year 2002-2003 and annually
 1770 thereafter, the first \$100,000 in general revenue generated from
 1771 the sale of license plates issued under this section shall be
 1772 deposited into the Grants and Donations Trust Fund, as described
 1773 in s. 296.38(2), to be used for the purposes established by law
 1774 for that trust fund. Any additional general revenue generated
 1775 from the sale of such plates shall be deposited into the State
 1776 Homes for Veterans Trust Fund and used solely to construct,
 1777 operate, and maintain domiciliary and nursing homes for
 1778 veterans, subject to the requirements of chapter 216.

1779 (c) Notwithstanding any provisions of law to the contrary,
 1780 an applicant for a Pearl Harbor Survivor license plate or a
 1781 Purple Heart license plate who also qualifies for a disabled
 1782 veteran's license plate under s. 320.084 shall be issued the
 1783 appropriate special license plate without payment of the license
 1784 tax imposed by s. 320.08.

1785 Section 43. Subsection (3) of section 320.27, Florida
 1786 Statutes, is amended to read:

1787 320.27 Motor vehicle dealers.—

1788 (3) APPLICATION AND FEE.—The application for the license
 1789 shall be in such form as may be prescribed by the department and
 1790 shall be subject to such rules with respect thereto as may be so
 1791 prescribed by it. Such application shall be verified by oath or
 1792 affirmation and shall contain a full statement of the name and

1793 birth date of the person or persons applying therefor; the name
 1794 of the firm or copartnership, with the names and places of
 1795 residence of all members thereof, if such applicant is a firm or
 1796 copartnership; the names and places of residence of the
 1797 principal officers, if the applicant is a body corporate or
 1798 other artificial body; the name of the state under whose laws
 1799 the corporation is organized; the present and former place or
 1800 places of residence of the applicant; and prior business in
 1801 which the applicant has been engaged and the location thereof.
 1802 Such application shall describe the exact location of the place
 1803 of business and shall state whether the place of business is
 1804 owned by the applicant and when acquired, or, if leased, a true
 1805 copy of the lease shall be attached to the application. The
 1806 applicant shall certify that the location provides an adequately
 1807 equipped office and is not a residence; that the location
 1808 affords sufficient unoccupied space upon and within which
 1809 adequately to store all motor vehicles offered and displayed for
 1810 sale; and that the location is a suitable place where the
 1811 applicant can in good faith carry on such business and keep and
 1812 maintain books, records, and files necessary to conduct such
 1813 business, which will be available at all reasonable hours to
 1814 inspection by the department or any of its inspectors or other
 1815 employees. The applicant shall certify that the business of a
 1816 motor vehicle dealer is the principal business which shall be
 1817 conducted at that location. Such application shall contain a
 1818 statement that the applicant is either franchised by a
 1819 manufacturer of motor vehicles, in which case the name of each
 1820 motor vehicle that the applicant is franchised to sell shall be

1821 included, or an independent (nonfranchised) motor vehicle
 1822 dealer. Such application shall contain such other relevant
 1823 information as may be required by the department, including
 1824 evidence that the applicant is insured under a garage liability
 1825 insurance policy or a general liability insurance policy coupled
 1826 with a business automobile policy, which shall include, at a
 1827 minimum, \$25,000 combined single-limit liability coverage
 1828 including bodily injury and property damage protection and
 1829 \$10,000 personal injury protection. A salvage motor vehicle
 1830 dealer as defined in subparagraph (1)(c)5. is exempt from the
 1831 requirements for garage liability insurance and personal injury
 1832 protection. Franchise dealers must submit a garage liability
 1833 insurance policy, and all other dealers must submit a garage
 1834 liability insurance policy or a general liability insurance
 1835 policy coupled with a business automobile policy. Such policy
 1836 shall be for the license period, and evidence of a new or
 1837 continued policy shall be delivered to the department at the
 1838 beginning of each license period. Upon making initial
 1839 application, the applicant shall pay to the department a fee of
 1840 \$300 in addition to any other fees now required by law; upon
 1841 making a subsequent renewal application, the applicant shall pay
 1842 to the department a fee of \$75 in addition to any other fees now
 1843 required by law. Upon making an application for a change of
 1844 location, the person shall pay a fee of \$50 in addition to any
 1845 other fees now required by law. The department shall, in the
 1846 case of every application for initial licensure, verify whether
 1847 certain facts set forth in the application are true. Each
 1848 applicant, general partner in the case of a partnership, or

1849 corporate officer and director in the case of a corporate
 1850 applicant, must file a set of fingerprints with the department
 1851 for the purpose of determining any prior criminal record or any
 1852 outstanding warrants. The department shall submit the
 1853 fingerprints to the Department of Law Enforcement for state
 1854 processing and forwarding to the Federal Bureau of Investigation
 1855 for federal processing. The actual cost of state and federal
 1856 processing shall be borne by the applicant and is in addition to
 1857 the fee for licensure. The department may issue a license to an
 1858 applicant pending the results of the fingerprint investigation,
 1859 which license is fully revocable if the department subsequently
 1860 determines that any facts set forth in the application are not
 1861 true or correctly represented.

1862 Section 44. Paragraphs (a) and (b) of subsection (2) of
 1863 section 320.275, Florida Statutes, are amended to read:

1864 320.275 Automobile Dealers Industry Advisory Board.—

1865 (2) MEMBERSHIP, TERMS, MEETINGS.—

1866 (a) The board shall be composed of 12 members. The
 1867 executive director of the Department of Highway Safety and Motor
 1868 Vehicles shall appoint the members from names submitted by the
 1869 entities for the designated categories the member will
 1870 represent. The executive director shall appoint one
 1871 representative of the Department of Highway Safety and Motor
 1872 Vehicles, ~~who must represent the Division of Motor Vehicles;~~ two
 1873 representatives of the independent motor vehicle industry as
 1874 recommended by the Florida Independent Automobile Dealers
 1875 Association; two representatives of the franchise motor vehicle
 1876 industry as recommended by the Florida Automobile Dealers

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1877 Association; one representative of the auction motor vehicle
 1878 industry who is from an auction chain and is recommended by a
 1879 group affiliated with the National Auto Auction Association; one
 1880 representative of the auction motor vehicle industry who is from
 1881 an independent auction and is recommended by a group affiliated
 1882 with the National Auto Auction Association; one representative
 1883 from the Department of Revenue; a Florida tax collector
 1884 representative recommended by the Florida Tax Collectors
 1885 Association; one representative from the Better Business Bureau;
 1886 one representative from the Department of Agriculture and
 1887 Consumer Services, who must represent the Division of Consumer
 1888 Services; and one representative of the insurance industry who
 1889 writes motor vehicle dealer surety bonds.

1890 (b)1. The executive director shall appoint the following
 1891 initial members to 1-year terms: one representative from the
 1892 motor vehicle auction industry who represents an auction chain,
 1893 one representative from the independent motor vehicle industry,
 1894 one representative from the franchise motor vehicle industry,
 1895 one representative from the Department of Revenue, one Florida
 1896 tax collector, and one representative from the Better Business
 1897 Bureau.

1898 2. The executive director shall appoint the following
 1899 initial members to 2-year terms: one representative from the
 1900 motor vehicle auction industry who represents an independent
 1901 auction, one representative from the independent motor vehicle
 1902 industry, one representative from the franchise motor vehicle
 1903 industry, one representative from the Division of Consumer
 1904 Services, one representative from the insurance industry, and

1905 one representative from the department ~~Division of Motor~~
 1906 ~~Vehicles.~~

1907 3. As the initial terms expire, the executive director
 1908 shall appoint successors from the same designated category for
 1909 terms of 2 years. If renominated, a member may succeed himself
 1910 or herself.

1911 4. The board shall appoint a chair and vice chair at its
 1912 initial meeting and every 2 years thereafter.

1913 Section 45. Subsection (1) of section 320.771, Florida
 1914 Statutes, is amended to read:

1915 320.771 License required of recreational vehicle dealers.-

1916 (1) DEFINITIONS.-As used in this section:

1917 (a) "Dealer" means any person engaged in the business of
 1918 buying, selling, or dealing in recreational vehicles or offering
 1919 or displaying recreational vehicles for sale. The term "dealer"
 1920 includes a recreational vehicle broker. Any person who buys,
 1921 sells, deals in, or offers or displays for sale, or who acts as
 1922 the agent for the sale of, one or more recreational vehicles in
 1923 any 12-month period shall be prima facie presumed to be a
 1924 dealer. The terms "selling" and "sale" include lease-purchase
 1925 transactions. The term "dealer" does not include banks, credit
 1926 unions, and finance companies that acquire recreational vehicles
 1927 as an incident to their regular business and does not include
 1928 mobile home rental and leasing companies that sell recreational
 1929 vehicles to dealers licensed under this section. A licensed
 1930 dealer may transact business in recreational vehicles with a
 1931 motor vehicle auction as defined in s. 320.27(1)(c)4. Further, a
 1932 licensed dealer may, at retail or wholesale, sell a motor

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1933 vehicle, as described in s. 320.01(1)(a), acquired in exchange
 1934 for the sale of a recreational vehicle, if such acquisition is
 1935 incidental to the principal business of being a recreational
 1936 vehicle dealer. However, a recreational vehicle dealer may not
 1937 buy a motor vehicle for the purpose of resale unless licensed as
 1938 a motor vehicle dealer pursuant to s. 320.27.

1939 (b) "Recreational vehicle broker" means any person who is
 1940 engaged in the business of offering to procure or procuring used
 1941 recreational vehicles for the general public; who holds himself
 1942 or herself out through solicitation, advertisement, or otherwise
 1943 as one who offers to procure or procures used recreational
 1944 vehicles for the general public; or who acts as the agent or
 1945 intermediary on behalf of the owner or seller of a used
 1946 recreational vehicle which is for sale or who assists or
 1947 represents the seller in finding a buyer for the recreational
 1948 vehicle.

1949 (c) For the purposes of this section, the term
 1950 "recreational vehicle" does not include any camping trailer, as
 1951 defined in s. 320.01(1)(b)2.

1952 (d) A dealer may apply for a certificate of title to a
 1953 recreational vehicle required to be registered under s.
 1954 320.08(9) using a manufacturer's statement of origin as
 1955 permitted by s. 319.23(1) only if such dealer is authorized by a
 1956 manufacturer/dealer agreement as defined in s. 320.3202(8) on
 1957 file with the department to buy, sell, or deal in that
 1958 particular line-make of recreational vehicle and is authorized
 1959 by such agreement to perform delivery and preparation
 1960 obligations and warranty defect adjustments on that line-make.

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1961 Section 46. Section 320.95, Florida Statutes, is amended
 1962 to read:

1963 320.95 Transactions by electronic or telephonic means.—

1964 (1) The department may ~~is authorized to~~ accept any
 1965 application provided for under this chapter by electronic or
 1966 telephonic means.

1967 (2) The department may collect and use electronic mail
 1968 addresses for the purpose of providing renewal notices in lieu
 1969 of the United States Postal Service.

1970 Section 47. Section 321.02, Florida Statutes, is amended
 1971 to read:

1972 321.02 Powers and duties of department, highway patrol.—
 1973 The director of the Division of Highway Patrol of the Department
 1974 of Highway Safety and Motor Vehicles shall be designated the
 1975 Colonel ~~also be the commander~~ of the Florida Highway Patrol. The
 1976 said department shall set up and promulgate rules and
 1977 regulations by which the personnel of the Florida Highway Patrol
 1978 officers shall be examined, employed, trained, located,
 1979 suspended, reduced in rank, discharged, recruited, paid and
 1980 pensioned, subject to civil service provisions hereafter set
 1981 out. The department may enter into contracts or agreements, with
 1982 or without competitive bidding or procurement, to make
 1983 available, on a fair, reasonable, nonexclusive, and
 1984 nondiscriminatory basis, property and other structures under
 1985 division control for the placement of new facilities by any
 1986 wireless provider of mobile service as defined in 47 U.S.C. s.
 1987 153(27) or s. 332(d), and any telecommunications company as
 1988 defined in s. 364.02 when it is determined to be practical and

1989 | feasible to make such property or other structures available.
 1990 | The department may, without adopting a rule, charge a just,
 1991 | reasonable, and nondiscriminatory fee for placement of the
 1992 | facilities, payable annually, based on the fair market value of
 1993 | space used by comparable communications facilities in the state.
 1994 | The department and a wireless provider or telecommunications
 1995 | company may negotiate the reduction or elimination of a fee in
 1996 | consideration of services provided to the division by the
 1997 | wireless provider or the telecommunications company. All such
 1998 | fees collected by the department shall be deposited directly
 1999 | into the State Agency Law Enforcement Radio System Trust Fund,
 2000 | and may be used to construct, maintain, or support the system.
 2001 | The department is further specifically authorized to purchase,
 2002 | sell, trade, rent, lease and maintain all necessary equipment,
 2003 | uniforms, motor vehicles, communication systems, housing
 2004 | facilities, office space, and perform any other acts necessary
 2005 | for the proper administration and enforcement of this chapter.
 2006 | However, all supplies and equipment consisting of single items
 2007 | or in lots shall be purchased under the requirements of s.
 2008 | 287.057. Purchases shall be made by accepting the bid of the
 2009 | lowest responsive bidder, the right being reserved to reject all
 2010 | bids. The department shall prescribe a distinctive uniform and
 2011 | distinctive emblem to be worn by all officers of the Florida
 2012 | Highway Patrol. It shall be unlawful for any other person or
 2013 | persons to wear a similar uniform or emblem, or any part or
 2014 | parts thereof. The department shall also prescribe distinctive
 2015 | colors for use on motor vehicles and motorcycles operated by the
 2016 | Florida Highway Patrol. The prescribed colors shall be referred

2017 | to as "Florida Highway Patrol black and tan."

2018 | Section 48. Subsection (3) of section 322.02, Florida
2019 | Statutes, is amended to read:

2020 | 322.02 Legislative intent; administration.—

2021 | (3) The department shall employ a director, who is charged
2022 | with the duty of serving as the executive officer of the
2023 | Division of Motorist Services within ~~Driver Licenses~~ of the
2024 | department insofar as the administration of this chapter is
2025 | concerned. He or she shall be subject to the supervision and
2026 | direction of the department, and his or her official actions and
2027 | decisions as executive officer shall be conclusive unless the
2028 | same are superseded or reversed by the department or by a court
2029 | of competent jurisdiction.

2030 | Section 49. Paragraph (a) of subsection (4) of section
2031 | 322.0261, Florida Statutes, is amended to read:

2032 | 322.0261 Driver improvement course; requirement to
2033 | maintain driving privileges; failure to complete; department
2034 | approval of course.—

2035 | (4)(a) The department shall identify any operator
2036 | convicted of, or who pleaded nolo contendere to, a violation of
2037 | s. 316.074(1), s. 316.075(1)(c)1., s. 316.172, s. 316.191, ~~or~~ s.
2038 | 316.192, s. 316.1923, or s. 316.1925 and shall require that
2039 | operator, in addition to other applicable penalties, to attend a
2040 | department-approved driver improvement course in order to
2041 | maintain driving privileges. The department shall, within 10
2042 | days after receiving a notice of judicial disposition, send
2043 | notice to the operator of the requirement to attend a driver
2044 | improvement course. If the operator fails to complete the course

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2045 within 90 days after receiving notice from the department, the
 2046 operator's driver license shall be canceled by the department
 2047 until the course is successfully completed.

2048 Section 50. Subsection (1) of section 322.04, Florida
 2049 Statutes, is amended to read:

2050 322.04 Persons exempt from obtaining driver's license.—

2051 (1) The following persons are exempt from obtaining a
 2052 driver's license:

2053 (a) Any employee of the United States Government, while
 2054 operating a noncommercial motor vehicle owned by or leased to
 2055 the United States Government and being operated on official
 2056 business.

2057 (b) Any person while driving or operating any road
 2058 machine, farm tractor, or implement of husbandry temporarily
 2059 operated or moved on a highway.

2060 (c) A nonresident who is at least 16 years of age ~~and who~~
 2061 ~~has in his or her immediate possession a valid noncommercial~~
 2062 ~~driver's license issued to the nonresident in his or her home~~
 2063 ~~state or country,~~ may operate a motor vehicle of the type for
 2064 which a Class E driver's license is required in this state if he
 2065 or she has in their immediate possession:

2066 1. A valid noncommercial driver's license issued in his or
 2067 her name from another state or territory of the United States;

2068 or

2069 2. An International Driving Permit issued in his or her
 2070 name in their country of residence and a valid license issued in
 2071 that country.

2072 ~~(d) A nonresident who is at least 18 years of age and who~~

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2073 ~~has in his or her immediate possession a valid noncommercial~~
 2074 ~~driver's license issued to the nonresident in his or her home~~
 2075 ~~state or country may operate a motor vehicle, other than a~~
 2076 ~~commercial motor vehicle, in this state.~~

2077 (d)~~(e)~~ Any person operating a golf cart, as defined in s.
 2078 320.01, which is operated in accordance with the provisions of
 2079 s. 316.212.

2080 Section 51. Paragraph (a) of subsection (1) of section
 2081 322.051, Florida Statutes, is amended to read:

2082 322.051 Identification cards.—

2083 (1) Any person who is 5 years of age or older, or any
 2084 person who has a disability, regardless of age, who applies for
 2085 a disabled parking permit under s. 320.0848, may be issued an
 2086 identification card by the department upon completion of an
 2087 application and payment of an application fee.

2088 (a) Each such application shall include the following
 2089 information regarding the applicant:

2090 1. Full name (first, middle or maiden, and last), gender,
 2091 proof of social security card number satisfactory to the
 2092 department, county of residence, mailing address, proof of
 2093 residential address satisfactory to the department, country of
 2094 birth, and a brief description.

2095 2. Proof of birth date satisfactory to the department.

2096 3. Proof of identity satisfactory to the department. Such
 2097 proof must include one of the following documents issued to the
 2098 applicant:

2099 a. A driver's license record or identification card record
 2100 from another jurisdiction that required the applicant to submit

2101 a document for identification which is substantially similar to
 2102 a document required under sub-subparagraph b., sub-subparagraph
 2103 c., sub-subparagraph d., sub-subparagraph e., sub-subparagraph
 2104 f., sub-subparagraph g., or sub-subparagraph h.;

2105 b. A certified copy of a United States birth certificate;

2106 c. A valid, unexpired United States passport;

2107 d. A naturalization certificate issued by the United
 2108 States Department of Homeland Security;

2109 e. A valid, unexpired alien registration receipt card
 2110 (green card);

2111 f. A Consular Report of Birth Abroad provided by the
 2112 United States Department of State;

2113 g. An unexpired employment authorization card issued by
 2114 the United States Department of Homeland Security; or

2115 h. Proof of nonimmigrant classification provided by the
 2116 United States Department of Homeland Security, for an original
 2117 identification card. In order to prove such nonimmigrant
 2118 classification, applicants must provide at least one of ~~may~~
 2119 ~~produce but are not limited to~~ the following documents, and, in
 2120 addition, the department may require other documents for the
 2121 sole purpose of establishing the maintenance of or efforts to
 2122 maintain continuous lawful presence:

2123 (I) A notice of hearing from an immigration court
 2124 scheduling a hearing on any proceeding.

2125 (II) A notice from the Board of Immigration Appeals
 2126 acknowledging pendency of an appeal.

2127 (III) Notice of the approval of an application for
 2128 adjustment of status issued by the United States Bureau of

2129 Citizenship and Immigration Services.

2130 (IV) Any official documentation confirming the filing of a
 2131 petition for asylum or refugee status or any other relief issued
 2132 by the United States Bureau of Citizenship and Immigration
 2133 Services.

2134 (V) Notice of action transferring any pending matter from
 2135 another jurisdiction to Florida, issued by the United States
 2136 Bureau of Citizenship and Immigration Services.

2137 (VI) Order of an immigration judge or immigration officer
 2138 granting any relief that authorizes the alien to live and work
 2139 in the United States including, but not limited to asylum.

2140 (VII) Evidence that an application is pending for
 2141 adjustment of status to that of an alien lawfully admitted for
 2142 permanent residence in the United States or conditional
 2143 permanent resident status in the United States, if a visa number
 2144 is available having a current priority date for processing by
 2145 the United States Bureau of Citizenship and Immigration
 2146 Services.

2147 (VIII) On or after January 1, 2010, an unexpired foreign
 2148 passport with an unexpired United States Visa affixed,
 2149 accompanied by an approved I-94, documenting the most recent
 2150 admittance into the United States.

2151

2152 An identification card issued based on documents required
 2153 ~~Presentation of any of the documents described in sub-~~
 2154 ~~subparagraph g. or sub-subparagraph h. is valid entitles the~~
 2155 ~~applicant to an identification card~~ for a period not to exceed
 2156 the expiration date of the document presented or 1 year,

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2157 | whichever first occurs.

2158 | Section 52. Subsection (4) of section 322.058, Florida
2159 | Statutes, is amended to read:

2160 | 322.058 Suspension of driving privileges due to support
2161 | delinquency; reinstatement.-

2162 | (4) This section applies only to the annual renewal in the
2163 | owner's birth month of a motor vehicle registration and does not
2164 | apply to the transfer of a registration of a motor vehicle sold
2165 | by a motor vehicle dealer licensed under chapter 320, except for
2166 | the transfer of registrations which is inclusive of the annual
2167 | renewals. This section does not affect the issuance of the title
2168 | to a motor vehicle, notwithstanding s. 319.23(8)~~(7)~~(b).

2169 | Section 53. Section 322.065, Florida Statutes, is amended
2170 | to read:

2171 | 322.065 Driver's license expired for 6 4 months or less;
2172 | penalties.-Any person whose driver's license has been expired
2173 | for 6 4 months or less and who drives a motor vehicle upon the
2174 | highways of this state commits ~~is guilty of~~ an infraction and is
2175 | subject to the penalty provided in s. 318.18.

2176 | Section 54. Subsection (3) of section 322.07, Florida
2177 | Statutes, is amended to read:

2178 | 322.07 Instruction permits and temporary licenses.-

2179 | (3) Any person who, except for his or her lack of
2180 | instruction in operating a commercial motor vehicle, would
2181 | otherwise be qualified to obtain a commercial driver's license
2182 | under this chapter, may apply for a temporary commercial
2183 | instruction permit. The department shall issue such a permit
2184 | entitling the applicant, while having the permit in his or her

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2185 immediate possession, to drive a commercial motor vehicle on the
 2186 highways, provided that:

2187 (a) The applicant possesses a valid Florida driver's
 2188 license ~~issued in any state~~; and

2189 (b) The applicant, while operating a commercial motor
 2190 vehicle, is accompanied by a licensed driver who is 21 years of
 2191 age or older, who is licensed to operate the class of vehicle
 2192 being operated, and who is actually occupying the closest seat
 2193 to the right of the driver.

2194 Section 55. Subsection (2) of section 322.08, Florida
 2195 Statutes, is amended, paragraphs (o) and (p) are added to
 2196 subsection (7), and subsection (8) is added to that section, to
 2197 read:

2198 322.08 Application for license; requirements for license
 2199 and identification card forms.—

2200 (2) Each such application shall include the following
 2201 information regarding the applicant:

2202 (a) Full name (first, middle or maiden, and last), gender,
 2203 proof of social security card number satisfactory to the
 2204 department, county of residence, mailing address, proof of
 2205 residential address satisfactory to the department, country of
 2206 birth, and a brief description.

2207 (b) Proof of birth date satisfactory to the department.

2208 (c) Proof of identity satisfactory to the department. Such
 2209 proof must include one of the following documents issued to the
 2210 applicant:

2211 1. A driver's license record or identification card record
 2212 from another jurisdiction that required the applicant to submit

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2213 a document for identification which is substantially similar to
 2214 a document required under subparagraph 2., subparagraph 3.,
 2215 subparagraph 4., subparagraph 5., subparagraph 6., subparagraph
 2216 7., or subparagraph 8.;

2217 2. A certified copy of a United States birth certificate;

2218 3. A valid, unexpired United States passport;

2219 4. A naturalization certificate issued by the United
 2220 States Department of Homeland Security;

2221 5. A valid, unexpired alien registration receipt card
 2222 (green card);

2223 6. A Consular Report of Birth Abroad provided by the
 2224 United States Department of State;

2225 7. An unexpired employment authorization card issued by
 2226 the United States Department of Homeland Security; or

2227 8. Proof of nonimmigrant classification provided by the
 2228 United States Department of Homeland Security, for an original
 2229 driver's license. In order to prove nonimmigrant classification,
 2230 an applicant must provide at least one of the following
 2231 documents, and, in addition, the department may require other
 2232 documents for the sole purpose of establishing the maintenance
 2233 of or efforts to maintain continuous lawful presence ~~may produce~~

2234 ~~the following documents, including, but not limited to:~~

2235 a. A notice of hearing from an immigration court
 2236 scheduling a hearing on any proceeding.

2237 b. A notice from the Board of Immigration Appeals
 2238 acknowledging pendency of an appeal.

2239 c. A notice of the approval of an application for
 2240 adjustment of status issued by the United States Bureau of

2241 Citizenship and Immigration Services.

2242 d. Any official documentation confirming the filing of a
 2243 petition for asylum or refugee status or any other relief issued
 2244 by the United States Bureau of Citizenship and Immigration
 2245 Services.

2246 e. A notice of action transferring any pending matter from
 2247 another jurisdiction to this state issued by the United States
 2248 Bureau of Citizenship and Immigration Services.

2249 f. An order of an immigration judge or immigration officer
 2250 granting any relief that authorizes the alien to live and work
 2251 in the United States, including, but not limited to, asylum.

2252 g. Evidence that an application is pending for adjustment
 2253 of status to that of an alien lawfully admitted for permanent
 2254 residence in the United States or conditional permanent resident
 2255 status in the United States, if a visa number is available
 2256 having a current priority date for processing by the United
 2257 States Bureau of Citizenship and Immigration Services.

2258 h. On or after January 1, 2010, an unexpired foreign
 2259 passport with an unexpired United States Visa affixed,
 2260 accompanied by an approved I-94, documenting the most recent
 2261 admittance into the United States.

2262

2263 A driver's license or temporary permit issued based on documents
 2264 required ~~Presentation of any of the documents~~ in subparagraph 7.
 2265 or subparagraph 8. is valid ~~entitles the applicant to a driver's~~
 2266 ~~license or temporary permit~~ for a period not to exceed the
 2267 expiration date of the document presented or 1 year, whichever
 2268 occurs first.

2269 (d) Whether the applicant has previously been licensed to
 2270 drive, and, if so, when and by what state, and whether any such
 2271 license or driving privilege has ever been disqualified,
 2272 revoked, or suspended, or whether an application has ever been
 2273 refused, and, if so, the date of and reason for such
 2274 disqualification, suspension, revocation, or refusal.

2275 (e) Each such application may include fingerprints and
 2276 other unique biometric means of identity.

2277 (7) The application form for an original, renewal, or
 2278 replacement driver's license or identification card shall
 2279 include language permitting the following:

2280 (o) A voluntary contribution of \$1 per applicant for
 2281 Autism Services and Supports. Such contributions must be
 2282 transferred by the department each month to the Achievement and
 2283 Rehabilitation Centers, Inc., Autism Services Fund.

2284 (p) A voluntary contribution of \$1 per applicant to
 2285 Support Our Troops, which shall be distributed monthly to
 2286 Support Our Troops, Inc., a Florida not-for-profit organization.

2287
 2288 A statement providing an explanation of the purpose of the trust
 2289 funds shall also be included. For the purpose of applying the
 2290 service charge provided in s. 215.20, contributions received
 2291 under paragraphs (b)-(n) are not income of a revenue nature.

2292 (8) The department may collect and use electronic mail
 2293 addresses for the purpose of providing renewal notices in lieu
 2294 of the United State Postal Service.

2295 Section 56. Subsection (9) is added to section 322.081,
 2296 Florida Statutes, to read:

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2297 | 322.081 Requests to establish voluntary checkoff on
2298 | driver's license application.-

2299 | (9) The department may annually retain from the first
2300 | proceeds derived from the voluntary contributions collected an
2301 | amount sufficient to defray for each voluntary contribution the
2302 | pro rata share of the department's costs directly related to the
2303 | voluntary contributions program. Such costs include renewal
2304 | notices, postage, distribution costs, direct costs to the
2305 | department, and costs associated with reviewing each
2306 | organization's compliance with the audit and attestation
2307 | requirements of this section. The balance of the proceeds from
2308 | the voluntary contributions collected shall be distributed as
2309 | provided by law.

2310 | Section 57. Subsection (1) of section 322.095, Florida
2311 | Statutes, is amended to read:

2312 | 322.095 Traffic law and substance abuse education program
2313 | for driver's license applicants.-

2314 | (1) The Department of Highway Safety and Motor Vehicles
2315 | must approve traffic law and substance abuse education courses
2316 | that must be completed by applicants for a Florida driver's
2317 | license. The curricula for the courses must provide instruction
2318 | on the physiological and psychological consequences of the abuse
2319 | of alcohol and other drugs, the societal and economic costs of
2320 | alcohol and drug abuse, the effects of alcohol and drug abuse on
2321 | the driver of a motor vehicle, the dangers of driving while
2322 | distracted, which must specifically include the use of
2323 | technology while driving, and the laws of this state relating to

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2324 | the operation of a motor vehicle. All instructors teaching the
 2325 | courses shall be certified by the department.

2326 | Section 58. Subsection (5) of section 322.12, Florida
 2327 | Statutes, is amended to read:

2328 | 322.12 Examination of applicants.—

2329 | (5) ~~(a) The department shall formulate a separate~~
 2330 | ~~examination for applicants for licenses to operate motorcycles.~~
 2331 | ~~Any applicant for a driver's license who wishes to operate a~~
 2332 | ~~motorcycle, and who is otherwise qualified, must successfully~~
 2333 | ~~complete such an examination, which is in addition to the~~
 2334 | ~~examination administered under subsection (3). The examination~~
 2335 | ~~must test the applicant's knowledge of the operation of a~~
 2336 | ~~motorcycle and of any traffic laws specifically relating thereto~~
 2337 | ~~and must include an actual demonstration of his or her ability~~
 2338 | ~~to exercise ordinary and reasonable control in the operation of~~
 2339 | ~~a motorcycle. Any applicant who fails to pass the initial~~
 2340 | ~~knowledge examination will incur a \$5 fee for each subsequent~~
 2341 | ~~examination, to be deposited into the Highway Safety Operating~~
 2342 | ~~Trust Fund. Any applicant who fails to pass the initial skills~~
 2343 | ~~examination will incur a \$10 fee for each subsequent~~
 2344 | ~~examination, to be deposited into the Highway Safety Operating~~
 2345 | ~~Trust Fund. In the formulation of the examination, the~~
 2346 | ~~department shall consider the use of the Motorcycle Operator~~
 2347 | ~~Skills Test and the Motorcycle in Traffic Test offered by the~~
 2348 | ~~Motorcycle Safety Foundation. The department shall indicate on~~
 2349 | ~~the license of any person who successfully completes the~~
 2350 | ~~examination that the licensee is authorized to operate a~~
 2351 | ~~motorcycle. If the applicant wishes to be licensed to operate a~~

2352 ~~motorcycle only, he or she need not take the skill or road test~~
 2353 ~~required under subsection (3) for the operation of a motor~~
 2354 ~~vehicle, and the department shall indicate such a limitation on~~
 2355 ~~his or her license as a restriction.~~ Every first-time applicant
 2356 for licensure to operate a motorcycle must provide proof of
 2357 completion of a motorcycle safety course, as provided for in s.
 2358 322.0255, which shall include a final examination before the
 2359 applicant may be licensed to operate a motorcycle. The
 2360 department shall indicate on the license of any person who
 2361 successfully completes the course that the licensee is
 2362 authorized to operate a motorcycle. If the applicant wishes to
 2363 be licensed to operate a motorcycle only, he or she need not
 2364 take the skills or road test required under subsection (3) for
 2365 the operation of a motor vehicle, and the department shall
 2366 indicate such a limitation on his or her license as a
 2367 restriction.

2368 ~~(b) The department may exempt any applicant from the~~
 2369 ~~examination provided in this subsection if the applicant~~
 2370 ~~presents a certificate showing successful completion of a course~~
 2371 ~~approved by the department, which course includes a similar~~
 2372 ~~examination of the knowledge and skill of the applicant in the~~
 2373 ~~operation of a motorcycle.~~

2374 Section 59. Subsection (5) of section 322.121, Florida
 2375 Statutes, is amended to read:

2376 322.121 Periodic reexamination of all drivers.—

2377 (5) Members of the Armed Forces, or their dependents
 2378 residing with them, shall be granted an automatic extension for
 2379 the expiration of their Class E licenses without reexamination

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2380 while serving on active duty outside this state. This extension
 2381 is valid for 90 days after the member of the Armed Forces is
 2382 either discharged or returns to this state to live.

2383 Section 60. Paragraph (a) of subsection (1) of section
 2384 322.14, Florida Statutes, is amended to read:

2385 322.14 Licenses issued to drivers.—

2386 (1)(a) The department shall, upon successful completion of
 2387 all required examinations and payment of the required fee, issue
 2388 to every applicant qualifying therefor, a driver's license as
 2389 applied for, which license shall bear thereon a color photograph
 2390 or digital image of the licensee; the name of the state; a
 2391 distinguishing number assigned to the licensee; and the
 2392 licensee's full name, date of birth, and residence address; a
 2393 brief description of the licensee, including, but not limited
 2394 to, the licensee's gender and height; and the dates of issuance
 2395 and expiration of the license. A space shall be provided upon
 2396 which the licensee shall affix his or her usual signature. No
 2397 license shall be valid until it has been so signed by the
 2398 licensee except that the signature of said licensee shall not be
 2399 required if it appears thereon in facsimile or if the licensee
 2400 is not present within the state at the time of issuance.

2401 ~~Applicants qualifying to receive a Class A, Class B, or Class C~~
 2402 ~~driver's license must appear in person within the state for~~
 2403 ~~issuance of a color photographic or digital imaged driver's~~
 2404 ~~license pursuant to s. 322.142.~~

2405 Section 61. Section 322.1415, Florida Statutes, is created
 2406 to read:

2407 322.1415 Specialty driver's license and identification

2408 card program.—

2409 (1) The department shall issue to any applicant qualified
 2410 pursuant to s. 322.14 a specialty driver's license or
 2411 identification card upon payment of the appropriate fee pursuant
 2412 to s. 322.21.

2413 (2) Department-approved specialty driver's licenses and
 2414 identification cards shall, at a minimum, be available for state
 2415 and independent universities domiciled in this state, all
 2416 Florida professional sports teams designated in s.
 2417 320.08058(9)(a), and all branches of the United States military.

2418 (3) The design and use of each specialty driver's license
 2419 and identification card must be approved by the department and
 2420 the organization that is recognized by the driver's license or
 2421 card. Such design shall be approximately .375 x .375 inches.

2422 Section 62. Subsections (9), (10), (13), (14), and (16) of
 2423 section 322.20, Florida Statutes, are amended to read:

2424 322.20 Records of the department; fees; destruction of
 2425 records.—

2426 (9) The department may, upon application, furnish to any
 2427 person, from its ~~the records of the Division of Driver Licenses,~~
 2428 a list of the names, addresses, and birth dates of the licensed
 2429 drivers of the entire state or any portion thereof by age group.
 2430 In addition, the department may furnish to the courts, for the
 2431 purpose of establishing jury selection lists, the names,
 2432 addresses, and birth dates of the persons of the entire state or
 2433 any portion thereof by age group having identification cards
 2434 issued by the department. Each person who requests such
 2435 information shall pay a fee, set by the department, of 1 cent

2436 per name listed, except that the department shall furnish such
 2437 information without charge to the courts for the purpose of jury
 2438 selection or to any state agency or to any state attorney,
 2439 sheriff, or chief of police. Such court, state agency, state
 2440 attorney, or law enforcement agency may not sell, give away, or
 2441 allow the copying of such information. Noncompliance with this
 2442 prohibition shall authorize the department to charge the
 2443 noncomplying court, state agency, state attorney, or law
 2444 enforcement agency the appropriate fee for any subsequent lists
 2445 requested. The department may adopt rules necessary to implement
 2446 this subsection.

2447 (10) The department ~~Division of Driver Licenses~~ is
 2448 authorized, upon application of any person and payment of the
 2449 proper fees, to search and to assist such person in the search
 2450 of the records of the department and make reports thereof and to
 2451 make photographic copies of the departmental records and
 2452 attestations thereof.

2453 (13) The department ~~Division of Driver Licenses~~ shall
 2454 implement a system that allows either parent of a minor, or a
 2455 guardian, or other responsible adult who signed a minor's
 2456 application for a driver's license to have Internet access
 2457 through a secure website to inspect the minor's driver history
 2458 record. Internet access to driver history records granted to a
 2459 minor's parents, guardian, or other responsible adult shall be
 2460 furnished by the department at no fee and shall terminate when
 2461 the minor attains 18 years of age.

2462 (14) The department is authorized in accordance with
 2463 chapter 257 to destroy reports, records, documents, papers, and

2464 correspondence in the department ~~Division of Driver Licenses~~
 2465 which are considered obsolete.

2466 (16) The creation and maintenance of records by the
 2467 Division of Motorist Services within the department ~~and the~~
 2468 ~~Division of Driver Licenses~~ pursuant to this chapter shall not
 2469 be regarded as law enforcement functions of agency
 2470 recordkeeping.

2471 Section 63. Section 322.202, Florida Statutes, is amended
 2472 to read:

2473 322.202 Admission of evidence obtained from the Division
 2474 of Motorist Services ~~Driver Licenses and the Division of Motor~~
 2475 ~~Vehicles.~~-

2476 (1) The Legislature finds that the Division of Motorist
 2477 Services ~~Driver Licenses and the Division of Motor Vehicles~~ of
 2478 the Department of Highway Safety and Motor Vehicles is ~~are~~ not a
 2479 law enforcement agency ~~agencies~~. The Legislature also finds that
 2480 the division is ~~divisions are~~ not an adjunct ~~adjuncts~~ of any law
 2481 enforcement agency in that employees have no stake in particular
 2482 prosecutions. The Legislature further finds that errors in
 2483 records maintained by the Division of Motorist Services
 2484 ~~divisions~~ are not within the collective knowledge of any law
 2485 enforcement agency. The Legislature also finds that the mission
 2486 ~~missions~~ of the Division of Motorist Services ~~Driver Licenses,~~
 2487 ~~the Division of Motor Vehicles,~~ and the Department of Highway
 2488 Safety and Motor Vehicles provides ~~provide~~ a sufficient
 2489 incentive to maintain records in a current and correct fashion.

2490 (2) The Legislature finds that the purpose of the
 2491 exclusionary rule is to deter misconduct on the part of law

2492 enforcement officers and law enforcement agencies.

2493 (3) The Legislature finds that the application of the
 2494 exclusionary rule to cases where a law enforcement officer
 2495 effects an arrest based on objectively reasonable reliance on
 2496 information obtained from the division ~~divisions~~ is repugnant to
 2497 the purposes of the exclusionary rule and contrary to the
 2498 decisions of the United States Supreme Court in *Arizona v.*
 2499 *Evans*, 514 U.S. 1 (1995) and *United States v. Leon*, 468 U.S. 897
 2500 (1984).

2501 (4) In any case where a law enforcement officer effects an
 2502 arrest based on objectively reasonable reliance on information
 2503 obtained from the division ~~divisions~~, evidence found pursuant to
 2504 such an arrest shall not be suppressed by application of the
 2505 exclusionary rule on the grounds that the arrest is subsequently
 2506 determined to be unlawful due to erroneous information obtained
 2507 from the divisions.

2508 Section 64. Paragraph (i) is added to subsection (1) of
 2509 section 322.21, Florida Statutes, and subsections (2) and (4) of
 2510 that section are amended, to read:

2511 322.21 License fees; procedure for handling and collecting
 2512 fees.—

2513 (1) Except as otherwise provided herein, the fee for:

2514 (i) The specialty license or identification card issued
 2515 pursuant to s. 322.1415 is \$25, which is in addition to other
 2516 fees required in this section. The specialty fee shall be
 2517 distributed as follows:

2518 1. Twenty percent shall be distributed to the appropriate
 2519 state or independent university foundation, the Florida Sports

2520 Foundation, or the State Homes for Veterans Trust Fund, as
 2521 designated by the purchaser, for deposit into an unrestricted
 2522 account.

2523 2. Eighty percent shall be distributed to the department
 2524 for department costs directly related to the specialty driver's
 2525 license and identification card program and to defray costs of
 2526 production enhancements and distribution.

2527 (2) It is the duty of the director of the Division of
 2528 Motorist Services to provide Driver Licenses to set up a
 2529 ~~division in the department with the~~ necessary personnel to
 2530 perform the ~~necessary~~ clerical and routine work for the
 2531 department in issuing and recording applications, licenses, and
 2532 certificates of eligibility, including the receiving and
 2533 accounting of all license funds and their payment into the State
 2534 Treasury, and other incidental clerical work connected with the
 2535 administration of this chapter. The department may use such
 2536 electronic, mechanical, or other devices as necessary to
 2537 accomplish the purposes of this chapter.

2538 (4) If the department determines from its records or is
 2539 otherwise satisfied that the holder of a license about to expire
 2540 is entitled to have it renewed, the department shall mail a
 2541 renewal notice to the licensee at his or her last known address,
 2542 at least within 30 days before the licensee's birthday. The
 2543 licensee may ~~shall~~ be issued a renewal license, after
 2544 reexamination, if required, ~~during the 30 days immediately~~
 2545 ~~preceding his or her birthday upon presenting a renewal notice,~~
 2546 ~~his or her current license, and the fee for renewal to the~~
 2547 ~~department at any driver's license examining office.~~ A driver

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2548 may renew his or her driver's license up to 18 months prior to
 2549 the license expiration date.

2550 Section 65. Subsection (1) of section 322.22, Florida
 2551 Statutes, is amended to read:

2552 322.22 Authority of department to cancel license.—

2553 (1) The department is authorized to cancel any driver's
 2554 license, upon determining that the licensee is ~~was~~ not entitled
 2555 to the license issuance ~~thereof~~, or that the licensee failed to
 2556 give the required or correct information in his or her
 2557 application or committed any fraud in making such application,
 2558 or that the licensee has two or more licenses on file with the
 2559 department, each in a different name but bearing the photograph
 2560 of the licensee, unless the licensee has complied with the
 2561 requirements of this chapter in obtaining the licenses. The
 2562 department may cancel any driver's license, identification card,
 2563 vehicle or vessel registration, or fuel-use decal if the
 2564 licensee fails to pay the correct fee or pays for the driver's
 2565 license, identification card, vehicle or vessel registration, or
 2566 fuel-use decal; pays any tax liability, penalty, or interest
 2567 specified in chapter 207; or pays any administrative,
 2568 delinquency, or reinstatement fee by a dishonored check.

2569 Section 66. Subsection (6) of section 322.2615, Florida
 2570 Statutes, is amended to read:

2571 322.2615 Suspension of license; right to review.—

2572 (6) (a) If the person whose license was suspended requests
 2573 a formal review, the department must schedule a hearing to be
 2574 held within 30 days after such request is received by the
 2575 department and must notify the person of the date, time, and

2576 place of the hearing.

2577 (b) Such formal review hearing shall be held before a
 2578 hearing officer designated ~~employed~~ by the department, and the
 2579 hearing officer shall be authorized to administer oaths, examine
 2580 witnesses and take testimony, receive relevant evidence, issue
 2581 subpoenas for the officers and witnesses identified in documents
 2582 in subsection (2), regulate the course and conduct of the
 2583 hearing, question witnesses, and make a ruling on the
 2584 suspension. The party requesting the presence of a witness shall
 2585 be responsible for the payment of any witness fees and for
 2586 notifying in writing the state attorney's office in the
 2587 appropriate circuit of the issuance of the subpoena. If the
 2588 person who requests a formal review hearing fails to appear and
 2589 the hearing officer finds such failure to be without just cause,
 2590 the right to a formal hearing is waived and the suspension shall
 2591 be sustained.

2592 (c) A party may seek enforcement of a subpoena under
 2593 paragraph (b) by:

2594 1. Filing a motion for enforcement of a subpoena in the
 2595 related criminal case, if any; or

2596 2. Filing a petition for enforcement in the circuit court
 2597 of the judicial circuit in which the person failing to comply
 2598 with the subpoena resides. A failure to comply with an order of
 2599 the court shall result in a finding of contempt of court.

2600 However, a person is not in contempt while a subpoena is being
 2601 challenged.

2602 (d) The department must, within 7 working days after a
 2603 formal review hearing, send notice to the person of the hearing

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2604 officer's decision as to whether sufficient cause exists to
 2605 sustain, amend, or invalidate the suspension.

2606 Section 67. Subsection (2) of section 322.53, Florida
 2607 Statutes, is amended to read:

2608 322.53 License required; exemptions.-

2609 (2) The following persons are exempt from the requirement
 2610 to obtain a commercial driver's license:

2611 (a) Drivers of authorized emergency vehicles.

2612 (b) Military personnel driving vehicles operated for
 2613 military purposes.

2614 (c) Farmers transporting agricultural products, farm
 2615 supplies, or farm machinery to or from their farms within 150
 2616 miles of their farm if the vehicle operated under this exemption
 2617 is not used in the operations of a common or contract motor
 2618 carrier, or transporting agricultural products to or from the
 2619 first place of storage or processing or directly to or from
 2620 market, within 150 miles of their farm.

2621 (d) Drivers of recreational vehicles, as defined in s.
 2622 320.01.

2623 (e) Drivers who operate straight trucks, as defined in s.
 2624 316.003, which ~~that~~ are exclusively transporting their own
 2625 tangible personal property that ~~which~~ is not for sale or hire,
 2626 and the vehicles are not used in commerce.

2627 (f) An employee of a publicly owned transit system who is
 2628 limited to moving vehicles for maintenance or parking purposes
 2629 exclusively within the restricted-access confines of a transit
 2630 system's property.

2631 Section 68. Subsection (5) is added to section 322.54,

2632 Florida Statutes, to read:

2633 322.54 Classification.-

2634 (5) The required driver's license classification of any
 2635 person operating a commercial motor vehicle that has no gross
 2636 vehicle weight rating plate or no vehicle identification number
 2637 shall be determined by the actual weight of the vehicle.

2638 Section 69. Section 322.58, Florida Statutes, is repealed.

2639 Section 70. Section 322.59, Florida Statutes, is amended
 2640 to read:

2641 322.59 Possession of medical examiner's certificate.-

2642 (1) The department shall not issue a commercial driver's
 2643 license to any person who is required by the laws of this state
 2644 or by federal law to possess a medical examiner's certificate,
 2645 unless such person provides ~~presents~~ a valid certificate, as
 2646 described in 49 C.F.R. s. 383.71 prior to licensure.

2647 (2) The department shall disqualify a driver from
 2648 operating a commercial motor vehicle if that driver holds a
 2649 commercial driver's license and fails to comply with the medical
 2650 certification requirements described in 49 C.F.R. s. 383.71.

2651 ~~(2) This section does not expand the requirements as to~~
 2652 ~~who must possess a medical examiner's certificate.~~

2653 Section 71. Subsection (5) of section 322.61, Florida
 2654 Statutes, is amended to read:

2655 322.61 Disqualification from operating a commercial motor
 2656 vehicle.-

2657 (5) Any person who is convicted of two violations
 2658 specified in subsection (3) which were committed while operating
 2659 a commercial motor vehicle, or any combination thereof, arising

2660 in separate incidents shall be permanently disqualified from
 2661 operating a commercial motor vehicle. Any holder of a commercial
 2662 driver's license who is convicted of two violations specified in
 2663 subsection (3), which were committed while operating any a
 2664 ~~noncommercial motor vehicle, or any combination thereof,~~ arising
 2665 in separate incidents shall be permanently disqualified from
 2666 operating a commercial motor vehicle. The penalty provided in
 2667 this subsection is in addition to any other applicable penalty.

2668 Section 72. Subsections (1), (4), (7), (8), and (11) of
 2669 section 322.64, Florida Statutes, are amended to read:

2670 322.64 Holder of commercial driver's license; persons
 2671 operating a commercial motor vehicle; driving with unlawful
 2672 blood-alcohol level; refusal to submit to breath, urine, or
 2673 blood test.-

2674 (1)(a) A law enforcement officer or correctional officer
 2675 shall, on behalf of the department, disqualify from operating
 2676 any commercial motor vehicle a person who while operating or in
 2677 actual physical control of a commercial motor vehicle is
 2678 arrested for a violation of s. 316.193, relating to unlawful
 2679 blood-alcohol level or breath-alcohol level, or a person who has
 2680 refused to submit to a breath, urine, or blood test authorized
 2681 by s. 322.63 or s. 316.1932 arising out of the operation or
 2682 actual physical control of a commercial motor vehicle. A law
 2683 enforcement officer or correctional officer shall, on behalf of
 2684 the department, disqualify the holder of a commercial driver's
 2685 license from operating any commercial motor vehicle if the
 2686 licenseholder, while operating or in actual physical control of
 2687 a motor vehicle, is arrested for a violation of s. 316.193,

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2688 relating to unlawful blood-alcohol level or breath-alcohol
 2689 level, or refused to submit to a breath, urine, or blood test
 2690 authorized by s. 322.63 or s. 316.1932. Upon disqualification of
 2691 the person, the officer shall take the person's driver's license
 2692 and issue the person a 10-day temporary permit for the operation
 2693 of noncommercial vehicles only if the person is otherwise
 2694 eligible for the driving privilege and shall issue the person a
 2695 notice of disqualification. If the person has been given a
 2696 blood, breath, or urine test, the results of which are not
 2697 available to the officer at the time of the arrest, the agency
 2698 employing the officer shall transmit such results to the
 2699 department within 5 days after receipt of the results. If the
 2700 department then determines that the person had a blood-alcohol
 2701 level or breath-alcohol level of 0.08 or higher, the department
 2702 shall disqualify the person from operating a commercial motor
 2703 vehicle pursuant to subsection (3).

2704 (b) For purposes of determining the period of
 2705 disqualification described in 49 C.F.R. s. 383.51,
 2706 disqualifications listed in paragraph (a) shall be treated as
 2707 convictions.

2708 (c) ~~(b)~~ The disqualification under paragraph (a) shall be
 2709 pursuant to, and the notice of disqualification shall inform the
 2710 driver of, the following:

2711 1.a. The driver refused to submit to a lawful breath,
 2712 blood, or urine test and he or she is disqualified from
 2713 operating a commercial motor vehicle for the time period
 2714 specified in 49 C.F.R. s. 383.51 ~~a period of 1 year, for a first~~
 2715 ~~refusal, or permanently, if he or she has previously been~~

2716 | ~~disqualified under this section; or~~

2717 | b. The driver had an unlawful blood-alcohol or breath-
 2718 | alcohol level of 0.08 or higher while driving or in actual
 2719 | physical control of a commercial motor vehicle, or any motor
 2720 | vehicle if the driver holds a commercial driver license, and is
 2721 | disqualified for the time period specified in 49 C.F.R. s.
 2722 | 383.51. ~~The driver was driving or in actual physical control of~~
 2723 | ~~a commercial motor vehicle, or any motor vehicle if the driver~~
 2724 | ~~holds a commercial driver's license, had an unlawful blood-~~
 2725 | ~~alcohol level or breath-alcohol level of 0.08 or higher, and his~~
 2726 | ~~or her driving privilege shall be disqualified for a period of 1~~
 2727 | ~~year for a first offense or permanently disqualified if his or~~
 2728 | ~~her driving privilege has been previously disqualified under~~
 2729 | ~~this section.~~

2730 | 2. The disqualification period for operating commercial
 2731 | vehicles shall commence on the date of issuance of the notice of
 2732 | disqualification.

2733 | 3. The driver may request a formal or informal review of
 2734 | the disqualification by the department within 10 days after the
 2735 | date of issuance of the notice of disqualification.

2736 | 4. The temporary permit issued at the time of
 2737 | disqualification expires at midnight of the 10th day following
 2738 | the date of disqualification.

2739 | 5. The driver may submit to the department any materials
 2740 | relevant to the disqualification.

2741 | (4) If the person disqualified requests an informal review
 2742 | pursuant to subparagraph (1) (c) ~~(b)~~ 3., the department shall
 2743 | conduct the informal review by a hearing officer employed by the

2744 department. Such informal review hearing shall consist solely of
 2745 an examination by the department of the materials submitted by a
 2746 law enforcement officer or correctional officer and by the
 2747 person disqualified, and the presence of an officer or witness
 2748 is not required.

2749 (7) In a formal review hearing under subsection (6) or an
 2750 informal review hearing under subsection (4), the hearing
 2751 officer shall determine by a preponderance of the evidence
 2752 whether sufficient cause exists to sustain, amend, or invalidate
 2753 the disqualification. The scope of the review shall be limited
 2754 to the following issues:

2755 (a) If the person was disqualified from operating a
 2756 commercial motor vehicle for driving with an unlawful blood-
 2757 alcohol level:

2758 1. Whether the ~~arresting~~ law enforcement officer had
 2759 probable cause to believe that the person was driving or in
 2760 actual physical control of a commercial motor vehicle, or any
 2761 motor vehicle if the driver holds a commercial driver's license,
 2762 in this state while he or she had any alcohol, chemical
 2763 substances, or controlled substances in his or her body.

2764 2. Whether the person had an unlawful blood-alcohol level
 2765 or breath-alcohol level of 0.08 or higher.

2766 (b) If the person was disqualified from operating a
 2767 commercial motor vehicle for refusal to submit to a breath,
 2768 blood, or urine test:

2769 1. Whether the law enforcement officer had probable cause
 2770 to believe that the person was driving or in actual physical
 2771 control of a commercial motor vehicle, or any motor vehicle if

2772 the driver holds a commercial driver's license, in this state
 2773 while he or she had any alcohol, chemical substances, or
 2774 controlled substances in his or her body.

2775 2. Whether the person refused to submit to the test after
 2776 being requested to do so by a law enforcement officer or
 2777 correctional officer.

2778 3. Whether the person was told that if he or she refused
 2779 to submit to such test he or she would be disqualified from
 2780 operating a commercial motor vehicle for a period of 1 year or,
 2781 if previously disqualified under this section, permanently.

2782 (8) Based on the determination of the hearing officer
 2783 pursuant to subsection (7) for both informal hearings under
 2784 subsection (4) and formal hearings under subsection (6), the
 2785 department shall:

2786 ~~(a) sustain the disqualification for the time period~~
 2787 ~~described in 49 C.F.R. s. 383.51 a period of 1 year for a first~~
 2788 ~~refusal, or permanently if such person has been previously~~
 2789 ~~disqualified from operating a commercial motor vehicle under~~
 2790 ~~this section. The disqualification period commences on the date~~
 2791 ~~of the issuance of the notice of disqualification.~~

2792 ~~(b) Sustain the disqualification:~~

2793 ~~1. For a period of 1 year if the person was driving or in~~
 2794 ~~actual physical control of a commercial motor vehicle, or any~~
 2795 ~~motor vehicle if the driver holds a commercial driver's license,~~
 2796 ~~and had an unlawful blood alcohol level or breath alcohol level~~
 2797 ~~of 0.08 or higher; or~~

2798 ~~2. Permanently if the person has been previously~~
 2799 ~~disqualified from operating a commercial motor vehicle under~~

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2011

2800 ~~this section or his or her driving privilege has been previously~~
 2801 ~~suspended for driving or being in actual physical control of a~~
 2802 ~~commercial motor vehicle, or any motor vehicle if the driver~~
 2803 ~~holds a commercial driver's license, and had an unlawful blood-~~
 2804 ~~alcohol level or breath-alcohol level of 0.08 or higher.~~

2805

2806 ~~The disqualification period commences on the date of the~~
 2807 ~~issuance of the notice of disqualification.~~

2808 (11) The formal review hearing may be conducted upon a
 2809 review of the reports of a law enforcement officer or a
 2810 correctional officer, including documents relating to the
 2811 administration of a breath test or blood test or the refusal to
 2812 take a breath, blood, or urine ~~either~~ test. However, as provided
 2813 in subsection (6), the driver may subpoena the officer or any
 2814 person who administered or analyzed a breath or blood test.

2815 Section 73. Section 328.30, Florida Statutes, is amended
 2816 to read:

2817 328.30 Transactions by electronic or telephonic means.—

2818 (1) The department may ~~is authorized to~~ accept any
 2819 application provided for under this chapter by electronic or
 2820 telephonic means.

2821 (2) The department may issue an electronic certificate of
 2822 title in lieu of printing a paper title.

2823 (3) The department may collect and use electronic mail
 2824 addresses for the purpose of providing renewal notices in lieu
 2825 of the United States Postal Service.

2826 Section 74. Subsection (2) of section 413.012, Florida
 2827 Statutes, is amended to read:

2828 413.012 Confidential records disclosure prohibited;
 2829 exemptions.—

2830 (2) It is unlawful for any person to disclose, authorize
 2831 the disclosure, solicit, receive, or make use of any list of
 2832 names and addresses or any record containing any information set
 2833 forth in subsection (1) and maintained in the division. The
 2834 prohibition provided for in this subsection shall not apply to
 2835 the use of such information for purposes directly connected with
 2836 the administration of the vocational rehabilitation program or
 2837 with the monthly dispatch to ~~the Division of Driver Licenses of~~
 2838 the Department of Highway Safety and Motor Vehicles of the name
 2839 in full, place and date of birth, sex, social security number,
 2840 and resident address of individuals with central visual acuity
 2841 20/200 or less in the better eye with correcting glasses, or a
 2842 disqualifying field defect in which the peripheral field has
 2843 contracted to such an extent that the widest diameter or visual
 2844 field subtends an angular distance no greater than 20 degrees.
 2845 When requested in writing by an applicant or client, or her or
 2846 his representative, the Division of Blind Services shall release
 2847 confidential information to the applicant or client or her or
 2848 his representative.

2849 Section 75. Paragraph (f) of subsection (13) of section
 2850 713.78, Florida Statutes, is amended to read:

2851 713.78 Liens for recovering, towing, or storing vehicles
 2852 and vessels.—

2853 (13)

2854 (f) This subsection applies only to the annual renewal in
 2855 the registered owner's birth month of a motor vehicle

2856 registration and does not apply to the transfer of a
 2857 registration of a motor vehicle sold by a motor vehicle dealer
 2858 licensed under chapter 320, except for the transfer of
 2859 registrations which is inclusive of the annual renewals. This
 2860 subsection does not apply to any vehicle registered in the name
 2861 of the lessor. This subsection does not affect the issuance of
 2862 the title to a motor vehicle, notwithstanding s.
 2863 319.23(8)~~(7)~~(b).

2864 Section 76. (1) This section may be cited as the "To
 2865 Inform Families First Act."

2866 (2) The Department of Highway Safety and Motor Vehicles is
 2867 encouraged to educate the law enforcement community and the
 2868 general public about the importance of making certain that
 2869 drivers are aware of and use the Emergency Contact Information
 2870 program, established by the department. The department shall
 2871 provide signs for the driver license offices to advertise the
 2872 program. This voluntary program allows all drivers the
 2873 opportunity to register the names of up to two individuals as
 2874 the person they would want to be contacted in the event that
 2875 they are involved in a crash.

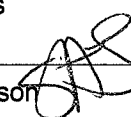

2876 Section 77. Except as otherwise expressly provided in this
 2877 act, this act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1363 Department of Transportation

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Transportation & Highway Safety Subcommittee; Brandes and others

TIED BILLS: **IDEN. /SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Johnson	Brown
2) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N, As CS	Davis	Davis
3) Economic Affairs Committee		Johnson 	Tinker 

SUMMARY ANALYSIS

CS/CS/HB 1363 addresses several issues related to the Department of Transportation (DOT). In summary, the bill:

- Exempts toll adjustments by DOT from legislative ratification requirements.
- Permits transportation and expressway authorities to conduct public meetings and workshops using communications media technology.
- Creates a pilot program for bicycles on certain highway approaches and bridges on limited-access highways.
- Exempts farm labor vehicles from commercial motor vehicle (CMV) hours-of-service requirements during a state of emergency.
- Amends or removes incorrect or unnecessary road system definitions.
- Authorizes the use of additional forms of security for the purpose of accomplishing removal or relocation of military monuments or memorials installed by DOT at rest areas.
- Changes the imposition dates for several local option fuel taxes from July 1 to October 1.
- Allows certain local option fuel taxes to be used for the installation, operation, and maintenance of street lighting and signalization.
- Amends provisions related to the interference of utilities on the right-of-way.
- Provides that bus benches and transit shelters are to comply with all applicable laws and rules, including the Americans with Disabilities Act (ADA).
- Authorizes DOT to remove noncompliant bus bench and transit shelter installations, and requires DOT to charge the municipality or county for the cost of removal.
- Re-titles ch. 338, F.S., "Florida Intrastate Highway System and Toll Facilities" as "Limited-access and Toll Facilities."
- Repeals the Florida Intrastate Highway System plan, and creates Strategic Intermodal System Highway Corridors.
- Repeals the Statewide Intermodal System Advisory Council.
- Modifies state law to reflect recent changes in federal requirements for statewide transportation planning.
- Clarifies the statewide transportation planning process and simplifies the terminology used in state law.
- Caps sign permit fees charged by local governments at \$500 per sign per year.
- Addresses issues related to vegetation management and view zones related to outdoor advertising.
- Creates a tourist-oriented commerce signs pilot program.
- Adds numerous honorary road and bridge designations.

DOT will incur approximately \$13,600 in costs associated with erecting markers for road and bridge designations. However, it may see a reduction in litigation costs associated with provisions related to noncompliant bus benches and transit shelters. In addition, there will be an indeterminate minimal cost associated with the bicycle pilot program. All of these costs will be absorbed by the department within their existing budget authority.

Local governments may see a loss in revenue associated with the cap on sign permit fees. They may also incur costs associated with ADA compliance issues with bus benches and transit shelters.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

The bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill addresses several issues relating to transportation. For ease of understanding, this analysis is organized by topic.

Exemption of Toll Adjustments (Section 1)

Current Situation

Section 120.54(3)(b), F.S., requires agencies, prior to the adoption, amendment, or repeal of any rule, other than an emergency rule, to prepare a statement of estimated regulatory costs (SERC) of the proposed rule if the rule either will have an adverse impact on small business or will increase aggregate regulatory costs.¹ The required contents of a SERC are delineated in s. 120.541(2), F.S., and include:

- An economic analysis showing whether the rule, directly or indirectly, is likely to have a specified adverse economic impact, or increase regulatory costs, in excess of \$1 million in the aggregate within 5 years of the rule going into effect,²
- A good faith estimate of the number of individuals and entities likely to be required to comply with the rule,
- A good faith estimate of the costs to the agency and other governmental entities and the anticipated effect on state or local revenues,
- A good faith estimate of the transactional costs likely to be incurred by public and private entities in complying with the rule,
- An analysis of the impact on small businesses, and small cities and counties, and
- A description of any proposed alternatives along with a statement adopted such alternative or a statement of reasons rejecting the alternative.

Section 120.541(3), F.S., provides that, if the adverse impact or regulatory costs of the rule exceed certain economic criteria, the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature.³

Section 338.155(1), F.S., provides that DOT is authorized to adopt rules pursuant to Ch. 120, F.S., relating to the payment, collection, and enforcement of tolls. Section 338.165(3), F.S., requires DOT, including the turnpike enterprise, to index toll rates on existing toll facilities "to the annual Consumer Price Index or similar inflation indicators." Toll rate adjustments for inflation may be made no more frequently than once a year and must be made no less frequently than once every 5 years.

Proposed Changes

The bill amends s. 120.80, F.S., to exempt DOT's indexing of toll rates from the statutory requirements relating to SERCs and legislative ratification. The adjustment of toll rates would still be subject to the state's rulemaking procedures and scrutiny in the rulemaking process;⁴ but the concern for additional legislative scrutiny imposed by ratification appears to be met by the standards imposed under the substantive statutes being implemented by rule.

Meetings of Transportation Authorities (Section 2)

Current Situation

¹ S. 120.541(1)(b), F.S., added by Ch. 2010-279, Laws of Florida.

² S. 120.541(1)(b), F.S., added by Ch. 2010-279, Laws of Florida.

³ Section 120.541(3), F.S., originated with HB 1565, passed during the 2010 regular session but vetoed by the Governor. On November 16, 2010, the Legislature, in special session, voted to override that veto and the bill became law as Chapter 2010-279, L.O.F.

⁴ S. 120.54(3), F.S.

Article I, section 24(b) of the Florida Constitution and s. 286.011, F.S., the Sunshine Law, specify the requirements for open meetings. Open meetings are defined as any meeting of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken. No resolution, rule, or formal action shall be considered binding unless it is taken or made at an open meeting.⁵

Article I, section 24 of the Florida Constitution, ch. 119, F.S., and ch. 286, F.S., all provide different definitions as to who is subject to the open meeting and public records laws. Under article I, Section 24(a) of the Florida Constitution, "any public body, officer, or employee of the state, or persons acting on their behalf" is subject to the public records law. Under article I, section 24(b), all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, is subject to the open meetings law. Under ch. 119, F.S., any agency⁶ is subject to the public records laws. Under s. 286.011, F.S., all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision are subject to the open meeting laws.

Section 120.54(5)(b)2., F.S., provides requirements for the Administration Commission's rules for state agencies regarding meetings using "communications media technology" which means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

If a public meeting or hearing is to be conducted by means of communications media technology, or if attendance may be provided by such means, this information must be included in the meeting notice. The notice for public meetings and hearings using communications media technology must also state how persons interested in attending may do so and must name locations, if any, where communications media technology facilities will be available.

Proposed Changes

The bill amends s. 286.011, F.S., to allow transportation authorities created under chs. 343, 348, and 349, F.S., to conduct public meetings and workshops by means of communications media technology as provided in s. 120.54(5), F.S. The authorities affected are:

Ch. 343, F.S.

- South Florida Regional Transportation Authority (SFRTA/Tri-Rail)
- Central Florida Regional Transportation Authority (CFRTA/LYNX)
- Northwest Florida Transportation Corridor Authority (NWFTCA)
- Tampa Bay Area Regional Transportation Authority (TBARTA)

Ch. 348, F.S.

- Miami-Dade Expressway Authority (MDX)
- Tampa-Hillsborough Expressway Authority (THEA)
- Orlando-Orange County Expressway Authority (O-OCEA)
- Santa Rosa Bay Bridge Authority (SRBBA)

Ch. 349, F.S.

- Jacksonville Transportation Authority (JTA)

⁵ S. 286.011, F.S.

⁶ Section 119.011(2), F.S. defines "Agency" as "any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

The Administration Commission has codified rules regarding conducting meetings by communications media technology.⁷ It permits agencies to conduct proceedings for the purpose of taking evidence, testimony or argument. Additionally, the rules are not to be construed to permit agencies to conduct proceedings subject to s. 286.011, F.S., by means of communications media technology without making provisions for member of the public who wish to attend. Notice is required to be provided in the same manner as for meeting conducted without communications media technology.

There have been multiple Attorney General Opinions regarding the use of media technology for meetings of local and regional entities. Based on those opinions participation by board members by communications media technology in meetings where formal action is going to be taken is only in extraordinary circumstances and when a quorum of the board members is present.⁸

Bicycle Pilot Program (Section 3)

Current Situation

A limited access facility is "a street or highway especially designed for through traffic and over, from, or to which owners or occupants of abutting land or other persons have no right or easement, or only a limited right or easement, of access. . ."⁹ Section 316.091(4), F.S., prohibits persons from operating a bicycle on a limited access facility and along the shoulder of a limited access highway, except as provided in statute. Currently, the only exception is the Jacksonville Expressway System, as provided under s. 349.04(1), F.S. Highways identified with state highway route signs that include the word TOLL are limited access facilities.

Proposed Changes

The bill amends s. 316.091, F.S., to create a 2-year Limited Access Facilities Pilot Program. The program would provide access to bicycles and other human-powered vehicles to select limited access bridges when no other non-limited access alternative is located within two miles. The bill authorizes DOT to select three such bridges or approaches in conjunction with the Federal Highway Administration under specified criteria. Upon completion, the bill requires DOT to present the results of the pilot program to the Governor and Legislature.

Commercial Motor Vehicle Safety Regulations (Section 4)

Current Situation

Section 316.302(2)(b), F.S., provides that except as provided in federal regulations¹⁰ a person operating a commercial motor vehicle (CMV) solely in intrastate commerce not transporting hazardous material may not drive:

- More than 12 hours following 10 consecutive hours of duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Currently, these hours-of-service limitations do not apply to utility service vehicles.

Proposed Changes

The bill amends s. 316.302(2)(b), F.S., to exempt farm labor vehicles from the hours-of-service requirements during a state of emergency.¹¹

Road System Definitions and References (Sections 5, 6, and 7)

⁷ Ch. 28-109, F.A.C.

⁸ Florida Attorney General's Opinion 2003-41.

⁹ S. 334.03(12), F.S.

¹⁰ 49.C.F.R. s. 395.1

¹¹ A state of emergency may be declared by the Governor or under s. 570.07(21), F.S., which authorizes the Department of Agriculture and Consumer Service to declare emergencies related to agriculture.

Current Situation

In 1995, the state revised ch. 335, F.S., to amend road system classifications. The previous system, in which DOT assigned road jurisdiction based on a road's "functional classification," was changed to a system in which jurisdiction is decided by mutual agreement between governmental entities. Some provisions in ch. 334, F.S., relating to Transportation Administration still refer to "functional classification" and the road jurisdiction process formerly found in ch. 335, F.S.

Proposed Changes

The bill amends s. 334.03, F.S., to delete definitions relating to the Florida Transportation Code and make conforming changes to remaining definitions. Specifically, the bill deletes the terms "arterial road," "collector road," "local road," "urban minor arterial road," and "urban principal arterial road." These are obsolete definitions related to the use of functional classification for determining road jurisdiction. The bill also redefines the definition of "functional classification," to provide that road classifications may be developed using procedures promulgated by the Federal Highway Administration.

The bill amends the definitions of "city street system", "county road system", and "state highway system" to clarify that each jurisdiction's road system includes:

- Roads that were under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to the jurisdiction, but not roads transferred from the appropriate jurisdiction.

Additionally, roads completely within an area annexed by a municipality are deemed part of the city street system unless otherwise provided by mutual consent.

The bill amends s. 334.047, F.S., to remove an obsolete provision prohibiting DOT from setting a maximum number of "urban principal arterial roads" within a district or county, and amends the functions and duties of DOT in s. 334.044, F.S., to remove DOT's authority to assign jurisdictional responsibility for public roads.

Local Option Fuel Taxes (Sections 8 and 9)

Ninth-Cent Fuel Tax

Current Situation

Sections 206.41(1)(d), 206.87(1)(b), and 336.021, F.S., authorize the ninth-cent fuel tax, which is a one-cent tax on every net gallon of motor and diesel fuel sold within a county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. While all counties are eligible to levy this tax, it will be levied by 51 counties in 2011. However, due to statewide equalization, it is imposed on diesel fuel in every county.¹² All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S. The county is not required to share these tax proceeds with its municipalities. However, by joint agreement with one or more of its respective municipalities provide distribution of tax proceeds within both incorporated and unincorporated areas of the county for the authorized transportation purposes.

Proposed Change

The bill amends s 336.021(5), F.S., to change the imposition date of the ninth-cent fuel tax from July 1 to October 1.

1 to 6 Cents Local Option Fuel Tax

Current Situation

¹² The local tax on diesel fuel is six cents per gallon statewide.

Sections 206.41(1)(e), 206.87(1)(c), and 336.025(1)(a), F.S., authorize local governments to levy a tax of 1 to 6 cents on every net gallon of motor fuel sold in the county. The tax is authorized either by ordinance adopted by an extraordinary vote of the governing body or approved by voters in a countywide referendum. In 2011, all counties, except Franklin, will be levying the tax at the maximum rate of 6 cents per gallon.¹³ All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds are distributed according to distribution factors determined by interlocal agreement between the county and the municipalities within the county. However, if there is no interlocal agreement, the distribution is based on the proportion of transportation expenditures of each local government. The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S.

The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S., however small counties¹⁴ and municipalities in those counties are authorized to use the proceeds to fund infrastructure projects, if the projects are consistent with the local government's comprehensive plan. Except as provided in s. 336.025(7), F.S., these funds may not be used for the operational expenses of any infrastructure.

Proposed Changes

The bill amends s. 336.025(1)(a)1., F.S., to change the imposition date of the 1 to 6 cents local option fuel tax from July 1 to October 1.

1 to 5 Cents Local Option Fuel Tax

Current Situation

Sections 206.41(1)(e), 206.87(1)(c), and 336.025(1)(b), F.S., authorize local governments to levy a tax of 1 to 5 cents on every net gallon of motor fuel sold in the county. The tax is authorized either by ordinance adopted by a majority plus one vote of the governing body or approved by voters in a countywide referendum. All counties are eligible to levy this tax, and it is being levied by 24 counties in 2011. All impositions of this tax must be levied before July 1 to be effective on January 1 of the following year.

The tax proceeds are distributed according to distribution factors determined by interlocal agreement between the county and the municipalities within the county. However, if there is no interlocal agreement, the distribution is based on the proportion of transportation expenditures of each local government. The tax proceeds may be used for transportation expenditures as defined in s. 336.025(7), F.S.

The tax proceeds are to be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems or for other critical transportation-related expenditures. However the routine maintenance of roads is not considered an authorized expenditure.

Proposed Changes

The bill amends s. 336.025(1)(b)1., F.S., to change the imposition date of the 1 to 5 cents local option fuel tax from July 1 to October 1.

The bill also amends s. 336.025(5)(a), F.S., to change the date by which counties are required to notify the Department of Revenue of tax rate changes for the 1 to 6 cents local option fuel tax and the 1 to 5 cents local option fuel tax. The date is changed from July 1 to October 1.

Use of Local Option Tax

¹³ Franklin County will be levying the tax at 5 cents per gallon.

¹⁴ Small counties are defined as having a total population of 50,000 or less on April 1, 1992.

Section 336.025(7), F.S., defines “transportation expenditures” for the purpose of s. 336.025, F.S., as expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

- (a) Public transportation operations and maintenance.
- (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (c) Roadway and right-of-way drainage.
- (d) Street lighting.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings.
- (f) Bridge maintenance and operation.
- (g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

A 2010 Attorney General’s Opinion addresses the use of the local option fuel tax to pay for electricity and water to operate street lighting, traffic signals, and water pumps for drainage. The opinion states “that proceeds from the local option fuel tax revenues levied pursuant to section 226.035(1)(a), Florida Statutes, may not be used to pay operational expenditures for storm drainage, street lighting, and traffic signalization.”¹⁵

Proposed Change

The bill amends s. 336.025(7), F.S., to incorporate the installation, operation, and maintenance of street lighting and signalization, as permitted uses of the local option fuel tax.

Monuments at Rest Areas (Section 10)

Current Situation

In 2005, the Legislature created the “Ellwood Robinson ‘Bob’ Pipping Jr. Memorial Act” (Act). In order to create “an environment in which state residents and visitors will be reminded of the accomplishments made by military veterans in past conflicts and continuing sacrifices made by military veterans in past conflicts and the continuing sacrifices made by veterans and their families to protect the freedoms we enjoy today,”¹⁶ the Act authorized DOT to enter into contracts, approved by a reviewing committee, with any specified not-for-profit group or organization to provide for the installation of monuments and memorials honoring military veterans at the state’s highway rest areas.

The Act requires the group or organization making the proposal to be responsible for all costs of the monument and its installation, and requires the group or organization to provide a 10-year bond. The bond secures the cost of removal of the monument and any modifications made to the site as part of the placement of the monument, in the event DOT determines that it is necessary to remove or relocate the monument.

Since the Act’s passage, an interested group has attempted to install a replica of the Iwo Jima Memorial in a DOT rest area, but was unable to obtain a 10-year bond from the bonding industry. According to DOT, it appears that the bonding industry has reservations about issuing these bonds, and no monuments have ever been installed.

Proposed Changes

The bill amends s. 337.111(4), F.S. to provide for other forms of security in addition to the 10-year bond, which could be provided by groups interested in installing monuments and memorials at rest areas. These include an annual renewable bond, an irrevocable letter of credit, or other form of security approved by DOT’s comptroller.¹⁷ The bill no longer requires the automatic renewal of the security instrument when it expires.

¹⁵ Florida Attorney General’s Opinion 2010-29.

¹⁶ Ch. 2005-43, L.O.F.

¹⁷ This proposed change to s. 337.111(4), F.S., is consistent s. 334.087, F.S., relating to guarantee of obligations to DOT.

Interference Caused by Utilities (Sections 11 and 12)

Current Situation

Section 337.401, F.S., addresses the use of road and rail corridor right-of-way by utilities. Section 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publicly-owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

Section 337.403, F.S., provides that, other than the exceptions below, if an authority determines that a utility upon, under, over, or along a public road or publicly-owned rail corridor, is interfering with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor, the utility, upon 30 days written notice, shall remove or relocate the utility at its own expense. The exceptions are:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds;
- Where the cost of the utility improvement, installation, or removal exceeds DOT's official cost estimates for such work by 10 percent, DOT participation is limited to the difference between the official estimate of all the work in the agreement plus 10 percent and the amount awarded for the work in the construction contract;
- When relocation of the utility takes place before construction commences, DOT may participate in the cost of clearing and grubbing (i.e., the removal of stumps and roots) necessary for the relocation;
- If the utility facility being removed or relocated was initially installed to benefit DOT, its tenants, or both, DOT bears the cost of removal or relocation, but DOT is not responsible for bearing the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others;
- If, pursuant to an agreement between a utility and the authority (DOT and local governments) entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation of the utility, the authority bears the cost of such removal or relocation, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009; and
- If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears all costs of the relocation.

Generally, the 30-day relocation provision has been construed as a notice provision, and the utility does not need to be removed or relocated within 30 days. Often, an authority and a utility owner negotiate a period of time to reasonably accommodate the relocation and removal of the utility. However, some local governments interpret the provision to mean that the utility has 30 days to complete the removal or relocation of the utility.

Proposed Changes

The bill amends s. 337.403, F.S., relating to interference caused by utilities. The bill provides that upon 30 days' written notice, the utility is required to initiate the work to alleviate the interference with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor. The bill requires the work to be completed within the time stated in the notice or in the time agreed to by the authority and the utility owner.

The bill amends various subsections to s. 337.403, F.S., and s. 337.404, F.S., to conform to changes made to the notice provision and to change the terms "improvements, relocation, and removal" to "utility work."

Bus Benches (Section 13)

Current Situation

Current law permits cities and counties to authorize the installation of bus benches and transit shelters for the comfort and convenience of the general public, or at designated stops on official bus routes. This authority includes installation within the right-of-way limits of any state road except a limited-access highway. DOT is currently authorized to direct the immediate removal or relocation of any bench or transit shelter, but only if life or property are endangered or deemed a roadway safety hazard.

DOT currently does not have the authority to deny installation of bus stops, bus benches, or transit shelters within the right-of-way for failure to comply with the Americans with Disability Act (ADA). However, DOT may be liable for such non-compliance and subject to legal action as a result of its jurisdiction over the State Highway System. DOT has been named in an ADA suit in Pinellas County because the local government has permitted the installation of bus stops in inaccessible locations, with non-compliant benches and shelters, on state roads.

Proposed Changes

The bill amends s. 337.408, F.S., to provide that the installation of bus stops and transit shelters on the right-of-way must comply with all applicable laws and rules including, without limitation, the ADA. Municipalities or counties are required to indemnify, defend, and hold harmless DOT from any suits, damages, liabilities, attorney fees, and court costs relating to the installation, removal or relocation of these installations.

The bill gives DOT the authority to direct the immediate relocation of any bus stop, bench, transit shelter, waste disposal receptacle, public pay telephone, or modular news rack that either endangers life or property, or that is otherwise not in compliance with applicable laws and rules.¹⁸ If a municipality or county fails to comply with DOT's direction, DOT is required to remove the noncompliant installation, charge the cost of removal to the municipality or county, and may deduct or offset such cost from any other funding available to the municipality or county from DOT.

Florida Intrastate Highway System/Strategic Intermodal System (Sections 5, 14, 15, 16, 18, 19, 20, and 21)

Current Situation

Chapter 338, F.S., contains provisions for developing and updating the Florida Intrastate Highway System Plan (FIHS). Chapter 339, F.S., includes provisions for developing and updating the Florida Strategic Intermodal System Plan (SIS). All but a few highway miles in the FIHS are also in the SIS. The 2010 SIS Strategic Plan, developed by DOT and other partners,¹⁹ recommended sunsetting the FIHS as a separate statewide highway network to simplify the planning process.²⁰

Proposed Changes

The bill deletes the definition of "Florida Intrastate Highway System" from the definitions relating to the Florida Transportation Code in s. 334.03, F.S.

The bill retitles ch. 338, F.S., "Florida Intrastate Highway System and Toll Facilities" to "Limited-access and Toll Facilities." to reflect the deletion of the FIHS Plan. The bill repeals s. 338.001, F.S., regarding FIHS planning components.

¹⁸ Except for transit bus benches placed into service before April 1, 1992, DOT currently has the authority to direct the immediate relocation or removal of benches, transit shelters, waste disposal receptacles, public pay telephones, or modular news racks that endanger life or property.

¹⁹ The plan was created by a 31-member 2010 SIS Strategic Plan Leadership Committee. This committee "provided overall guidance to this process. Members of the committee represented transportation agencies and providers, regional and local governments, business and economic development interests, and community and environmental interests." See Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010). This document is available at <http://www.dot.state.fl.us/planning/sis/strategicplan/2010sisplan.pdf>

²⁰ Florida Department of Transportation, *2010 SIS Strategic Plan* (January 31, 2010).

The bill amends s. 338.01, F.S., authorizing DOT to establish limited-access facilities and to provide that the primary function of these facilities is to allow high-speed and high-volume traffic movement, that access to abutting land is subordinate to that function, and such access must be prohibited or highly regulated.

The bill amends s. 339.63, F.S., to add "existing or planned military access facilities that are highways or rail lines linking SIS corridors to the state's strategic military installations," as additional facilities included in the SIS.

The bill amends s. 339.64(4)(d), F.S., to provide that the 20-year cost-feasible component of a finance plan included in the SIS plan is a minimum, and that the component must be "at least" 20 years.

The bill creates s. 339.65, F.S., which mirrors the language of s. 338.01, F.S., (discussed above) and provides that DOT must plan and develop SIS highway corridors, including limited- and controlled-access facilities, allowing for high-speed and high-volume traffic movements. The primary function of these corridors is to provide traffic movement. Access to abutting land is subordinate to this function, and such access must be prohibited or highly regulated.

Section 339.65, F.S., also requires SIS highway corridors to include facilities from the following components of the State Highway System:

- Interstate highways.
- The Florida Turnpike System.
- Interregional and intercity limited-access facilities.
- Existing interregional and intercity arterial highways previously upgraded or upgraded in the future to limited-access or controlled-access facility standards.
- New limited-access facilities necessary to complete a statewide system.

DOT is required to adhere to the following policy guidelines in developing SIS highway corridors:

- Make capacity improvements to existing facilities where feasible to minimize costs and environmental impacts.
- Identify appropriate arterial highways in major transportation corridors for inclusion in a program to bring these facilities up to limited-access or controlled-access facility standards.
- Coordinate proposed projects with appropriate limited-access projects undertaken by expressway authorities and local governmental entities.
- Maximize the use of limited-access facility standards when constructing new arterial highway.
- Identify appropriate new limited-access highways for inclusion as a part of the Florida Turnpike System.
- To the maximum extent feasible, ensure that proposed projects are consistent with approved local government comprehensive plans of the local jurisdiction in which such facilities are to be located with the transportation improvement program of any metropolitan planning organization in which such facilities are to be located.

Section 339.65, F.S., requires DOT to develop and maintain a plan for the SIS highway corridor projects that are anticipated to be let to contract for construction within a time period of at least 20 years. The plan is also required to identify when the segments of the corridor will meet standards and criteria developed by DOT. DOT must establish these standards and criteria for the functional characteristics and design of facilities proposed as part of the SIS highway corridors.

Allocation provisions requiring DOT to allocate funds based on fiscal year 2003-2004, as adjusted by the Consumer Price Index, are transferred from s. 338.001, F.S. (which is repealed), to s. 339.65(6), F.S.

Lastly, the bill amends s. 339.65, F.S., to provide that any project to be constructed as part of the SIS highway corridor must be included in DOT's adopted work program. Any SIS highway corridor projects that are added or deleted from the previous adopted work program, or any modification of the SIS highway corridor projects contained in the previous adopted work program, shall be specifically identified and submitted as a separate part of the tentative work program.

The bill does not require an annual status report on the SIS highway corridors similar to that which is currently required by the Florida Intrastate Highway System Plan.

Transportation Planning (Section 17)

Current Situation

Federal law requires each state to adhere to certain requirements in its transportation planning process.²¹ Occasionally, these requirements change and the state revises its statutes to conform to federal provisions. The federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) contained 23 planning factors to be considered in the statewide planning process and 16 planning factors to be included in the metropolitan planning process. In 1999, Congress passed the Transportation Equity Act for the 21st Century (TEA-21) and consolidated the statewide and metropolitan planning factors into seven broad areas for consideration. The 1999 Florida Legislature amended the statutes to accommodate TEA-21. Section 339.155, F.S. currently reflects the seven broad factors to consider in the planning process.²² These factors require plans to:

1. Support the economic vitality of the United States, Florida, and the metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increase the safety and security of the transportation system for motorized and nonmotorized users;
3. Increase the accessibility and mobility options available to people and for freight;
4. Protect and enhance the environment, promote energy conservation, and improve quality of life;
5. Enhance the integration and connectivity of the transportation system, across and between modes throughout Florida, for people and freight;
6. Promote efficient system management and operation; and
7. Emphasize the preservation of the existing transportation system.²³

The 2005 federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), separated the "safety and security" factor into two separate factors and modified the wording of other factors. The SAFETEA-LU legislation has expired, though Congress has extended the law until September 2011.

Federal law requiring each state to have a "Long-Range Transportation Plan" was modified in SAFETEA-LU to be a "Long-Range Statewide Transportation Plan." Federal law has not required a short-range component of the long-range plan or an annual performance report, which is required under state law. In the past, DOT has issued a separate Short-Range Component of its Florida Transportation Plan²⁴ and an annual performance report. DOT has recently combined these reports into a single report. The Short Range Component is not an annual update of the Florida Transportation Plan, but rather documents DOT's implementation of the Florida Transportation Plan. DOT and the Florida Transportation Commission²⁵ conduct extensive performance measurements of Florida's

²¹ 23 U.S.C. s. 135

²² Ch. 99-385, L.O.F.

²³ S. 339.155(2), F.S.

²⁴ A copy of DOT's 2060 Florida Transportation Plan, which was adopted in December 2010, is available at <http://www.2060ftp.org/images/uploads/home/2060%20FTP%20Final%2001272011F.pdf> (January 31, 2011).

²⁵ The Florida Transportation Commission provides leadership in meeting Florida's transportation needs through policy guidance on issues of statewide importance and by maintaining oversight and public accountability for the Department of Transportation and other statutorily specified transportation authorities.

transportation system. DOT also submits an annual Long Range Program Plan to the Governor and Legislature that reflects state goals, agency program objectives, and service outcomes.²⁶

Proposed Changes

The bill amends s. 339.155, F.S., to provide a citation to the federal law containing current planning factors. The planning factors referenced in federal law include:

1. Supporting the economic vitality of the United States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;
2. Increasing the safety of the transportation system for motorized and nonmotorized users;
3. Increasing the security of the transportation system for motorized and nonmotorized users;
4. Increasing the accessibility and mobility of people and freight;
5. Protecting and enhancing the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
6. Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;
7. Promoting efficient system management and operation; and
8. Emphasizing the preservation of the existing transportation system.²⁷

The bill also amends s. 339.155, F.S., to remove the short-range component of the long-range plan and the annual performance report requirement.

Strategic Intermodal Transportation Advisory Council (Section 20)

Current Situation

Chapter 339, F.S., creates the Statewide Intermodal Transportation Advisory Council (SITAC) to advise and make recommendations to the Legislature and DOT on the policies, planning, and funding of intermodal transportation projects. These responsibilities include:

- Advising DOT on the policies, planning, and implementation strategies related to intermodal transportation.
- Providing advice and recommendations to the Legislature on funding for projects to move goods and people in the most efficient manner for the state.

The members of the council are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, and represent various interests involved in the Strategic Intermodal System. The council is no longer active. It held its last meeting in December 2004 and assisted in developing the initial 2005 SIS Strategic Plan. Subsequent to January 2005, no further appointments to the SITAC have occurred; however, the members' organizations have been involved in planning and updating the SIS plan.

Proposed Change

The bill repeals the SITAC contained in s. 339.63(4), F.S.

Sign Permit Fees (Section 22)

Current Situation

Chapter 479, F.S., regulates outdoor advertising in the state. DOT is responsible for controlling outdoor advertising signs on the National and State highway systems. DOT is required to control the location, size, height, spacing and lighting of outdoor advertising signs, but does not have the authority to regulate the content of advertising messages on the signs.

²⁶ S. 216.013, F.S.

²⁷ 23 U.S.C. s. 135(d)(1)

DOT's outdoor advertising regulatory program is based on federal law and regulations²⁸ as well as state statute and rules.²⁹ Local governments often have their own ordinances regulating outdoor advertising in their communities. DOT cannot issue a permit for an outdoor advertising sign which is not allowed by local ordinances.

State law does not limit the amount a local government may charge for permits related to outdoor advertising.

Proposed Change

The bill creates s. 479.075, F.S., relating to sign permit fee limitations.

For the purposes of s. 479.075, F.S., the bill defines "sign" as any sign³⁰, wall mural³¹ or media tower³² as defined in s. 479.01, F.S., or by local government agreement, resolution, or ordinance.

The bill defines "sign permit fee" as any payment required as a condition for building, erecting, inspecting, renewing, maintaining, operating, relocating, or reconstructing a sign or required pursuant to any agreement, ordinance, or resolution that includes any provision relating to issuance of a sign permit or otherwise authorizing the building, erection, inspection, renewal, maintenance, operation, relocation, or reconstruction of a sign.

The bill provides that a local government may establish by agreement, resolution, or ordinance, a sign permit fee schedule and may assess fees for sign permits. The fee schedule must be based on the actual cost of administering its sign permitting program, and shall not exceed \$500 per sign.

The bill provides that the cap on sign permit fees does not affect the validity of any other aspect of any agreement, resolution, or ordinance regarding signs or require the removal of any sign or repayment of any fees already paid. If a local government requires the removal of a sign as a result of the sign permit fee cap, the local government must to adhere to certain provisions related to governments requiring the removal of signs to either pay just compensation as determined by agreement between parties or by eminent domain.³³

Outdoor Advertising (Sections 23, 24, and 25)

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of

²⁸ Federal law is set forth in the Highway Beautification Act while federal regulations can be found at 23 C.F.R., Section 750.

²⁹ DOT's Outdoor Advertising rules are located in ch. 14-10, F.A.C.

³⁰ Section 479.01(20), F.S., defines "sign" "any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or double-faced display or automatic changeable facing, designed, intended, or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way. The term does not include an official traffic control sign, official marker, or specific information panel erected, caused to be erected, or approved by the department."

³¹ Section 479.01(30), F.S., defines "wall mural" as "a sign that is a painting or an artistic work composed of photographs or arrangements of color and that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted on vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage."

³² The term "media tower" is not defined in s. 479.01, F.S. or anywhere else in Florida Statutes. However, City of Miami Ordinance Sec. 62-618.21, defines "Media Tower" as "a building that may serve as one or more viewing towers and a kinetic illuminated media display system, utilizing signage, and all other forms of animated illuminated visual message media. . ."

³³ S. 70.20(2), F.S.

state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs³⁴ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.
- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, DOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

Vegetation Management and View Zones for Outdoor Advertising

Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on the interstates, expressways, federal-aid primary highways, and the State Highway System, excluding privately or other publicly owned property. The intent of the section is to create partnering relationships which will have the effect of improving the appearance of Florida's highways and creating a net increase in the vegetative habitat along the roads.³⁵

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility or future visibility of a sign or future sign, to obtain written permission from DOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-40.030, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or destroyed;

³⁴ A "legal nonconforming sign" is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

³⁵ S. 479.106(8), F.S.

- Trees that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When the installation of a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, DOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits.

The measurements of a view zone are 350 feet, in areas where the posted speed limit is 35 m.p.h. or less, and 500 feet, where the speed limit is over 35 m.p.h. These view zones are to be within the first 1,000 feet as measured along the edge of the pavement in the direction of approaching traffic from a point on the edge of the pavement perpendicular to the sign's edge facing the highway unless interrupted by naturally occurring vegetation.

Rural Areas of Critical Economic Concern

Rural Areas of Critical Economic Concern (RACEC) are defined in s. 288.0656, F.S., as rural communities, or a region composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. The Governor may designate up to three RACECs, which allows the Governor to waive criteria of any economic development incentive. Florida's three designated RACECs include:

- Northwest Rural Area of Critical Economic Concern: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Washington counties, and the City of Freeport in Walton County.
- South Central Rural Area of Critical Economic Concern: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central Rural Area of Critical Economic Concern: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Proposed Changes

The bill amends s. 479.106, F.S., relating to the management of vegetation affecting visibility of signs.

The bill deletes an existing provision mandating the submission of a management plan when applying for a vegetation management permit. The bill replaces the mandate with an allowance for the applicant to provide one of the following:

- A vegetation management plan consisting of a property sketch indicating the onsite location of the vegetation or individual trees to be removed, cut, or trimmed and describing the existing conditions and proposed work to be accomplished;
- Mitigation contribution to the tree planting program administered by the Department of Agriculture and Consumer Services' Division of Forestry under s. 589.277, F.S.; or
- A combination of both a vegetation management plan and mitigation contribution.

The decision to submit a management plan, mitigation contribution, or combination of both is to be made by the applicant.

The bill requires DOT to take into consideration the existing condition of the vegetation being affected by the plan when evaluating a vegetation management plan. Where appropriate, DOT may require a vegetation management plan to consider conservation and mitigation, or a contribution to a plan of mitigation, for the cutting or removal of such vegetation. The current statutory requirement for a plan to include plantings to screen a sign's structural support, where applicable, is made permissive.

The bill provides that only herbicides approved by the Department of Agriculture and Consumer Services may be used in the management of vegetation.

DOT must act on permit applications for vegetation management or mitigation within 30 days. An approved permit is valid for five years and may be renewed for an additional five years upon payment of the application fee, and is binding on DOT.

The bill reduces the number of nonconforming signs that must be removed prior to DOT issuing a permit for a new sign that requires vegetation to be cleared, from at least two to one.

The bill revises view zone requirements. Under the bill's provisions, the current dimensions for view zones are established as minimum dimensions. The current exception for view zone disruption, *i.e.*, allowable natural vegetation, is reduced to allow only vegetation that:

- Has established historical significance,
- Is protected by state law, or
- Has a circumference of 70% or more of the circumference of the Florida Champion of that species when both are measured at 4 and ½ feet above grade.³⁶

The bill allows the specific location of a sign's view zone may be designated by the sign owner and the department must notify the owner within 90 days of any planting or beautification project that may affect a view zone. No less than 60 days are to be afforded to such affected sign owners to designate the view zone. Vegetation management plans and permits are not required due to implementation of beautification projects.

The bill amends s. 479.16, F.S., which establishes the conditions and criteria under which a sign does not require a permit. The revisions provide that signs installed under the tourist-oriented commerce sign pilot program do not require permitting and allow signs no larger than 32 square feet to be temporarily installed by a farm operation during harvest season denoting the distance or direction of the farm operation. The temporary harvest sign provision may not be implemented if it would result in federal penalties.

The bill creates s. 479.263, F.S., to establish the tourist-oriented commerce signs pilot program in rural areas of critical economic concern as defined by ss. 288.0656(2)(d) and (e), F.S.³⁷ Signs created under the section do not require permits provided the sign advertises a small business as defined in s. 288.703, F.S.³⁸ and:

- Is not more than 8 square feet in size or 4 feet in height.
- Is located in a rural area, but not along a limited-access highway.
- Is located within 2 miles of the business location and not less than 500 feet from another sign advertising the same business.

³⁶ The Florida Champion of a species of tree is listed in the Florida Register of Big Trees of the Florida Native Plant Society.

³⁷ "Rural area of critical economic concern" means a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

"Rural community" means:

1. A county with a population of 75,000 or fewer.
2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.
3. A municipality within a county described in subparagraph 1. or subparagraph 2.
4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the Office of Tourism, Trade, and Economic Development.

³⁸ "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- Contains only the name of the business or the merchandise or services sold or furnished at the business.

Businesses placing such signs must be not be located closer than 4 miles from another business placing such signs. Also, the business may not participate in both the tourist-oriented commerce signs pilot program created in this section and the logo sign program created in s. 479.261, F.S. Businesses conducted in building primarily used for residential purposes are ineligible. Any business participating in the program must notify DOT prior to installing signs. DOT is directed to maintain statistics related to the program. If the Federal Highway Administration notifies DOT in writing that the program constitutes a loss of effective control of outdoor advertising (thereby jeopardizing the receipt of federal funds), the program will not be implemented.

Road and Bridge Designations (Sections 26 through 44)

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Department of Transportation (DOT) to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Proposed Changes

The bill makes the following honorary designations:

- That portion of Orange Blossom Trail between W. Gore Street and W. Church Street in Orange County as "Edna S. Hargrett-Thrower Avenue."
- That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County as "SP4 Thomas Berry Corbin Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County as "U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway."
- That portion of State Road 24 between County Road 374 and Bridge Number 340053 in Levy County as "Marine Lance Corporal Brian R. Buesing Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenues in Levy County as "United States Army Sergeant Karl A. Campbell Memorial Highway."
- That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as "U.S. Army SPC James A. Page Memorial Highway."
- That portion of State Road 19 in Putnam County between U.S. Highway 17 (State Road 15) and Carriage Drive in Palatka as "Veterans Memorial Highway."
- That portion of U.S. 90 in Washington County between the Jackson County line and the Holmes County Line at the Holmes Creek Bridge as the "Ben G. Watts Highway."
- That portion of State Road 824 between I-95 and U.S. Highway 1 in Broward County as "Mardi Gras Way."
- That portion of State Road 7 between Pembroke Road and County Line Road in Broward County as "West Park Boulevard."

- That portion of State Road 858/Hallandale Beach Boulevard between I-95 and U.S. 441/State Road 7 in Broward County as “Pembroke Park Boulevard.”
- That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as “Stark Memorial Drive.”
- The Interstate 295/State Road 9A overpass (Bridge Nos. 720256 and 720347) over Interstate 10/State Road 8 in Duval County as the “Duval County Law Enforcement Memorial Overpass.”
- That Portion of State Road 100 between Lime Street and Beech Street in the City of Fernandina Beach in Nassau County as “Verna Bell Way.”
- That portion of State Road 100 East between the Bradford County Line and the Columbia County line in Union County as “Deputy Hal P. Croft and Deputy Ronald Jackson Highway.”
- That portion of Coral Way between S.W. 32nd Avenue and S.W. 37th Avenue in Miami-Dade County as “Dr. Oscar Elias Biscet Boulevard.”
- The bridge on State Road 656 in Indian River County between State Road A1A and Indian River Boulevard in Vero Beach as “Alma Lee Loy Bridge.”

The bill directs DOT to erect suitable markers designating each of the above designations.

The bill also amends the “Miss Lillie Williams Boulevard” and “Father Gerard Jean-Juste Street” designations which were created in 2010 in order to correct errors in the previous designations.³⁹

Conforming Changes (Sections 45 through 68)

The bill amends the following statutes to revise cross-references; ss. 163.3180, 288.063, 311.07, 311.09, 316.2122, 316.515, 336.01, 338.222, 338.223, 338.2275, 338.228, 339.2819, 339.285, 341.8825, 479.01, 479.07, and 479.261, F.S.

The bill amends the following statutes to conform the incorporation of the Florida Intrastate Highway System into the Strategic Intermodal System: ss. 163.3187, 318.12, 335.02, 338.227, 338.234, 339.62, 341.053, and 403.7211, F.S.

Effective Date (Section 69)

The bill has an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- | | |
|-----------|--|
| Section 1 | Amends s. 120.80, F.S., relating to exemptions and special requirements of the administrative procedures act for various agencies. |
| Section 2 | Amends s. 286.011, F.S., relating to public meetings and records; public inspection; criminal and civil penalties. |
| Section 3 | Amends s. 316.091, F.S., relating to limited access facilities; interstate highways; use restrictions. |
| Section 4 | Amend s. 316.302, F.S., relating to commercial motor vehicle safety regulations. |
| Section 5 | Amends s. 334.03, F.S., relating to definitions used in the Florida Transportation Code. |
| Section 6 | Amends s. 334.044, F.S., relating to Department of Transportation; powers and duties. |
| Section 7 | Amends s. 334.047, F.S., relating to a prohibition of a cap of the number of miles on the State Highway System. |

³⁹ Ch. 2010-230, L.O.F.

- Section 8 Amends s. 336.021, F.S., relating to the county transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.
- Section 9 Amends s. 336.025, F.S., relating to the county transportation system; levy of local option fuel tax on motor fuel and diesel fuel.
- Section 10 Amends s. 337.111, F.S., relating to contracting for monuments and memorials to military veterans at rest areas.
- Section 11 Amends s. 337.403, F.S., relating to interference caused by utility; expenses.
- Section 12 Amends s. 337.404, F.S., relating to the removal relocation of utility facilities; notice and order; court review.
- Section 13 Amends s. 337.408, F.S., relating to the regulation of bus stops, benches, transit shelters, street light poles, waste disposal receptacles, and modular news racks within rights-of-way.
- Section 14 Retitles ch. 338, F.S., as "Limited Access Toll Facilities."
- Section 15 Repeals s. 338.001, F.S., relating to the Florida Intrastate Highway System Plan.
- Section 16 Amends s. 338.01, F.S., relating to the authority to establish and regulate limited access facilities.
- Section 17 Amends s. 339.155, F.S., relating to transportation planning.
- Section 18 Amends s. 339.62, F.S. relating to system components of the Strategic Intermodal System.
- Section 19 Amends s. 339.63, F.S., relating to system facilities designated; additions and deletions.
- Section 20 Amends s. 339.64, F.S., relating to the Strategic Intermodal System Plan.
- Section 21 Creates s. 339.65, F.S., relating to Strategic Intermodal System highway corridors.
- Section 22 Creates s. 479.075, F.S., relating to sign permit fees.
- Section 23 Amends s. 479.106, F.S., relating to vegetation management.
- Section 24 Amends s. 479.16, F.S., relating to signs for which permits are not required.
- Section 25 Creates s. 479.263, F.S., relating to a tourist-oriented commerce signs pilot program.
- Section 26 Designates Edna S. Hargrett-Thrower Avenue; directs DOT to erect suitable markers.
- Section 27 Designates the SP4 Thomas Berry Corbin Memorial Highway; directs DOT to erect suitable markers.
- Section 28 Designates the U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway; directs DOT to erect suitable markers.
- Section 29 Designates the Marine Lance Corporal Brian R. Busing Memorial Highway; directs DOT to erect suitable markers.
- Section 30 Designates the Army Sergeant Karl A. Campbell Memorial Highway; directs DOT to erect suitable markers.

- Section 31 Designates the U.S. Army SPC James A. Page Memorial Highway; directs DOT to erect suitable markers.
- Section 32 Designates the Veterans Memorial Highway; directs DOT to erect suitable markers.
- Section 33 Designates the Ben G. Watts Highway; directs DOT to erect suitable markers.
- Section 34 Designates Mardi Gras Way; directs DOT to erect suitable markers.
- Section 35 Designates West Park Boulevard; directs DOT to erect suitable markers.
- Section 36 Designates Pembroke Park Boulevard; directs DOT to erect suitable markers.
- Section 37 Designates Stark Memorial Drive; directs DOT to erect suitable markers.
- Section 38 Designates the Duval County Law Enforcement Overpass; directs DOT to erect suitable markers.
- Section 39 Designates Verna Bell Way; directs DOT to erect suitable markers.
- Section 40 Designates Deputy Hal P. Croft and Deputy Ronald Jackson Memorial Highway; directs DOT to erect suitable markers.
- Section 41 Designates Dr. Oscar Elias Biscet Boulevard; directs DOT to erect suitable markers.
- Section 42 Designates Alma Lee Loy Bridge; directs DOT to erect suitable markers.
- Section 43 Amends s. 24 of ch. 2010-230, L.O.F., amending the "Miss Lillie Williams Boulevard" designation.
- Section 44 Amends s. 45 of ch. 2010-230, L.O.F., amending the "Father Jean-Juste Street." designation.
- Section 45 Amends s. 163.3180, F.S., relating to concurrency.
- Section 46 Amends s. 163.3187, F.S., relating to amendment of adopted comprehensive plan.
- Section 47 Amends s. 288.063, F.S., relating to contracts for transportation projects.
- Section 48 Amends s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.
- Section 49 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council.
- Section 50 Amends s. 316.2122, F.S., relating to the operation of a low-speed vehicle or mini truck on certain roadways.
- Section 51 Amends s. 318.12, F.S., relating to the purpose of ch. 318, F.S.
- Section 52 Amends s. 335.02, F.S., relating to the authority to designate transportation facilities and rights-of-way and establish lanes; procedure for redesignation and relocation; application of local regulation.
- Section 53 Amends s. 336.01, F.S., relating to the designation of county road system.

- Section 54 Amends s. 338.222, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate turnpike projects; exception.
- Section 55 Amends s. 338.223, F.S., relating to proposed turnpike projects.
- Section 56 Amends s. 338.227, F.S., relating to turnpike revenue projects.
- Section 57 Amends s. 338.2275, F.S., relating to turnpike projects.
- Section 58 Amends s. 338.228, F.S., relating to bonds not debts or pledges of credit of state.
- Section 59 Amends s. 338.234, F.S., relating to granting concessions or selling along the turnpike system; immunity from taxation.
- Section 60 Amends s. 339.2819, F.S., relating to the Transportation Regional Incentive Program.
- Section 61 Amends s. 339.285, F.S., relating to Enhanced Bridge Program for Sustainable Transportation.
- Section 62 Amends s. 341.053, F.S., relating to Intermodal Development Program; administration; eligible projects; limitations.
- Section 63 Amends s. 341.8825, F.S., relating to Department of Transportation sole governmental entity to acquire, construct, or operate high-speed rail projects; exceptions.
- Section 64 Amends s. 403.7211, F.S., relating to hazardous waste facilities managing hazardous wastes generated offsite; federal facilities managing hazardous waste.
- Section 65 Amends s. 479.01, F.S., relating to definitions.
- Section 66 Amends s. 479.07, F.S., relating to sign permits.
- Section 67 Amends s. 479.261, F.S., relating to the logo sign program.
- Section 68 Amends s. 316.515, F.S., relating to maximum width, height, length.
- Section 69 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT will incur costs of approximately \$13,600 (from the State Transportation Trust Fund) for erecting markers for the road and bridge designations. This is based on the assumption that two markers for each designation will be erected at a cost of \$400 per marker. DOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary. In addition, there will be an indeterminate minimal cost associated with the bicycle pilot program. These costs will be absorbed by the department within their existing budget authority.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The cap on sign permit fees charged by local governments may have an indeterminate negative fiscal impact on local governments.

2. Expenditures:

Municipalities and counties may incur costs relating to ADA compliance issues.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Exempting farm labor vehicles from the CMV hours-of-service requirements during a state of emergency, may permit agricultural businesses to get more of their products to market.

D. FISCAL COMMENTS:

DOT may see a reduction in litigation costs associated with requiring municipalities and counties either to remove or make compliant noncompliant bus benches and transit shelters. However, the potential cost of this litigation is unknown at this time.

While the bill does not increase the local option fuel tax, it expands the purposes for which tax may be used, to include installation, operation maintenance and repair of street lighting and traffic signals.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the Legislature for any law enacted that reduces the authority that municipalities or counties have to raise revenues in the aggregate. Section 20 of the bill provides that a local government may establish a fee schedule for sign permitting programs, and provides that fees for sign permits may not exceed \$500. The bill does not appear to qualify for any exemption or extension to the mandate provision.

2. Other:

The bill revises s. 286.011, F.S., the Sunshine Law, to allow certain transportation authorities to conduct public meetings and workshops by means of communications media technology. This change may subject those transportation authorities to different standards than the standards governing other similarly situated public bodies that are subject to the provisions of the Sunshine Law. Generally, public bodies may only meet electronically for workshops and meetings at which no formal action will be taken.⁴⁰ For meetings at which formal decisions will be made, a quorum of the public body's members must be present at a physical location, and electronic participation of an absent member should be permitted only in extraordinary circumstances.⁴¹

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill inserts references to the Code of Federal Regulations (CFRs) and re-enacts other existing references to certain CFRs. Florida courts have stated that "the Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body that are in existence

⁴⁰ see 2005 WL 3262434 (Fla.A.G.)

⁴¹ see AGO 2003-41

and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future.”⁴² Future changes by the federal government, to the referred CFRs, would not be reflected in the laws of Florida unless or until the Florida Legislature chose to amend or re-enact statutes with such references.

It may be advisable to clarify the provisions allowing transportation authorities to hold meetings and workshops using communications media technology to provide that a quorum must be present in person for formal action to be taken. This is consistent with several Attorney General Opinions regarding the participation of members of various government boards using communications media technology.⁴³

According to DOT there are some concerns about the following designations:

- Edna S. Hargrett-Thrower Avenue: The designation should be between Gore Street and Church Street.
- Ben G. Watts Highway: The designation is in both Washington and Holmes County.
- Alma Lee Loy Bridge: The designation should contain the bridge number (880077).
- Samuel B. Love Memorial Highway: The designation is not on the state highway system.

The following is biographical information relating to some of the road and bridge designations contained in the bill:

- Edna Sampson Hargrett-Thrower was the head the Choral Music department at Jones High School in Orlando. She passed away on April 19, 2010.
- Army Sp4 Thomas Berry Corbin was killed in combat in South Vietnam in 1968. He received the Army Silver Star.
- Navy BMC Samuel Calhoun Chavous Jr. was killed in combat in South Vietnam in 1968.
- Marine Lance Cpl. Brian Rory Buesing was killed in combat in Iraq in 2003.
- Army Sgt. Karl Andrew Campbell was killed in Afghanistan in 2010.
- Army SPC. James Anthony Page was killed in Afghanistan in 2010.
- Ben G. Watts served as Secretary of DOT from 1989 to 1997. Currently, Mr. Watts is retired from Carter & Burgess, Inc., where he served as President and CEO.
- Based in Mayport, FL, the USS Stark was attacked by an Iraqi jet fighter in 1987, killing 37 American sailors.
- Deputies Hal P. Croft and Ronald Jackson were Union County sheriff’s deputies killed in the line of duty.
- Verna Bell was a community activist in Fernandina Beach and Duval County.
- Dr. Óscar Elías Biscet is a Cuban medical professional and a noted advocate for human rights who is currently in prison in Cuba for alleged crimes against the sovereignty and the integrity of Cuba.
- Alma Lee Loy was the first woman elected to the Indian River County Commission.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Transportation & Highway Safety Subcommittee adopted five amendments. These amendments:

- Exempt farm labor vehicles from hours-of-service requirements during a state of emergency.
- Change the imposition date of some local fuel taxes from July 1 to October 1.
- Permit certain local fuel taxes to be used for the installation, operation, and maintenance of street lighting and traffic signals.
- Removed a requirement for municipalities to either remove or get improve non-ADA compliant bus benches and transit shelters by a date certain.

⁴² *Freimuth v. State*, 272 So. 2d 473 (Fla. 1972).

⁴³ *Id.*

- Amended provisions relating to the relocation of utilities on the right-of-way.
- Capped local sign permit fees at \$500.
- Added several honorary road and bridge designations.

On April 6, 2011, the Transportation & Economic Development Appropriations Subcommittee adopted seven amendments. These amendments:

- Exempt DOT's toll adjustments from the requirement to prepare a statement of estimated regulatory costs and from the requirement of submission to the legislature for ratification.
- Permit transportation and expressway authorities to conduct meetings and workshops by means of communications media technology.
- Create a two year pilot program, in three separate urban areas, for bicycles on highway approaches and bridges on limited access facilities.
- Remove language regarding the fine for not having a CMV medical examiner's certificate.
- Provide that the cap on sign permit fees does not affect the validity of any other aspect of any agreement, resolution, or ordinance regarding signs, or the removal of any sign, or the repayment of any fees already paid.
- Provide that if a local government requires the removal of a sign, it must adhere to certain eminent domain statutes.
- Revise provisions related to the management of vegetation affecting the visibility of outdoor advertising signs.
- Reduce the number of nonconforming signs prior to DOT issuing a permit for a new sign that requires vegetation to be cleared from at least two to one.
- Revise view zone requirements related to outdoor advertising.
- Create a tourist-oriented commerce signs pilot program in rural areas of critical economic concern.
- Add temporary harvest signs and signs erected under the tourist-oriented commerce sign pilot program from permitting requirements.

The analysis is drafted to the Committee Substitute for the Committee Substitute.

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 120.80, F.S., relating to rulemaking;
4 exempting the adjustment of tolls under specified
5 provisions from provisions requiring a statement of
6 estimated regulatory costs and a requirement for
7 legislative ratification; amending s. 286.011, F.S.;
8 providing for the conduct of transportation agency public
9 meetings through the use of communications media
10 technology; amending s. 316.091, F.S.; requiring the
11 department to establish a pilot program to open certain
12 limited access highways and bridges to bicycles and other
13 human-powered vehicles; providing requirements for the
14 pilot program; amending s. 316.302, F.S.; exempting
15 operators of farm labor vehicles from certain safety
16 regulations under certain circumstances; amending s.
17 334.03, F.S.; revising definitions for purposes of the
18 Florida Transportation Code; amending s. 334.044, F.S.;
19 revising the powers and duties of the department relating
20 to jurisdictional responsibility and designating
21 facilities; amending s. 334.047, F.S.; repealing a
22 provision prohibiting the department from establishing a
23 maximum number of miles of urban principal arterial roads
24 within a district or county; amending s. 336.021, F.S.;
25 revising the date when imposition of the ninth-cent fuel
26 tax is to be levied; amending s. 336.025, F.S.; revising
27 the dates when impositions or rate changes of the local
28 option fuel tax are to be levied and when counties must

29 | notify the Department of Revenue of such rates or rate
 30 | changes; revising the definition of "transportation
 31 | expenditures"; amending s. 337.111, F.S.; providing
 32 | additional forms of security for the cost of removal of
 33 | monuments or memorials or modifications to an installation
 34 | site at highway rest areas; removing a provision requiring
 35 | renewal of a bond; amending ss. 337.403 and 337.404, F.S.;
 36 | revising provisions for alleviation of interference with a
 37 | public road or publically owned rail corridor caused by a
 38 | utility facility; requiring the utility owner to initiate
 39 | and complete the work necessary within a certain time
 40 | period; providing for notice to the utility; revising
 41 | provisions for payment of costs; revising provisions for
 42 | completion of work when the utility owner does not perform
 43 | the work; amending s. 337.408, F.S.; revising provisions
 44 | for certain facilities installed within the right-of-way
 45 | limits of roads; requiring counties and municipalities to
 46 | indemnify the department from certain claims relating to
 47 | the installation, removal, or relocation of a noncompliant
 48 | bench or shelter; authorizing the department to direct a
 49 | county or municipality to remove or relocate a bus stop,
 50 | bench, transit shelter, waste disposal receptacle, public
 51 | pay telephone, or modular news rack that is not in
 52 | compliance with applicable laws or rules; directing the
 53 | department to remove or relocate such installation and
 54 | charge the cost to the county or municipality; authorizing
 55 | the department to deduct the cost from funding available
 56 | to the municipality or county from the department;

57 removing a provision for the replacement of an unusable
 58 transit bus bench that was in service before a certain
 59 date; revising the title of chapter 338, F.S.; repealing
 60 s. 338.001, F.S., relating to provisions for the Florida
 61 Intrastate Highway System Plan; amending s. 338.01, F.S.;
 62 including authority of the department in provisions for
 63 the establishment limited access facilities; amending s.
 64 339.155, F.S.; revising provisions for statewide
 65 transportation planning by the department; providing for
 66 federally required transportation planning factors;
 67 revising provisions for the Florida Transportation Plan;
 68 removing certain reporting requirements; revising
 69 requirements for public participation in the planning
 70 process; amending s. 339.63, F.S.; providing for inclusion
 71 of certain access facilities in the Strategic Intermodal
 72 System and the Emerging Strategic Intermodal System;
 73 amending s. 339.64, F.S.; revising provisions for
 74 development of the Strategic Intermodal System Plan;
 75 removing the Statewide Intermodal Transportation Advisory
 76 Council; creating s. 339.65, F.S.; providing for the
 77 department to plan and develop Strategic Intermodal System
 78 highway corridors; providing for allocations of funds on a
 79 specified basis; providing for corridor projects to be
 80 included in the department's adopted work program and
 81 changes to be a separate part of the tentative work
 82 program; creating s. 479.075, F.S.; defining the terms
 83 "sign" and "sign permit fee"; establishing limitations on
 84 fees charged for sign permits; requiring a fee schedule to

85 | be based on actual costs; providing for effect with
 86 | respect to any agreement, resolution, or ordinance;
 87 | requiring removal of a sign to adhere to specified
 88 | provisions; amending s. 479.106, F.S.; revising
 89 | requirements for an application for a permit to remove,
 90 | cut, or trim trees or vegetation around a sign; requiring
 91 | that the application include a vegetation management plan,
 92 | a mitigation contribution to a trust fund, or a
 93 | combination of both; providing certain evaluation
 94 | criteria; providing criteria for the use of herbicides;
 95 | providing a time limit within which the Department of
 96 | Transportation must act; providing that the permit is
 97 | valid for 5 years; providing for an extension of the
 98 | permit; reducing the number of nonconforming signs that
 99 | must be removed before a permit may be issued for certain
 100 | signs; providing criteria for view zones; requiring the
 101 | department to provide notice to the sign owner of
 102 | beautification projects or vegetation planting; amending
 103 | s. 479.16, F.S.; exempting signs erected under the local
 104 | tourist-oriented commerce signs pilot program from certain
 105 | permit requirements; exempting certain temporary signs for
 106 | farm operations from permit requirements; creating s.
 107 | 479.263, F.S.; creating the tourist-oriented commerce
 108 | signs pilot program; exempting commercial signs that meet
 109 | certain criteria from permit requirements; providing for
 110 | future expiration of the pilot program; designating Edna
 111 | S. Hargrett-Thrower Avenue in Orange County; designating
 112 | SP4 Thomas Berry Corbin Memorial Highway and U.S. Navy BMC

113 Samuel Calhoun Chavous, Jr. Memorial Highway in Dixie
 114 County; designating Marine Lance Corporal Brian R. Buesing
 115 Memorial Highway, United States Army Sergeant Karl A.
 116 Campbell Memorial Highway, and U.S. Army SPC James A. Page
 117 Memorial Highway in Levy County; designating Veterans
 118 Memorial Highway in Putnam County; designating Ben G.
 119 Watts Highway in Washington County; designating Mardi Gras
 120 Way, West Park Boulevard, and Pembroke Park Boulevard in
 121 Broward County; designating Stark Memorial Drive and Duval
 122 County Law Enforcement Memorial Overpass in Duval County;
 123 designating Verna Bell Way in Nassau County; designating
 124 Deputy Hal P. Croft and Deputy Ronald Jackson Memorial
 125 Highway in Union County; designating Dr. Oscar Elias
 126 Biscet Boulevard in Miami-Dade County; designating Alma
 127 Lee Loy Bridge in Indian River County; amending ss. 24 and
 128 45, ch. 2010-230, Laws of Florida; revising the
 129 designation for Miss Lillie Williams Boulevard and Father
 130 Gerard Jean-Juste Street in Miami-Dade County; directing
 131 the Department of Transportation to erect suitable
 132 markers; amending ss. 163.3180, 288.063, 311.07, 311.09,
 133 316.2122, 316.515, 336.01, 338.222, 338.223, 338.2275,
 134 338.228, 339.2819, 339.285, 341.8225, 479.01, 479.07, and
 135 479.261, F.S., relating to transportation concurrency,
 136 contracts, port facilities, Florida Seaport Transportation
 137 and Economic Development Council, low-speed vehicles and
 138 mini trucks, width and height limitations, the county road
 139 system, turnpike projects, revenue bonds, Transportation
 140 Regional Incentive Program, Enhanced Bridge Program for

141 Sustainable Transportation, high-speed rail projects,
 142 outdoor advertising, sign permits, and the Logo sign
 143 program, respectively; revising cross-references; amending
 144 ss. 163.3187, 318.12, 335.02, 338.227, 338.234, 339.62,
 145 341.053, and 403.7211, F.S., relating to comprehensive
 146 plans, traffic infractions, standards for lanes, services
 147 related to the financing of projects, concessions along
 148 the turnpike, components of the Strategic Intermodal
 149 System, Intermodal Development Program, and hazardous
 150 waste facilities, respectively; revising references to
 151 conform to the incorporation of the Florida Intrastate
 152 Highway System into the Strategic Intermodal System and to
 153 changes made by the act; providing an effective date.

154

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

156

157 Section 1. Subsection (17) is added to section 120.80,
 158 Florida Statutes, to read:

159

120.80 Exceptions and special requirements; agencies.—

160

160 (17) DEPARTMENT OF TRANSPORTATION.—Sections 120.54(3)(b)
 161 and 120.541 do not apply to the adjustment of tolls pursuant to
 162 s. 338.165(3).

163

163 Section 2. Subsection (9) is added to section 286.011,
 164 Florida Statutes, to read:

165

165 286.011 Public meetings and records; public inspection;
 166 criminal and civil penalties.—

167

167 (9) Transportation and expressway authorities created
 168 under chapter 343, chapter 348, or chapter 349 which are subject

169 to this section may conduct public meetings and workshops by
 170 means of communications media technology, as provided in s.
 171 120.54(5).

172 Section 3. Subsection (4) of section 316.091, Florida
 173 Statutes, is amended, present subsection (5) of that section is
 174 renumbered as subsection (6), and a new subsection (5) is added
 175 to that section, to read:

176 316.091 Limited access facilities; interstate highways;
 177 use restricted.-

178 (4) No person shall operate a bicycle or other human-
 179 powered vehicle on the roadway or along the shoulder of a
 180 limited access highway, including bridges, unless official signs
 181 and a designated marked bicycle lane are present at the entrance
 182 of the section of highway indicating that such use is permitted
 183 pursuant to a pilot program of the Department of Transportation
 184 an interstate highway.

185 (5) The Department of Transportation shall establish a 2-
 186 year pilot program, in three separate urban areas, in which it
 187 shall erect signs and designated marked bicycle lanes indicating
 188 highway approaches and bridge segments of limited access
 189 highways as open to use by operators of bicycles and other
 190 human-powered vehicles, under the following conditions:

191 (a) The limited access highway approaches and bridge
 192 segments chosen must cross a river, lake, bay, inlet, or surface
 193 water, where no street or highway crossing the water body is
 194 available for use within 2 miles of entrance to the limited
 195 access facility, measured along the shortest public right-of-
 196 way.

197 (b) The Department of Transportation, with the concurrence
 198 of the Federal Highway Administration on interstate facilities,
 199 shall establish the three highway approaches and bridge segments
 200 for the pilot project by October 1, 2011. In selecting the
 201 highway approaches and bridge segments, the Department of
 202 Transportation shall consider, without limitation, a minimum
 203 size of population in the urban area within 5 miles of the
 204 highway approach and bridge segment, the lack of bicycle access
 205 by other means, cost, safety, and operational impacts.

206 (c) The Department of Transportation shall begin the pilot
 207 program by erecting signs and designating marked bicycle lanes
 208 indicating highway approaches and bridge segments of limited
 209 access highway, as qualified by the conditions described in this
 210 subsection, as open to use by operators of bicycles and other
 211 human-powered vehicles no later than January 1, 2012.

212 (d) The Department of Transportation shall conduct the
 213 pilot program for a minimum of 2 years following the
 214 implementation date. The department may continue to provide
 215 bicycle access on the highway approaches and bridge segments
 216 chosen for the pilot program or initiate bicycle access on other
 217 limited access facilities after the end of the program.

218 (e) The Department of Transportation shall submit a report
 219 of its findings and recommendations from the pilot program to
 220 the Governor, the President of the Senate, and the Speaker of
 221 the House of Representatives by September 1, 2014. The report
 222 shall include, at a minimum, bicycle crash data occurring in
 223 designated segments of the pilot program, usage by operators of

224 bicycles and other human-powered vehicles, enforcement issues,
 225 operational impacts, and the cost of the pilot program.

226 Section 4. Paragraph (b) of subsection (2) of section
 227 316.302, Florida Statutes, is amended to read:

228 316.302 Commercial motor vehicles; safety regulations;
 229 transporters and shippers of hazardous materials; enforcement.-

230 (2)

231 (b) Except as provided in 49 C.F.R. s. 395.1, a person who
 232 operates a commercial motor vehicle solely in intrastate
 233 commerce not transporting any hazardous material in amounts that
 234 require placarding pursuant to 49 C.F.R. part 172 may not drive:

235 1. More than 12 hours following 10 consecutive hours off
 236 duty; or

237 2. For any period after the end of the 16th hour after
 238 coming on duty following 10 consecutive hours off duty.

239

240 ~~The provisions of~~ This paragraph does ~~de~~ not apply to operators
 241 of farm labor vehicles during a state of emergency declared by
 242 the Governor or under s. 570.07(21) or to drivers of utility
 243 service vehicles as defined in 49 C.F.R. s. 395.2.

244 Section 5. Section 334.03, Florida Statutes, is amended to
 245 read:

246 334.03 Definitions.—When used in the Florida
 247 Transportation Code, the term:

248 (1)~~(37)~~ "511" or "511 services" means three-digit
 249 telecommunications dialing to access interactive voice response
 250 telephone traveler information services provided in the state as
 251 defined by the Federal Communications Commission in FCC Order

252 No. 00-256, July 31, 2000.

253 ~~(1) "Arterial road" means a route providing service which~~
 254 ~~is relatively continuous and of relatively high traffic volume,~~
 255 ~~long average trip length, high operating speed, and high~~
 256 ~~mobility importance. In addition, every United States numbered~~
 257 ~~highway is an arterial road.~~

258 (2)(2) "Bridge" means a structure, including supports,
 259 erected over a depression or an obstruction, such as water or a
 260 highway or railway, and having a track or passageway for
 261 carrying traffic as defined in chapter 316 or other moving
 262 loads.

263 (3) "City street system" means all ~~local~~ roads within a
 264 municipality that were under the jurisdiction of that
 265 municipality on June 10, 1995; roads constructed by a
 266 municipality for that municipality's street system; roads
 267 completely within an area annexed by the municipality, unless
 268 otherwise provided by mutual consent; and roads transferred to
 269 the municipality's jurisdiction after June 10, 1995, by mutual
 270 consent with another governmental entity, but not roads so
 271 transferred from the municipality's jurisdiction, ~~and all~~
 272 ~~collector roads inside that municipality, which are not in the~~
 273 ~~county road system.~~

274 ~~(4) "Collector road" means a route providing service which~~
 275 ~~is of relatively moderate average traffic volume, moderately~~
 276 ~~average trip length, and moderately average operating speed.~~
 277 ~~Such a route also collects and distributes traffic between local~~
 278 ~~roads or arterial roads and serves as a linkage between land~~
 279 ~~access and mobility needs.~~

280 ~~(4)~~~~(5)~~ "Commissioners" means the governing body of a
 281 county.

282 ~~(5)~~~~(6)~~ "Consolidated metropolitan statistical area" means
 283 two or more metropolitan statistical areas that are socially and
 284 economically interrelated as defined by the United States Bureau
 285 of the Census.

286 ~~(6)~~~~(7)~~ "Controlled access facility" means a street or
 287 highway to which the right of access is highly regulated by the
 288 governmental entity having jurisdiction over the facility in
 289 order to maximize the operational efficiency and safety of the
 290 high-volume through traffic utilizing the facility. Owners or
 291 occupants of abutting lands and other persons have a right of
 292 access to or from such facility at such points only and in such
 293 manner as may be determined by the governmental entity.

294 ~~(7)~~~~(8)~~ "County road system" means all roads within a
 295 county that were under the jurisdiction of that county on June
 296 10, 1995; roads constructed by a county for that county's road
 297 system; and roads transferred to the county's jurisdiction after
 298 June 10, 1995, by mutual consent with another governmental
 299 entity, but, except as otherwise provided by mutual consent, not
 300 roads transferred from the county's jurisdiction by mutual
 301 consent or roads that are completely within an area annexed by a
 302 municipality ~~collector roads in the unincorporated areas of a~~
 303 ~~county and all extensions of such collector roads into and~~
 304 ~~through any incorporated areas, all local roads in the~~
 305 ~~unincorporated areas, and all urban minor arterial roads not in~~
 306 ~~the State Highway System.~~

307 ~~(8)~~~~(9)~~ "Department" means the Department of

308 Transportation.

309 ~~(10) "Florida Intrastate Highway System" means a system of~~
 310 ~~limited access and controlled access facilities on the State~~
 311 ~~Highway System which have the capacity to provide high-speed and~~
 312 ~~high-volume traffic movements in an efficient and safe manner.~~

313 (9)~~(11)~~ "Functional classification" means the assignment
 314 of roads into systems according to the character of service they
 315 provide in relation to the total road network using procedures
 316 developed by the Federal Highway Administration. ~~Basic~~
 317 ~~functional categories include arterial roads, collector roads,~~
 318 ~~and local roads which may be subdivided into principal, major,~~
 319 ~~or minor levels. Those levels may be additionally divided into~~
 320 ~~rural and urban categories.~~

321 (10)~~(12)~~ "Governmental entity" means a unit of government,
 322 or any officially designated public agency or authority of a
 323 unit of government, that has the responsibility for planning,
 324 construction, operation, or maintenance or jurisdiction over
 325 transportation facilities; the term includes the Federal
 326 Government, the state government, a county, an incorporated
 327 municipality, a metropolitan planning organization, an
 328 expressway or transportation authority, a road and bridge
 329 district, a special road and bridge district, and a regional
 330 governmental unit.

331 (11)~~(38)~~ "Interactive voice response" means a software
 332 application that accepts a combination of voice telephone input
 333 and touch-tone keypad selection and provides appropriate
 334 responses in the form of voice, fax, callback, e-mail, and other
 335 media.

336 (12)~~(13)~~ "Limited access facility" means a street or
 337 highway especially designed for through traffic, and over, from,
 338 or to which owners or occupants of abutting land or other
 339 persons have no right or easement of access, light, air, or view
 340 by reason of the fact that their property abuts upon such
 341 limited access facility or for any other reason. Such highways
 342 or streets may be facilities from which trucks, buses, and other
 343 commercial vehicles are excluded; or they may be facilities open
 344 to use by all customary forms of street and highway traffic.

345 (13)~~(14)~~ "Local governmental entity" means a unit of
 346 government with less than statewide jurisdiction, or any
 347 officially designated public agency or authority of such a unit
 348 of government, that has the responsibility for planning,
 349 construction, operation, or maintenance of, or jurisdiction
 350 over, a transportation facility; the term includes, but is not
 351 limited to, a county, an incorporated municipality, a
 352 metropolitan planning organization, an expressway or
 353 transportation authority, a road and bridge district, a special
 354 road and bridge district, and a regional governmental unit.

355 ~~(15) "Local road" means a route providing service which is~~
 356 ~~of relatively low average traffic volume, short average trip~~
 357 ~~length or minimal through-traffic movements, and high land~~
 358 ~~access for abutting property.~~

359 (14)~~(16)~~ "Metropolitan area" means a geographic region
 360 comprising as a minimum the existing urbanized area and the
 361 contiguous area projected to become urbanized within a 20-year
 362 forecast period. The boundaries of a metropolitan area may be
 363 designated so as to encompass a metropolitan statistical area or

364 a consolidated metropolitan statistical area. If a metropolitan
 365 area, or any part thereof, is located within a nonattainment
 366 area, the boundaries of the metropolitan area must be designated
 367 so as to include the boundaries of the entire nonattainment
 368 area, unless otherwise provided by agreement between the
 369 applicable metropolitan planning organization and the Governor.

370 (15)~~(17)~~ "Metropolitan statistical area" means an area
 371 that includes a municipality of 50,000 persons or more, or an
 372 urbanized area of at least 50,000 persons as defined by the
 373 United States Bureau of the Census, provided that the component
 374 county or counties have a total population of at least 100,000.

375 (16)~~(18)~~ "Nonattainment area" means an area designated by
 376 the United States Environmental Protection Agency, pursuant to
 377 federal law, as exceeding national primary or secondary ambient
 378 air quality standards for the pollutants carbon monoxide or
 379 ozone.

380 (17)~~(19)~~ "Periodic maintenance" means activities that are
 381 large in scope and require a major work effort to restore
 382 deteriorated components of the transportation system to a safe
 383 and serviceable condition, including, but not limited to, the
 384 repair of large bridge structures, major repairs to bridges and
 385 bridge systems, and the mineral sealing of lengthy sections of
 386 roadway.

387 (18)~~(20)~~ "Person" means any person described in s. 1.01 or
 388 any unit of government in or outside the state.

389 (19)~~(21)~~ "Right of access" means the right of ingress to a
 390 highway from abutting land and egress from a highway to abutting
 391 land.

392 ~~(20)(22)~~ "Right-of-way" means land in which the state, the
 393 department, a county, or a municipality owns the fee or has an
 394 easement devoted to or required for use as a transportation
 395 facility.

396 ~~(21)(23)~~ "Road" means a way open to travel by the public,
 397 including, but not limited to, a street, highway, or alley. The
 398 term includes associated sidewalks, the roadbed, the right-of-
 399 way, and all culverts, drains, sluices, ditches, water storage
 400 areas, waterways, embankments, slopes, retaining walls, bridges,
 401 tunnels, and viaducts necessary for the maintenance of travel
 402 and all ferries used in connection therewith.

403 ~~(22)(24)~~ "Routine maintenance" means minor repairs and
 404 associated tasks necessary to maintain a safe and efficient
 405 transportation system. The term includes: pavement patching;
 406 shoulder repair; cleaning and repair of drainage ditches,
 407 traffic signs, and structures; mowing; bridge inspection and
 408 maintenance; pavement striping; litter cleanup; and other
 409 similar activities.

410 ~~(23)(25)~~ "State Highway System" means ~~the following, which~~
 411 ~~shall be facilities to which access is regulated:~~

412 ~~(a)~~ the interstate system and all other roads within the
 413 state which were under the jurisdiction of the state on June 10,
 414 1995, and roads constructed by an agency of the state for the
 415 State Highway System, and roads transferred to the state's
 416 jurisdiction after that date by mutual consent with another
 417 governmental entity, but not roads so transferred from the
 418 state's jurisdiction. Such facilities shall be facilities to
 419 which access is regulated.†

420 ~~(b) All rural arterial routes and their extensions into~~
 421 ~~and through urban areas;~~
 422 ~~(c) All urban principal arterial routes; and~~
 423 ~~(d) The urban minor arterial mileage on the existing State~~
 424 ~~Highway System as of July 1, 1987, plus additional mileage to~~
 425 ~~comply with the 2-percent requirement as described below.~~
 426
 427 ~~However, not less than 2 percent of the public road mileage of~~
 428 ~~each urbanized area on record as of June 30, 1986, shall be~~
 429 ~~included as minor arterials in the State Highway System.~~
 430 ~~Urbanized areas not meeting the foregoing minimum requirement~~
 431 ~~shall have transferred to the State Highway System additional~~
 432 ~~minor arterials of the highest significance in which case the~~
 433 ~~total minor arterials in the State Highway System from any~~
 434 ~~urbanized area shall not exceed 2.5 percent of that area's total~~
 435 ~~public urban road mileage.~~
 436 (24)~~(26)~~ "State Park Road System" means roads embraced
 437 within the boundaries of state parks and state roads leading to
 438 state parks, other than roads of the State Highway System, the
 439 county road systems, or the city street systems.
 440 (25)~~(27)~~ "State road" means a street, road, highway, or
 441 other way open to travel by the public generally and dedicated
 442 to the public use according to law or by prescription and
 443 designated by the department, as provided by law, as part of the
 444 State Highway System.
 445 (26)~~(28)~~ "Structure" means a bridge, viaduct, tunnel,
 446 causeway, approach, ferry slip, culvert, toll plaza, gate, or
 447 other similar facility used in connection with a transportation

448 facility.

449 (27)~~(29)~~ "Sufficiency rating" means the objective rating
 450 of a road or section of a road for the purpose of determining
 451 its capability to serve properly the actual or anticipated
 452 volume of traffic using the road.

453 (28)~~(30)~~ "Transportation corridor" means any land area
 454 designated by the state, a county, or a municipality which is
 455 between two geographic points and which area is used or suitable
 456 for the movement of people and goods by one or more modes of
 457 transportation, including areas necessary for management of
 458 access and securing applicable approvals and permits.
 459 Transportation corridors shall contain, but are not limited to,
 460 the following:

- 461 (a) Existing publicly owned rights-of-way;
- 462 (b) All property or property interests necessary for
 463 future transportation facilities, including rights of access,
 464 air, view, and light, whether public or private, for the purpose
 465 of securing and utilizing future transportation rights-of-way,
 466 including, but not limited to, any lands reasonably necessary
 467 now or in the future for securing applicable approvals and
 468 permits, borrow pits, drainage ditches, water retention areas,
 469 rest areas, replacement access for landowners whose access could
 470 be impaired due to the construction of a future facility, and
 471 replacement rights-of-way for relocation of rail and utility
 472 facilities.

473 (29)~~(31)~~ "Transportation facility" means any means for the
 474 transportation of people or property from place to place which
 475 is constructed, operated, or maintained in whole or in part from

476 public funds. The term includes the property or property rights,
 477 both real and personal, which have been or may be established by
 478 public bodies for the transportation of people or property from
 479 place to place.

480 (30)~~(32)~~ "Urban area" means a geographic region comprising
 481 as a minimum the area inside the United States Bureau of the
 482 Census boundary of an urban place with a population of 5,000 or
 483 more persons, expanded to include adjacent developed areas as
 484 provided for by Federal Highway Administration regulations.

485 ~~(33) "Urban minor arterial road" means a route that~~
 486 ~~generally interconnects with and augments an urban principal~~
 487 ~~arterial road and provides service to trips of shorter length~~
 488 ~~and a lower level of travel mobility. The term includes all~~
 489 ~~arterials not classified as "principal" and contain facilities~~
 490 ~~that place more emphasis on land access than the higher system.~~

491 (31)~~(34)~~ "Urban place" means a geographic region composed
 492 of one or more contiguous census tracts that have been found by
 493 the United States Bureau of the Census to contain a population
 494 density of at least 1,000 persons per square mile.

495 ~~(35) "Urban principal arterial road" means a route that~~
 496 ~~generally serves the major centers of activity of an urban area,~~
 497 ~~the highest traffic volume corridors, and the longest trip~~
 498 ~~purpose and carries a high proportion of the total urban area~~
 499 ~~travel on a minimum of mileage. Such roads are integrated, both~~
 500 ~~internally and between major rural connections.~~

501 (32)~~(36)~~ "Urbanized area" means a geographic region
 502 comprising as a minimum the area inside an urban place of 50,000
 503 or more persons, as designated by the United States Bureau of

504 the Census, expanded to include adjacent developed areas as
 505 provided for by Federal Highway Administration regulations.
 506 Urban areas with a population of fewer than 50,000 persons which
 507 are located within the expanded boundary of an urbanized area
 508 are not separately recognized.

509 Section 6. Subsections (11) and (13) of section 334.044,
 510 Florida Statutes, are amended to read:

511 334.044 Department; powers and duties.—The department
 512 shall have the following general powers and duties:

513 (11) To establish a numbering system for public roads, and
 514 to functionally classify such roads, ~~and to assign~~
 515 ~~jurisdictional responsibility.~~

516 (13) To ~~designate existing and to~~ plan proposed
 517 transportation facilities as part of the State Highway System,
 518 and to construct, maintain, and operate such facilities.

519 Section 7. Section 334.047, Florida Statutes, is amended
 520 to read:

521 334.047 Prohibition.—Notwithstanding any other provision
 522 of law to the contrary, the Department of Transportation may not
 523 establish a cap on the number of miles in the State Highway
 524 System ~~or a maximum number of miles of urban principal arterial~~
 525 ~~roads, as defined in s. 334.03, within a district or county.~~

526 Section 8. Subsection (5) of section 336.021, Florida
 527 Statutes, is amended to read:

528 336.021 County transportation system; levy of ninth-cent
 529 fuel tax on motor fuel and diesel fuel.—

530 (5) All impositions of the tax shall be levied before
 531 October 1 ~~July 1~~ of each year to be effective January 1 of the

532 following year. However, levies of the tax which were in effect
 533 on July 1, 2002, and which expire on August 31 of any year may
 534 be reimposed at the current authorized rate to be effective
 535 September 1 of the year of expiration. All impositions shall be
 536 required to end on December 31 of a year. A decision to rescind
 537 the tax shall not take effect on any date other than December 31
 538 and shall require a minimum of 60 days' notice to the department
 539 of such decision.

540 Section 9. Paragraphs (a) and (b) of subsection (1),
 541 paragraph (a) of subsection (5), and paragraphs (d) and (e) of
 542 subsection (7) of section 336.025, Florida Statutes, are amended
 543 to read:

544 336.025 County transportation system; levy of local option
 545 fuel tax on motor fuel and diesel fuel.—

546 (1)(a) In addition to other taxes allowed by law, there
 547 may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a
 548 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option
 549 fuel tax upon every gallon of motor fuel and diesel fuel sold in
 550 a county and taxed under the provisions of part I or part II of
 551 chapter 206.

552 1. All impositions and rate changes of the tax shall be
 553 levied before October 1 ~~July 1~~ to be effective January 1 of the
 554 following year for a period not to exceed 30 years, and the
 555 applicable method of distribution shall be established pursuant
 556 to subsection (3) or subsection (4). However, levies of the tax
 557 which were in effect on July 1, 2002, and which expire on August
 558 31 of any year may be reimposed at the current authorized rate
 559 effective September 1 of the year of expiration. Upon

560 expiration, the tax may be relieved provided that a
 561 redetermination of the method of distribution is made as
 562 provided in this section.

563 2. County and municipal governments shall utilize moneys
 564 received pursuant to this paragraph only for transportation
 565 expenditures.

566 3. Any tax levied pursuant to this paragraph may be
 567 extended on a majority vote of the governing body of the county.
 568 A redetermination of the method of distribution shall be
 569 established pursuant to subsection (3) or subsection (4), if,
 570 after July 1, 1986, the tax is extended or the tax rate changed,
 571 for the period of extension or for the additional tax.

572 (b) In addition to other taxes allowed by law, there may
 573 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-
 574 cent, 4-cent, or 5-cent local option fuel tax upon every gallon
 575 of motor fuel sold in a county and taxed under the provisions of
 576 part I of chapter 206. The tax shall be levied by an ordinance
 577 adopted by a majority plus one vote of the membership of the
 578 governing body of the county or by referendum.

579 1. All impositions and rate changes of the tax shall be
 580 levied before October 1 ~~July 1~~, to be effective January 1 of the
 581 following year. However, levies of the tax which were in effect
 582 on July 1, 2002, and which expire on August 31 of any year may
 583 be reimposed at the current authorized rate effective September
 584 1 of the year of expiration.

585 2. The county may, prior to levy of the tax, establish by
 586 interlocal agreement with one or more municipalities located
 587 therein, representing a majority of the population of the

588 incorporated area within the county, a distribution formula for
 589 dividing the entire proceeds of the tax among county government
 590 and all eligible municipalities within the county. If no
 591 interlocal agreement is adopted before the effective date of the
 592 tax, tax revenues shall be distributed pursuant to the
 593 provisions of subsection (4). If no interlocal agreement exists,
 594 a new interlocal agreement may be established prior to June 1 of
 595 any year pursuant to this subparagraph. However, any interlocal
 596 agreement agreed to under this subparagraph after the initial
 597 levy of the tax or change in the tax rate authorized in this
 598 section shall under no circumstances materially or adversely
 599 affect the rights of holders of outstanding bonds which are
 600 backed by taxes authorized by this paragraph, and the amounts
 601 distributed to the county government and each municipality shall
 602 not be reduced below the amount necessary for the payment of
 603 principal and interest and reserves for principal and interest
 604 as required under the covenants of any bond resolution
 605 outstanding on the date of establishment of the new interlocal
 606 agreement.

607 3. County and municipal governments shall use moneys
 608 received pursuant to this paragraph for transportation
 609 expenditures needed to meet the requirements of the capital
 610 improvements element of an adopted comprehensive plan or for
 611 expenditures needed to meet immediate local transportation
 612 problems and for other transportation-related expenditures that
 613 are critical for building comprehensive roadway networks by
 614 local governments. For purposes of this paragraph, expenditures
 615 for the construction of new roads, the reconstruction or

616 resurfacing of existing paved roads, or the paving of existing
 617 graded roads shall be deemed to increase capacity and such
 618 projects shall be included in the capital improvements element
 619 of an adopted comprehensive plan. Expenditures for purposes of
 620 this paragraph shall not include routine maintenance of roads.

621 (5) (a) By October 1 ~~July 1~~ of each year, the county shall
 622 notify the Department of Revenue of the rate of the taxes levied
 623 pursuant to paragraphs (1) (a) and (b), and of its decision to
 624 rescind or change the rate of a tax, if applicable, and shall
 625 provide the department with a certified copy of the interlocal
 626 agreement established under subparagraph (1) (b) 2. or
 627 subparagraph (3) (a) 1. with distribution proportions established
 628 by such agreement or pursuant to subsection (4), if applicable.
 629 A decision to rescind a tax shall not take effect on any date
 630 other than December 31 and shall require a minimum of 60 days'
 631 notice to the Department of Revenue of such decision.

632 (7) For the purposes of this section, "transportation
 633 expenditures" means expenditures by the local government from
 634 local or state shared revenue sources, excluding expenditures of
 635 bond proceeds, for the following programs:

636 (d) Street lighting installation, operation, and
 637 maintenance.

638 (e) Traffic signs; ~~;~~ traffic engineering; ~~;~~ signalization
 639 installation, operation, and maintenance; and pavement markings.

640 Section 10. Subsection (4) of section 337.111, Florida
 641 Statutes, is amended to read:

642 337.111 Contracting for monuments and memorials to
 643 military veterans at rest areas.—The Department of

644 Transportation is authorized to enter into contract with any
 645 not-for-profit group or organization that has been operating for
 646 not less than 2 years for the installation of monuments and
 647 memorials honoring Florida's military veterans at highway rest
 648 areas around the state pursuant to the provisions of this
 649 section.

650 (4) The group or organization making the proposal shall
 651 provide a 10-year bond, an annual renewable bond, an irrevocable
 652 letter of credit, or other form of security as approved by the
 653 department's comptroller, for the purpose of securing the cost
 654 of removal of the monument and any modifications made to the
 655 site as part of the placement of the monument should the
 656 Department of Transportation determine it necessary to remove or
 657 relocate the monument. Such removal or relocation shall be
 658 approved by the committee described in subsection (1). ~~Prior to~~
 659 ~~expiration, the bond shall be renewed for another 10-year period~~
 660 ~~if the memorial is to remain in place.~~

661 Section 11. Section 337.403, Florida Statutes, is amended
 662 to read:

663 337.403 Interference caused by Relocation of utility;
 664 expenses.-

665 (1) When a ~~Any~~ utility ~~heretofore or hereafter~~ placed
 666 upon, under, over, or along any public road or publicly owned
 667 rail corridor ~~that~~ is found by the authority to be unreasonably
 668 interfering in any way with the convenient, safe, or continuous
 669 use, or the maintenance, improvement, extension, or expansion,
 670 of such public road or publicly owned rail corridor, the utility
 671 owner shall, upon 30 days' written notice to the utility or its

672 agent by the authority, initiate the work necessary to alleviate
 673 the interference ~~be removed or relocated by such utility~~ at its
 674 own expense except as provided in paragraphs (a)-(f). The work
 675 shall be completed within such time as stated in the notice or
 676 such time as agreed to by the authority and the utility owner.

677 (a) If the relocation of utility facilities, as referred
 678 to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
 679 627 of the 84th Congress, is necessitated by the construction of
 680 a project on the federal-aid interstate system, including
 681 extensions thereof within urban areas, and the cost of the
 682 project is eligible and approved for reimbursement by the
 683 Federal Government to the extent of 90 percent or more under the
 684 Federal Aid Highway Act, or any amendment thereof, then in that
 685 event the utility owning or operating such facilities shall
 686 perform any necessary work ~~relocate the facilities~~ upon notice
 687 from ~~order of~~ the department, and the state shall pay the entire
 688 expense properly attributable to such work ~~relocation~~ after
 689 deducting therefrom any increase in the value of any ~~the~~ new
 690 facility and any salvage value derived from any ~~the~~ old
 691 facility.

692 (b) When a joint agreement between the department and the
 693 utility is executed for utility ~~improvement, relocation, or~~
 694 ~~removal~~ work to be accomplished as part of a contract for
 695 construction of a transportation facility, the department may
 696 participate in those utility work ~~improvement, relocation, or~~
 697 ~~removal~~ costs that exceed the department's official estimate of
 698 the cost of the work by more than 10 percent. The amount of such
 699 participation shall be limited to the difference between the

700 official estimate of all the work in the joint agreement plus 10
 701 percent and the amount awarded for this work in the construction
 702 contract for such work. The department may not participate in
 703 any utility work ~~improvement, relocation, or removal~~ costs that
 704 occur as a result of changes or additions during the course of
 705 the contract.

706 (c) When an agreement between the department and utility
 707 is executed for utility ~~improvement, relocation, or removal~~ work
 708 to be accomplished in advance of a contract for construction of
 709 a transportation facility, the department may participate in the
 710 cost of clearing and grubbing necessary to perform such work.

711 (d) If the utility facility involved ~~being removed or~~
 712 ~~relocated~~ was initially installed to exclusively serve the
 713 department, its tenants, or both, the department shall bear the
 714 costs of the utility work ~~removing or relocating that utility~~
 715 ~~facility~~. However, the department is not responsible for bearing
 716 the cost of utility work related to ~~removing or relocating~~ any
 717 subsequent additions to that facility for the purpose of serving
 718 others.

719 (e) If, under an agreement between a utility and the
 720 authority entered into after July 1, 2009, the utility conveys,
 721 subordinates, or relinquishes a compensable property right to
 722 the authority for the purpose of accommodating the acquisition
 723 or use of the right-of-way by the authority, without the
 724 agreement expressly addressing future responsibility for the
 725 cost of necessary utility work ~~removing or relocating the~~
 726 ~~utility~~, the authority shall bear the cost of removal or
 727 relocation. This paragraph does not impair or restrict, and may

728 not be used to interpret, the terms of any such agreement
 729 entered into before July 1, 2009.

730 (f) If the utility is an electric facility being relocated
 731 underground in order to enhance vehicular, bicycle, and
 732 pedestrian safety and in which ownership of the electric
 733 facility to be placed underground has been transferred from a
 734 private to a public utility within the past 5 years, the
 735 department shall incur all costs of the necessary utility work
 736 ~~relocation~~.

737 (2) If such utility work ~~removal or relocation~~ is
 738 incidental to work to be done on such road or publicly owned
 739 rail corridor, the notice shall be given at the same time the
 740 contract for the work is advertised for bids, or no less than 30
 741 days prior to the commencement of such work by the authority,
 742 whichever is greater.

743 (3) Whenever the notice from ~~an order of~~ the authority
 744 requires such utility work ~~removal or change in the location of~~
 745 ~~any utility from the right-of-way of a public road or publicly~~
 746 ~~owned rail corridor,~~ and the owner thereof fails perform the
 747 work to remove or change the same at his or her own expense ~~to~~
 748 ~~conform to the order~~ within the time stated in the notice or
 749 such other time as agreed to by the authority and the utility
 750 owner, the authority shall proceed to cause the utility work to
 751 be performed ~~to be removed~~. The expense thereby incurred shall
 752 be paid out of any money available therefor, and such expense
 753 shall, except as provided in subsection (1), be charged against
 754 the owner and levied and collected and paid into the fund from
 755 which the expense of such relocation was paid.

756 Section 12. Subsection (1) of section 337.404, Florida
 757 Statutes, is amended to read:

758 337.404 Removal or relocation of utility facilities;
 759 notice and order; court review.—

760 (1) Whenever it shall become necessary for the authority
 761 to perform utility work ~~remove or relocate any utility~~ as
 762 provided in s. 337.403 ~~the preceding section~~, the owner of the
 763 utility, or the owner's chief agent, shall be given notice that
 764 the authority will perform ~~of such work removal or relocation~~
 765 and, after the work is complete, shall be given an order
 766 requiring the payment of the cost thereof, and a ~~shall be given~~
 767 reasonable time, which shall not be less than 20 nor more than
 768 30 days, in which to appear before the authority to contest the
 769 reasonableness of the order. Should the owner or the owner's
 770 representative not appear, the determination of the cost to the
 771 owner shall be final. Authorities considered agencies for the
 772 purposes of chapter 120 shall adjudicate removal or relocation
 773 of utilities pursuant to chapter 120.

774 Section 13. Subsections (1) and (4) of section 337.408,
 775 Florida Statutes, are amended to read:

776 337.408 Regulation of bus stops, benches, transit
 777 shelters, street light poles, waste disposal receptacles, and
 778 modular news racks within rights-of-way.—

779 (1) Benches or transit shelters, including advertising
 780 displayed on benches or transit shelters, may be installed
 781 within the right-of-way limits of any municipal, county, or
 782 state road, except a limited access highway, provided that such
 783 benches or transit shelters are for the comfort or convenience

784 | of the general public or are at designated stops on official bus
 785 | routes and provided that written authorization has been given to
 786 | a qualified private supplier of such service by the municipal
 787 | government within whose incorporated limits such benches or
 788 | transit shelters are installed or by the county government
 789 | within whose unincorporated limits such benches or transit
 790 | shelters are installed. A municipality or county may authorize
 791 | the installation, without public bid, of benches and transit
 792 | shelters together with advertising displayed thereon within the
 793 | right-of-way limits of such roads. All installations shall be in
 794 | compliance with all applicable laws and rules, including,
 795 | without limitation, the Americans with Disabilities Act.
 796 | Municipalities or counties shall indemnify, defend, and hold
 797 | harmless the department from any suits, actions, proceedings,
 798 | claims, losses, costs, charges, expenses, damages, liabilities,
 799 | attorney fees, and court costs relating to the installation,
 800 | removal, or relocation of such installations. Any contract for
 801 | the installation of benches or transit shelters or advertising
 802 | on benches or transit shelters which was entered into before
 803 | April 8, 1992, without public bidding is ratified and affirmed.
 804 | Such benches or transit shelters may not interfere with right-
 805 | of-way preservation and maintenance. Any bench or transit
 806 | shelter located on a sidewalk within the right-of-way limits of
 807 | any road on the State Highway System or the county road system
 808 | shall be located so as to leave at least 36 inches of clearance
 809 | for pedestrians and persons in wheelchairs. Such clearance shall
 810 | be measured in a direction perpendicular to the centerline of
 811 | the road.

812 (4) The department has the authority to direct the
 813 immediate relocation or removal of any bus stop, bench, transit
 814 shelter, waste disposal receptacle, public pay telephone, or
 815 modular news rack that endangers life or property, or that is
 816 otherwise not in compliance with applicable laws and rules,
 817 except that transit bus benches that were placed in service
 818 before April 1, 1992, are not required to comply with bench size
 819 and advertising display size requirements established by the
 820 department before March 1, 1992. If a municipality or county
 821 fails to comply with the department's direction, the department
 822 shall remove the noncompliant installation, charge the cost of
 823 the removal to the municipality or county, and may deduct or
 824 offset such cost from any other funding available to the
 825 municipality or county from the department. ~~Any transit bus~~
 826 ~~bench that was in service before April 1, 1992, may be replaced~~
 827 ~~with a bus bench of the same size or smaller, if the bench is~~
 828 ~~damaged or destroyed or otherwise becomes unusable.~~ The
 829 department may adopt rules relating to the regulation of bench
 830 size and advertising display size requirements. If a
 831 municipality or county within which a bench is to be located has
 832 adopted an ordinance or other applicable regulation that
 833 establishes bench size or advertising display sign requirements
 834 different from requirements specified in department rule, the
 835 local government requirement applies within the respective
 836 municipality or county. Placement of any bench or advertising
 837 display on the National Highway System under a local ordinance
 838 or regulation adopted under this subsection is subject to
 839 approval of the Federal Highway Administration.

840 Section 14. Chapter 338, Florida Statutes, is retitled
 841 "LIMITED ACCESS AND TOLL FACILITIES."

842 Section 15. Section 338.001, Florida Statutes, is
 843 repealed.

844 Section 16. Subsections (1) through (6) of section 338.01,
 845 Florida Statutes, are renumbered as subsections (2) through (7),
 846 respectively, and a new subsection (1) is added to that section
 847 to read:

848 338.01 Authority to establish and regulate limited access
 849 facilities.—

850 (1) The department is authorized to establish limited
 851 access facilities as provided in s. 335.02. The primary function
 852 of such limited access facilities is to allow high-speed and
 853 high-volume traffic movements within the state. Access to
 854 abutting land is subordinate to this function, and such access
 855 must be prohibited or highly regulated.

856 Section 17. Section 339.155, Florida Statutes, is amended
 857 to read:

858 339.155 Transportation planning.—

859 (1) THE FLORIDA TRANSPORTATION PLAN.—The department shall
 860 develop ~~and annually update~~ a statewide transportation plan, to
 861 be known as the Florida Transportation Plan. The plan shall be
 862 designed so as to be easily read and understood by the general
 863 public. The purpose of the Florida Transportation Plan is to
 864 establish and define the state's long-range transportation goals
 865 and objectives to be accomplished over a period of at least 20
 866 years within the context of the State Comprehensive Plan, and
 867 any other statutory mandates and authorizations and based upon

868 the prevailing principles of: preserving the existing
 869 transportation infrastructure; enhancing Florida's economic
 870 competitiveness; and improving travel choices to ensure
 871 mobility. The Florida Transportation Plan shall consider the
 872 needs of the entire state transportation system and examine the
 873 use of all modes of transportation to effectively and
 874 efficiently meet such needs.

875 (2) SCOPE OF PLANNING PROCESS.—The department shall carry
 876 out a transportation planning process in conformance with s.
 877 334.046(1) and 23 U.S.C. s. 135. ~~which provides for~~
 878 ~~consideration of projects and strategies that will:~~

879 ~~(a) Support the economic vitality of the United States,~~
 880 ~~Florida, and the metropolitan areas, especially by enabling~~
 881 ~~global competitiveness, productivity, and efficiency;~~

882 ~~(b) Increase the safety and security of the transportation~~
 883 ~~system for motorized and nonmotorized users;~~

884 ~~(c) Increase the accessibility and mobility options~~
 885 ~~available to people and for freight;~~

886 ~~(d) Protect and enhance the environment, promote energy~~
 887 ~~conservation, and improve quality of life;~~

888 ~~(e) Enhance the integration and connectivity of the~~
 889 ~~transportation system, across and between modes throughout~~
 890 ~~Florida, for people and freight;~~

891 ~~(f) Promote efficient system management and operation; and~~

892 ~~(g) Emphasize the preservation of the existing~~
 893 ~~transportation system.~~

894 (3) FORMAT, SCHEDULE, AND REVIEW.—The Florida
 895 Transportation Plan shall be a unified, concise planning

896 document that clearly defines the state's long-range
 897 transportation goals and objectives ~~and documents the~~
 898 ~~department's short-range objectives developed to further such~~
 899 ~~goals and objectives.~~ The plan shall:

900 (a) Include a glossary that clearly and succinctly defines
 901 any and all phrases, words, or terms of art included in the
 902 plan, with which the general public may be unfamiliar. ~~and shall~~
 903 ~~consist of, at a minimum, the following components:~~

904 (b) ~~(a)~~ Document A long-range component documenting the
 905 goals and long-term objectives ~~necessary to implement the~~
 906 ~~results of the department consistent with department's findings~~
 907 ~~from its examination of the criteria listed in subsection (2)~~
 908 ~~and s. 334.046(1) and 23 U.S.C. s. 135.~~ The long-range component
 909 ~~must~~

910 (c) Be developed in cooperation with the metropolitan
 911 planning organizations and reconciled, to the maximum extent
 912 feasible, with the long-range plans developed by metropolitan
 913 planning organizations pursuant to s. 339.175. ~~The plan must~~
 914 ~~also~~

915 (d) Be developed in consultation with affected local
 916 officials in nonmetropolitan areas and with any affected Indian
 917 tribal governments. ~~The plan must~~

918 (e) Provide an examination of transportation issues likely
 919 to arise during at least a 20-year period. ~~The long-range~~
 920 ~~component shall~~

921 (f) Be updated at least once every 5 years, or more often
 922 as necessary, to reflect substantive changes to federal or state
 923 law.

924 ~~(b) A short range component documenting the short-term~~
 925 ~~objectives and strategies necessary to implement the goals and~~
 926 ~~long-term objectives contained in the long-range component. The~~
 927 ~~short-range component must define the relationship between the~~
 928 ~~long-range goals and the short-range objectives, specify those~~
 929 ~~objectives against which the department's achievement of such~~
 930 ~~goals will be measured, and identify transportation strategies~~
 931 ~~necessary to efficiently achieve the goals and objectives in the~~
 932 ~~plan. It must provide a policy framework within which the~~
 933 ~~department's legislative budget request, the strategic~~
 934 ~~information resource management plan, and the work program are~~
 935 ~~developed. The short-range component shall serve as the~~
 936 ~~department's annual agency strategic plan pursuant to s.~~
 937 ~~186.021. The short-range component shall be developed consistent~~
 938 ~~with available and forecasted state and federal funds. The~~
 939 ~~short-range component shall also be submitted to the Florida~~
 940 ~~Transportation Commission.~~

941 ~~(4) ANNUAL PERFORMANCE REPORT. The department shall~~
 942 ~~develop an annual performance report evaluating the operation of~~
 943 ~~the department for the preceding fiscal year. The report shall~~
 944 ~~also include a summary of the financial operations of the~~
 945 ~~department and shall annually evaluate how well the adopted work~~
 946 ~~program meets the short-term objectives contained in the short-~~
 947 ~~range component of the Florida Transportation Plan. This~~
 948 ~~performance report shall be submitted to the Florida~~
 949 ~~Transportation Commission and the legislative appropriations and~~
 950 ~~transportation committees.~~

951 (4)(5) ADDITIONAL TRANSPORTATION PLANS.—

952 (a) Upon request by local governmental entities, the
 953 department may in its discretion develop and design
 954 transportation corridors, arterial and collector streets,
 955 vehicular parking areas, and other support facilities which are
 956 consistent with the plans of the department for major
 957 transportation facilities. The department may render to local
 958 governmental entities or their planning agencies such technical
 959 assistance and services as are necessary so that local plans and
 960 facilities are coordinated with the plans and facilities of the
 961 department.

962 (b) Each regional planning council, as provided for in s.
 963 186.504, or any successor agency thereto, shall develop, as an
 964 element of its strategic regional policy plan, transportation
 965 goals and policies. The transportation goals and policies must
 966 be prioritized to comply with the prevailing principles provided
 967 in subsection (2) and s. 334.046(1). The transportation goals
 968 and policies shall be consistent, to the maximum extent
 969 feasible, with the goals and policies of the metropolitan
 970 planning organization and the Florida Transportation Plan. The
 971 transportation goals and policies of the regional planning
 972 council will be advisory only and shall be submitted to the
 973 department and any affected metropolitan planning organization
 974 for their consideration and comments. Metropolitan planning
 975 organization plans and other local transportation plans shall be
 976 developed consistent, to the maximum extent feasible, with the
 977 regional transportation goals and policies. The regional
 978 planning council shall review urbanized area transportation
 979 plans and any other planning products stipulated in s. 339.175

980 | and provide the department and respective metropolitan planning
 981 | organizations with written recommendations which the department
 982 | and the metropolitan planning organizations shall take under
 983 | advisement. Further, the regional planning councils shall
 984 | directly assist local governments which are not part of a
 985 | metropolitan area transportation planning process in the
 986 | development of the transportation element of their comprehensive
 987 | plans as required by s. 163.3177.

988 | (c) Regional transportation plans may be developed in
 989 | regional transportation areas in accordance with an interlocal
 990 | agreement entered into pursuant to s. 163.01 by two or more
 991 | contiguous metropolitan planning organizations; one or more
 992 | metropolitan planning organizations and one or more contiguous
 993 | counties, none of which is a member of a metropolitan planning
 994 | organization; a multicounty regional transportation authority
 995 | created by or pursuant to law; two or more contiguous counties
 996 | that are not members of a metropolitan planning organization; or
 997 | metropolitan planning organizations comprised of three or more
 998 | counties.

999 | (d) The interlocal agreement must, at a minimum, identify
 1000 | the entity that will coordinate the development of the regional
 1001 | transportation plan; delineate the boundaries of the regional
 1002 | transportation area; provide the duration of the agreement and
 1003 | specify how the agreement may be terminated, modified, or
 1004 | rescinded; describe the process by which the regional
 1005 | transportation plan will be developed; and provide how members
 1006 | of the entity will resolve disagreements regarding
 1007 | interpretation of the interlocal agreement or disputes relating

1008 | to the development or content of the regional transportation
 1009 | plan. Such interlocal agreement shall become effective upon its
 1010 | recordation in the official public records of each county in the
 1011 | regional transportation area.

1012 | (e) The regional transportation plan developed pursuant to
 1013 | this section must, at a minimum, identify regionally significant
 1014 | transportation facilities located within a regional
 1015 | transportation area and contain a prioritized list of regionally
 1016 | significant projects. The level-of-service standards for
 1017 | facilities to be funded under this subsection shall be adopted
 1018 | by the appropriate local government in accordance with s.
 1019 | 163.3180(10). The projects shall be adopted into the capital
 1020 | improvements schedule of the local government comprehensive plan
 1021 | pursuant to s. 163.3177(3).

1022 | (5)~~(6)~~ PROCEDURES FOR PUBLIC PARTICIPATION IN
 1023 | TRANSPORTATION PLANNING.—

1024 | (a) During the development of the ~~long range component of~~
 1025 | ~~the~~ Florida Transportation Plan and prior to substantive
 1026 | revisions, the department shall provide citizens, affected
 1027 | public agencies, representatives of transportation agency
 1028 | employees, other affected employee representatives, private
 1029 | providers of transportation, and other known interested parties
 1030 | with an opportunity to comment on the proposed plan or
 1031 | revisions. These opportunities shall include, at a minimum,
 1032 | publishing a notice in the Florida Administrative Weekly and
 1033 | within a newspaper of general circulation within the area of
 1034 | each department district office.

1035 | (b) During development of major transportation

1036 improvements, such as those increasing the capacity of a
 1037 facility through the addition of new lanes or providing new
 1038 access to a limited or controlled access facility or
 1039 construction of a facility in a new location, the department
 1040 shall hold one or more hearings prior to the selection of the
 1041 facility to be provided; prior to the selection of the site or
 1042 corridor of the proposed facility; and prior to the selection of
 1043 and commitment to a specific design proposal for the proposed
 1044 facility. Such public hearings shall be conducted so as to
 1045 provide an opportunity for effective participation by interested
 1046 persons in the process of transportation planning and site and
 1047 route selection and in the specific location and design of
 1048 transportation facilities. The various factors involved in the
 1049 decision or decisions and any alternative proposals shall be
 1050 clearly presented so that the persons attending the hearing may
 1051 present their views relating to the decision or decisions which
 1052 will be made.

1053 (c) Opportunity for design hearings:

1054 1. The department, prior to holding a design hearing,
 1055 shall duly notify all affected property owners of record, as
 1056 recorded in the property appraiser's office, by mail at least 20
 1057 days prior to the date set for the hearing. The affected
 1058 property owners shall be:

1059 a. Those whose property lies in whole or in part within
 1060 300 feet on either side of the centerline of the proposed
 1061 facility.

1062 b. Those whom the department determines will be
 1063 substantially affected environmentally, economically, socially,

1064 or safetywise.

1065 2. For each subsequent hearing, the department shall
 1066 publish notice prior to the hearing date in a newspaper of
 1067 general circulation for the area affected. These notices must be
 1068 published twice, with the first notice appearing at least 15
 1069 days, but no later than 30 days, before the hearing.

1070 3. A copy of the notice of opportunity for the hearing
 1071 must be furnished to the United States Department of
 1072 Transportation and to the appropriate departments of the state
 1073 government at the time of publication.

1074 4. The opportunity for another hearing shall be afforded
 1075 in any case when proposed locations or designs are so changed
 1076 from those presented in the notices specified above or at a
 1077 hearing as to have a substantially different social, economic,
 1078 or environmental effect.

1079 5. The opportunity for a hearing shall be afforded in each
 1080 case in which the department is in doubt as to whether a hearing
 1081 is required.

1082 Section 18. Section 339.62, Florida Statutes, is amended
 1083 to read:

1084 339.62 System components.—The Strategic Intermodal System
 1085 shall consist of appropriate components of:

- 1086 (1) Highway corridors ~~The Florida Intrastate Highway~~
 1087 ~~System~~ established under s. 339.65 ~~s. 338.001~~.
- 1088 (2) The National Highway System.
- 1089 (3) Airport, seaport, and spaceport facilities.
- 1090 (4) Rail lines and rail facilities.
- 1091 (5) Selected intermodal facilities; passenger and freight

1092 terminals; and appropriate components of the State Highway
 1093 System, county road system, city street system, inland
 1094 waterways, and local public transit systems that serve as
 1095 existing or planned connectors between the components listed in
 1096 subsections (1)-(4).

1097 (6) Other existing or planned corridors that serve a
 1098 statewide or interregional purpose.

1099 Section 19. Subsection (2) of section 339.63, Florida
 1100 Statutes, is amended to read:

1101 339.63 System facilities designated; additions and
 1102 deletions.-

1103 (2) The Strategic Intermodal System and the Emerging
 1104 Strategic Intermodal System include four ~~three~~ different types
 1105 of facilities that each form one component of an interconnected
 1106 transportation system which types include:

1107 (a) Existing or planned hubs that are ports and terminals
 1108 including airports, seaports, spaceports, passenger terminals,
 1109 and rail terminals serving to move goods or people between
 1110 Florida regions or between Florida and other markets in the
 1111 United States and the rest of the world;

1112 (b) Existing or planned corridors that are highways, rail
 1113 lines, waterways, and other exclusive-use facilities connecting
 1114 major markets within Florida or between Florida and other states
 1115 or nations; and

1116 (c) Existing or planned intermodal connectors that are
 1117 highways, rail lines, waterways or local public transit systems
 1118 serving as connectors between the components listed in
 1119 paragraphs (a) and (b).

1120 (d) Existing or planned military access facilities that
 1121 are highways or rail lines linking Strategic Intermodal System
 1122 corridors to the state's strategic military installations.

1123 Section 20. Section 339.64, Florida Statutes, is amended
 1124 to read:

1125 339.64 Strategic Intermodal System Plan.—

1126 (1) The department shall develop, in cooperation with
 1127 metropolitan planning organizations, regional planning councils,
 1128 local governments, ~~the Statewide Intermodal Transportation~~
 1129 ~~Advisory Council~~ and other transportation providers, a Strategic
 1130 Intermodal System Plan. The plan shall be consistent with the
 1131 Florida Transportation Plan developed pursuant to s. 339.155 and
 1132 shall be updated at least once every 5 years, subsequent to
 1133 updates of the Florida Transportation Plan.

1134 (2) In association with the continued development of the
 1135 Strategic Intermodal System Plan, the Florida Transportation
 1136 Commission, as part of its work program review process, shall
 1137 conduct an annual assessment of the progress that the department
 1138 and its transportation partners have made in realizing the goals
 1139 of economic development, improved mobility, and increased
 1140 intermodal connectivity of the Strategic Intermodal System. The
 1141 Florida Transportation Commission shall coordinate with the
 1142 department, ~~the Statewide Intermodal Transportation Advisory~~
 1143 ~~Council~~, and other appropriate entities when developing this
 1144 assessment. The Florida Transportation Commission shall deliver
 1145 a report to the Governor and Legislature no later than 14 days
 1146 after the regular session begins, with recommendations as
 1147 necessary to fully implement the Strategic Intermodal System.

1148 (3) (a) During the development of updates to the Strategic
 1149 Intermodal System Plan, the department shall provide
 1150 metropolitan planning organizations, regional planning councils,
 1151 local governments, transportation providers, affected public
 1152 agencies, and citizens with an opportunity to participate in and
 1153 comment on the development of the update.

1154 (b) The department also shall coordinate with federal,
 1155 regional, and local partners the planning for the Strategic
 1156 Highway Network and the Strategic Rail Corridor Network
 1157 transportation facilities that either are included in the
 1158 Strategic Intermodal System or that provide a direct connection
 1159 between military installations and the Strategic Intermodal
 1160 System. In addition, the department shall coordinate with
 1161 regional and local partners to determine whether the road and
 1162 other transportation infrastructure that connect military
 1163 installations to the Strategic Intermodal System, the Strategic
 1164 Highway Network, or the Strategic Rail Corridor is regionally
 1165 significant and should be included in the Strategic Intermodal
 1166 System Plan.

1167 (4) The Strategic Intermodal System Plan shall include the
 1168 following:

1169 (a) A needs assessment.

1170 (b) A project prioritization process.

1171 (c) A map of facilities designated as Strategic Intermodal
 1172 System facilities; facilities that are emerging in importance
 1173 and that are likely to become part of the system in the future;
 1174 and planned facilities that will meet the established criteria.

1175 (d) A finance plan based on reasonable projections of

1176 anticipated revenues, including both 10-year and at least 20-
 1177 year cost-feasible components.

1178 (e) An assessment of the impacts of proposed improvements
 1179 to Strategic Intermodal System corridors on military
 1180 installations that are either located directly on the Strategic
 1181 Intermodal System or located on the Strategic Highway Network or
 1182 Strategic Rail Corridor Network.

1183 ~~(5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY COUNCIL.~~

1184 ~~(a) The Statewide Intermodal Transportation Advisory
 1185 Council is created to advise and make recommendations to the
 1186 Legislature and the department on policies, planning, and
 1187 funding of intermodal transportation projects. The council's
 1188 responsibilities shall include:~~

1189 ~~1. Advising the department on the policies, planning, and
 1190 implementation of strategies related to intermodal
 1191 transportation.~~

1192 ~~2. Providing advice and recommendations to the Legislature
 1193 on funding for projects to move goods and people in the most
 1194 efficient and effective manner for the State of Florida.~~

1195 ~~(b) MEMBERSHIP. Members of the Statewide Intermodal
 1196 Transportation Advisory Council shall consist of the following:~~

1197 ~~1. Six intermodal industry representatives selected by the
 1198 Governor as follows:~~

1199 ~~a. One representative from an airport involved in the
 1200 movement of freight and people from their airport facility to
 1201 another transportation mode.~~

1202 ~~b. One individual representing a fixed-route, local-
 1203 government transit system.~~

1204 ~~e. One representative from an intercity bus company~~
 1205 ~~providing regularly scheduled bus travel as determined by~~
 1206 ~~federal regulations.~~

1207 ~~d. One representative from a spaceport.~~

1208 ~~e. One representative from intermodal trucking companies.~~

1209 ~~f. One representative having command responsibilities of a~~
 1210 ~~major military installation.~~

1211 ~~2. Three intermodal industry representatives selected by~~
 1212 ~~the President of the Senate as follows:~~

1213 ~~a. One representative from major line railroads.~~

1214 ~~b. One representative from seaports listed in s. 311.09(1)~~
 1215 ~~from the Atlantic Coast.~~

1216 ~~e. One representative from an airport involved in the~~
 1217 ~~movement of freight and people from their airport facility to~~
 1218 ~~another transportation mode.~~

1219 ~~3. Three intermodal industry representatives selected by~~
 1220 ~~the Speaker of the House of Representatives as follows:~~

1221 ~~a. One representative from short line railroads.~~

1222 ~~b. One representative from seaports listed in s. 311.09(1)~~
 1223 ~~from the Gulf Coast.~~

1224 ~~e. One representative from intermodal trucking companies.~~
 1225 ~~In no event may this representative be employed by the same~~
 1226 ~~company that employs the intermodal trucking company~~
 1227 ~~representative selected by the Governor.~~

1228 ~~(c) Initial appointments to the council must be made no~~
 1229 ~~later than 30 days after the effective date of this section.~~

1230 ~~1. The initial appointments made by the President of the~~
 1231 ~~Senate and the Speaker of the House of Representatives shall~~

1232 ~~serve terms concurrent with those of the respective appointing~~
 1233 ~~officer. Beginning January 15, 2005, and for all subsequent~~
 1234 ~~appointments, council members appointed by the President of the~~
 1235 ~~Senate and the Speaker of the House of Representatives shall~~
 1236 ~~serve 2-year terms, concurrent with the term of the respective~~
 1237 ~~appointing officer.~~

1238 ~~2. The initial appointees, and all subsequent appointees,~~
 1239 ~~made by the Governor shall serve 2-year terms.~~

1240 ~~3. Vacancies on the council shall be filled in the same~~
 1241 ~~manner as the initial appointments.~~

1242 ~~(d) Each member of the council shall be allowed one vote.~~
 1243 ~~The council shall select a chair from among its membership.~~
 1244 ~~Meetings shall be held at the call of the chair, but not less~~
 1245 ~~frequently than quarterly. The members of the council shall be~~
 1246 ~~reimbursed for per diem and travel expenses as provided in s.~~
 1247 ~~112.061.~~

1248 ~~(e) The department shall provide administrative staff~~
 1249 ~~support and shall ensure that council meetings are~~
 1250 ~~electronically recorded. Such recordings and all documents~~
 1251 ~~received, prepared for, or used by the council in conducting its~~
 1252 ~~business shall be preserved pursuant to chapters 119 and 257.~~

1253 Section 21. Section 339.65, Florida Statutes, is created
 1254 to read:

1255 339.65 Strategic Intermodal System highway corridors.—

1256 (1) The department shall plan and develop Strategic
 1257 Intermodal System highway corridors, including limited and
 1258 controlled access facilities, allowing for high-speed and high-
 1259 volume traffic movements within the state. The primary function

1260 of these corridors is to provide such traffic movements. Access
 1261 to abutting land is subordinate to this function, and such
 1262 access must be prohibited or highly regulated.

1263 (2) Strategic Intermodal System highway corridors shall
 1264 include facilities from the following components of the State
 1265 Highway System that meet the criteria adopted by the department
 1266 pursuant to s. 339.63:

1267 (a) Interstate highways.

1268 (b) The Florida Turnpike System.

1269 (c) Interregional and intercity limited access facilities.

1270 (d) Existing interregional and intercity arterial highways
 1271 previously upgraded or upgraded in the future to limited access
 1272 or controlled access facility standards.

1273 (e) New limited access facilities necessary to complete a
 1274 balanced statewide system.

1275 (3) The department shall adhere to the following policy
 1276 guidelines in the development of Strategic Intermodal System
 1277 highway corridors:

1278 (a) Make capacity improvements to existing facilities
 1279 where feasible to minimize costs and environmental impacts.

1280 (b) Identify appropriate arterial highways in major
 1281 transportation corridors for inclusion in a program to bring
 1282 these facilities up to limited access or controlled access
 1283 facility standards.

1284 (c) Coordinate proposed projects with appropriate limited
 1285 access projects undertaken by expressway authorities and local
 1286 governmental entities.

1287 (d) Maximize the use of limited access facility standards
 1288 when constructing new arterial highways.

1289 (e) Identify appropriate new limited access highways for
 1290 inclusion as a part of the Florida Turnpike System.

1291 (f) To the maximum extent feasible, ensure that proposed
 1292 projects are consistent with approved local government
 1293 comprehensive plans of the local jurisdictions in which such
 1294 facilities are to be located and with the transportation
 1295 improvement program of any metropolitan planning organization in
 1296 which such facilities are to be located.

1297 (4) The department shall develop and maintain a plan of
 1298 Strategic Intermodal System highway corridor projects that are
 1299 anticipated to be let to contract for construction within a time
 1300 period of at least 20 years. The plan shall also identify when
 1301 segments of the corridor will meet the standards and criteria
 1302 developed pursuant to subsection (5).

1303 (5) The department shall establish the standards and
 1304 criteria for the functional characteristics and design of
 1305 facilities proposed as part of Strategic Intermodal System
 1306 highway corridors.

1307 (6) For the purposes of developing the proposed Strategic
 1308 Intermodal System highway corridors, beginning in fiscal year
 1309 2003-2004 and for each fiscal year thereafter, the minimum
 1310 amount allocated shall be based on the fiscal year 2003-2004
 1311 allocation of \$450 million adjusted annually by the change in
 1312 the Consumer Price Index for the prior fiscal year compared to
 1313 the Consumer Price Index for fiscal year 2003-2004.

1314 (7) Any project to be constructed as part of a Strategic
 1315 Intermodal System highway corridor shall be included in the
 1316 department's adopted work program. Any Strategic Intermodal
 1317 System highway corridor projects that are added to or deleted
 1318 from the previous adopted work program, or any modification to
 1319 Strategic Intermodal System highway corridor projects contained
 1320 in the previous adopted work program, shall be specifically
 1321 identified and submitted as a separate part of the tentative
 1322 work program.

1323 Section 22. Section 479.075, Florida Statutes, is created
 1324 to read:

1325 479.075 Sign permit fee limitations.-

1326 (1) As used in this section, the term:

1327 (a) "Sign" means any sign, wall mural, or media tower as
 1328 defined in s. 479.01 or as defined by a local government
 1329 agreement, resolution, or ordinance.

1330 (b) "Sign permit fee" means any payment required as a
 1331 condition for building, erecting, inspecting, renewing,
 1332 maintaining, operating, relocating, or reconstructing a sign or
 1333 required pursuant to any agreement, ordinance, or resolution
 1334 that includes any provision relating to the issuance of a sign
 1335 permit or otherwise authorizing the building, erection,
 1336 inspection, renewal, maintenance, operation, relocation, or
 1337 reconstruction of a sign.

1338 (2) A local government may establish by agreement,
 1339 resolution, or ordinance a sign permit fee schedule and may
 1340 assess fees for sign permits. The fee schedule must be based on

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1341 the actual costs of administering its sign permitting program,
 1342 but may not exceed \$500 per sign per year.

1343 (3) This section does not affect the validity of any other
 1344 aspect of any agreement, resolution, or ordinance regarding
 1345 signs or require the removal of any sign or repayment of any
 1346 fees already paid. A local government that requires the removal
 1347 of a sign as the result of the adoption of this section must
 1348 adhere to the provision of s. 70.20(2).

1349 Section 23. Section 479.106, Florida Statutes, is amended
 1350 to read:

1351 479.106 Vegetation management.—

1352 (1) The removal, cutting, or trimming of trees or
 1353 vegetation on public right-of-way to make visible or to ensure
 1354 future visibility of the facing of a proposed sign or previously
 1355 permitted sign shall be performed only with the written
 1356 permission of the department in accordance with the provisions
 1357 of this section.

1358 (2) Any person desiring to engage in the removal, cutting,
 1359 or trimming of trees or vegetation for the purposes herein
 1360 described shall apply for an appropriate permit by ~~make~~ written
 1361 application to the department. The application for a permit
 1362 shall include, at the election of the applicant, one of the
 1363 following:

1364 (a) A vegetation management plan consisting of a property
 1365 sketch indicating the onsite location of the vegetation or
 1366 individual trees to be removed, cut, or trimmed and describing
 1367 the existing conditions and proposed work to be accomplished.

1368 (b) Mitigation contribution to the Federal Grants Trust

1369 Fund pursuant to s. 589.277(2) using values of a wholesale plant
 1370 nursery registered with the Division of Plant Industry of the
 1371 Department of Agriculture and Consumer Services.

1372 (c) A combination of both a vegetation management plan and
 1373 mitigation contribution ~~the applicant's plan for the removal,~~
 1374 ~~cutting, or trimming and for the management of any vegetation~~
 1375 ~~planted as part of a mitigation plan.~~

1376 (3) In evaluating a vegetation management plan or
 1377 mitigation contribution, the department ~~As a condition of any~~
 1378 ~~removal of trees or vegetation, and where the department deems~~
 1379 ~~appropriate as a condition of any cutting or trimming, the~~
 1380 ~~department may require a vegetation management plan, approved by~~
 1381 ~~the department, which considers conservation and mitigation, or~~
 1382 ~~contribution to a plan of mitigation, for the replacement of~~
 1383 ~~such vegetation. Each plan or contribution shall reasonably~~
 1384 evaluate the application as it relates ~~relate~~ to the vegetation
 1385 being affected by the application, taking into consideration the
 1386 condition of such vegetation, and, where appropriate, require a
 1387 vegetation management plan to consider conservation and
 1388 mitigation, or a contribution to a plan of mitigation, for the
 1389 cutting or removal of such vegetation. The department may
 1390 approve ~~shall include~~ plantings that ~~which~~ will allow reasonable
 1391 visibility of sign facings while screening sign structural
 1392 supports. Only herbicides approved by the Department of
 1393 Agriculture and Consumer Services may be used in the removal of
 1394 vegetation. The department shall act on the application for
 1395 approval of vegetation management plans, or approval of
 1396 mitigation contribution, within 30 days after receipt of such

1397 application. A permit issued in response to such application is
 1398 valid for 5 years, may be renewed for an additional 5 years by
 1399 payment of the applicable application fee, and is binding upon
 1400 the department. The department may establish special mitigation
 1401 programs for the beautification and aesthetic improvement of
 1402 designated areas and permit individual applicants to contribute
 1403 to such programs as a part or in lieu of other mitigation
 1404 requirements.

1405 (4) The department may establish an application fee not to
 1406 exceed \$25 for each individual application to defer the costs of
 1407 processing such application and a fee not to exceed \$200 to
 1408 defer the costs of processing an application for multiple sites.

1409 (5) The department may only grant a permit pursuant to s.
 1410 479.07 for a new sign which requires the removal, cutting, or
 1411 trimming of existing trees or vegetation on public right-of-way
 1412 for the sign face to be visible from the highway when the sign
 1413 owner has removed one ~~at least two~~ nonconforming sign ~~signs~~ of
 1414 approximate comparable size and surrendered the permits for the
 1415 nonconforming signs to the department for cancellation. For
 1416 signs originally permitted after July 1, 1996, no permit for the
 1417 removal, cutting, or trimming of trees or vegetation shall be
 1418 granted where such trees or vegetation are part of a
 1419 beautification project implemented prior to the date of the
 1420 original sign permit application, when the beautification
 1421 project is specifically identified in the department's
 1422 construction plans, permitted landscape projects, or agreements.

1423 (6) As a minimum, view zones shall be established along
 1424 the public rights-of-way of interstate highways, expressways,

1425 federal-aid primary highways, and the State Highway System in
 1426 the state, excluding privately or other publicly owned property,
 1427 as follows:

1428 (a) A view zone of 350 feet for posted speed limits of 35
 1429 miles per hour or less.

1430 (b) A view zone of 500 feet for posted speed limits of
 1431 more than 35 miles per hour.

1432
 1433 The established view zone shall be within the first 1,000 feet
 1434 measured along the edge of the pavement in the direction of
 1435 approaching traffic from a point on the edge of the pavement
 1436 perpendicular to the edge of the sign facing nearest the highway
 1437 and shall be continuous unless interrupted by vegetation that
 1438 has established historical significance, is protected by state
 1439 law, or has a circumference, measured at 4 and 1/2 feet above
 1440 grade, equal to or greater than 70 percent of the circumference
 1441 of the Florida Champion of the same species as listed in the
 1442 Florida Register of Big Trees of the Florida Native Plant
 1443 Society. The sign owner may designate the specific location of
 1444 the view zone for each sign facing. In the absence of such
 1445 designation, the established view zone shall be measured from
 1446 the sign along the edge of the pavement in the direction of
 1447 approaching traffic as provided in this subsection.

1448 (7)~~(6)~~ Beautification projects, trees, or other vegetation
 1449 shall not be planted or located in the view zone of legally
 1450 erected and permitted outdoor advertising signs which have been
 1451 permitted prior to the date of the beautification project or
 1452 other planting, where such planting will, at the time of

1453 planting or after future growth, screen such sign from view. The
 1454 department shall provide written notice to the owner not less
 1455 than 90 days before commencing a beautification project or other
 1456 vegetation planting that may affect a sign, allowing such owner
 1457 not less than 60 days to designate the specific location of the
 1458 view zone of such affected sign. A sign owner is not required to
 1459 prepare a vegetation management plan or secure a vegetation
 1460 management permit for the implementation of beautification
 1461 projects.

1462 ~~(a) View zones are established along the public rights-of-~~
 1463 ~~way of interstate highways, expressways, federal-aid primary~~
 1464 ~~highways, and the State Highway System in the state, excluding~~
 1465 ~~privately or other publicly owned property, as follows:~~

1466 ~~1. A view zone of 350 feet for posted speed limits of 35~~
 1467 ~~miles per hour or less.~~

1468 ~~2. A view zone of 500 feet for posted speed limits of over~~
 1469 ~~35 miles per hour.~~

1470 ~~(b) The established view zone shall be within the first~~
 1471 ~~1,000 feet measured along the edge of the pavement in the~~
 1472 ~~direction of approaching traffic from a point on the edge of the~~
 1473 ~~pavement perpendicular to the edge of the sign facing nearest~~
 1474 ~~the highway and shall be continuous unless interrupted by~~
 1475 ~~existing, naturally occurring vegetation. The department and the~~
 1476 ~~sign owner may enter into an agreement identifying the specific~~
 1477 ~~location of the view zone for each sign facing. In the absence~~
 1478 ~~of such agreement, the established view zone shall be measured~~
 1479 ~~from the sign along the edge of the pavement in the direction of~~
 1480 ~~approaching traffic as provided in this subsection.~~

1481 (a)~~(e)~~ If a sign owner alleges any governmental entity or
 1482 other party has violated this subsection, the sign owner must
 1483 provide 90 days' written notice to the governmental entity or
 1484 other party allegedly violating this subsection. If the alleged
 1485 violation is not cured by the governmental entity or other party
 1486 within the 90-day period, the sign owner may file a claim in the
 1487 circuit court where the sign is located. A copy of such
 1488 complaint shall be served contemporaneously upon the
 1489 governmental entity or other party. If the circuit court
 1490 determines a violation of this subsection has occurred, the
 1491 court shall award a claim for compensation equal to the lesser
 1492 of the revenue from the sign lost during the time of screening
 1493 or the fair market value of the sign, and the governmental
 1494 entity or other party shall pay the award of compensation
 1495 subject to available appeal. Any modification or removal of
 1496 material within a beautification project or other planting by
 1497 the governmental entity or other party to cure an alleged
 1498 violation shall not require the issuance of a permit from the
 1499 Department of Transportation provided not less than 48 hours'
 1500 notice is provided to the department of the modification or
 1501 removal of the material. A natural person, private corporation,
 1502 or private partnership licensed under part II of chapter 481
 1503 providing design services for beautification or other projects
 1504 shall not be subject to a claim of compensation under this
 1505 section when the initial project design meets the requirements
 1506 of this section.

1507 (b)~~(d)~~ This subsection shall not apply to the provisions
 1508 of any existing written agreement executed before July 1, 2006,

1509 between any local government and the owner of an outdoor
 1510 advertising sign.

1511 ~~(8)(7)~~ Any person engaging in removal, cutting, or
 1512 trimming of trees or vegetation in violation of this section or
 1513 benefiting from such actions shall be subject to an
 1514 administrative penalty of up to \$1,000 and required to mitigate
 1515 for the unauthorized removal, cutting, or trimming in such
 1516 manner and in such amount as may be required under the rules of
 1517 the department.

1518 ~~(9)(8)~~ The intent of this section is to create partnering
 1519 relationships which will have the effect of improving the
 1520 appearance of Florida's highways and creating a net increase in
 1521 the vegetative habitat along the roads. Department rules shall
 1522 encourage the use of plants which are low maintenance and native
 1523 to the general region in which they are planted.

1524 Section 24. Subsections (16) and (17) are added to section
 1525 479.16, Florida Statutes, to read:

1526 479.16 Signs for which permits are not required.—The
 1527 following signs are exempt from the requirement that a permit
 1528 for a sign be obtained under the provisions of this chapter but
 1529 are required to comply with the provisions of s. 479.11(4)-(8):

1530 (16) Signs erected under the local tourist-oriented
 1531 commerce program signs pilot program under s. 479.263.

1532 (17) Signs not in excess of 32 square feet placed
 1533 temporarily during harvest season of a farm operation for a
 1534 period of no more than 4 months at a road junction with the
 1535 State Highway System denoting only the distance or direction of
 1536 the farm operation. The temporary farm operation harvest sign

1537 provision under this subsection may not be implemented if the
 1538 Federal Government notifies the department that implementation
 1539 will adversely affect the allocation of federal funds to the
 1540 department.

1541 Section 25. Section 479.263, Florida Statutes, is created
 1542 to read:

1543 479.263 Tourist-oriented commerce signs pilot program.—The
 1544 local tourist-oriented commerce signs pilot program is created
 1545 in rural areas of critical economic concern as defined by s.
 1546 288.0656(2)(d) and (e). Signs erected under this program do not
 1547 require a permit under this chapter.

1548 (1) A local tourist-oriented business that is a small
 1549 business as defined in s. 288.703 may erect a sign that meets
 1550 the following criteria:

1551 (a) The signs are not more than 8 square feet in size or
 1552 more than 4 feet in height.

1553 (b) The signs are located only in rural areas along
 1554 highways that are not limited access highways.

1555 (c) The signs are located within 2 miles of the business
 1556 location and not less than 500 feet apart.

1557 (d) The advertising copy on the signs consists only of the
 1558 name of the business or the principal or accessory merchandise
 1559 or services sold or furnished on the premises of the business.

1560 (2) A business placing such signs under this section:

1561 (a) Must be a minimum of 4 miles from any other business
 1562 placing signs under this program.

1563 (b) May not participate in the logo sign program
 1564 authorized under s. 479.261 or the tourist-oriented directional

1565 sign program authorized under s. 479.262.

1566 (3) Businesses that are conducted in a building
 1567 principally used as a residence are not eligible to participate.

1568 (4) Each business utilizing this program shall notify the
 1569 department in writing of its intent to do so prior to placing
 1570 signs. The department shall maintain statistics of the
 1571 businesses participating in the program. This program shall not
 1572 take effect if the Federal Highway Administration advises the
 1573 department in writing that implementation constitutes a loss of
 1574 effective control of outdoor advertising.

1575 (5) This section expires June 30, 2016.

1576 Section 26. Edna S. Hargrett-Thrower Avenue designated;
 1577 Department of Transportation to erect suitable markers.-

1578 (1) That portion of Orange Blossom Trail between W. Gore
 1579 Street and W. Church Street in Orange County is designated as
 1580 "Edna S. Hargrett-Thrower Avenue."

1581 (2) The Department of Transportation is directed to erect
 1582 suitable markers designating Edna S. Hargrett-Thrower Avenue as
 1583 described in subsection (1).

1584 Section 27. SP4 Thomas Berry Corbin Memorial Highway
 1585 designated; Department of Transportation to erect suitable
 1586 markers.-

1587 (1) That portion of U.S. Highway 19/27A/98/State Road 55
 1588 between the Suwannee River Bridge and N.E. 592nd Street/Chavous
 1589 Road/Kate Green Road in Dixie County is designated as "SP4
 1590 Thomas Berry Corbin Memorial Highway."

1591 (2) The Department of Transportation is directed to erect
 1592 suitable markers designating SP4 Thomas Berry Corbin Memorial
 1593 Highway as described in subsection (1).

1594 Section 28. U.S. Navy BMC Samuel Calhoun Chavous, Jr.
 1595 Memorial Highway designated; Department of Transportation to
 1596 erect suitable markers.—

1597 (1) That portion of U.S. Highway 19/98/State Road 55
 1598 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E.
 1599 170th Street in Dixie County is designated as "U.S. Navy BMC
 1600 Samuel Calhoun Chavous, Jr. Memorial Highway."

1601 (2) The Department of Transportation is directed to erect
 1602 suitable markers designating U.S. Navy BMC Samuel Calhoun
 1603 Chavous, Jr. Memorial Highway as described in subsection (1).

1604 Section 29. Marine Lance Corporal Brian R. Buesing
 1605 Memorial Highway designated; Department of Transportation to
 1606 erect suitable markers.—

1607 (1) That portion of State Road 24 between County Road 347
 1608 and Bridge Number 340053 in Levy County is designated as "Marine
 1609 Lance Corporal Brian R. Buesing Memorial Highway."

1610 (2) The Department of Transportation is directed to erect
 1611 suitable markers designating Marine Lance Corporal Brian R.
 1612 Buesing Memorial Highway as described in subsection (1).

1613 Section 30. United States Army Sergeant Karl A. Campbell
 1614 Memorial Highway designated; Department of Transportation to
 1615 erect suitable markers.—

1616 (1) That portion of U.S. Highway 19/98/State Road 55/S.
 1617 Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy

1618 County is designated as "United States Army Sergeant Karl A.
 1619 Campbell Memorial Highway."

1620 (2) The Department of Transportation is directed to erect
 1621 suitable markers designating United States Army Sergeant Karl A.
 1622 Campbell Memorial Highway as described in subsection (1).

1623 Section 31. U.S. Army SPC James A. Page Memorial Highway
 1624 designated; Department of Transportation to erect suitable
 1625 markers.-

1626 (1) That portion of U.S. Highway 27A/State Road
 1627 500/Hathaway Avenue between State Road 24/Thrasher Drive and
 1628 Town Court in Levy County is designated as "U.S. Army SPC James
 1629 A. Page Memorial Highway."

1630 (2) The Department of Transportation is directed to erect
 1631 suitable markers designating U.S. Army SPC James A. Page
 1632 Memorial Highway as described in subsection (1).

1633 Section 32. Veterans Memorial Highway designated;
 1634 Department of Transportation to erect suitable markers.-

1635 (1) That portion of State Road 19 between U.S. Highway
 1636 17/State Road 15 and Carriage Drive in the City of Palatka in
 1637 Putnam County is designated as "Veterans Memorial Highway."

1638 (2) The Department of Transportation is directed to erect
 1639 suitable markers designating Veterans Memorial Highway as
 1640 described in subsection (1).

1641 Section 33. Ben G. Watts Highway designated; Department of
 1642 Transportation to erect suitable markers.-

1643 (1) That portion of U.S. Highway 90 in Washington County
 1644 between the Jackson County line and the Holmes County line at
 1645 the Holmes Creek Bridge is designated as "Ben G. Watts Highway."

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1646 (2) The Department of Transportation is directed to erect
 1647 suitable markers designating Ben G. Watts Highway as described
 1648 in subsection (1).

1649 Section 34. Mardi Gras Way designated; Department of
 1650 Transportation to erect suitable markers.-

1651 (1) That portion of State Road 824 between Interstate 95
 1652 and U.S. Highway 1 in Broward County is designated as "Mardi
 1653 Gras Way."

1654 (2) The Department of Transportation is directed to erect
 1655 suitable markers designating Mardi Gras Way as described in
 1656 subsection (1).

1657 Section 35. West Park Boulevard designated; Department of
 1658 Transportation to erect suitable markers.-

1659 (1) That portion of State Road 7 between Pembroke Road and
 1660 County Line Road in Broward County is designated as "West Park
 1661 Boulevard."

1662 (2) The Department of Transportation is directed to erect
 1663 suitable markers designating West Park Boulevard as described in
 1664 subsection (1).

1665 Section 36. Pembroke Park Boulevard designated; Department
 1666 of Transportation to erect suitable markers.-

1667 (1) That portion of State Road 858/Hallandale Beach
 1668 Boulevard between Interstate 95 and U.S. Highway 441/State Road
 1669 7 in Broward County is designated as "Pembroke Park Boulevard."

1670 (2) The Department of Transportation is directed to erect
 1671 suitable markers designating Pembroke Park Boulevard as
 1672 described in subsection (1).

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1673 Section 37. Stark Memorial Drive designated; Department of
 1674 Transportation to erect suitable markers.-

1675 (1) That portion of State Road 101/Mayport Road between
 1676 State Road A1A and Wonderwood Connector in Duval County is
 1677 designated as "Stark Memorial Drive."

1678 (2) The Department of Transportation is directed to erect
 1679 suitable markers designating Stark Memorial Drive as described
 1680 in subsection (1).

1681 Section 38. Duval County Law Enforcement Memorial Overpass
 1682 designated; Department of Transportation to erect suitable
 1683 markers.-

1684 (1) The Interstate 295/State Road 9A overpass (Bridge Nos.
 1685 720256 and 720347) over Interstate 10/State Road 8 in Duval
 1686 County is designated as "Duval County Law Enforcement Memorial
 1687 Overpass."

1688 (2) The Department of Transportation is directed to erect
 1689 suitable markers designating Duval County Law Enforcement
 1690 Memorial Overpass as described in subsection (1).

1691 Section 39. Verna Bell Way designated; Department of
 1692 Transportation to erect suitable markers.-

1693 (1) That portion of State Road 200 between Lime Street and
 1694 Beech Street in the City of Fernandina Beach in Nassau County is
 1695 designated as "Verna Bell Way."

1696 (2) The Department of Transportation is directed to erect
 1697 suitable markers designating Verna Bell Way as described in
 1698 subsection (1).

1699 Section 40. Deputy Hal P. Croft and Deputy Ronald Jackson
 1700 Memorial Highway designated; Department of Transportation to
 1701 erect suitable markers.-

1702 (1) That portion of State Road 100 East between the
 1703 Bradford County line and the Columbia County line in Union
 1704 County is designated as "Deputy Hal P. Croft and Deputy Ronald
 1705 Jackson Memorial Highway."

1706 (2) The Department of Transportation is directed to erect
 1707 suitable markers designating Deputy Hal P. Croft and Deputy
 1708 Ronald Jackson Memorial Highway as described in subsection (1).

1709 Section 41. Dr. Oscar Elias Biscet Boulevard designated;
 1710 Department of Transportation to erect suitable markers.-

1711 (1) That portion of Coral Way between S.W. 32nd Avenue and
 1712 S.W. 37th Avenue in Miami-Dade County is designated as "Dr.
 1713 Oscar Elias Biscet Boulevard."

1714 (2) The Department of Transportation is directed to erect
 1715 suitable markers designating Dr. Oscar Elias Biscet Boulevard as
 1716 described in subsection (1).

1717 Section 42. Alma Lee Loy Bridge designated; Department of
 1718 Transportation to erect suitable markers.-

1719 (1) The bridge on State Road 656 in Indian River County
 1720 between State Road A1A and Indian River Boulevard in Vero Beach
 1721 is designated as "Alma Lee Loy Bridge."

1722 (2) The Department of Transportation is directed to erect
 1723 suitable markers designating Alma Lee Loy Bridge as described
 1724 subsection (1).

1725 Section 43. Section 24 of chapter 2010-230, Laws of
 1726 Florida, is amended to read:

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1727 Section 24. Miss Lillie Williams Boulevard designated;
 1728 Department of Transportation to erect suitable markers.—

1729 (1) That portion of N.W. 79th Street between N.W. 6th
 1730 Avenue and N.W. 7th ~~E. 12th~~ Avenue in Miami-Dade County is
 1731 designated as "Miss Lillie Williams Boulevard."

1732 (2) The Department of Transportation is directed to erect
 1733 suitable markers designating Miss Lillie Williams Boulevard as
 1734 described in subsection (1).

1735 Section 44. Section 45 of chapter 2010-230, Laws of
 1736 Florida, is amended to read:

1737 Section 45. Father Gerard Jean-Juste Street designated;
 1738 Department of Transportation to erect suitable markers.—

1739 (1) That portion of N.W. 54th Street in Miami-Dade County
 1740 between N.W. 2nd Avenue and N.E. ~~N.W.~~ 3rd Avenue in Little Haiti
 1741 is designated "Father Gerard Jean-Juste Street."

1742 (2) The Department of Transportation is directed to erect
 1743 suitable markers designating Father Gerard Jean-Juste Street as
 1744 described in subsection (1).

1745 Section 45. Paragraph (a) of subsection (12) of section
 1746 163.3180, Florida Statutes, is amended to read:

1747 163.3180 Concurrency.—

1748 (12)(a) A development of regional impact may satisfy the
 1749 transportation concurrency requirements of the local
 1750 comprehensive plan, the local government's concurrency
 1751 management system, and s. 380.06 by payment of a proportionate-
 1752 share contribution for local and regionally significant traffic
 1753 impacts, if:

1754 1. The development of regional impact which, based on its

1755 location or mix of land uses, is designed to encourage
 1756 pedestrian or other nonautomotive modes of transportation;
 1757 2. The proportionate-share contribution for local and
 1758 regionally significant traffic impacts is sufficient to pay for
 1759 one or more required mobility improvements that will benefit a
 1760 regionally significant transportation facility;
 1761 3. The owner and developer of the development of regional
 1762 impact pays or assures payment of the proportionate-share
 1763 contribution; and
 1764 4. If the regionally significant transportation facility
 1765 to be constructed or improved is under the maintenance authority
 1766 of a governmental entity, as defined by s. 334.03~~(12)~~, other
 1767 than the local government with jurisdiction over the development
 1768 of regional impact, the developer is required to enter into a
 1769 binding and legally enforceable commitment to transfer funds to
 1770 the governmental entity having maintenance authority or to
 1771 otherwise assure construction or improvement of the facility.
 1772
 1773 The proportionate-share contribution may be applied to any
 1774 transportation facility to satisfy the provisions of this
 1775 subsection and the local comprehensive plan, but, for the
 1776 purposes of this subsection, the amount of the proportionate-
 1777 share contribution shall be calculated based upon the cumulative
 1778 number of trips from the proposed development expected to reach
 1779 roadways during the peak hour from the complete buildout of a
 1780 stage or phase being approved, divided by the change in the peak
 1781 hour maximum service volume of roadways resulting from
 1782 construction of an improvement necessary to maintain the adopted

1783 level of service, multiplied by the construction cost, at the
 1784 time of developer payment, of the improvement necessary to
 1785 maintain the adopted level of service. For purposes of this
 1786 subsection, "construction cost" includes all associated costs of
 1787 the improvement. Proportionate-share mitigation shall be limited
 1788 to ensure that a development of regional impact meeting the
 1789 requirements of this subsection mitigates its impact on the
 1790 transportation system but is not responsible for the additional
 1791 cost of reducing or eliminating backlogs. This subsection also
 1792 applies to Florida Quality Developments pursuant to s. 380.061
 1793 and to detailed specific area plans implementing optional sector
 1794 plans pursuant to s. 163.3245.

1795 Section 46. Paragraph (k) of subsection (1) of section
 1796 163.3187, Florida Statutes, is amended to read:

1797 163.3187 Amendment of adopted comprehensive plan.—

1798 (1) Amendments to comprehensive plans adopted pursuant to
 1799 this part may be made not more than two times during any
 1800 calendar year, except:

1801 (k) A local comprehensive plan amendment directly related
 1802 to providing transportation improvements to enhance life safety
 1803 on controlled access major arterial highways identified in the
 1804 Strategic Intermodal System ~~Florida Intrastate Highway System~~,
 1805 in counties as defined in s. 125.011, where such roadways have a
 1806 high incidence of traffic accidents resulting in serious injury
 1807 or death. Any such amendment shall not include any amendment
 1808 modifying the designation on a comprehensive development plan
 1809 land use map nor any amendment modifying the allowable densities
 1810 or intensities of any land.

1811 Section 47. Subsection (3) of section 288.063, Florida
 1812 Statutes, is amended to read:
 1813 288.063 Contracts for transportation projects.—
 1814 (3) With respect to any contract executed pursuant to this
 1815 section, the term "transportation project" means a
 1816 transportation facility as defined in s. 334.03~~(31)~~ which is
 1817 necessary in the judgment of the Office of Tourism, Trade, and
 1818 Economic Development to facilitate the economic development and
 1819 growth of the state. Except for applications received prior to
 1820 July 1, 1996, such transportation projects shall be approved
 1821 only as a consideration to attract new employment opportunities
 1822 to the state or expand or retain employment in existing
 1823 companies operating within the state, or to allow for the
 1824 construction or expansion of a state or federal correctional
 1825 facility in a county with a population of 75,000 or less that
 1826 creates new employment opportunities or expands or retains
 1827 employment in the county. The Office of Tourism, Trade, and
 1828 Economic Development shall institute procedures to ensure that
 1829 small and minority businesses have equal access to funding
 1830 provided under this section. Funding for approved transportation
 1831 projects may include any expenses, other than administrative
 1832 costs and equipment purchases specified in the contract,
 1833 necessary for new, or improvement to existing, transportation
 1834 facilities. Funds made available pursuant to this section may
 1835 not be expended in connection with the relocation of a business
 1836 from one community to another community in this state unless the
 1837 Office of Tourism, Trade, and Economic Development determines
 1838 that without such relocation the business will move outside this

1839 state or determines that the business has a compelling economic
 1840 rationale for the relocation which creates additional jobs.
 1841 Subject to appropriation for projects under this section, any
 1842 appropriation greater than \$10 million shall be allocated to
 1843 each of the districts of the Department of Transportation to
 1844 ensure equitable geographical distribution. Such allocated funds
 1845 that remain uncommitted by the third quarter of the fiscal year
 1846 shall be reallocated among the districts based on pending
 1847 project requests.

1848 Section 48. Paragraph (b) of subsection (3) of section
 1849 311.07, Florida Statutes, is amended to read:

1850 311.07 Florida seaport transportation and economic
 1851 development funding.—

1852 (3)

1853 (b) Projects eligible for funding by grants under the
 1854 program are limited to the following port facilities or port
 1855 transportation projects:

1856 1. Transportation facilities within the jurisdiction of
 1857 the port.

1858 2. The dredging or deepening of channels, turning basins,
 1859 or harbors.

1860 3. The construction or rehabilitation of wharves, docks,
 1861 structures, jetties, piers, storage facilities, cruise
 1862 terminals, automated people mover systems, or any facilities
 1863 necessary or useful in connection with any of the foregoing.

1864 4. The acquisition of vessel tracking systems, container
 1865 cranes, or other mechanized equipment used in the movement of
 1866 cargo or passengers in international commerce.

- 1867 5. The acquisition of land to be used for port purposes.
- 1868 6. The acquisition, improvement, enlargement, or extension
- 1869 of existing port facilities.
- 1870 7. Environmental protection projects which are necessary
- 1871 because of requirements imposed by a state agency as a condition
- 1872 of a permit or other form of state approval; which are necessary
- 1873 for environmental mitigation required as a condition of a state,
- 1874 federal, or local environmental permit; which are necessary for
- 1875 the acquisition of spoil disposal sites and improvements to
- 1876 existing and future spoil sites; or which result from the
- 1877 funding of eligible projects listed in this paragraph.
- 1878 8. Transportation facilities as defined in s. 334.03~~(31)~~
- 1879 which are not otherwise part of the Department of
- 1880 Transportation's adopted work program.
- 1881 9. Seaport intermodal access projects identified in the 5-
- 1882 year Florida Seaport Mission Plan as provided in s. 311.09(3).
- 1883 10. Construction or rehabilitation of port facilities as
- 1884 defined in s. 315.02, excluding any park or recreational
- 1885 facilities, in ports listed in s. 311.09(1) with operating
- 1886 revenues of \$5 million or less, provided that such projects
- 1887 create economic development opportunities, capital improvements,
- 1888 and positive financial returns to such ports.
- 1889 Section 49. Subsection (7) of section 311.09, Florida
- 1890 Statutes, is amended to read:
- 1891 311.09 Florida Seaport Transportation and Economic
- 1892 Development Council.—
- 1893 (7) The Department of Transportation shall review the list
- 1894 of projects approved by the council for consistency with the

1895 Florida Transportation Plan and the department's adopted work
 1896 program. In evaluating the consistency of a project, the
 1897 department shall determine whether the transportation impact of
 1898 the proposed project is adequately handled by existing state-
 1899 owned transportation facilities or by the construction of
 1900 additional state-owned transportation facilities as identified
 1901 in the Florida Transportation Plan and the department's adopted
 1902 work program. In reviewing for consistency a transportation
 1903 facility project as defined in s. 334.03~~(31)~~ which is not
 1904 otherwise part of the department's work program, the department
 1905 shall evaluate whether the project is needed to provide for
 1906 projected movement of cargo or passengers from the port to a
 1907 state transportation facility or local road. If the project is
 1908 needed to provide for projected movement of cargo or passengers,
 1909 the project shall be approved for consistency as a consideration
 1910 to facilitate the economic development and growth of the state
 1911 in a timely manner. The Department of Transportation shall
 1912 identify those projects which are inconsistent with the Florida
 1913 Transportation Plan and the adopted work program and shall
 1914 notify the council of projects found to be inconsistent.

1915 Section 50. Section 316.2122, Florida Statutes, is amended
 1916 to read:

1917 316.2122 Operation of a low-speed vehicle or mini truck on
 1918 certain roadways.—The operation of a low-speed vehicle as
 1919 defined in s. 320.01(42) or a mini truck as defined in s.
 1920 320.01(45) on any road ~~as defined in s. 334.03(15) or (33)~~ is
 1921 authorized with the following restrictions:

- 1922 (1) A low-speed vehicle or mini truck may be operated only

1923 on streets where the posted speed limit is 35 miles per hour or
 1924 less. This does not prohibit a low-speed vehicle or mini truck
 1925 from crossing a road or street at an intersection where the road
 1926 or street has a posted speed limit of more than 35 miles per
 1927 hour.

1928 (2) A low-speed vehicle must be equipped with headlamps,
 1929 stop lamps, turn signal lamps, taillamps, reflex reflectors,
 1930 parking brakes, rearview mirrors, windshields, seat belts, and
 1931 vehicle identification numbers.

1932 (3) A low-speed vehicle or mini truck must be registered
 1933 and insured in accordance with s. 320.02 and titled pursuant to
 1934 chapter 319.

1935 (4) Any person operating a low-speed vehicle or mini truck
 1936 must have in his or her possession a valid driver's license.

1937 (5) A county or municipality may prohibit the operation of
 1938 low-speed vehicles or mini trucks on any road under its
 1939 jurisdiction if the governing body of the county or municipality
 1940 determines that such prohibition is necessary in the interest of
 1941 safety.

1942 (6) The Department of Transportation may prohibit the
 1943 operation of low-speed vehicles or mini trucks on any road under
 1944 its jurisdiction if it determines that such prohibition is
 1945 necessary in the interest of safety.

1946 Section 51. Section 318.12, Florida Statutes, is amended
 1947 to read:

1948 318.12 Purpose.—It is the legislative intent in the
 1949 adoption of this chapter to decriminalize certain violations of
 1950 chapter 316, the Florida Uniform Traffic Control Law; chapter

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1951 | 320, Motor Vehicle Licenses; chapter 322, Drivers' Licenses;
 1952 | chapter 338, Limited Access Florida Intrastate Highway System
 1953 | and Toll Facilities; and chapter 1006, Support of Learning,
 1954 | thereby facilitating the implementation of a more uniform and
 1955 | expeditious system for the disposition of traffic infractions.

1956 | Section 52. Subsection (3) of section 335.02, Florida
 1957 | Statutes, is amended to read:

1958 | 335.02 Authority to designate transportation facilities
 1959 | and rights-of-way and establish lanes; procedure for
 1960 | redesignation and relocation; application of local regulations.-

1961 | (3) The department may establish standards for lanes on
 1962 | the State Highway System, including the Strategic Intermodal
 1963 | System highway corridors ~~Florida Intrastate Highway System~~
 1964 | established pursuant to s. 339.65 ~~338.001~~. In determining the
 1965 | number of lanes for any regional corridor or section of highway
 1966 | on the State Highway System to be funded by the department with
 1967 | state or federal funds, the department shall evaluate all
 1968 | alternatives and seek to achieve the highest degree of efficient
 1969 | mobility for corridor users. In conducting the analysis, the
 1970 | department must give consideration to the following factors
 1971 | consistent with sound engineering principles:

1972 | (a) Overall economic importance of the corridor as a trade
 1973 | or tourism corridor.

1974 | (b) Safety of corridor users, including the importance of
 1975 | the corridor for evacuation purposes.

1976 | (c) Cost-effectiveness of alternative methods of
 1977 | increasing the mobility of corridor users.

1978 | (d) Current and projected traffic volumes on the corridor.

1979 (e) Multimodal alternatives.

1980 (f) Use of intelligent transportation technology in
 1981 increasing the efficiency of the corridor.

1982 (g) Compliance with state and federal policies related to
 1983 clean air, environmental impacts, growth management, livable
 1984 communities, and energy conservation.

1985 (h) Addition of special use lanes, such as exclusive truck
 1986 lanes, high-occupancy-vehicle toll lanes, and exclusive
 1987 interregional traffic lanes.

1988 (i) Availability and cost of rights-of-way, including
 1989 associated costs, and the most effective use of existing rights-
 1990 of-way.

1991 (j) Regional economic and transportation objectives, where
 1992 articulated.

1993 (k) The future land use plan element of local government
 1994 comprehensive plans, as appropriate, including designated urban
 1995 infill and redevelopment areas.

1996 (l) The traffic circulation element, if applicable, of
 1997 local government comprehensive plans, including designated
 1998 transportation corridors and public transportation corridors.

1999 (m) The approved metropolitan planning organization's
 2000 long-range transportation plan, as appropriate.

2001

2002 This subsection does not preclude a number of lanes in excess of
 2003 10 lanes, but an additional factor that must be considered
 2004 before the department may determine that the number of lanes
 2005 should be more than 10 is the capacity to accommodate in the
 2006 future alternative forms of transportation within existing or

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2007 potential rights-of-way.

2008 Section 53. Section 336.01, Florida Statutes, is amended
2009 to read:

2010 336.01 Designation of county road system.—The county road
2011 system shall be as defined in s. 334.03~~(8)~~.

2012 Section 54. Subsection (2) of section 338.222, Florida
2013 Statutes, is amended to read:

2014 338.222 Department of Transportation sole governmental
2015 entity to acquire, construct, or operate turnpike projects;
2016 exception.—

2017 (2) The department may contract with any local
2018 governmental entity as defined in s. 334.03(13)~~(14)~~ for the
2019 design, right-of-way acquisition, or construction of any
2020 turnpike project which the Legislature has approved. Local
2021 governmental entities may negotiate with the department for the
2022 design, right-of-way acquisition, and construction of any
2023 section of the turnpike project within areas of their respective
2024 jurisdictions or within counties with which they have interlocal
2025 agreements.

2026 Section 55. Paragraph (b) of subsection (1) of section
2027 338.223, Florida Statutes, is amended to read:

2028 338.223 Proposed turnpike projects.—

2029 (1)

2030 (b) Any proposed turnpike project or improvement shall be
2031 developed in accordance with the Florida Transportation Plan and
2032 the work program pursuant to s. 339.135. Turnpike projects that
2033 add capacity, alter access, affect feeder roads, or affect the
2034 operation of the local transportation system shall be included

2035 in the transportation improvement plan of the affected
 2036 metropolitan planning organization. If such turnpike project
 2037 does not fall within the jurisdiction of a metropolitan planning
 2038 organization, the department shall notify the affected county
 2039 and provide for public hearings in accordance with s.
 2040 339.155 (5) ~~(6)~~ (c).

2041 Section 56. Subsection (4) of section 338.227, Florida
 2042 Statutes, is amended to read:

2043 338.227 Turnpike revenue bonds.—

2044 (4) The Department of Transportation and the Department of
 2045 Management Services shall create and implement an outreach
 2046 program designed to enhance the participation of minority
 2047 persons and minority business enterprises in all contracts
 2048 entered into by their respective departments for services
 2049 related to the financing of department projects for the
 2050 Strategic Intermodal System Plan developed pursuant to s. 339.64
 2051 ~~Florida Intrastate Highway System Plan~~. These services shall
 2052 include, but not be limited to, bond counsel and bond
 2053 underwriters.

2054 Section 57. Subsection (2) of section 338.2275, Florida
 2055 Statutes, is amended to read:

2056 338.2275 Approved turnpike projects.—

2057 (2) The department is authorized to use turnpike revenues,
 2058 the State Transportation Trust Fund moneys allocated for
 2059 turnpike projects pursuant to s. 339.65 ~~s. 338.001~~, federal
 2060 funds, and bond proceeds, and shall use the most cost-efficient
 2061 combination of such funds, in developing a financial plan for
 2062 funding turnpike projects. The department must submit a report

2063 of the estimated cost for each ongoing turnpike project and for
 2064 each planned project to the Legislature 14 days before the
 2065 convening of the regular legislative session. Verification of
 2066 economic feasibility and statements of environmental feasibility
 2067 for individual turnpike projects must be based on the entire
 2068 project as approved. Statements of environmental feasibility are
 2069 not required for those projects listed in s. 12, chapter 90-136,
 2070 Laws of Florida, for which the Project Development and
 2071 Environmental Reports were completed by July 1, 1990. All
 2072 required environmental permits must be obtained before the
 2073 department may advertise for bids for contracts for the
 2074 construction of any turnpike project.

2075 Section 58. Section 338.228, Florida Statutes, is amended
 2076 to read:

2077 338.228 Bonds not debts or pledges of credit of state.—
 2078 Turnpike revenue bonds issued under the provisions of ss.
 2079 338.22-338.241 are not debts of the state or pledges of the
 2080 faith and credit of the state. Such bonds are payable
 2081 exclusively from revenues pledged for their payment. All such
 2082 bonds shall contain a statement on their face that the state is
 2083 not obligated to pay the same or the interest thereon, except
 2084 from the revenues pledged for their payment, and that the faith
 2085 and credit of the state is not pledged to the payment of the
 2086 principal or interest of such bonds. The issuance of turnpike
 2087 revenue bonds under the provisions of ss. 338.22-338.241 does
 2088 not directly, indirectly, or contingently obligate the state to
 2089 levy or to pledge any form of taxation whatsoever, or to make
 2090 any appropriation for their payment. Except as provided in ss.

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2091 | ~~338.001,~~ 338.223, ~~and~~ 338.2275, and 339.65, no state funds shall
 2092 | be used on any turnpike project or to pay the principal or
 2093 | interest of any bonds issued to finance or refinance any portion
 2094 | of the turnpike system, and all such bonds shall contain a
 2095 | statement on their face to this effect.

2096 | Section 59. Subsection (2) of section 338.234, Florida
 2097 | Statutes, is amended to read:

2098 | 338.234 Granting concessions or selling along the turnpike
 2099 | system; immunity from taxation.—

2100 | (2) The effectuation of the authorized purposes of the
 2101 | Strategic Intermodal System, created under ss. 339.61-339.65,
 2102 | ~~Florida Intrastate Highway System~~ and Florida Turnpike
 2103 | Enterprise, created under this chapter, is for the benefit of
 2104 | the people of the state, for the increase of their commerce and
 2105 | prosperity, and for the improvement of their health and living
 2106 | conditions; and, because the system and enterprise perform
 2107 | essential government functions in effectuating such purposes,
 2108 | neither the turnpike enterprise nor any nongovernment lessee or
 2109 | licensee renting, leasing, or licensing real property from the
 2110 | turnpike enterprise, pursuant to an agreement authorized by this
 2111 | section, are required to pay any commercial rental tax imposed
 2112 | under s. 212.031 on any capital improvements constructed,
 2113 | improved, acquired, installed, or used for such purposes.

2114 | Section 60. Subsections (1) and (3) of section 339.2819,
 2115 | Florida Statutes, are amended to read:

2116 | 339.2819 Transportation Regional Incentive Program.—

2117 | (1) There is created within the Department of
 2118 | Transportation a Transportation Regional Incentive Program for

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2119 | the purpose of providing funds to improve regionally significant
 2120 | transportation facilities in regional transportation areas
 2121 | created pursuant to s. 339.155(4)~~(5)~~.

2122 | (3) The department shall allocate funding available for
 2123 | the Transportation Regional Incentive Program to the districts
 2124 | based on a factor derived from equal parts of population and
 2125 | motor fuel collections for eligible counties in regional
 2126 | transportation areas created pursuant to s. 339.155(4)~~(5)~~.

2127 | Section 61. Subsection (6) of section 339.285, Florida
 2128 | Statutes, is amended to read:

2129 | 339.285 Enhanced Bridge Program for Sustainable
 2130 | Transportation.-

2131 | (6) Preference shall be given to bridge projects located
 2132 | on corridors that connect to the Strategic Intermodal System,
 2133 | created under s. 339.64, and that have been identified as
 2134 | regionally significant in accordance with s. 339.155(4)~~(5)~~(c),
 2135 | (d), and (e).

2136 | Section 62. Subsection (2) of section 341.053, Florida
 2137 | Statutes, is amended to read:

2138 | 341.053 Intermodal Development Program; administration;
 2139 | eligible projects; limitations.-

2140 | (2) In recognition of the department's role in the
 2141 | economic development of this state, the department shall develop
 2142 | a proposed intermodal development plan to connect Florida's
 2143 | airports, deepwater seaports, rail systems serving both
 2144 | passenger and freight, and major intermodal connectors to the
 2145 | Strategic Intermodal System highway corridors ~~Florida Intrastate~~
 2146 | ~~Highway System facilities~~ as the primary system for the movement

2147 of people and freight in this state in order to make the
 2148 intermodal development plan a fully integrated and
 2149 interconnected system. The intermodal development plan must:

2150 (a) Define and assess the state's freight intermodal
 2151 network, including airports, seaports, rail lines and terminals,
 2152 intercity bus lines and terminals, and connecting highways.

2153 (b) Prioritize statewide infrastructure investments,
 2154 including the acceleration of current projects, which are found
 2155 by the Freight Stakeholders Task Force to be priority projects
 2156 for the efficient movement of people and freight.

2157 (c) Be developed in a manner that will assure maximum use
 2158 of existing facilities and optimum integration and coordination
 2159 of the various modes of transportation, including both
 2160 government-owned and privately owned resources, in the most
 2161 cost-effective manner possible.

2162 Section 63. Subsection (2) of section 341.8225, Florida
 2163 Statutes, is amended to read:

2164 341.8225 Department of Transportation sole governmental
 2165 entity to acquire, construct, or operate high-speed rail
 2166 projects; exception.-

2167 (2) Local governmental entities, as defined in s.
 2168 334.03(13)~~(14)~~, may negotiate with the department for the
 2169 design, right-of-way acquisition, and construction of any
 2170 component of the high-speed rail system within areas of their
 2171 respective jurisdictions or within counties with which they have
 2172 interlocal agreements.

2173 Section 64. Paragraph (a) of subsection (2) of section
 2174 403.7211, Florida Statutes, is amended to read:

2175 403.7211 Hazardous waste facilities managing hazardous
 2176 wastes generated offsite; federal facilities managing hazardous
 2177 waste.—

2178 (2) The department shall not issue any permit under s.
 2179 403.722 for the construction, initial operation, or substantial
 2180 modification of a facility for the disposal, storage, or
 2181 treatment of hazardous waste generated offsite which is proposed
 2182 to be located in any of the following locations:

2183 (a) Any area where life-threatening concentrations of
 2184 hazardous substances could accumulate at any residence or
 2185 residential subdivision as the result of a catastrophic event at
 2186 the proposed facility, unless each such residence or residential
 2187 subdivision is served by at least one arterial road or urban
 2188 minor arterial road, as determined under the procedures
 2189 referenced in s. 334.03(9) ~~defined in s. 334.03~~, which provides
 2190 safe and direct egress by land to an area where such life-
 2191 threatening concentrations of hazardous substances could not
 2192 accumulate in a catastrophic event. Egress by any road leading
 2193 from any residence or residential subdivision to any point
 2194 located within 1,000 yards of the proposed facility is unsafe
 2195 for the purposes of this paragraph. In determining whether
 2196 egress proposed by the applicant is safe and direct, the
 2197 department shall also consider, at a minimum, the following
 2198 factors:

2199 1. Natural barriers such as water bodies, and whether any
 2200 road in the proposed evacuation route is impaired by a natural
 2201 barrier such as a water body;

2202 2. Potential exposure during egress and potential

2203 increases in the duration of exposure;

2204 3. Whether any road in a proposed evacuation route passes
2205 in close proximity to the facility; and

2206 4. Whether any portion of the evacuation route is
2207 inherently directed toward the facility.

2208

2209 For the purposes of this subsection, all distances shall be
2210 measured from the outer limit of the active hazardous waste
2211 management area. "Substantial modification" includes: any
2212 physical change in, change in the operations of, or addition to
2213 a facility which could increase the potential offsite impact, or
2214 risk of impact, from a release at that facility; and any change
2215 in permit conditions which is reasonably expected to lead to
2216 greater potential impacts or risks of impacts, from a release at
2217 that facility. "Substantial modification" does not include a
2218 change in operations, structures, or permit conditions which
2219 does not substantially increase either the potential impact
2220 from, or the risk of, a release. Physical or operational changes
2221 to a facility related solely to the management of nonhazardous
2222 waste at the facility shall not be considered a substantial
2223 modification. The department shall, by rule, adopt criteria to
2224 determine whether a facility has been substantially modified.
2225 "Initial operation" means the initial commencement of operations
2226 at the facility.

2227 Section 65. Subsection (27) of section 479.01, Florida
2228 Statutes, is amended to read:

2229 479.01 Definitions.—As used in this chapter, the term:
2230 (27) "Urban area" has the same meaning as defined in s.

2231 | 334.03~~(29)~~.

2232 | Section 66. Subsection (1) of section 479.07, Florida
2233 | Statutes, is amended to read:

2234 | 479.07 Sign permits.—

2235 | (1) Except as provided in ss. 479.105(1)(e) and 479.16, a
2236 | person may not erect, operate, use, or maintain, or cause to be
2237 | erected, operated, used, or maintained, any sign on the State
2238 | Highway System outside an urban area, as defined in s.

2239 | ~~334.03(32)~~, or on any portion of the interstate or federal-aid
2240 | primary highway system without first obtaining a permit for the
2241 | sign from the department and paying the annual fee as provided
2242 | in this section. As used in this section, the term "on any
2243 | portion of the State Highway System, interstate, or federal-aid
2244 | primary system" means a sign located within the controlled area
2245 | which is visible from any portion of the main-traveled way of
2246 | such system.

2247 | Section 67. Subsection (5) of section 479.261, Florida
2248 | Statutes, is amended to read:

2249 | 479.261 Logo sign program.—

2250 | (5) At a minimum, permit fees for businesses that
2251 | participate in the program must be established in an amount
2252 | sufficient to offset the total cost to the department for the
2253 | program, including contract costs. The department shall provide
2254 | the services in the most efficient and cost-effective manner
2255 | through department staff or by contracting for some or all of
2256 | the services. The department shall adopt rules that set
2257 | reasonable rates based upon factors such as population, traffic
2258 | volume, market demand, and costs for annual permit fees.

2259 However, annual permit fees for sign locations inside an urban
 2260 area, as defined in s. 334.03~~(32)~~, may not exceed \$3,500, and
 2261 annual permit fees for sign locations outside an urban area, as
 2262 defined in s. 334.03~~(32)~~, may not exceed \$2,000. After
 2263 recovering program costs, the proceeds from the annual permit
 2264 fees shall be deposited into the State Transportation Trust Fund
 2265 and used for transportation purposes.

2266 Section 68. Paragraph (c) of subsection (5) of section
 2267 316.515, Florida Statutes, is amended to read:

2268 316.515 Maximum width, height, length.—

2269 (5) IMPLEMENTS OF HUSBANDRY AND FARM EQUIPMENT;
 2270 AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.—

2271 (c) The width and height limitations of this section do
 2272 not apply to farming or agricultural equipment, whether self-
 2273 propelled, pulled, or hauled, when temporarily operated during
 2274 daylight hours upon a public road that is not a limited access
 2275 facility as defined in s. 334.03~~(13)~~, and the width and height
 2276 limitations may be exceeded by such equipment without a permit.
 2277 To be eligible for this exemption, the equipment shall be
 2278 operated within a radius of 50 miles of the real property owned,
 2279 rented, or leased by the equipment owner. However, equipment
 2280 being delivered by a dealer to a purchaser is not subject to the
 2281 50-mile limitation. Farming or agricultural equipment greater
 2282 than 174 inches in width must have one warning lamp mounted on
 2283 each side of the equipment to denote the width and must have a
 2284 slow-moving vehicle sign. Warning lamps required by this
 2285 paragraph must be visible from the front and rear of the vehicle
 2286 and must be visible from a distance of at least 1,000 feet.

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Section 69. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1489 Sebring Airport Authority, Highlands County

SPONSOR(S): Albritton

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Affairs Committee		Tait <i>mct</i>	Tinker <i>TBT</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

The Sebring Airport Authority (Authority) is a dependent special district located in Highlands County, Florida. The Authority was created by ch. 67-2070, L.O.F., which was amended by subsequent special acts and the Charter was codified by ch. 2005-300, L.O.F.

The federal Foreign-Trade Zone (FTZ) program aims to help U.S. facilities competing with foreign alternatives by allowing delayed or reduced duty payment on foreign merchandise, in addition to providing other savings. The FTZ Board authorized FTZ statues to the Authority on July 26, 1997.

The bill amends the Authority’s charter to allow the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as the powers are exercised pursuant to contracts with other governmental entities.

The bill also adds commercial and industrial facilities to the entities that the Authority is authorized to acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate. In addition, it removes the phrase “other related facilities” from the Authority’s authorization to contract with other governmental entities to operate airports, airfields and services.

The bill creates the power to establish, operate, and maintain foreign-trade zone (FTZ) status under the alternative site framework (ASF) in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee, and South Bay. All of the impacted counties and the Cities of Belle Glade and Pahokee have issued letters of support for their inclusion in the Authority’s FTZ under the ASF, with the stipulation that the zone will be made available on a uniform basis to companies within the region, in a manner consistent with the legal requirement that each FTZ be operated as a public utility.

The bill also authorizes the Authority to purchase commodities or contractual services pursuant to state term contracts and to purchase from the lowest and best bidder under a competitive bidding or negotiation process of another governmental entity, including a county, school board, or other municipality, or to reject all bids.

The bill does not appear to have a fiscal impact on state or local government. The Economic Impact Statement indicated the proposed changes could make the region more viable in terms of job creation and economic development.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Sebring Airport Authority

The Sebring Airport Authority (Authority) is a dependent special district located in Highlands County, Florida. The Authority was created by ch. 67-2070, L.O.F., which was amended by subsequent special acts. Chapter 67-2070, L.O.F., and the subsequent amending special acts were repealed in 2005, when the special acts regarding the charter of the Authority were codified.¹ The Authority is governed by a seven member board appointed by the City Council of Sebring. The Authority is authorized to fix and collect fees for the use of or for the services and facilities furnished by any airport facilities; however, it is not authorized to impose any ad valorem tax or non-ad valorem assessment.

The Authority's charter authorizes the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as they are exercised pursuant to contracts with other governmental entities for the operation and supervision of other airports, airfields, and related facilities.

The Authority has several general powers; however, these powers are regarded as supplemental and additional to powers conferred by other laws. The Authority is authorized to:

- Acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate any airport and other industrial facilities (including tire and automobile testing and racing) which may be located on the property of the authority.
- Issue bonds to pay the cost of such acquisition, construction, reconstruction, improvement, extension, enlargement, or equipment. However, bonds issued by the Authority are not debt or pledge of the faith and credit of the state or any political subdivision. Bonds may be issued without obtaining consent of any state agency or political subdivision.
- Issue revenue certificates or refunding bonds.
- Fix and collect rates, fees, and other charges for the use of or for the services and facilities furnished by any airport facilities.
- Acquire in the name of the Authority by gift, purchase, or the exercise of the right of eminent domain, in accordance with the laws of the state which may be applicable to the exercise of such powers by counties or municipalities, any lands or rights in land, and to acquire such personal property as it deems necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, or operation of any airport facilities, and to hold and dispose of all real and personal property under its control.
- Enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.
- Accept grants or money or materials or property of any kind for any airport or other facilities from any federal or state agency, political subdivision, or other public body or from any private agency or individual, upon such terms and conditions as may be imposed.
- Contract with other governmental entities to operate airports, airfields, and other related facilities and services, including providing all personnel, tools, equipment, supervision, and other materials and services.
- Perform all acts and things necessary or convenient to carry out the powers granted by this act.

The Authority's charter requires the Authority to advertise for sealed bids for any contract for the construction, repair, or alteration of any facility, or the purchase of equipment, services, or supplies involving expenditures of more than \$10,000. The contract is to be awarded to the lowest responsible bidder; however, the Authority is allowed to reject all bids.

¹ Chapter 2005-300, L.O.F.

Foreign Trade Zones

In 1934, Congress authorized the foreign-trade zones (FTZ) program through the Foreign-Trade Zones Act.² FTZs are federally designated secured areas under the supervision of the United States Customs and Border Protection (Customs) that are considered to be outside the customs territory of the United States for the purpose of duty payment. Located in or near customs ports of entry, they are the U.S. version of what are internationally known as free trade zones.³ The purpose of the zones is to attract and promote international trade and commerce. The FTZ Act is administered through two sets of regulations, the FTZ Regulations⁴ and Customs Regulations.⁵

FTZs are designed to increase the use of American labor and increase capital investment in the United States by allowing activity to occur in the U.S. prior to the application of U.S. customs laws. The intent is to equalize the customs treatment of the activity with similar activities occurring offshore or overseas. While FTZs are legally outside the customs territory of the U.S., all other local, state and federal laws and regulations apply (including labor and immigration laws).⁶

Zones are sponsored by qualified public or public-type corporations, which may themselves operate the facilities or contract for their operations with public or private firms. The operations are conducted on a public utility basis, with published rates.

The zones provide sites where a broad range of commercial activities involving foreign and domestic merchandise, which otherwise might have occurred abroad for tariff or trade reasons, can take place. Within an FTZ, merchandise may be assembled, repackaged, tested, stored, destroyed, sampled, salvaged, mixed, relabeled, processed, manipulated, or manufactured (which requires special permission) without being subject to the United States customs laws governing the entry of goods or the payment of duties.⁷

The advantages of using FTZs include:⁸

- Customs duty and federal excise tax, if applicable, are paid when the merchandise is transferred from the zone for consumption.
- While in the zone, merchandise is not subject to U.S. duty or excise tax. Certain tangible personal property is generally exempt from state and local ad valorem taxes.
- Goods may be exported from the zone free of duty and excise tax.
- Customs security requirements provide protection against theft.
- Merchandise may remain in a zone indefinitely, whether or not subject to duty.
- The rate of duty and tax on the merchandise admitted to a zone may change as a result of operations conducted within the zone. Therefore, the zone user who plans to enter the merchandise for consumption to Customs territory may normally elect to pay either the duty rate applicable on the foreign material placed in the zone or the duty rate applicable on the finished article transferred from the zone whichever is to his advantage.
- Merchandise imported under bond may be admitted to a FTZ for the purpose of satisfying a legal requirement of exporting the merchandise. For instance, merchandise may be admitted into a zone to satisfy any exportation requirement of the Tariff Act of 1930, or an exportation requirement of any other Federal law (and many state laws) insofar as the agency charged with its enforcement deems it so.

² The FTZ Act is found in 19 USC 81a-81u.

³ 71st Annual Report of the Foreign-Trade Zones Board to the Congress of the United State, available at <http://ia.ita.doc.gov/ftzpage/annualreport/ar-2009.pdf> (Last accessed 4/13/11).

⁴ 15 CFR Part 400.

⁵ 19 CFR Part 146.

⁶ Information about the FTZ Program Fact Sheet, available at <http://ia.ita.doc.gov/ftzpage/letters/FTZInfo.pdf> (Last accessed 4/13/11)

⁷ Information is from a National Association of Foreign-Trade Zones Board article, "What are FTZs?", available http://www.naftz.org/index_categories.php/ftzs/4 (Last accessed 4/7/11).

⁸ Information is from the U.S. Customs and Border Protection's Web site "About Foreign-Trade Zones & Contact Info," available at http://www.Customs.gov/xp/cgov/trade/cargo_security/cargo_control/ftz/about_ftz.xml (Last accessed 4/13/11).

Over the years, two types of FTZs have developed:

- General-Purpose Zones: A general-purpose zone is a designated area established for multiple activities by multiple users.
- Subzones: A special purpose subzone established for a limited purpose that cannot be accommodated within an existing general purpose zone. For example, subzone status may be granted to existing manufacturing facilities. Subzones must be sponsored by the grantee of an existing general purpose zone.

During Fiscal Year 2009, there were 168 fully active FTZ projects nationwide, with subzones operating in more than 144 of them.⁹ In addition, there were 261 facilities using subzone status during the year. Approximately 330,000 people were employed at some 2,500 firms that operated under FTZ procedures during the year. The combined value of shipments into FTZs totaled \$430.6 billion, with approximately 82 percent of zone activity took place in subzones. Exports from facilities operating under FTZ procedures amounted to more than \$28 billion.¹⁰

Establishing a Foreign-Trade Zone

The FTZ Act of 1934 created a FTZ Board to review and approve applications to establish, operate, and maintain foreign-trade zones. The Board may approve any zone or subzone which it deems necessary to serve adequately "the public interest".

The Board also regulates the administration of foreign-trade zones and the rates charged by zone "grantees".

Customs must approve activation of the zone before any merchandise is admitted under the FTZ Act.

Alternative Site Framework for Foreign-Trade Zones

In 2008, the FTZ Board adopted the Alternative Site Framework (ASF). The ASF is an option for the establishment or reorganization of general-purpose zones that allows grantees to restructure their general-purpose zone sites with a formal Reorganization Application so that there is one primary or "anchor" site, followed by a series of additional "magnet" sites.

Under the ASF, the FTZ Board could designate FTZ status to any publicly owned or private site within the approved Service Area of a general-purpose zone.

Foreign-Trade Zones in Florida

There are currently 20 FTZs in Florida, with an additional 25 subzones in 9 of the zones.¹¹

The FTZ Board authorized FTZ status to the Sebring Airport Authority on July 26, 1997. The Authority's zone is designated as FTZ Number 215. According to a 2007 report by the National Association of Foreign-Trade Zones, the Authority's FTZ serves one business and zone activity is concentrated in the sale of fuel to outbound aircraft.¹² The report indicates the zone was active in FY 2007, but the level of activity was minimal and less than \$1 million.

⁹ Data in this paragraph is from the 71st Annual Report of the Foreign-Trade Zones Board to the Congress of the United State, available at <http://ia.ita.doc.gov/ftzpage/annualreport/ar-2009.pdf> (Last accessed 4/13/11).

¹⁰ This does not include certain indirect exports involving FTZ merchandise that undergoes further processing in the U.S. at non-FTZ sites prior to export.

¹¹ A list of zones in Florida may be found at <http://ia.ita.doc.gov/ftzpage/letters/ftzlist-map.html> (Last accessed 4/13/11). The list is arranged in order of the granting of zone status.

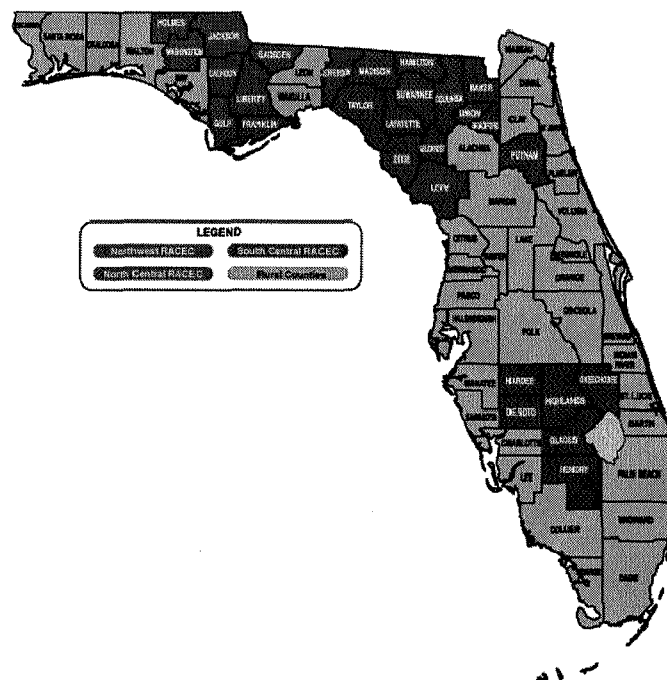
¹² National Association of Foreign-Trade Zones, The Impact of Foreign-Trade Zones on the 50 states and Puerto Rico, available at [http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBwQFjAB&url=http%3A%2F%2Fwww.naftz.org%2Fdocs%2Fnews%2F2009%2520State-by-State%2520FY%25202007%2520\(Final%2520Copy\).pdf&ei=sNm1TbuLL8W50QHOoPjzCA&usg=AFQjCNEmJo7HXF-2Nk1zxRLpGVS6RrH36Q](http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBwQFjAB&url=http%3A%2F%2Fwww.naftz.org%2Fdocs%2Fnews%2F2009%2520State-by-State%2520FY%25202007%2520(Final%2520Copy).pdf&ei=sNm1TbuLL8W50QHOoPjzCA&usg=AFQjCNEmJo7HXF-2Nk1zxRLpGVS6RrH36Q) (Last accessed 4/13/11).

The Authority was advised in August 2010 that their application to reorganize under the ASF was limited by language in the Authority's charter, specifically s. 3(2) of ch. 2005-300, L.O.F.¹³

Rural Economic Development Initiative and the Rural Area of Critical Economic Concern Designation

The Rural Economic Development Initiative (REDI) was created by the Florida Legislature to encourage and align critical state agency participation and investment around important rural issues and opportunities.¹⁴ Included in this broad initiative is the Rural Area of Critical Economic Concern (RACEC) designation.¹⁵ Most of Florida's rural counties have been categorized into one of three RACECs: the North Central, the Northwest, and the South Central. RACECs are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions. A RACEC designation establishes each region as a priority area in need of economic development. One of the benefits of the designation is that the Governor may waive requirements for the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, and other incentives.

The map below shows the three RACECs in Florida:



Map from Enterprise Florida, Inc.

Governor Jeb Bush established the South Central RACEC on January 26, 2001, through Executive Order 01-26. The South Central RACEC includes the counties of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee, and the cities of Pahokee, Belle Glade, and South Bay (all of which are in Palm Beach County), as well as the area around Immokalee included within the Round II Federal Rural Enterprise Community located in northeast Collier County. The South Central RACEC was redesignated by Executive Order 06-34, and included all of the areas in the initial RACEC, with the addition of the area within the Immokalee Urban Designated Area located in northeast Collier County. The South Central RACEC recently expired. It has been recommended by REDI to redesignate the area as a RACEC and its application is under review by the Office of Tourism, Trade, and Economic Development.

¹³ A copy of this letter is on file with the Economic Affairs Committee.

¹⁴ Section 288.0656, F.S.

¹⁵ Section 288.0656(7), F.S.

Rural Economic Development Catalyst Project

The Rural Economic Development Catalyst Project (catalyst project) is designed to further goals set forth in REDI by gathering economic intelligence and perspectives for Florida's three RACECs.¹⁶ The catalyst project is intended to identify, improve and market regional physical sites to facilitate the location of significant job creation opportunities within the RACECs.

The South Central RACEC chose a site located at the Sebring Regional Airport as the first priority site for the catalyst project. It was chosen as it was the closest to being "shovel ready" among all of the reviewed potential catalyst project sites, lacking only minor incremental improvements.¹⁷

According to Florida's Heartland Rural Economic Development Initiative, Inc., the 100-acre catalyst site at Sebring Regional Airport continues to be in process with the necessary infrastructure installations, with a future completion goal of December 2011, when the site will be "shovel ready," or ready to build.¹⁸

Contracts

Section 189.4221, F.S., allows special districts to purchase commodities and contractual services, other than services the acquisition of which is governed by s. 287.055, F.S., from the purchasing agreements of other special districts, municipalities, or counties which have been procured pursuant to competitive bid, requests for proposals, requests for qualifications, competitive selection, or competitive negotiations, and which are otherwise in compliance with general law if the purchasing agreement of the other special district, municipality, or county was procured by a process that would have met the procurement requirements of the purchasing special district

EFFECT OF PROPOSED CHANGES

The bill amends ch. 2005-300, L.O.F., which reestablished and codified the charter of the Authority.

The bill amends the Authority's charter to allow the Authority to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park as long as the powers are exercised pursuant to contracts with other governmental entities.

The bill also adds commercial and industrial facilities to the entities that the Authority is authorized to acquire, lease as lessee or lessor, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain, and operate. In addition, it removes the phrase "other related facilities" from the Authority's authorization to contract with other governmental entities to operate airports, airfields and services.

The bill creates the power to establish, operate, and maintain FTZ status under the ASF in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee, and South Bay. All of the impacted counties and the Cities of Belle Glade and Pahokee have issued letters of support for their inclusion in the Authority's FTZ under the ASF, with the stipulation that the zone be made available on a uniform basis to companies within the region, in a manner consistent with the legal requirement that each FTZ be operated as a public utility. In addition, Florida's Heartland Rural Economic Development Initiative, Inc., has issued a letter of support.¹⁹

The bill also amends s. 8, ch. 2005-300, L.O.F., to authorize the Authority to purchase commodities or contractual services pursuant to state term contracts and to purchase from the lowest and best bidder

¹⁶Enterprise Florida, Inc., information on the Rural Economic Development Catalyst Project, available at <http://www.eflorida.com/FloridasFuture.aspx?id=2108> (Last accessed 4/13/11).

¹⁷South Central RACEC Catalyst Project Progress Report. May 2007. Enterprise Florida, Inc.

¹⁸Information about the catalyst project from the Florida's Heartland Rural Economic Development Initiative, Inc., Web site, available at <http://www.flaheartland.com/programs/business-development/rural-economic-development-catalyst-project> (Last accessed 4/13/11).

¹⁹A copy of these letters is on file with the Economic Affairs Committee.

under a competitive bidding or negotiation process of another governmental entity, including a county, school board, or other municipality, or to reject all bids.

The bill takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2005-300, L.O.F, relating to the Sebring Airport Authority.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 26, 2011.

WHERE? *Highlands Today*, a daily paper of general circulation published in Sebring, Highlands County, Florida and distributed in Highlands County, Florida.

IF YES, WHEN? March 2, 2011.

WHERE? *The News-Sun*, a tri-weekly paper of general circulation published in Sebring, Highlands County, Florida and distributed in Highlands County, Florida.

IF YES, WHEN? March 10, 2011.

WHERE? *Clewiston News*, a weekly paper of general circulation published in Clewiston, Hendry County, Florida and distributed in Hendry County, Florida.

IF YES, WHEN? March 10, 2011.

WHERE? *Glades County Democrat*, a weekly paper of general circulation published in Moore Haven, Glades County, Florida and distributed in Glades County, Florida.

IF YES, WHEN? March 3, 2011.

WHERE? *The Herald-Advocate*, a weekly paper of general circulation published in Wauchula, Hardee County, Florida and distributed in Hardee County, Florida.

IF YES, WHEN? February 27, 2011.

WHERE? *The Palm Beach Post*, a daily and Sunday paper of general circulation published in West Palm Beach, Palm Beach County, Florida and distributed in Palm Beach County, Florida.

IF YES, WHEN? March 2, 2011.

WHERE? *Okeechobee News*, a three times a week paper of general circulation published in Okeechobee, Okeechobee County, Florida and distributed in Okeechobee County, Florida.

IF YES, WHEN? March 3, 2011.

WHERE? *Sun Coast Media Group*, a paper of general circulation published in Charlotte Harbor, Charlotte County, Florida and distributed in Charlotte, Sarasota, and DeSoto Counties Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The language amending s. 8, ch. 2005-300, L.O.F, regarding the Authority's ability to enter into contracts creates uncertainty as to the Authority's ability to reject bids of another governmental entity. It is suggested that this portion of the bill be amended to provide greater clarity.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

NOTICE OF LOCAL LEGISLATION

Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities, to operate under Foreign-Trade Zone status under the Alternative Site Framework in: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or negotiation process of another governmental entity, including a county, school board or other municipality.

Sebring Airport Authority

By: /s/ Mark Andrews, as its Chair

Robert S. Swaine
Swaine & Harris, P.A.
425 S. Commerce Avenue
Sebring, FL 33870
Attorney for Sebring Airport Authority

Highlands Today and The Tampa Tribune

Published Daily

Sebring, Highlands County, Florida

State of Florida }
County of Highlands } SS.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Analyst of Highlands Today & The Tampa Tribune, daily newspapers published at Sebring in Highlands County, Florida, that the attached copy of advertisement being a

Legal Ads IN THE Highlands Today

In the matter of

Legal Notices

was published in said newspaper in the issues of

02/26/2011

#2806

2/26/11

LEGAL NOTICES

By: /s/ John M. Holbrook
John M. Holbrook, Mayor

Attest: /s/ Arlene J. Tuck
Arlene J. Tuck, Municipal Clerk
2800 2/26/11

NOTICE OF LOCAL LEGISLATION

Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities, to operate under Foreign-Trade Zone status under the Alternative Site Framework in: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive

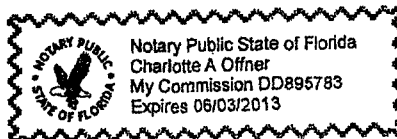
Affiant further says that the said Highlands Today & The Tampa Tribune are newspapers published at Sebring in said Highlands County, Florida, and that the said newspapers have heretofore been continuously published in said Highlands County, Florida, each day and have been entered as second class mail matter at the post office in Sebring, in said Highlands County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

C. Pugh

Sworn to and subscribed by me, this 28 day of Feb, A.D. 2011

Personally Known or Produced Identification
Type of Identification Produced _____

Charlotte A. Offner



THE NEWS-SUN
2227 U.S. 27 SOUTH
Published three (3) times weekly
SEBRING, HIGHLANDS COUNTY, FLORIDA

**STATE OF FLORIDA,
COUNTY OF HIGHLANDS:**

Before the undersigned authority personally appeared Romona Washington, who on oath says that she is Publisher of the News-Sun, a tri-weekly newspaper published at Sebring, in Highlands County, Florida; that the attached copy of advertisement, being a Proof of Publication

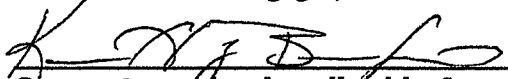
NOTICE OF LOCAL LEGISLATION

MARCH 2, 2011


Affiant further says the News-Sun is a newspaper published at Sebring, in Highlands County, Florida, and that the said newspaper has heretofore been continuously published in said County, Florida, Wednesday, Friday and/or Sunday and has been entered as a second class mail matter at the post office Sebring, in said county, Florida, for a period of one year next preceding the first publication of the attached copy of paid nor promised any person, firm or corporation any discount, advertisement; and affiant further says that she has neither rebate, commission or refund of the purchase of securing this advertisement of publication in the said newspaper.



Romona Washington, Publisher



**Swore to and subscribed before me
This 4th day of MARCH A.D. 2011
Notary Public, State of Florida**


KENNETH G. BAREFIELD
Notary Public, State of Florida
My comm. expires Oct. 2, 2011
Comm. No. DD 721444

NOTICE OF LOCAL LEGISLATION
Notice is hereby given pursuant to Florida Statute Section 1.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently, restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities, to operate under Foreign-Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okechobee Counties and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or negotiation process of another governmental entity, including a county, school board or other municipality.
Sebring Airport Authority
By:  Mark Andrews
as its Chair.
Robert S. Swaine Swaine & Harris, P.A. 2555 Commerce
Avenue Sebring, FL 33870 Attorney for Sebring Airport
Authority



CLEWISTON NEWS
Published Weekly
Clewiston, Hendry County, Florida

STATE OF FLORIDA
COUNTY OF HENDRY

Before the undersigned authority, personally appeared Tom Byrd, who on oath says he is the President of Operations, of the Clewiston News, a weekly newspaper published at Clewiston in Hendry County, Florida, that the attached copy of advertisement being a Public notice in the matter local legislation

in the 20th Judicial District of the Circuit Court, was published in said newspaper in the issue(s) of 3/10/11

Affiant further says that the said Clewiston News is a newspaper published at Clewiston, in said Hendry County, Florida, and that said newspaper has heretofore been continuously published in said Hendry County, Florida, each week, and has been entered as periodicals matter at the post office in Clewiston, in said Hendry County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature]
Tom Byrd

Sworn to and subscribed before me this 17th day of March, 2011 AD

Notary Public, State of Florida at Large

[Signature]
Notary Public

NOTARY PUBLIC-STATE OF FLORIDA
Angie Bridges
Commission # DD779718
Expires: APR. 20, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NOTICE OF LOCAL LEGISLATION
Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently re-stated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities; to operate under a Regional Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okechobee Counties, and the Cities of Belle Glade, Pahokee, and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or selection process of any other governmental entity, including a county, school board or other municipality.
Sebring Airport Authority
By: /s/ Mark Andrews, as its Chair.
Robert S. Swaine
Swaine & Harris, P.A.
425 S. Commerce Avenue
Sebring, FL 33870
Attorney for Sebring Airport Authority
380070 ON 3/2 CGS 3/10/2011



GLADES COUNTY DEMOCRAT
Published Weekly
Moore Haven, Florida

STATE OF FLORIDA
COUNTY OF HENDRY

Before the undersigned authority, personally appeared Tom Byrd, who on oath says he is the President of Operations, of the Glades County Democrat, a weekly newspaper published at Clewiston in Glades County, Florida, that the attached copy of advertisement being a

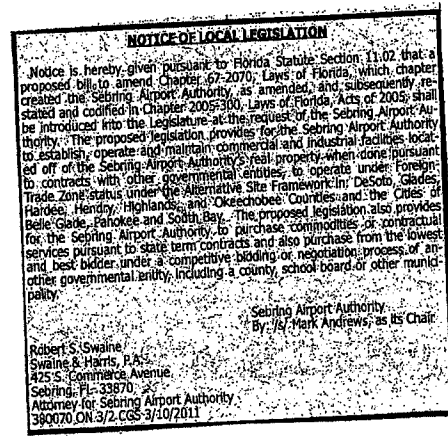
Public Notice

in the matter Local Legislation

in the 20th Judicial District of the Circuit Court, was published in said newspaper in the issue(s) of _____

3-10-2011

Affiant further says that the said Glades County Democrat is a newspaper published at Moore Haven, in said Glades, Florida, and that said newspaper has heretofore been continuously published in said Glades County, Florida, each week, and has been entered as periodicals matter at the post office in Moore Haven, in said Glades County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Tom Byrd

Sworn to and subscribed before me this 10th day of

March, 2011 AD

Notary Public, State of Florida at Large

Notary Public

NOTARY PUBLIC-STATE OF FLORIDA
Angie Bridges
Commission # DD779718
Expires: APR. 20, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

AFFIDAVIT OF PUBLICATION

The Herald-Advocate

Published Weekly at Wauchula, Florida

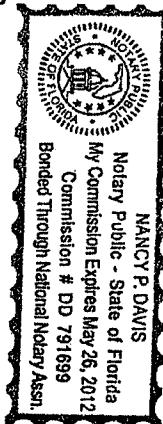
STATE OF FLORIDA,
COUNTY OF HARDEE

Before the undersigned authority personally appeared Kim Beard
who on oath says he is the Secretary of The Herald-Advocate, a
newspaper published at Wauchula, in Hardee County, Florida; that the attached copy of advertise-
ment, being a Notice of Local Legislation
in the matter of Belron of Chapman P. Albright
in the _____ Court, was published in said newspaper in the issues
of March 3, 2011

Affiant further says that the said Herald-Advocate is a newspaper published at Wauchula, in
said Hardee County, Florida, and that the said newspaper has heretofore been continuously published
in said Hardee County, Florida, each week and has been entered as second class mail matter at the
post office in Wauchula, in said Hardee County, Florida, for a period of one year next preceding the
publication of the attached copy of advertisement; and affiant further says that he has neither paid nor
promised any person, firm or corporation any discount, rebate, commission or refund for the purpose
of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 3rd day of March
A.D. 20 11

My Commission Expires May 26 20 12
Nancy P. Davis
Notary Public



NOTICE OF LOCAL LEGISLATION

Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities, to operate under Foreign Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder, either a competitive bidding or negotiation process of another governmental entity, including a county, school board or other municipality.

Sebring Airport Authority

By: /s/

Mark Andrews, as its Chair

Robert S. Swaine
Swaine & Harris, PA
425 S. Commerce Avenue
Sebring, FL 33870
Attorney for Sebring Airport Authority

THE PALM BEACH POST
Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

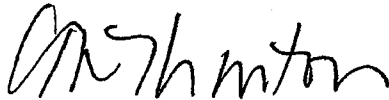
PROOF OF PUBLICATION


STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Ellen Sanita**, who on oath says that she is **Call Center Revenue Manager** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for **Notice** in the matter **Local Legislation** was published in said newspaper in the issues of **February 27, 2011**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin, St. Lucie and Indian River Counties.



Sworn to and subscribed before 28th day of February, A.D. 2011.
Who is personally known to me.



NOTARY PUBLIC-STATE OF FLORIDA
 **Karen M. McLinton**
Commission #DD832672
Expires: NOV. 15, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NO. 5869233
NOTICE OF LOCAL LEGISLATION
Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities; to operate under Foreign Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee, and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or negotiation process of another governmental entity, including a county, school board or other municipality.
Sebring Airport Authority
By: Mark Andrews, as its Chair
Robert S. Swaine
Swaine & Harris, P.A.
425 S. Commerce Avenue
Sebring, FL 33870
Attorney for Sebring Airport Authority
PUB: The Palm Beach Post
February 27, 2011



INDEPENDENT NEWSPAPERS

OKEECHOBEE NEWS

107 S.W. 17th Street, Suite D, Okeechobee, FL 34974

(863) 763-3134

STATE OF FLORIDA
COUNTY OF OKEECHOBEE

Before the undersigned authority personally appeared Tom Byrd, who on oath says he is Publisher of the Okeechobee News, a three times a week Newspaper published at Okeechobee, in Okeechobee County, Florida, that the attached copy of advertisement being a Public Notice

in the matter of Local Legislation

in the 19th Judicial District of the Circuit Court of Okeechobee County, Florida, was published in said newspaper in the issues of _____

3/2/11

Affiant further says that the said Okeechobee News is a newspaper published at Okeechobee, in said Okeechobee County, Florida, and that said newspaper has heretofore been published continuously in said Okeechobee County, Florida each week and has been entered as second class mail matter at the post office in Okeechobee, in said Okeechobee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Tom Byrd

Sworn to and subscribed before me this

2nd day of March 2011 AD

Notary Public, State of Florida at Large

NOTARY PUBLIC-STATE OF FLORIDA
Angie Bridges
Commission # DD779718
Expires: APR. 20, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

Public Notice	Public Notice
NOTICE OF LOCAL LEGISLATION	
<p>Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67, 2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently re-stated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities, to operate under Foreign Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties, and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or negotiation process of any other governmental entity, including a county, school board or other municipality.</p>	
<p>Sebring Airport Authority By: /s/ Mark Andrew, as its Chair</p>	
<p>Robert S. Swaine Swaine & Harris, P.A. 425 S. Commerce Avenue Sebring, FL 33870 Attorney for Sebring Airport Authority 380070-0N 3/2 CGS 3/10/2011</p>	

SUN NEWSPAPERS

Charlotte • DeSoto • Englewood • North Port • Venice

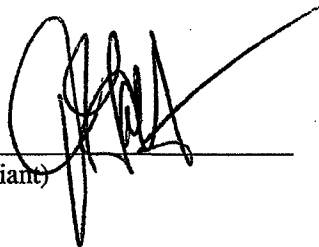
PUBLISHER'S AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
 COUNTY OF DESOTO:

Before the undersigned authority personally appeared Joe Gallimore, who on oath says that he is an employee of the Sun Coast Media Group, a newspaper published at Charlotte Harbor in Charlotte County, Florida; that the attached copy of advertisement, being a Notice that was published in said newspaper in the issues of:

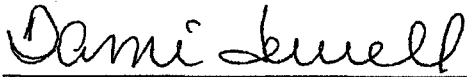
03/03/11

Affiant further says that the said newspaper is a newspaper published at Charlotte Harbor, in said Charlotte County, Florida, and that the said newspaper has heretofore been continuously published in said Charlotte County, Florida, Sarasota County, Florida and DeSoto County, Florida, each day and has been entered as periodicals matter at the post office in Punta Gorda, in said Charlotte County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement.

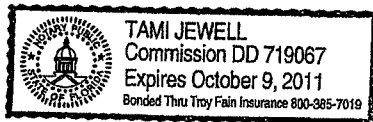


(Signature of Affiant)

Sworn and subscribed before me this 10th day of March, 2011.



(Signature of Notary Public)



Personally known X OR Produced Identification

Type of Identification Produced _____

NOTICE OF LOCAL LEGISLATION

Notice is hereby given pursuant to Florida Statute Section 11.02 that a proposed bill to amend Chapter 67-2070, Laws of Florida, which chapter created the Sebring Airport Authority, as amended, and subsequently restated and codified in Chapter 2005-300, Laws of Florida, Acts of 2005, shall be introduced into the Legislature at the request of the Sebring Airport Authority. The proposed legislation provides for the Sebring Airport Authority to establish, operate and maintain commercial and industrial facilities located off of the Sebring Airport Authority's real property when done pursuant to contracts with other governmental entities to operate under Foreign Trade Zone status under the Alternative Site Framework in DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and the Cities of Belle Glade, Pahokee and South Bay. The proposed legislation also provides for the Sebring Airport Authority to purchase commodities or contractual services pursuant to state term contracts and also purchase from the lowest and best bidder under a competitive bidding or negotiation process of another governmental entity, including a county, school board or other municipality. Sebring Airport Authority
 By: /s/ Mark Andrews, as its Chair
 Robert S. Swaine
 Swaine & Harris, P.A.
 425 S. Commerce Avenue
 Sebring, FL 33870
 Attorney for
 Sebring Airport Authority
 Published 3/3/11
 335991 2547872

HOUSE OF REPRESENTATIVES

2011 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1489

SPONSOR(S): Ben Albritton

RELATING TO: Sebring Airport Authority
(Indicate Area Affected (City, County, or Special District) and Subject)

NAME OF DELEGATION: Highlands County Delegation

CONTACT PERSON: Kevin Cleary

PHONE NO.: (863) 512-5171 E-Mail: Kevin.Cleary@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community and Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [] NO []

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [] NO []

Date hearing held: December 17th 2010 & March 9th 2011

Location: Sebring, FL & Tallahassee FL

(3) Was this bill formally approved by a majority of the delegation members?

YES [] NO []

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES [] NO [] DATE March 3rd 2011

Where? All counties within County Desoto, Glades, Hardee, Hendry, Highlands area

Referendum in lieu of publication: YES [] NO [] & okeechobee

Date of Referendum _____

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [] NO [] NOT APPLICABLE []

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [] NO [] NOT APPLICABLE []

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [] NO []

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.



Delegation Chair (Original Signature)

4/4/11

Date

JD Alexander

Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES
2011 ECONOMIC IMPACT STATEMENT FORM**

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

BILL #: _____
SPONSOR(S): Senator J.D. Alexander and Representative Ben Albritton
RELATING TO: Sebring Airport Authority, Sebring, Highlands County
[Indicate Area Affected (City, County or Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	<u>FY11-12</u>	<u>FY 12-13</u>
Expenditures:	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 11-12</u>	<u>FY 12-13</u>
Federal:	0	0
State:	0	0
Local:	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 11-12</u>	<u>FY 12-13</u>
Revenues:	0	0

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:
 See Attachment A

Disadvantages:
 None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

See Attachment B

This project only makes the region more viable in terms of job creation and economic development

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

PREPARED BY:  3-29-11
[Must be signed by Preparer] Date

TITLE: Executive Director

REPRESENTING: Sebring Airport Authority

PHONE: 863.655.6444

E-Mail Address: mike@sebring-airport.com

Attachment A

IV.

Advantages:

- Shortens the window for the company requiring zone status by almost 1 yr.
- Reduces the expense involved regarding the application to the Foreign Trade Zone Board dramatically.
- Quick access to zone status could mean the difference between a company locating in Florida or looking elsewhere

Bev Glarner

From: Mike Willingham
Sent: Thursday, March 17, 2011 10:14 AM
To: Bev Glarner
Subject: FW: Sebring Airport Authority




Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Mike W.

ATTACHMENT B

Mike Willingham

Sebring Airport Authority | 128 Authority Lane | Sebring, FL 33870 |

 863.655.6444 Ext.103 |  888.740.7628 |  mike@sebring-airport.com

www.sebring-airport.com

From: Kkeck@citrus.state.fl.us [mailto:Kkeck@citrus.state.fl.us]
Sent: Tuesday, March 15, 2011 3:17 PM
To: Mike Willingham
Cc: harrison.patty.s17@flsenate.gov; Kevin.cleary@myfloridahouse.gov; 'Mielke, Marty (Marty.Mielke@myfloridahouse.gov)'
Subject: Re: Sebring Airport Authority

Dear Mr. Willingham:

Thank you for the information provided regarding the proposed amendment to the Sebring Airport Authority Special Act as it pertains to providing Foreign Trade Zone (FTZ) status to the Florida Heartland Rural Economic Development Initiative (FHREDI) region (Highlands, DeSoto, Hardee, Hendry, Glade and Okeechobee counties along with the Cities of Pahokee, Belle Glade and South Bay).

We are in agreement with the information provided in the memorandum from your attorney stating that the proposed change/amendment will not have any impact on the citrus industry and does not provide any additional opportunities for foreign juice producers.

Regarding the tentative conference call, since we do not have any additional questions and believe that you and our legislative leaders have anticipated, and addressed potential citrus industry concerns, I believe it can be cancelled.

Please advise if you'd like to speak further.

Sincerely,

Ken Keck

**MILLER
& COMPANY P.C.**

ATTORNEYS AT LAW

4929 MAIN STREET
KANSAS CITY, MO 64112
816.561.4999
FAX 816.561.5999
E-MAIL intlaw@millerco.com
WEB www.millerco.com

1875 I STREET N.W., 5th FLOOR
WASHINGTON, DC 20006

233 BROADWAY, SUITE 2702
NEW YORK, NEW YORK 10279

MEMORANDUM

[REDACTED]

To: Mr. Mike Willingham
Sebring Airport Authority

From: Scott S. Taylor, Esq.

Subject: Orange Juice in Foreign-Trade Zones

Date: March 11, 2011

[REDACTED]

CONFIDENTIAL
THIS DOCUMENT SUBJECT TO:
ATTORNEY/CLIENT PRIVILEGE
WORK PRODUCT DOCTRINE

You requested background on orange juice in foreign-trade zones. There are already orange juice facilities located within foreign-trade zones in the United States. Imported concentrate may be admitted to a foreign-trade zone, processed and directly exported without the payment of duties. If the orange juice is sold in the United States, Customs duty must be paid at the time the orange juice leaves a zone site. These orange juice facilities are located in New York, New Jersey, and Delaware and in other U.S. ports within foreign-trade zones. As there are 275 foreign-trade zones in the United States including 21 in Florida, any companies which have an orange juice processing facility can utilize the Foreign-Trade Zones program already. We are aware that there are also bonded warehouses in Florida which conduct similar activity. The proposed change in Florida legislation will not have any impact on the industry as this federal program has been available since 1934.

VLH/CORR/00048976(2759)

PLEASE REPLY TO THE KANSAS CITY OFFICE

**HOUSE OF REPRESENTATIVES
2011 LOCAL BILL AMENDMENT FORM**

Prior to consideration of a substantive amendment to a local bill, the chair of the Legislative Delegation must certify by signing this Amendment Form that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive council, committee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Community & Military Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.

BILL NUMBER: 1489

SPONSOR(S): Albritton

RELATING TO: Sebring Airport Authority, Highlands County
[Indicate Area Affected (City, County or Special District) and Subject]

SPONSOR OF AMENDMENT: Albritton

CONTACT PERSON: Kevin Cleary

PHONE NO: (850) 488-9465 **E-MAIL:** Kevin.Cleary@myfloridahouse.gov

REVIEWED BY STAFF OF THE COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE []

Must Be Checked

I. BRIEF DESCRIPTION OF AMENDMENT:

(Attach additional page(s) if necessary)

The amendment clarifies the language regarding the authority's ability to purchase commodities or contractual services from the purchasing agreements of other special districts, municipalities, or counties as provided in s. 189.4221 and removes unspecific provision relating to state term contracts.

II. REASON/NEED FOR AMENDMENT:

(Attach additional page(s) if necessary)

Makes the purchasing ability consistent with general law requirements.

III. NOTICE REQUIREMENTS

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES [X] NO [] NOT APPLICABLE []

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES [] NO [X] NOT APPLICABLE []

IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?

YES [] NO [X]

NOTE: If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Community & Military Affairs Subcommittee prior to consideration of the amendment.

V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?

YES [X] NO [] UNANIMOUSLY APPROVED [X]



Delegation Chair (Original Signature)

J.D. Alexander

Print Name of Delegation Chair

4/12/11
Date

1 A bill to be entitled
 2 An act relating to Sebring Airport Authority, Highlands
 3 County; amending chapter 2005-300, Laws of Florida;
 4 revising powers of the authority; providing that the
 5 authority may acquire, lease as lessee or lessor,
 6 construct, reconstruct, improve, extend, enlarge, equip,
 7 repair, maintain, and operate commercial and industrial
 8 facilities; providing that the authority may establish,
 9 operate, and maintain foreign-trade zone status under the
 10 alternative site framework in DeSoto, Glades, Hardee,
 11 Hendry, Highlands, and Okeechobee Counties and the Cities
 12 of Belle Glade, Pahokee, and South Bay; expanding the
 13 power of the authority to purchase commodities or
 14 contractual services; providing an effective date.

15

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

17

18 Section 1. Subsection (2) of section 3, subsections (5)
 19 and (14) of section 6, and section 8 of section 3 of chapter
 20 2005-300, Laws of Florida, are amended, and subsection (15) is
 21 added to section 6 of section 3 of that chapter, to read:

22 Section 3.

23 (2) The Sebring Airport Authority is authorized to
 24 exercise its powers over properties in addition to the Sebring
 25 Regional Airport and Industrial Park so long as they are
 26 exercised pursuant to contracts with other governmental entities
 27 ~~for the operation and supervision of other airports, airfields,~~
 28 ~~and related facilities.~~

29 Section 6. The Sebring Airport Authority is hereby
 30 authorized and empowered:

31 (5) To acquire, lease as lessee or lessor, construct,
 32 reconstruct, improve, extend, enlarge, equip, repair, maintain,
 33 and operate any airport and other ~~industrial~~ facilities,
 34 ~~(including tire and automobile testing and racing,)~~ and
 35 commercial and industrial facilities, which may be located on
 36 the property of the authority. Nothing in this act shall exempt
 37 the Sebring Airport Authority from the provisions of chapter
 38 333, Florida Statutes.

39 (14) To contract with other governmental entities to
 40 operate airports, airfields, ~~and other related facilities~~ and
 41 services, including providing all personnel, tools, equipment,
 42 supervision, and other materials and services required therefor.

43 (15) To establish, operate, and maintain foreign-trade
 44 zone status under the alternative site framework in DeSoto,
 45 Glades, Hardee, Hendry, Highlands, and Okeechobee Counties and
 46 the Cities of Belle Glade, Pahokee, and South Bay.

47 Section 8. No contract for the construction, repair, or
 48 alteration of any facility or part of the same, or the purchase
 49 of equipment, services, or supplies involving an expenditure of
 50 more than \$10,000, shall be awarded by the authority unless the
 51 authority advertises for sealed bids at least once a week for 2
 52 consecutive weeks and such contract is awarded to the lowest
 53 responsible bidder. However, the authority may purchase
 54 commodities or contractual services pursuant to state term
 55 contracts and may also purchase from the lowest and best bidder
 56 under a competitive bidding or negotiation process of another

HB 1489

2011

57 | governmental entity, including a county, school board, or other
58 | municipality, or may reject all bids.

59 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7215 PCB ANRS 11-01 Department of Agriculture and Consumer Services
SPONSOR(S): Appropriations Committee, Agriculture & Natural Resources Subcommittee, Crisafulli
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 2076

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee	11 Y, 0 N	Kaiser	Blalock
1) Appropriations Committee	24 Y, 0 N, As CS	Lolley	Leznoff
2) Economic Affairs Committee		Whittington <i>W</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

CS/HB 7215 addresses several issues related to the powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Deletes provisions allowing department advisory committee members and members and former members of the Board of Surveyors and Mappers to claim per diem and travel expenses.
- Exempts certain Direct Service Organization's within the department from annual audits.
- Increases current levels of insurance for pest control businesses to provide better protection to Florida consumers.
- Provides for the establishment, monitoring, and regulation of centralized pest control customer contact centers in lieu of licensure as pest control businesses.
- Establishes a limited certification category authorizing persons to use nonchemical methods for controlling rodents in lieu of licensure.
- Requires registered pesticide brand products that undergo label revision during the biennial registration period to provide the department with a copy of the revised label.
- States that any fees associated with the pesticide brand registration program are non-refundable.
- Deletes the Division of Dairy Industry within the department and transfers the duties and responsibilities associated with that division to the Division of Food Safety.
- Requires persons who produce, harvest, pack, or repack tomatoes that are not permitted under chapter 500, F.S., to register each location annually by August 1 on a form prescribed by the department.
- Establishes a Certified Pile Burner program in statute.
- Allows the lead managing agency, instead of the Department of Environmental Protection, to receive the proceeds from the initial grant of easements for the construction of electric transmission and distribution facilities on Board of Trustees-owned lands.
- Grants the department with the exclusive authority to enforce the Florida Building Code as it relates to wildfire and law enforcement facilities.
- Provides Selected Exempt status to the aviation manager and the training coordinator of the Division of Forestry.
- Authorizes monies received from the sale of surplus state-owned wildland firefighting equipment and vehicles to be used to exchange, maintain or purchase wildland firefighting equipment.
- Authorizes the department to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.
- Authorizes the department to delegate authority to local governments to issue authorizations for open burning.
- Renames the Office of Water Coordination as the Office of Energy and Water.
- Adds the appointment of a (non-voting) youth member who is active in the Future Farmers of America or a 4-H Club to the Florida State Fair Authority.
- Provides criminal charges for the theft of bee colonies of registered beekeepers as a farm product.

The bill appears to have a significant positive fiscal impact on state government for Fiscal Year 2011-12 of about \$964,000, of which \$744,000 is nonrecurring. The \$744,000 is appropriated in the bill to the department from the Florida Forever Trust Fund. There is an insignificant fiscal impact on local governments. For a more detailed explanation of the fiscal impact, please see Section II, Fiscal Analysis & Economic Impact Statement, of this analysis.

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

STORAGE NAME: h7215b.EAC.DOCX

DATE: 4/19/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Advisory Committees

Current Situation

The Commissioner of Agriculture has statutory authority¹ to appoint advisory committees to assist the department with its duties and responsibilities. There are advisory committees for Off-Highway Vehicle Recreation Use, Pest Control Enforcement, Pesticide Review, Motor Vehicle Repair, and the Agricultural Promotion Campaign, to name a few.

The law mandates the composition of the committees, their powers and duties, and the term of their service, among other things. The law also states that advisory committee members may not receive compensation for their services, but are entitled to reimbursement for per diem and travel expenses.² According to a 2007 response to a Joint Legislative Sunset Committee request, the department had approximately 50 advisory boards, councils, or committees that incurred travel, staff, and other expenses totaling approximately \$220,000.³

Current law also authorizes a member or former member of the department's Board of Surveyors and Mappers serving on a probable cause panel to receive \$50 per day while participating in official business of the board. Members and former members are also entitled to travel expenses.

Effect of Proposed Changes

The bill repeals statutory provisions authorizing members of the department's advisory committees to receive per diem and travel expenses. It also repeals provisions providing for the per diem and travel expenses for members and former members of the Board of Surveyors and Mappers.

Pest Control

Insurance

Current Situation

The minimum requirements for insurance coverage to conduct pest control businesses have not been increased since 1992. The department maintains these minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

Effect of Proposed Changes

The bill increases:

- Bodily injury from \$100,000 to \$250,000 per person, \$300,000 to \$500,000 per occurrence;
- Property damage from \$50,000 to \$250,000 per occurrence, \$100,000 to \$500,000 in the aggregate; and,
- Combined single-limit coverage from \$400,000 to \$500,000 in the aggregate.

For wood-destroying organism inspection licenses, the limits are increased from \$50,000 to \$250,000 in the aggregate, \$25,000 to \$250,000 per occurrence, and financial responsibility from \$100,000 to \$500,000.

Pest Control Customer Contact Centers

Current Situation

Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. These companies maintain that pest control contact centers provide licensees with a more efficient means of providing service to customers.

¹ Section 570.0705, F.S.

² Section 112.061, F.S., establishes per diem and travel expenses for public officers, employees, and other authorized persons.

³ FY 2006-07

Florida law currently requires pest control businesses to register and obtain an annual license⁴ for each location. In addition to being licensed, a pest control business must have at least one certified operator in charge at each location to provide oversight and training for the identification card holders who perform the actual pesticide application.⁵ Currently, a customer contact center may not solicit business or receive calls from customers located in Florida without the requisite pest control licenses.

Effect of Proposed Changes

The bill provides for the establishment, monitoring, and regulation of centralized pest control customer contact centers, allowing licensed centers to solicit pest control business and provide service to consumers for one or more business locations. A person may not operate a customer contact center for a pest control business that is not licensed by the department. The bill establishes a licensing fee⁶ and biennial renewal fee.⁷ The department is authorized to deny or refuse to renew a license if:

- The pest control business licensees for whom it solicits business are not owned in common by a person or business entity recognized by the state.
- The applicant or licensee, or one or more of the applicant's or licensee's directors, officers, owners, or general partners, are or have been directors, officers, owners, or general partners of a pest control business that have gone out of business or sold the business to another party within 5 years immediately preceding the date of application or renewal and failed to reimburse the prorated value of its customers' remaining contract periods or failed to provide for another licensed pest control operator to assume its existing contract responsibility.
- A person who solicits pest control services or provides customer service in a licensed customer contact center performs pest control services such as: the use or application of a device or application to prevent or control any pest in, on, or under a structure, lawn, or ornamental; the identification of or inspection for infestation in, on, or under a structure, lawn, or ornamental; the use of pesticides, poisons, or devices for preventing or controlling insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental; or performing any phase of fumigation.

The bill provides that a license automatically expires if a licensee changes the business address of its customer contact center location. The department is given rule-making authority for implementing provisions related to the recordkeeping and monitoring of pest control customer contact centers. The bill also provides criteria for disciplinary action against a pest control customer contact center or a pest control business licensee of the contact center.

Certification for Commercial Wildlife Management Personnel

Current Situation

For several years, the Florida Fish and Wildlife Conservation Commission issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years and the permitting was discontinued in 2008. Several persons still engaged in the control of nuisance wildlife have contacted the department asking to have a certification process reinstated to assure that the nuisance animals are being handled humanely and the public is protected.

Under current law, pest control is defined as the use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental.⁸ Pest is defined as an arthropod, wood-destroying organism, rodent (defined in statute to include rats, mice, squirrels, flying squirrels, or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure), or other obnoxious or undesirable living plant or animal organism.⁹ Persons practicing pest control are required to be licensed under chapter 482, F.S.

⁴ The license fee must be at least \$75 and not more than \$300.

⁵ The certification fee for a certified operator is \$150 and the fee for and identification card holder is \$10.

⁶ The license fee must be at least \$600 and not more than \$1,000.

⁷ The renewal fee must be at least \$600 and not more than \$1,000.

⁸ Section 482.021(22)(a), F.S.

⁹ Section 482.021(21) & (24), F.S.

Effect of Proposed Changes

The bill creates a limited certificate authorizing individual commercial wildlife trapper personnel to use nonchemical methods to control "rodents," which also includes rats, mice, squirrels, flying squirrels, or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure. The bill does not require individuals who trap these animals by nonchemical means to obtain any license or certificate, but those who choose to obtain the certification are not required to be licensed as pest control businesses. The bill also provides that persons licensed under the pest control chapter and that practice accepted methods of pest control are immune from liability under the animal cruelty provisions.

Certification does not allow the use of pesticides or chemicals to control rodents; operation of a pest control business; or supervision of an uncertified person using non-chemical methods to control rodents. The bill specifies that the provisions within the pest control chapter do not exempt a person from the rules, orders, or regulations of the Florida Fish and Wildlife Conservation Commission.

Persons seeking limited certification must pass an examination given by the department. An examination fee of at least \$150, but not more than \$300, may be set by rule of the department. The department is required to provide appropriate reference materials for the examination and make the examination readily available to applicants at least quarterly or as necessary in each county. Prior to receiving limited certification, each applicant must furnish proof of insurance, stating that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage as required by statute.¹⁰

Fumigation Notice

Current Situation

Currently, to protect the health, safety and welfare of the public, a pest control licensee must give the department an advance notice of at least 24 hours of the location where general fumigation will be taking place. In emergency cases, when a 24-hour notice is not possible, a licensee may provide notice by means of a telephone call and then follow up with a written confirmation providing the required information.

Effect of Proposed Changes

The bill allows a licensee, when advance notice is not possible, to contact the department regarding the location where fumigation will be taking place by facsimile or another form of electronic communication, as well as by telephone.

Pesticide Registration

Current Situation

Currently, each brand of pesticide distributed, sold, or offered for sale in the state must be registered biennially by the department.¹¹ The registrant must supply the department with such information as the name and address of the registrant, the pesticide brand name, an ingredient statement, and a copy of the labeling. Registrants are required to pay a fee per brand of pesticide and another fee for each special local-need label and experimental use permit. The department may also assess a supplemental fee to offset the costs of testing for food safety for pesticide brands that contain an active ingredient for which the U.S. Environmental Protection Agency (EPA) has established a food tolerance limit.¹² The department is authorized to assess late fees for registrations¹³ that are not timely renewed. Fees collected through the pesticide registration program are deposited into the General Inspection Trust Fund and used to carry out the provisions of the registration program.

Effect of Proposed Changes

The bill requires registered pesticide brand products that undergo label revision during the biennium to provide the department with a copy of the revised label, including a cover letter that details the

¹⁰ Section 482.071(4), F.S.

¹¹ The registration requirement also applies to pesticide brands delivered for transportation or transported in intrastate commerce or between points within the state through any point out of the state.

¹² Per 40 C.F.R., part 180

¹³ These include pesticide brands, special local need labels, and/or experimental use permits.

changes. This must be done prior to the “newly labeled” pesticide brand being distributed or offered for sale. If the revised label warrants notification of or amendment review by the EPA, the registrant must submit an additional copy of the label with markings to identify those revisions.

The bill also provides that, by January 1, 2013, all fees related to pesticide registration must be submitted electronically using the department’s e-commerce/eGov web site. The bill states that any fees associated with the pesticide brand registration program are non-refundable.

Food Safety

Current Situation

The department currently has a Division of Food Safety and a Division of Dairy Industry. The Division of Food Safety is responsible for assuring that the public has a safe and wholesome food supply through the permitting and inspection of food establishments, inspection of food products, and performance of specialized laboratory analyses on a variety of food products sold or produced in the state. The Division of Dairy Industry is responsible for inspecting dairy farms in the state and enforcing provisions relating to milk and milk products to ensure dairy products are wholesome and produced under sanitary conditions. The Division of Dairy Industry is also responsible for inspecting milk plants, milk product plants, and plants that manufacture and distribute frozen desserts and frozen desserts mix, as well as analyzing and testing samples of milk, milk products, frozen desserts, and frozen desserts mix.

In 2010, the Legislature enacted legislation¹⁴ creating s. 500.70, F.S., authorizing the department to adopt rules establishing food safety standards to safeguard the public health and promote the public welfare by protecting the consuming public from injury caused by the adulteration or the microbiological, chemical, or radiological contamination of tomatoes. The law also required the rules to apply to the producing, harvesting, packing, and repacking of tomatoes for sale for human consumption by a tomato farm, tomato greenhouse, or tomato packinghouse or repacker in this state. The law specifically authorized the rules to establish standards for:

- Registration with the department of persons who produce, harvest, pack or repack tomatoes in the state, such as farms, who do not hold a food permit issued under s. 500.12, F.S.¹⁵
- Proximity of domestic animals and livestock to the production areas for tomatoes;
- Food safety-related use of water for irrigation during production and washing of tomatoes after harvest;
- Use of fertilizers;
- Cleaning and sanitation of containers, materials, equipment, vehicles, and facilities, including storage and ripening areas;
- Health, hygiene, and sanitation of employees who handle tomatoes;
- Training and continuing education of persons who produce, harvest, pack, or repack tomatoes in the state, and their employees who handle tomatoes; and,
- Labeling and recordkeeping, including standards for identifying and tracing tomatoes for sale for human consumption.

The department has statutory authority to establish standards for registration and to set registration costs for the tomato food safety program, but does not have statutory authority to require registration or payment of said registration costs.

Effect of Proposed Changes

The bill abolishes the Division of Dairy Industry within the department and transfers the duties and responsibilities associated with that division to the Division of Food Safety. The Division of Food Safety

¹⁴ Chapter 2010-25, L.O.F.

¹⁵ Section 500.12, F.S., requires any person who operates a food establishment or retail food store to obtain a food permit from the department. The exceptions to the permit requirement include:

- Persons operating minor food outlets that sell prepackaged candy, chewing gum, soda, or popcorn provided in shelf space of less than 12 linear feet.
- Persons subject to continuous, onsite federal or state inspection.
- Persons selling only legumes, in the shell, either parched, roasted or boiled.
- Persons selling sugar cane or sorghum syrup that has been boiled and bottled on a premise located within the state.

will assume responsibility for inspecting dairy farms in the state and enforcing provisions relating to milk and milk products to ensure dairy products are wholesome and produced under sanitary conditions. The Division of Food Safety will also assume responsibility for inspecting milk plants, milk product plants, and plants that manufacture and distribute frozen desserts and frozen desserts mix, as well as analyzing and testing samples of milk, milk products, frozen desserts, and frozen desserts mix.

The bill creates subsection (6) in s. 500.70, F.S., to require that any person who produces, harvests, packs, or repacks tomatoes that are not permitted according to s. 500.12, F.S., must also register each location annually by August 1 on a form prescribed by the department. If the bill passes, individuals who produce, harvest, pack, or repack tomatoes must register, along with the location where such activities are occurring. One registration may be submitted for all locations, but the physical address of each location must be provided. The bill authorizes the department to set by rule an annual registration fee not to exceed \$500. Monies collected from the registration fee must be deposited into the General Inspection Trust Fund.

Division of Forestry

Certified Pile Burner Program

Current Situation

Under current law, certain requirements must be met for a person to burn wild land or vegetative land-clearing debris. Current law also regulates prescribed burning, which can be performed only when a certified prescribed burn manager is present. The certified burn manager must be on site from ignition of the burn to its completion and have in his/her possession a copy of the prescription. The Division of Forestry (division) currently has a voluntary Certified Pile Burner program in place; however, this program is not specifically authorized in statute.

Currently, the division sets pile burning restrictions by rule, but nothing in the statutes allows enforcement of these rules. Therefore, there is no punishment for someone who chooses not to comply.

Effect of Proposed Changes

The bill codifies the Certified Pile Burner program in statute. It provides definitions for "certified pile burner," "pile burning," "land-clearing operation" and "yard trash," as well as revises the definition of "extinguished." The bill requires the certified pile burner to ensure that:

- Prior to ignition, the piles are properly placed and the content is conducive to efficient burning.
- The piles are properly extinguished no later than 1 hour after sunset. In certain areas, the piles must be properly extinguished at least 1 hour before sunset.
- The specific consent of the landowner or his agent must be obtained before requesting authorization to burn.
- An authorization to burn has been obtained from the division prior to ignition.
- There are adequate firebreaks and sufficient personnel and firefighting equipment at the burn site to control the fire.

If a burn is conducted in accordance with the provisions of the program, the property owner and his/her agent are not liable under applicable Florida law¹⁶ for damage or injury caused by the fire or resulting smoke unless gross negligence is proven. Violations of program provisions are a misdemeanor of the second degree, punishable by imprisonment not exceeding 60 days or a \$500 fine. The division is given rule-making authority to implement the certified pile burning program.

The bill authorizes the division to send notices of Wildfire Hazard Reduction Treatment to landowners in wildfire hazard areas.

The bill subjects violations of division rules to administrative fines, not to exceed \$1,000 per violation and creates a new criminal penalty¹⁷ for persons who fail to comply with any rule or order adopted by

¹⁶ Sections 590.13 and 590.125(2), F.S.

¹⁷ Violations of program provisions are a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine of \$500.

the division or who knowingly make any false statement or representation in any application, record, plan, or other document required by chapter 597, F.S., or any rules adopted under chapter 597, F.S.

Delegation of Authority for Local Burning

Current Situation

Current law provides for the delegation of authority to the division, by the Department of Environmental Protection, to control and prohibit air and water pollution in any way possible. However, the division does not have the statutory authority to delegate to local governments the authority to implement a burn authorization program, although many local governments have expressed an interest, and ability, to implement such a program with division guidance. Currently, some counties issue permits under their own authority, but because the division has the final authority regarding open burning, the division is required to come behind and re-issue daily authorizations. By delegating the authorization, only one permit will be required as opposed to one from the county and one from the division.

Effect of Proposed Changes

The bill authorizes the division to delegate authority to local governments to issue authorizations for open burning. The local government's program must be approved by the division, provide ordinances or local laws that comply with state law, provide enforcement of the program's requirements, and provide financial, personnel, and other resources needed to carry out the program. If the division determines that a local government's program does not comply with state law or corresponding rules, the division can require the local government to take corrective action within a reasonable timeframe. If the local government fails to comply within the allotted time, the division may resume administration of the open burning authorization program from the local government. Local governments administering an open burning authorization program are responsible for cooperating and assisting the division in carrying out the division's powers, duties, and functions. Violations of a local government's open burning authorization program are subject to penalties as provided in s. 590.14, F.S.¹⁸

The division retains final authority regarding the issuance of authorizations for broadcast burning, as well as agricultural and silvicultural burning. The bill preempts to the division exclusive authority in these areas.

Proceeds from Easements

Currently, the Department of Environmental Protection (DEP) receives the proceeds from the sale of easements for the construction and operation of electric transmission and distribution facilities on Board of Trustees (BOT)-owned lands managed by the department. The funds are retained by the DEP to administer the Florida Forever program. The bill allows the lead managing agency to receive the initial grant of such easements over BOT-owned lands. The managing agency will determine the use of funds with priority given to inholdings and additions to public lands and lands on a Florida Forever land acquisition list.

Department Authority

Currently, the department's functions, powers and duties include "for pollution control purposes, to regulate open burning connected with rural land clearing, agricultural, or forestry operation, except fires for cold or frost protection." This function is amended to delete reference to "rural" and to delete the current exception for fires for cold or frost protection.

Division Selected Exempt

Currently, neither the aviation manager nor the division training coordinator have Selected Exempt Status in the state personnel designation. The bill provides both the aviation manager and the division training coordinator with Selected Exempt status.

Enforcement of the Florida Building Code

The Florida Building Code has been revised several times in recent years and, according to the department, this has created confusion among local governments regarding code interpretation and led to a cumbersome and costly process for the department as they construct facilities for wildfire

¹⁸ Ibid

equipment in different parts of the state. The bill grants the department with the exclusive authority to enforce the Florida Building Code as it relates to wildfire and law enforcement facilities.

Surplus Division Property

Prior to 2006, when the law¹⁹ was changed, the department had the authority to use monies acquired from the disposition of surplus firefighting equipment to reinvest in other firefighting equipment. Since 2006, the department must seek a special appropriation before the funds can be reinvested in other equipment. Also, current law²⁰ requires that all replaced equipment be reported for disposal within 45 days of being replaced. Current law²¹ also requires Department of Management Services to approve the disposal of any motor vehicles or aircraft. Because of the nature of emergency response, the department's equipment needs vary from year to year. Because funding for replacement equipment is inadequate, the department has requested the flexibility to retain replaced equipment to meet future emergency needs and for use as backup for the frontline equipment. The bill allows the department to retain the monies acquired from the sale of state-owned firefighting equipment and vehicles. The monies received may be used for the acquisition of exchange and surplus equipment, and for necessary operating costs related to the equipment. The bill requires the department to maintain records of the accounts into which the money is deposited. The department is also given the authority to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.

Other Department Issues

Direct/Citizen Support Organizations

A direct/citizen support organization (DSO) is a separate, not-for-profit corporation organized and operated exclusively to assist a specific organization by providing supplemental resources from grants, gifts and bequests of money and/or services. These organizations are authorized by Florida Statute to receive, hold, invest and administer property, and to make expenditures to or for the benefit of the specific organization. State law²² requires DSOs to obtain an annual financial audit conducted by an independent certified public accountant if the annual expenditures are more than \$100,000. Current law provides an exemption from the auditing requirement for DSOs under the purview of the DEP that are not for profit and have annual expenditures of less than \$300,000.

The bill exempts the department's DSOs that are not for profit and have annual expenditures of less than \$300,000 from obtaining annual audits.

Energy

The Office of Water Coordination (OWC), within the department, was established in 1995 by the Legislature to facilitate communications among federal, state, local agencies, and the agricultural industry on water quantity and water quality issues involving agriculture. The OWC is actively involved in the development of best management practices (BMPs), addressing both water quality and water conservation on a site specific, regional, and watershed basis. The office is also directly involved with statewide programs to implement the Federal Clean Water Act's Total Maximum Daily Load (TMDL) requirements for agriculture. The OWC works cooperatively with agricultural producers and industry groups, the DEP, the university system, the water management districts, and other interested parties to develop and implement BMP programs that are economically and technically feasible.

The bill renames the Office of Water Coordination to the Office of Energy and Water.

Florida's "Farm to Fuel" initiative seeks to enhance the market for and promote the production and distribution of, renewable energy from Florida-grown crops, agricultural wastes and residues, and other biomass. In the process, it is designed to give Florida agricultural producers alternative crops to grow to keep their farms and ranches viable. Current statute requires the department to coordinate with and solicit the expertise of the state energy office within DEP when developing and implementing this initiative.

¹⁹ Chapter 2006-122, s. 40, L.O.F.

²⁰ Section 287.16, F.S.

²¹ Section 273.055, F.S.

²² Section 215.981(1), F.S.

Because the state energy office is no longer in the DEP, this requirement is no longer necessary in statute, and is removed by this bill.

Florida State Fair Authority

The Florida State Fair Authority (authority) is an instrument of the state, under the supervision of the Commissioner of Agriculture. The authority, composed of 21 members, is responsible for staging an annual fair to serve the entire state. The Commissioner, or his/her designee, serves as a voting member. There is also a member who serves as a member of the Board of County Commissioners of Hillsborough County, the district where the state fairgrounds are located. The Commissioner appoints the remaining members of the authority. Each member serves a 4-year term and may be appointed for more than one term.

The bill provides for the membership of the authority to be increased to 22 members, with the appointment of a non-voting youth member who is active in the Florida Future Farmers of America or a 4-H Club. The youth member's term is for one year.

Apiary

Florida law currently provides criminal charges²³ for the theft of any commercially farmed animal, such as horses, cows, sheep, swine, or other grazing animals, including aquaculture. The bill amends current law to include the theft of bee colonies of registered beekeepers.

Current law defines "farm theft" as the unlawful taking possession of any items that are grown or produced on land, owned, rented, or leased by another person. The definition of "farm theft" is amended to include the equipment and associated materials used to grow or produce the farm products as defined in the Florida Right to Farm Act.²⁴ The definition of "farmer" is also amended to include those persons who produce honey.

B. SECTION DIRECTORY:

Section 1: Amending s. 14.24, F.S.; removing a provision relating to per diem and travel expenses.

Section 2: Amending s. 20.14, F.S.; removing a reference to the Dairy Industry.

Section 3: Amending s. 215.981, F.S.; exempting certain direct-support and citizen support organizations for the Department of Agriculture and Consumer Services from obtaining an independent audit.

Section 4: Amending s. 253.02, F.S.; providing for the grantee of easements for electrical transmission to pay the lead manager of the state owned lands or, when there is no lead manager, the Department of Environmental Protection if suitable replacement uplands cannot be identified.

Section 5: Amending s. 261.04, F.S.; removing a provision relating to per diem and travel expenses.

Section 6: Amending s. 472.007, F.S.; removing a provision relating to per diem and travel expenses.

Section 7: Amending s. 482.051, F.S.; providing rule changes that allow operators to provide certain emergency notice to the department by facsimile or other electronic means.

Section 8: Amending s. 482.071, F.S.; increasing the minimum bodily injury and property damage insurance coverage required for pest control businesses.

Section 9: Creating s. 482.072, F.S.; providing for licensure by the department of pest control customer contact centers; providing application requirements; and, providing for fees, licensure renewal, penalties, licensure expiration and transfer of licenses.

²³ Grand theft of the third degree and a felony of the third degree, punishable by imprisonment not exceeding 5 years, \$5,000 fine or, for habitual offenders, for a term of imprisonment not exceeding 10 years.

²⁴ Section 823.14(3)(c), F.S.

Section 10: Creating s. 482.157, F.S.; providing for the certification of commercial wildlife trappers; providing certification requirements, examination requirements, and fees; limiting the scope of work permitted by certificate holders; specifying that certificate holders must abide by certain rules; and, specifying that licensees who practice accepted pest control methods are immune from liability for violating laws prohibiting cruelty to animals.

Section 11: Amending s. 482.226, F.S.; increasing the minimum financial responsibility requirements for licensees that perform certain inspections.

Section 12: Amending s. 482.243, F.S.; removing a provision relating to per diem and travel expenses.

Section 13: Amending s. 487.041, F.S.; providing that fees relating to pesticide brands are non-refundable; providing requirements for label revisions of pesticide brands; providing requirements for label revisions that must be reviewed by the U.S. Environmental Protection Agency; and, providing for payments of pesticide registration fees to be submitted electronically by a date certain.

Section 14: Amending s. 487.0615, F.S.; removing a provision relating to per diem and travel expenses.

Section 15: Amending s. 500.70, F.S.; requiring certain persons that produce, harvest, pack, or repack tomatoes to register each location by a date certain; providing for a fee to be set by department rule for registration; and providing for funds collected to be deposited into the General Inspection Trust Fund.

Section 16: Amending s. 527.22, F.S.; removing a provision relating to per diem and travel expenses.

Section 17: Amending s. 559.9221, F.S.; removing a provision relating to per diem and travel expenses.

Section 18: Amending s. 570.07, F.S.; revising the powers and duties of the department regarding pollution control and the prevention of wildfires.

Section 19: Amending s. 570.0705, F.S.; removing a provision relating to per diem and travel expenses.

Section 20: Amending s. 570.074, F.S.; renaming the Office of Water Coordination to the Office of Energy and Water.

Section 21: Amending s. 570.18, F.S.; amending the number of divisions within the department.

Section 22: Amending s. 570.23, F.S.; removing a provision relating to per diem and travel expenses.

Section 23: Amending s. 570.29, F.S.; deleting a reference to the Dairy Industry.

Section 24: Amending s. 570.38, F.S.; removing a provision relating to per diem and travel expenses,

Section 25: Amending s. 570.382, F.S.; removing a provision relating to per diem and travel expenses.

Section 26: Repealing ss. 570.40 and 570.41, F.S.; relating to the powers and duties of the Division of Dairy Industry and the director of the Division of Dairy Industry.

Section 27: Amending s. 570.42, F.S.; removing a provision relating to per diem and travel expenses.

Section 28: Amending s. 570.50, F.S.; amending the powers and duties of the Division of Food Safety to include inspecting dairy farms and enforcing the provisions of Chapter 502, F.S.; authorizing the division to inspect milk plants, milk product plants, and plants engaged in the manufacture and

distribution of frozen desserts and frozen desserts mix; and, authorizing the division to analyze and test samples of milk, milk products, frozen desserts, and frozen desserts mix.

Section 29: Amending s. 570.543, F.S.; removing a provision relating to per diem and travel expenses.

Section 30: Amending s. 570.954, F.S.; removing the requirement that the department coordinate with and solicit the expertise of the state energy office when developing the farm-to-fuel initiative.

Section 31: Amending s. 571.28, F.S.; removing a provision relating to per diem and travel expenses.

Section 32: Amending s. 573.112, F.S.; removing a provision relating to per diem and travel expenses.

Section 33: Amending s. 576.091, F.S.; removing a provision relating to per diem and travel expenses.

Section 34: Amending s. 580.151, F.S.; removing a provision relating to per diem and travel expenses.

Section 35: Amending s. 581.186, F.S.; removing a provision relating to per diem and travel expenses.

Section 36: Amending s. 586.161, F.S.; removing a provision relating to per diem and travel expenses.

Section 37: Amending s. 590.015, F.S.; amending the definition for "fire management services," and providing a definition for "open burning" and "broadcast burning."

Section 38: Amending s. 590.02, F.S.; relating to the Division of Forestry's powers, authority and duties.

Section 39: Amending s. 590.125, F.S.; relating to open burning authorizations by the Division of Forestry.

Section 40: Amending s. 590.14, F.S.; authorizing fines for violations of any of the division's rules; providing penalties for certain violations; and, providing legislative intent.

Section 41: Amending s. 597.005, F.S.; removing a provision relating to per diem and travel expenses.

Section 42: Amending s. 599.002, F.S.; removing a provision relating to per diem and travel expenses.

Section 43: Amending s. 616.252, F.S.; providing for a youth member to serve on the Florida State Fair Authority as a non-voting member; providing a term of one year for a youth member of the Authority; excluding youth members from compensation for special or full-time service performed on behalf of the Authority.

Section 44: Amending s. 812.014, F.S.; providing penalties for the theft of bee colonies of registered beekeepers.

Section 45: Amending s. 812.015, F.S.; amending definitions for "farmer" and "farm theft."

Section 46: Providing an appropriation.

Section 47: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	FY 11-12	FY 12-13	FY 13-14
<u>Pest Control Registration</u>			
Customer Contact Center License*	\$ 6,000	-	\$ 6,000
Limited Certification Wildlife Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	<u>-</u>	<u>7,500</u>	<u>7,500</u>
	<u>\$21,000</u>	<u>\$15,000</u>	<u>\$21,000</u>
 General Inspection Trust Fund Total	 \$21,000	 \$17,500	 \$24,000
 Service Charge to General Revenue 4%	 <u>(\$ 840)</u>	 <u>(\$ 700)</u>	 <u>(\$ 960)</u>
 Net Revenue to General Inspection Trust Fund	 \$20,160	 \$16,800	 \$23,040

*Based on 10 licenses issued per year at \$600 each, renewing biennially.

**Based on 100 exams the first year, 50 the second and third years, at \$150 each.

***Based on 100 renewals at \$75 each.

2. Expenditures:

<u>Pest Control Registration</u>			
Inspections*	\$15,860	\$15,860	\$15,860
License Issuance**	<u>1,097</u>	<u>499</u>	<u>1,595</u>
	<u>\$16,957</u>	<u>\$16,359</u>	<u>\$17,455</u>
 Total Expenditures	 \$16,957	 \$16,509	 \$17,630

*FY 09-10 unit cost per inspection, 20 inspections at \$793.

**FY 09-10 unit cost per license, 110 inspections at \$9.97 the first year, 50 inspections the second year, and 160 inspections the third year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments Section

2. Expenditures:

See Fiscal Comments Section

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons serving on advisory committees for the department and members and former members of the Board of Surveyors and Mappers will be responsible for covering any travel expenses they incur while performing the duties associated with said service.

Pest control businesses that choose to obtain the pest control customer contact center license and individuals choosing to obtain a limited certification for commercial wildlife management personnel will incur fees associated with these licenses. Also, pest control businesses that do not currently have the proposed minimum insurance requirements will need to meet these requirements, resulting in additional costs.

Companies registering pesticides are required to submit their registration fees by means of the electronic commerce site. Some companies may have to adjust the process by which they register to accommodate this change; however, the reduction in postage and paperwork should reduce the overall cost.

While some tomato farms are in compliance, there are a few that may be affected by the requirement to register locations with the department, as well as pay an annual registration fee.

The bill provides civil liability protection to certified pile burners. Persons wishing to obtain an authorization for open burning will no longer be required to obtain two permits. Persons who fail to comply with rules adopted by the department relating to the division may be charged with civil/criminal charges.

D. FISCAL COMMENTS:

According to a 2007 response to a Joint Legislative Sunset Committee request, the department had approximately 50 advisory boards, councils, or committees that incurred travel, staff, and other expenses totaling approximately \$220,000.²⁵

A provision in the bill providing for civil/criminal charges for persons who fail to comply with rules adopted by the department may result in a local government needing to expend funds.

The bill allows the lead managing agency to receive the initial grant of easements. According to the DEP, the compensation for electric transmission easements is not an annual amount. It only occurs when an electric line easement occurs. The easement fee will continue to go into the Internal Improvement Trust Fund. The additional compensation will go to the managing agency. The amount deposited to date for the Division of Forestry is \$744,000. The bill appropriates these nonrecurring funds to the department from the Florida Forever Trust Fund for Fiscal Year 2011-2012 in the Fixed Capital Outlay - Agency Managed – Land Management appropriation category pursuant to s. 259.105(3)(f), F.S.

Other provisions in the bill having an indeterminate fiscal impact include:

- Provisions that require tomato growers to register with the Department of Agriculture and Consumer Services and pay a registration fee of \$500. The estimated number of tomato farms ranges from 75 farms to 120 farms and varies from year to year. Revenue received will be subject to the 4 percent Service Charge to General Revenue.
- Provisions allowing the department to retain monies acquired from the sale of state-owned firefighting equipment and vehicles and to dispose of surplus firefighting equipment and vehicles when, and as, it sees fit.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

²⁵ FY 2006-07

The Department of Agriculture and Consumer Services is given rule-making authority regarding:

- Requirements and procedures for pest control customer contact centers.
- Fees for recertification of limited certification for commercial wildlife management personnel.
- Fees for the tomato food safety registration program.
- Regulating certified pile burning.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill "requires persons who produce, harvest, pack, or repack tomatoes that are not permitted according to s. 500.12, F.S., to register each location annually by August 1 on a form prescribed by the department." However, the term "location" is not defined, thus making it unclear what must be registered.

IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Agriculture and Natural Resources Subcommittee adopted one amendment to PC ANRS 11-01. The amendment specifies that a person holding a limited certificate for commercial trapping of wildlife using nonchemical methods is not exempt from the rules, regulations, or orders of the Fish and Wildlife Conservation Commission.

On April 15, 2011, the Appropriations Committee adopted one amendment to HB 7215. The amendment appropriates \$744,000 in nonrecurring funds to the Department of Agriculture and Consumer Services from the Florida Forever Trust Fund for land management activities.

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 14.24, F.S.; deleting
4 provisions requiring the reimbursement of members of the
5 Florida Commission on the Status of Women for per diem and
6 travel expenses; amending s. 20.14, F.S.; deleting a
7 provision establishing the Division of Dairy within the
8 department; amending s. 215.981, F.S.; exempting certain
9 direct-support organizations and citizen support
10 organizations for the department from obtaining an
11 independent audit; requiring the department to establish
12 accounting and financial management guidelines for such
13 organizations and annually review the operations and
14 finances of a selected number of such organizations;
15 amending s. 253.02, F.S.; providing for the grantee of
16 easements for electrical transmission to pay the lead
17 manager of the state-owned lands or, when there is no lead
18 manager, the Department of Environmental Protection if
19 suitable replacement uplands cannot be identified;
20 amending s. 261.04, F.S.; deleting provisions requiring
21 the reimbursement of members of the Off-Highway Vehicle
22 Recreation Advisory Committee for per diem and travel
23 expenses; amending s. 472.007, F.S.; deleting provisions
24 requiring compensation of members and former members of
25 the Board of Professional Surveyors and Mappers for
26 performing certain duties and reimbursement of members for
27 per diem and travel expenses; amending s. 482.051, F.S.;;
28 providing additional methods for pest control licensees to

29 | give certain emergency notice to the Department of
 30 | Agriculture and Consumer Services before performing
 31 | general fumigation; amending s. 482.071, F.S.; revising
 32 | the minimum bodily injury and property damage insurance
 33 | coverage required for pest control businesses; creating s.
 34 | 482.072, F.S.; providing for licensure by the department
 35 | of pest control customer contact centers; providing
 36 | application requirements; providing for fees, licensure
 37 | renewal, licensure expiration, transfer of licenses, and
 38 | penalties; creating s. 482.157, F.S.; providing for
 39 | limited certification of commercial wildlife trappers;
 40 | providing requirements for certification, examination, and
 41 | fees; limiting the scope of work permitted by
 42 | certificateholders; clarifying that licensees who practice
 43 | accepted pest control methods are immune from liability
 44 | for violating laws prohibiting cruelty to animals;
 45 | providing for applicability; amending s. 482.226, F.S.;
 46 | revising the minimum financial responsibility requirements
 47 | for licensees that perform wood-destroying organism
 48 | inspections; amending s. 482.243, F.S.; deleting
 49 | provisions relating to the reimbursement of members of the
 50 | Pest Control Enforcement Advisory Council for expenses;
 51 | amending s. 487.041, F.S.; providing that registration,
 52 | supplemental, and late fees related to the registration of
 53 | pesticide brands with the department are nonrefundable;
 54 | providing requirements for label revisions of pesticide
 55 | brands; providing requirements for label revisions that
 56 | must be reviewed by the United States Environmental

57 | Protection Agency; requiring payments of pesticide
 58 | registration fees to be submitted electronically by a date
 59 | certain; amending s. 487.0615, F.S.; deleting provisions
 60 | requiring the reimbursement of members of the Pesticide
 61 | Review Council for per diem and travel expenses; amending
 62 | s. 500.70, F.S.; requiring certain persons who produce,
 63 | harvest, pack, or repack tomatoes to register each
 64 | location of a tomato farm, tomato greenhouse, tomato
 65 | packinghouse, or tomato repacker by a specified date;
 66 | authorizing the department to set a registration fee;
 67 | requiring that funds collected be deposited into the
 68 | General Inspection Trust Fund; amending ss. 527.22 and
 69 | 559.9221, F.S.; deleting provisions authorizing the
 70 | reimbursement of members of the Florida Propane Gas
 71 | Education, Safety, and Research Council and the Motor
 72 | Vehicle Repair Advisory Council for per diem and travel
 73 | expenses; amending s. 570.07, F.S.; revising the powers
 74 | and duties of the department relating to pollution control
 75 | and the prevention of wildfires; amending s. 570.0705,
 76 | F.S.; deleting provisions requiring the reimbursement for
 77 | per diem and travel expenses of members of certain ad hoc
 78 | advisory committees appointed by the Commissioner of
 79 | Agriculture; amending s. 570.074, F.S.; renaming the
 80 | Office of Water Coordination and revising its policy
 81 | jurisdiction; amending s. 570.18, F.S., to conform;
 82 | amending s. 570.23, F.S.; deleting provisions requiring
 83 | the reimbursement of members of the State Agricultural
 84 | Advisory Council for per diem and travel expenses;

85 | amending s. 570.29, F.S.; deleting a provision
 86 | establishing the Division of Dairy Industry within the
 87 | department; amending ss. 570.38 and 570.382, F.S.;
 88 | deleting provisions requiring the reimbursement of members
 89 | of the Animal Industry Technical Council and the Arabian
 90 | Horse Council for per diem and travel expenses; repealing
 91 | ss. 570.40 and 570.41, F.S., relating to the powers and
 92 | duties of the Division of Dairy within the department and
 93 | the qualifications and duties of the division's director;
 94 | amending s. 570.42, F.S.; deleting provisions requiring
 95 | the reimbursement of members of the Dairy Industry
 96 | Technical Council for per diem and travel expenses;
 97 | amending s. 570.50, F.S.; requiring the Division of Food
 98 | Safety within the department to inspect certain dairy
 99 | farms and plants, perform certain analyses and tests, and
 100 | enforce certain rules and provisions of law; amending s.
 101 | 570.543, F.S.; deleting provisions requiring the
 102 | reimbursement of members of the Florida Consumers' Council
 103 | for per diem and travel expenses; amending s. 570.954,
 104 | F.S.; removing the requirement that the department
 105 | coordinate with and solicit the expertise of the state
 106 | energy office when developing the farm-to-fuel initiative;
 107 | amending ss. 571.28, 573.112, 576.091, 580.151, 581.186,
 108 | and 586.161, F.S.; deleting provisions requiring the
 109 | reimbursement of members of the Florida Agricultural
 110 | Promotional Campaign Advisory Council, certain ad hoc
 111 | advisory councils appointed to advise the department
 112 | concerning the issuance of marketing orders, the

113 Fertilizer Technical Council, the Commercial Feed
 114 Technical Council, the Endangered Plant Advisory Council,
 115 and the Honeybee Technical Council for per diem and travel
 116 expenses; amending s. 590.015, F.S.; revising and
 117 providing definitions for purposes of forest protection;
 118 amending s. 590.02, F.S.; authorizing forest operations
 119 administrators to be certified as forestry firefighters;
 120 providing the status of Selected Exempt Service to an
 121 aviation manager and the Division of Forestry's training
 122 coordinator; granting the department certain exclusive
 123 authority over the Florida Building Code; authorizing the
 124 department to retain, transfer, warehouse, bid, destroy,
 125 scrap, or dispose of certain surplus equipment and
 126 vehicles; authorizing the department to retain any moneys
 127 received from the disposition of certain state-owned
 128 equipment and vehicles; providing that moneys received may
 129 be used for the acquisition of certain exchange and
 130 surplus equipment and all necessary operating expenditures
 131 related to the equipment; requiring the department to
 132 maintain records of the accounts into which the money is
 133 deposited; granting the department exclusive authority to
 134 require and issue authorizations for broadcast burning,
 135 agricultural pile burning, and silvicultural pile burning;
 136 preempting other governmental entities from adopting laws,
 137 regulations, rules, or policies pertaining to broadcast
 138 burning, agricultural pile burning, or silvicultural pile
 139 burning unless an emergency order has been declared;
 140 authorizing the department to delegate its authority to a

141 | county or municipality to issue authorizations for the
 142 | burning of yard trash and debris from land-clearing
 143 | operations; amending s. 590.125, F.S.; revising and
 144 | providing definitions relating to open burning
 145 | authorizations; specifying purposes of certified
 146 | prescribed burning; requiring the division's authorization
 147 | for certified pile burning; providing pile burning
 148 | requirements; limiting the liability of property owners or
 149 | agents engaged in pile burning; providing for the
 150 | certification of pile burners; providing penalties for
 151 | violations by certified pile burners; requiring the
 152 | division to adopt rules to regulate certified pile
 153 | burning; revising notice requirements for wildfire hazard
 154 | reduction treatments; requiring division approval of local
 155 | government open burning authorization programs; providing
 156 | program requirements; authorizing the division to resume
 157 | administration of a local government's program under
 158 | certain circumstances; providing penalties for violations
 159 | of local government open burning requirements; amending s.
 160 | 590.14, F.S.; authorizing a division employee to issue a
 161 | notice of violation for any division rule; authorizing the
 162 | division to impose an administrative fine for a violation
 163 | of any division rule; providing penalties for certain
 164 | violations; providing legislative intent; amending ss.
 165 | 597.005 and 599.002, F.S.; deleting provisions requiring
 166 | the reimbursement of members of the Aquaculture Review
 167 | Council and the Viticulture Advisory Council for per diem
 168 | and travel expenses; amending s. 616.252, F.S.; providing

169 for the appointment and term of a nonvoting youth member
 170 of the Florida State Fair Authority; deleting provisions
 171 requiring staggered terms; prohibiting the reimbursement
 172 of members of the Florida State Fair Authority for per
 173 diem and travel expenses; excluding the youth member from
 174 compensation for special or full-time service performed on
 175 behalf of the authority; amending s. 812.014, F.S.;
 176 providing penalties for the theft of bee colonies of
 177 registered beekeepers; amending s. 812.015, F.S.;
 178 redefining the term "farmer" to include a person who grows
 179 or produces honey; redefining the term "farm theft" to
 180 include the unlawful taking possession of equipment and
 181 associated materials used to grow or produce certain farm
 182 products; providing an appropriation; providing an
 183 effective date.

184
 185 Be It Enacted by the Legislature of the State of Florida:

186
 187 Section 1. Subsection (3) of section 14.24, Florida
 188 Statutes, is amended to read:

189 14.24 Florida Commission on the Status of Women.—
 190 (3) Members of the commission shall serve without
 191 compensation, ~~but shall be reimbursed for per diem and travel~~
 192 ~~expenses in accordance with s. 112.061.~~

193 Section 2. Paragraphs (g) through (m) of subsection (2) of
 194 section 20.14, Florida Statutes, are redesignated as paragraphs
 195 (f) through (l), respectively, and present paragraph (f) of that
 196 subsection is amended to read:

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197 20.14 Department of Agriculture and Consumer Services.—
 198 There is created a Department of Agriculture and Consumer
 199 Services.

200 (2) The following divisions of the Department of
 201 Agriculture and Consumer Services are established:

202 ~~(f) Dairy Industry.~~

203 Section 3. Subsection (2) of section 215.981, Florida
 204 Statutes, is amended to read:

205 215.981 Audits of state agency direct-support
 206 organizations and citizen support organizations.—

207 (2) Notwithstanding ~~the provisions of~~ subsection (1),
 208 direct-support organizations and citizen support organizations
 209 for the Department of Environmental Protection or direct-support
 210 organizations and citizen support organizations for the
 211 Department of Agriculture and Consumer Services that are not for
 212 profit and that have annual expenditures of less than \$300,000
 213 are not required to have an independent audit. The respective
 214 department shall establish accounting and financial management
 215 guidelines for those organizations under its ~~the department's~~
 216 jurisdiction. Each year, the respective department shall conduct
 217 operational and financial reviews of a selected number of
 218 direct-support organizations or citizen support organizations
 219 that ~~which~~ fall below the audit threshold established in this
 220 subsection.

221 Section 4. Paragraph (b) of subsection (2) of section
 222 253.02, Florida Statutes, is amended to read:

223 253.02 Board of trustees; powers and duties.—

224 (2)

225 (b) The authority of the board of trustees to grant
 226 easements for rights-of-way over, across, and upon uplands the
 227 title to which is vested in the board of trustees for the
 228 construction and operation of electric transmission and
 229 distribution facilities and related appurtenances is hereby
 230 confirmed. The board of trustees may delegate to the Secretary
 231 of Environmental Protection the authority to grant such
 232 easements on its behalf. All easements for rights-of-way over,
 233 across, and upon uplands the title to which is vested in the
 234 board of trustees for the construction and operation of electric
 235 transmission and distribution facilities and related
 236 appurtenances which are approved by the Secretary of
 237 Environmental Protection pursuant to the authority delegated by
 238 the board of trustees shall meet the following criteria:

239 1. Such easements shall not prevent the use of the state-
 240 owned uplands adjacent to the easement area for the purposes for
 241 which such lands were acquired and shall not unreasonably
 242 diminish the ecological, conservation, or recreational values of
 243 the state-owned uplands adjacent to the easement area.

244 2. There is no practical and prudent alternative to
 245 locating the linear facility and related appurtenances on state-
 246 owned upland. For purposes of this subparagraph, the test of
 247 practicality and prudence shall compare the social, economic,
 248 and environmental effects of the alternatives.

249 3. Appropriate steps are taken to minimize the impacts to
 250 state-owned uplands. Such steps may include:

251 a. Siting of facilities so as to reduce impacts and
 252 minimize fragmentation of the overall state-owned parcel;

253 b. Avoiding significant wildlife habitat, wetlands, or
 254 other valuable natural resources to the maximum extent
 255 practicable; or

256 c. Avoiding interference with active land management
 257 practices, such as prescribed burning.

258 4. Except for easements granted as a part of a land
 259 exchange to accomplish a recreational or conservation benefit or
 260 other public purpose, in exchange for such easements, the
 261 grantee pays an amount equal to the market value of the interest
 262 acquired. In addition, for the initial grant of such easements
 263 only, the grantee shall provide additional compensation by
 264 vesting in the board of trustees fee simple title to other
 265 available uplands that are 1.5 times the size of the easement
 266 acquired by the grantee. The Secretary of Environmental
 267 Protection shall approve the property to be acquired on behalf
 268 of the board of trustees based on the geographic location in
 269 relation to the land proposed to be under easement and a
 270 determination that economic, ecological, and recreational value
 271 is at least equivalent to the value of the lands under proposed
 272 easement. Priority for replacement uplands shall be given to
 273 parcels identified as inholdings and additions to public lands
 274 and lands on a Florida Forever land acquisition list. However,
 275 if suitable replacement uplands cannot be identified, the
 276 grantee shall provide additional compensation for the initial
 277 grant of such easements only by paying to the lead manager of
 278 the state-owned lands or, when there is no lead manager, by
 279 paying to the department an amount equal to two times the
 280 current market value of the state-owned land or the highest and

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281 best use value at the time of purchase, whichever is greater.
 282 When determining such use of funds, priority shall be given to
 283 parcels identified as inholdings and additions to public lands
 284 and lands on a Florida Forever land acquisition list.

285 Section 5. Subsection (5) of section 261.04, Florida
 286 Statutes, is amended to read:

287 261.04 Off-Highway Vehicle Recreation Advisory Committee;
 288 members; appointment.--

289 (5) The members of the advisory committee shall serve
 290 without compensation, ~~but shall be reimbursed for travel and per~~
 291 ~~diem expenses as provided in s. 112.061,~~ while in the
 292 performance of their official duties.

293 Section 6. Subsections (6) and (7) of section 472.007,
 294 Florida Statutes, are renumbered as subsections (5) and (6),
 295 respectively, and present subsection (5) of that section is
 296 amended to read:

297 472.007 Board of Professional Surveyors and Mappers.--There
 298 is created in the Department of Agriculture and Consumer
 299 Services the Board of Professional Surveyors and Mappers.

300 ~~(5) Unless otherwise provided by law, a board member or~~
 301 ~~former board member serving on a probable cause panel must be~~
 302 ~~compensated \$50 for each day in attendance at an official~~
 303 ~~meeting of the board and for each day participating in any other~~
 304 ~~business involving the board. The board shall adopt a rule~~
 305 ~~defining the phrase "other business involving the board."~~
 306 ~~However, the phrase may not routinely be defined to include~~
 307 ~~telephone conference calls. A board member is also entitled to~~
 308 ~~reimbursement for expenses pursuant to s. 112.061. Travel out of~~

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309 ~~state requires the prior approval of the commissioner or the~~
 310 ~~commissioner's designee.~~

311 Section 7. Subsection (4) of section 482.051, Florida
 312 Statutes, is amended to read:

313 482.051 Rules.—The department has authority to adopt rules
 314 pursuant to ss. 120.536(1) and 120.54 to implement the
 315 provisions of this chapter. Prior to proposing the adoption of a
 316 rule, the department shall counsel with members of the pest
 317 control industry concerning the proposed rule. The department
 318 shall adopt rules for the protection of the health, safety, and
 319 welfare of pest control employees and the general public which
 320 require:

321 (4) That a licensee, before performing general fumigation,
 322 notify in writing the department inspector having jurisdiction
 323 over the location where the fumigation is to be performed, which
 324 notice must be received by the department inspector at least 24
 325 hours before ~~in advance of~~ the fumigation and must contain such
 326 information as the department requires. However, in an authentic
 327 and verifiable emergency, when 24 hours' advance notice
 328 ~~notification~~ is not possible, advance notice may be given by
 329 telephone, facsimile, or any form of acceptable electronic
 330 communication, ~~telegraph notice may be given;~~ but such notice
 331 must be immediately followed by written confirmation providing
 332 the required information.

333 Section 8. Subsection (4) of section 482.071, Florida
 334 Statutes, is amended to read:

335 482.071 Licenses.—

336 (4) A licensee may not operate a pest control business

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337 without carrying the required insurance coverage. Each person
 338 making application for a pest control business license or
 339 renewal thereof must furnish to the department a certificate of
 340 insurance that meets the requirements for minimum financial
 341 responsibility for bodily injury and property damage consisting
 342 of:

343 (a) Bodily injury: \$250,000 per ~~\$100,000~~ each person and
 344 \$500,000 per ~~\$300,000~~ each occurrence; and property damage:
 345 \$250,000 per ~~\$50,000~~ each occurrence and \$500,000 ~~\$100,000~~ in
 346 the aggregate; or

347 (b) Combined single-limit coverage: \$500,000 ~~\$400,000~~ in
 348 the aggregate.

349 Section 9. Section 482.072, Florida Statutes, is created
 350 to read:

351 482.072 Pest control customer contact centers.-

352 (1) The department may issue a license to a qualified
 353 business to operate a customer contact center, to solicit pest
 354 control business, or to provide services to customers for one or
 355 more business locations licensed under s. 482.071. A person may
 356 not operate a customer contact center for a pest control
 357 business that is not licensed by the department.

358 (2)(a) Before operating a customer contact center, and
 359 biennially thereafter, on or before an anniversary date set by
 360 the department for a licensed customer contact center location,
 361 the pest control business must apply to the department for a
 362 license under this chapter, or a renewal thereof, for each
 363 customer contact center location. An application must be
 364 submitted in the format prescribed by the department.

365 (b) The department shall establish a fee of at least \$600,
 366 but not more than \$1,000, for the issuance of a customer contact
 367 center license and a fee of at least \$600, but not more than
 368 \$1,000, for renewal of a customer contact center license.
 369 However, until rules for renewal fees are adopted, the initial
 370 licensing fee and renewal fee are each \$600. The department
 371 shall establish a grace period, not to exceed 30 calendar days
 372 after the license's anniversary renewal date, and shall assess a
 373 late fee of \$150, in addition to the renewal fee, for a license
 374 that is renewed after the grace period.

375 (c) A license automatically expires 60 calendar days after
 376 the anniversary renewal date unless the license is renewed
 377 before that date. When a license expires, it may be reinstated
 378 only upon reapplication and payment of the license renewal fee
 379 and a late renewal fee.

380 (d) A license automatically expires if a licensee changes
 381 the business address of its customer contact center location.
 382 The department shall issue a new license upon payment of a \$250
 383 fee. The new license automatically expires 60 calendar days
 384 after the anniversary renewal date of the former license unless
 385 the license is renewed before that date.

386 (e) The department may not issue or renew a license to
 387 operate a customer contact center unless the pest control
 388 business licensees for which the customer contact center
 389 solicits business are owned in common by a person or business
 390 entity recognized by this state.

391 (f) The department may deny a license or refuse to renew a
 392 license if the applicant or licensee, or one or more of the

393 applicant's or licensee's directors, officers, owners, or
 394 general partners, are or have been directors, officers, owners,
 395 or general partners of a pest control business that meets the
 396 conditions in s. 482.071(2)(g).

397 (g) Sections 482.091 and 482.152 do not apply to a person
 398 who solicits pest control services or provides customer service
 399 in a licensed customer contact center unless the person performs
 400 pest control as defined in s. 482.021(22)(a)-(d), executes a
 401 pest control contract, or accepts remuneration for such work.

402 (h) Section 482.071(2)(e) does not apply to a license
 403 issued under this section.

404 (3)(a) The department shall adopt rules establishing
 405 requirements and procedures for customer contact center
 406 recordkeeping and monitoring to ensure compliance with this
 407 section and rules adopted in accordance with this section.

408 (b) Notwithstanding any other provision of this section:

409 1. A customer contact center licensee is subject to
 410 disciplinary action under s. 482.161 for a violation of this
 411 section or a rule adopted under this section committed by a
 412 person who solicits pest control services or provides customer
 413 service in a customer contact center.

414 2. A pest control business licensee may be subject to
 415 disciplinary action under s. 482.161 for a violation of this
 416 section or a rule adopted under this section committed by a
 417 person who solicits pest control services or provides customer
 418 service in a customer contact center operated by a licensee if
 419 the licensee participates in the violation.

420 Section 10. Section 482.157, Florida Statutes, is created

421 to read:

422 482.157 Limited certification for commercial wildlife
 423 management personnel.—

424 (1) The department shall establish a limited certificate
 425 that authorizes a person who engages in the commercial trapping
 426 of wildlife to use nonchemical methods, including traps, glue
 427 boards, mechanical or electronic devices, and exclusionary
 428 techniques to control rodents as defined in s. 482.021(24).

429 (2) The department shall issue a limited certificate to an
 430 applicant who:

431 (a) Submits an application and examination fee of at least
 432 \$150, but not more than \$300, as prescribed by the department by
 433 rule;

434 (b) Passes an examination administered by the department.
 435 The department shall provide the appropriate study materials for
 436 the examination and make the examination readily available to
 437 applicants in each county as necessary, but not less frequently
 438 than quarterly; and

439 (c) Provides proof, including a certificate of insurance,
 440 that the applicant has met the minimum bodily injury and
 441 property damage insurance requirements in s. 482.071(4).

442 (3) An application for recertification must be made
 443 annually and be accompanied by a recertification fee of at least
 444 \$75, but not more than \$150, as prescribed by the department by
 445 rule. The application must also be accompanied by proof of
 446 completion of the required 4 classroom hours of acceptable
 447 continuing education and the required proof of insurance. After
 448 a grace period not exceeding 30 calendar days after the

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449 recertification renewal date, the department shall assess a late
 450 fee of \$50 in addition to the renewal fee. A certificate
 451 automatically expires 180 days after the recertification date if
 452 the renewal fee has not been paid. After expiration, the
 453 department shall issue a new certificate only if the applicant
 454 successfully passes a reexamination and pays the examination fee
 455 and late fee.

456 (4) Certification under this section does not authorize:

457 (a) The use of pesticides or chemical substances, other
 458 than adhesive materials, to control rodents or other nuisance
 459 wildlife in, on, or under structures;

460 (b) Operation of a pest control business; or

461 (c) Supervision of an uncertified person using nonchemical
 462 methods to control rodents.

463 (5) A person who is licensed under this chapter and
 464 practices accepted methods of pest control is immune from
 465 liability under s. 828.12.

466 (6) This chapter does not exempt a person from the rules,
 467 regulations, or orders of the Fish and Wildlife Conservation
 468 Commission.

469 Section 11. Subsection (6) of section 482.226, Florida
 470 Statutes, is amended to read:

471 482.226 Wood-destroying organism inspection report; notice
 472 of inspection or treatment; financial responsibility.—

473 (6) Any licensee that performs wood-destroying organism
 474 inspections in accordance with subsection (1) must meet minimum
 475 financial responsibility in the form of errors and omissions
 476 (professional liability) insurance coverage or bond in an amount

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477 no less than \$500,000 ~~\$50,000~~ in the aggregate and \$250,000
 478 ~~\$25,000~~ per occurrence, or demonstrate that the licensee has
 479 equity or net worth of no less than \$500,000 ~~\$100,000~~ as
 480 determined by generally accepted accounting principles
 481 substantiated by a certified public accountant's review or
 482 certified audit. The licensee must show proof of meeting this
 483 requirement at the time of license application or renewal
 484 thereof.

485 Section 12. Subsection (6) of section 482.243, Florida
 486 Statutes, is amended to read:

487 482.243 Pest Control Enforcement Advisory Council.—

488 (6) The meetings, powers and duties, procedures, and
 489 ~~recordkeeping, and reimbursement of expenses of members~~ of the
 490 council shall be in accordance with the provisions of s.
 491 570.0705 relating to advisory committees established within the
 492 department.

493 Section 13. Paragraph (a) of subsection (1) of section
 494 487.041, Florida Statutes, is amended, and paragraphs (h), (i),
 495 and (j) are added to that subsection, to read:

496 487.041 Registration.—

497 (1)(a) Effective January 1, 2009, each brand of pesticide,
 498 as defined in s. 487.021, which is distributed, sold, or offered
 499 for sale, except as provided in this section, within this state
 500 or delivered for transportation or transported in intrastate
 501 commerce or between points within this state through any point
 502 outside this state must be registered in the office of the
 503 department, and such registration shall be renewed biennially.
 504 Emergency exemptions from registration may be authorized in

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505 accordance with the rules of the department. The registrant
 506 shall file with the department a statement including:

507 1. The name, business mailing address, and street address
 508 of the registrant.

509 2. The name of the brand of pesticide.

510 3. An ingredient statement and a complete current copy of
 511 the labeling accompanying the brand of ~~the~~ pesticide, which must
 512 conform to the registration, and a statement of all claims to be
 513 made for it, including directions for use and a guaranteed
 514 analysis showing the names and percentages by weight of each
 515 active ingredient, the total percentage of inert ingredients,
 516 and the names and percentages by weight of each "added
 517 ingredient."

518 (h) All registration fees, including supplemental fees and
 519 late fees, are nonrefundable.

520 (i) For any currently registered pesticide product brand
 521 that undergoes labeling revisions during the registration
 522 period, the registrant shall submit to the department a copy of
 523 the revised labeling along with a cover letter detailing such
 524 revisions before the sale or distribution in this state of the
 525 product brand with the revised labeling. If the labeling
 526 revisions require notification of an amendment review by the
 527 United States Environmental Protection Agency, the registrant
 528 shall submit an additional copy of the labeling marked to
 529 identify those revisions.

530 (j) Effective January 1, 2013, all payments of any
 531 pesticide registration fees, including supplemental fees and
 532 late fees, shall be submitted electronically using the

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533 department's Internet website for registration of pesticide
 534 product brands.

535 Section 14. Subsection (5) of section 487.0615, Florida
 536 Statutes, is amended to read:

537 487.0615 Pesticide Review Council.—

538 (5) Members of the council shall receive no compensation
 539 for their services, ~~but are entitled to be reimbursed for per~~
 540 ~~diem and travel expenses as provided in s. 112.061.~~

541 Section 15. Subsection (6) of section 500.70, Florida
 542 Statutes, is renumbered as subsection (7), and a new subsection
 543 (6) is added to that section to read:

544 500.70 Tomato food safety standards; inspections;
 545 penalties; tomato good agricultural practices; tomato best
 546 management practices.—

547 (6) Any person who produces, harvests, packs, or repacks
 548 tomatoes in this state and does not hold a food permit issued
 549 under s. 500.12 shall annually register each location of a
 550 tomato farm, tomato greenhouse, tomato packinghouse, or tomato
 551 repacker by August 1 on a form prescribed by the department. Any
 552 person who produces, harvests, packs, or repacks tomatoes at
 553 more than one location may submit one registration for all such
 554 locations but must provide the physical address of each
 555 location. The department may set by rule an annual registration
 556 fee not to exceed \$500. Moneys collected pursuant to this
 557 subsection shall be deposited into the General Inspection Trust
 558 Fund.

559 Section 16. Subsection (5) of section 527.22, Florida
 560 Statutes, is amended to read:

561 527.22 Florida Propane Gas Education, Safety, and Research
 562 Council established; membership; duties and responsibilities.—

563 (5) Council members shall receive no compensation or
 564 honorarium for their services, ~~and are authorized to receive~~
 565 ~~only per diem and reimbursement for travel expenses as provided~~
 566 ~~in s. 112.061.~~

567 Section 17. Subsection (3) of section 559.9221, Florida
 568 Statutes, is amended to read:

569 559.9221 Motor Vehicle Repair Advisory Council.—The Motor
 570 Vehicle Repair Advisory Council is created to advise and assist
 571 the department in carrying out this part.

572 (3) The members of the council shall receive no
 573 compensation for their services, ~~except that they may receive~~
 574 ~~per diem and travel expenses as provided in s. 112.061.~~

575 Section 18. Subsection (28) of section 570.07, Florida
 576 Statutes, is amended to read:

577 570.07 Department of Agriculture and Consumer Services;
 578 functions, powers, and duties.—The department shall have and
 579 exercise the following functions, powers, and duties:

580 (28) For purposes of pollution control and the prevention
 581 of wildfires ~~purposes~~, to regulate open burning connected with
 582 ~~rural~~ land-clearing, agricultural, or forestry operations,
 583 ~~except fires for cold or frost protection.~~

584 Section 19. Subsection (9) of section 570.0705, Florida
 585 Statutes, is amended to read:

586 570.0705 Advisory committees.—From time to time the
 587 commissioner may appoint any advisory committee to assist the
 588 department with its duties and responsibilities.

589 (9) Members of each advisory committee shall receive no
 590 compensation for their services, ~~but shall be entitled to~~
 591 ~~reimbursement for per diem and travel expenses as provided in s.~~
 592 ~~112.061.~~

593 Section 20. Section 570.074, Florida Statutes, is amended
 594 to read:

595 570.074 Department of Agriculture and Consumer Services;
 596 energy and water policy coordination.—The commissioner may
 597 create an Office of Energy and Water Coordination under the
 598 supervision of a senior manager exempt under s. 110.205 in the
 599 Senior Management Service. The commissioner may designate the
 600 bureaus and positions in the various organizational divisions of
 601 the department that report to this office relating to any matter
 602 over which the department has jurisdiction in matters relating
 603 to energy and water policy affecting agriculture, application of
 604 such policies, and coordination of such matters with state and
 605 federal agencies.

606 Section 21. Section 570.18, Florida Statutes, is amended
 607 to read:

608 570.18 Organization of departmental work.—In the
 609 assignment of functions to the ~~12~~ divisions of the department
 610 created in s. 570.29, the department shall retain within the
 611 Division of Administration, in addition to executive functions,
 612 those powers and duties enumerated in s. 570.30. The department
 613 shall organize the work of the other ~~11~~ divisions in such a way
 614 as to secure maximum efficiency in the conduct of the
 615 department. The divisions created in s. 570.29 are solely to
 616 make possible the definite placing of responsibility. The

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617 department shall be conducted as a unit in which every employee,
 618 including each division director, is assigned a definite
 619 workload, and there shall exist between division directors a
 620 spirit of cooperative effort to accomplish the work of the
 621 department.

622 Section 22. Subsection (2) of section 570.23, Florida
 623 Statutes, is amended to read:

624 570.23 State Agricultural Advisory Council.—

625 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+
 626 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 627 recordkeeping of the State Agricultural Advisory Council, ~~and~~
 628 ~~per diem and reimbursement of expenses of council members,~~ shall
 629 be governed by the provisions of s. 570.0705 relating to
 630 advisory committees established within the department.

631 Section 23. Subsections (7) through (12) of section
 632 570.29, Florida Statutes, are renumbered as subsections (6)
 633 through (11), respectively, and present subsection (6) is
 634 amended to read:

635 570.29 Departmental divisions.—The department shall
 636 include the following divisions:

637 ~~(6) Dairy Industry.~~

638 Section 24. Subsection (2) of section 570.38, Florida
 639 Statutes, is amended to read:

640 570.38 Animal Industry Technical Council.—

641 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+
 642 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 643 recordkeeping of the Animal Industry Technical Council, ~~and per~~
 644 ~~diem and reimbursement of expenses of council members,~~ shall be

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645 governed by the provisions of s. 570.0705 relating to advisory
646 committees established within the department.

647 Section 25. Paragraph (d) of subsection (3) of section
648 570.382, Florida Statutes, is amended to read:

649 570.382 Arabian horse racing; breeders' and stallion
650 awards; Arabian Horse Council; horse registration fees; Florida
651 Arabian Horse Racing Promotion Account.—

652 (3) ARABIAN HORSE COUNCIL.—

653 (d) Members of the council shall receive no compensation
654 for their services, ~~except that they shall receive per diem and~~
655 ~~travel expenses as provided in s. 112.061 when actually engaged~~
656 ~~in the business of the council.~~

657 Section 26. Sections 570.40 and 570.41, Florida Statutes,
658 are repealed.

659 Section 27. Subsection (2) of section 570.42, Florida
660 Statutes, is amended to read:

661 570.42 Dairy Industry Technical Council.—

662 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+
663 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
664 recordkeeping of the Dairy Industry Technical Council, ~~and per~~
665 ~~diem and reimbursement of expenses of council members,~~ shall be
666 governed by the provisions of s. 570.0705 relating to advisory
667 committees established within the department.

668 Section 28. Subsections (6) and (7) are added to section
669 570.50, Florida Statutes, to read:

670 570.50 Division of Food Safety; powers and duties.—The
671 duties of the Division of Food Safety include, but are not
672 limited to:

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673 (6) Inspecting dairy farms of the state, enforcing those
 674 provisions of chapter 502 that are authorized by the department
 675 and related to the supervision of milking operations, and
 676 enforcing rules adopted under such provisions.

677 (7) Inspecting milk plants, milk product plants, and
 678 plants engaged in the manufacture and distribution of frozen
 679 desserts and frozen dessert mixes; analyzing and testing samples
 680 of milk, milk products, frozen desserts, and frozen dessert
 681 mixes collected by the division; and enforcing those provisions
 682 of chapters 502 and 503 that are authorized by the department.

683 Section 29. Subsection (2) of section 570.543, Florida
 684 Statutes, is amended to read:

685 570.543 Florida Consumers' Council.—The Florida Consumers'
 686 Council in the department is created to advise and assist the
 687 department in carrying out its duties.

688 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS+
 689 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 690 recordkeeping of the Florida Consumers' Council, ~~and per diem~~
 691 ~~and reimbursement of expenses of council members,~~ shall be
 692 governed by the provisions of s. 570.0705 relating to advisory
 693 committees established within the department. The council
 694 members or chair may call no more than two meetings.

695 Section 30. Subsection (3) of section 570.954, Florida
 696 Statutes, is amended to read:

697 570.954 Farm-to-fuel initiative.—

698 ~~(3) The department shall coordinate with and solicit the~~
 699 ~~expertise of the state energy office within the Department of~~
 700 ~~Environmental Protection when developing and implementing this~~

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701 ~~initiative.~~

702 Section 31. Subsection (2) of section 571.28, Florida
703 Statutes, is amended to read:

704 571.28 Florida Agricultural Promotional Campaign Advisory
705 Council.—

706 (2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS;
707 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
708 recordkeeping of the Florida Agricultural Promotional Campaign
709 Advisory Council, ~~and per diem and reimbursement of expenses of~~
710 ~~council members,~~ shall be governed by the provisions of s.
711 570.0705 relating to advisory committees established within the
712 department.

713 Section 32. Subsection (6) of section 573.112, Florida
714 Statutes, is amended to read:

715 573.112 Advisory council.—

716 (6) No member or alternate member of the council shall
717 receive a salary, ~~but shall be reimbursed for travel expenses~~
718 ~~while on council business as provided in s. 112.061.~~ The
719 department may employ necessary personnel, including
720 professional and technical services personnel, and fix their
721 compensation and terms of employment and may incur expenses to
722 be paid from moneys collected as herein provided.

723 Section 33. Subsection (3) of section 576.091, Florida
724 Statutes, is amended to read:

725 576.091 Fertilizer Technical Council.—

726 (3) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS;
727 ~~REIMBURSEMENTS.~~—The meetings, powers and duties, procedures, and
728 ~~recordkeeping, and reimbursement of expenses of members and~~

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729 ~~alternate members~~ of the council shall be in accordance with the
 730 provisions of s. 570.0705 relating to advisory committees
 731 established within the department.

732 Section 34. Subsection (2) of section 580.151, Florida
 733 Statutes, is amended to read:

734 580.151 Commercial Feed Technical Council.—

735 (2) POWERS AND DUTIES; PROCEDURES; RECORDS; ~~COMPENSATION.~~—

736 The meetings, powers and duties, procedures, and recordkeeping
 737 of the Commercial Feed Technical Council, ~~and per diem and~~
 738 ~~reimbursement of expenses of council members,~~ shall be governed
 739 by the provisions of s. 570.0705 relating to advisory committees
 740 established within the department.

741 Section 35. Subsection (2) of section 581.186, Florida
 742 Statutes, is amended to read:

743 581.186 Endangered Plant Advisory Council; organization;
 744 meetings; powers and duties.—

745 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS; ~~+~~

746 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 747 recordkeeping of the Endangered Plant Advisory Council, ~~and per~~
 748 ~~diem and reimbursement of expenses of council members,~~ shall be
 749 governed by the provisions of s. 570.0705 relating to advisory
 750 committees established within the department.

751 Section 36. Subsection (3) of section 586.161, Florida
 752 Statutes, is amended to read:

753 586.161 Honeybee Technical Council.—

754 (3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS; ~~+~~

755 ~~COMPENSATION.~~—The meetings, powers and duties, procedures, and
 756 recordkeeping of the Honeybee Technical Council, ~~and per diem~~

757 ~~and reimbursement of expenses of council members,~~ shall be
 758 governed by the provisions of s. 570.0705 relating to advisory
 759 committees established within the department.

760 Section 37. Section 590.015, Florida Statutes, is amended
 761 to read:

762 590.015 Definitions.—As used in this chapter, the term:

763 (1) "Broadcast burning" means the burning of agricultural
 764 or natural vegetation by allowing fire to move across a
 765 predetermined area of land. The term does not include the
 766 burning of vegetative debris that is piled or stacked.

767 (2)~~(1)~~ "Division" means the Division of Forestry of the
 768 Department of Agriculture and Consumer Services.

769 (3)~~(2)~~ "Fire management services" means presuppression
 770 fireline plowing, prescribed burning assistance, contract
 771 prescribed burning, prescribed and wildfire management training,
 772 and other activities associated with prevention, detection, and
 773 suppression of wildfires.

774 (4)~~(3)~~ "Fuel reduction" means the application of
 775 techniques that reduce vegetative fuels, and may include
 776 prescribed burning, manual and mechanical clearing, and the use
 777 of herbicides.

778 (5) "Open burning" means any outdoor fire or open
 779 combustion of material that produces visible emissions.

780 (6)~~(4)~~ "Wildfire" means any vegetative fire that threatens
 781 to destroy life, property, or natural resources.

782 (7)~~(5)~~ "Wild land" means any public or private managed or
 783 unmanaged forest, urban/interface, pasture or range land,
 784 recreation lands, or any other land at risk of wildfire.

785 Section 38. Paragraph (d) of subsection (1) and subsection
 786 (4) of section 590.02, Florida Statutes, are amended, and
 787 subsections (9) and (10) are added to that section, to read:

788 590.02 Division powers, authority, and duties; liability;
 789 building structures; Florida Center for Wildfire and Forest
 790 Resources Management Training.—

791 (1) The division has the following powers, authority, and
 792 duties:

793 (d) To appoint center managers, forest area supervisors,
 794 forestry program administrators, a forest protection bureau
 795 chief, a forest protection assistant bureau chief, a field
 796 operations bureau chief, deputy chiefs of field operations,
 797 district managers, forest operations administrators, senior
 798 forest rangers, investigators, forest rangers, firefighter
 799 rotorcraft pilots, and other employees who may, at the
 800 division's discretion, be certified as forestry firefighters
 801 pursuant to s. 633.35(4). Other provisions of law
 802 notwithstanding, center managers, district managers, forest
 803 protection assistant bureau chief, aviation manager, the
 804 division's training coordinator, and deputy chiefs of field
 805 operations shall have Selected Exempt Service status in the
 806 state personnel designation;

807 (4) (a) The department may build structures,
 808 notwithstanding chapters 216 and 255, not to exceed a cost of
 809 \$50,000 per structure from existing resources on forest lands,
 810 federal excess property, and unneeded existing structures. These
 811 structures must meet all applicable building codes.

812 (b) Notwithstanding s. 553.80(1), the department shall

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813 exclusively enforce the Florida Building Code as it pertains to
 814 wildfire and law enforcement facilities under the jurisdiction
 815 of the department.

816 (9) (a) Notwithstanding ss. 273.055 and 287.16, the
 817 department may retain, transfer, warehouse, bid, destroy, scrap,
 818 or otherwise dispose of surplus equipment and vehicles that are
 819 used for wildland firefighting.

820 (b) All money received from the disposition of state-owned
 821 equipment and vehicles that are used for wildland firefighting
 822 shall be retained by the department. Money received pursuant to
 823 this section is appropriated for and may be disbursed for the
 824 acquisition of exchange and surplus equipment used for wildland
 825 firefighting, and for all necessary operating expenditures
 826 related to such equipment, in the same fiscal year and the
 827 fiscal year following the disposition. The department shall
 828 maintain records of the accounts into which the money is
 829 deposited.

830 (10) (a) The division has exclusive authority to require
 831 and issue authorizations for broadcast burning and agricultural
 832 and silvicultural pile burning. An agency, commission,
 833 department, county, municipality, or other political subdivision
 834 of the state may not adopt laws, regulations, rules, or policies
 835 pertaining to broadcast burning or agricultural and
 836 silvicultural pile burning unless an emergency order is declared
 837 in accordance with s. 252.38(3).

838 (b) The division may delegate to a county or municipality
 839 its authority, as delegated by the Department of Environmental
 840 Protection pursuant to ss. 403.061(28) and 403.081, to require

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841 and issue authorizations for the burning of yard trash and
 842 debris from land clearing operations in accordance with s.
 843 590.125(6).

844 Section 39. Section 590.125, Florida Statutes, is amended
 845 to read:

846 590.125 Open burning authorized by the division.-

847 (1) DEFINITIONS.-As used in this section, the term:

848 (a) "Certified pile burner" means an individual who
 849 successfully completes the division's pile burning certification
 850 program and possesses a valid pile burner certification number.

851 ~~"Prescribed burning" means the controlled application of fire in~~
 852 ~~accordance with a written prescription for vegetative fuels~~
 853 ~~under specified environmental conditions while following~~
 854 ~~appropriate precautionary measures that ensure that the fire is~~
 855 ~~confined to a predetermined area to accomplish the planned fire~~
 856 ~~or land management objectives.~~

857 (b) "Certified prescribed burn manager" means an
 858 individual who successfully completes the certified prescribed
 859 burning certification program of the division and possesses a
 860 valid certification number.

861 ~~(c)~~ ~~(d)~~ "Extinguished" means that ~~no spreading flame for:~~

862 1. Wildland ~~Wild land~~ burning or certified prescribed
 863 burning, and no spreading flames ~~visible flame, smoke, or~~
 864 ~~emissions for vegetative land-clearing debris burning,~~ exist.

865 2. Vegetative land-clearing debris burning or pile
 866 burning, no visible flames exist.

867 3. Vegetative land-clearing debris burning or pile burning
 868 in an area designated as smoke sensitive by the division, no

869 visible flames, smoke, or emissions exist.

870 (d) "Land-clearing operation" means the uprooting or
 871 clearing of vegetation in connection with the construction of
 872 buildings and rights-of-way, land development, and mineral
 873 operations. The term does not include the clearing of yard
 874 trash.

875 (e) "Pile burning" means the burning of silvicultural,
 876 agricultural, or land-clearing and tree-cutting debris
 877 originating onsite, which is stacked together in a round or
 878 linear fashion, including, but not limited to, a windrow.

879 (f) "Prescribed burning" means the controlled application
 880 of fire by broadcast burning in accordance with a written
 881 prescription for vegetative fuels under specified environmental
 882 conditions, while following appropriate precautionary measures
 883 that ensure that the fire is confined to a predetermined area to
 884 accomplish the planned fire or land-management objectives.

885 (g)~~(e)~~ "Prescription" means a written plan establishing
 886 the criteria necessary for starting, controlling, and
 887 extinguishing a prescribed burn.

888 (h) "Yard trash" means vegetative matter resulting from
 889 landscaping and yard maintenance operations and other such
 890 routine property cleanup activities. The term includes materials
 891 such as leaves, shrub trimmings, grass clippings, brush, and
 892 palm fronds.

893 (2) NONCERTIFIED BURNING.—

894 (a) Persons may be authorized to burn wild land or
 895 vegetative land-clearing debris in accordance with this
 896 subsection if:

- 897 1. There is specific consent of the landowner or his or
 898 her designee;
- 899 2. Authorization has been obtained from the division or
 900 its designated agent before starting the burn;
- 901 3. There are adequate firebreaks at the burn site and
 902 sufficient personnel and firefighting equipment for the control
 903 of the fire;
- 904 4. The fire remains within the boundary of the authorized
 905 area;
- 906 5. An authorized person ~~Someone~~ is present at the burn
 907 site until the fire is extinguished;
- 908 6. The division does not cancel the authorization; and
- 909 7. The division determines that air quality and fire
 910 danger are favorable for safe burning.

911 (b) A person who burns wild land or vegetative land-
 912 clearing debris in a manner that violates any requirement of
 913 this subsection commits a misdemeanor of the second degree,
 914 punishable as provided in s. 775.082 or s. 775.083.

915 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
 916 PURPOSE.—

917 (a) The application of prescribed burning is a land
 918 management tool that benefits the safety of the public, the
 919 environment, and the economy of the state. The Legislature finds
 920 that:

- 921 1. Prescribed burning reduces vegetative fuels within wild
 922 land areas. Reduction of the fuel load reduces the risk and
 923 severity of wildfire, thereby reducing the threat of loss of
 924 life and property, particularly in urban areas.

925 2. Most of Florida's natural communities require periodic
 926 fire for maintenance of their ecological integrity. Prescribed
 927 burning is essential to the perpetuation, restoration, and
 928 management of many plant and animal communities. Significant
 929 loss of the state's biological diversity will occur if fire is
 930 excluded from fire-dependent systems.

931 3. Forestland and rangeland constitute significant
 932 economic, biological, and aesthetic resources of statewide
 933 importance. Prescribed burning on forestland prepares sites for
 934 reforestation, removes undesirable competing vegetation,
 935 expedites nutrient cycling, and controls or eliminates certain
 936 forest pathogens. On rangeland, prescribed burning improves the
 937 quality and quantity of herbaceous vegetation necessary for
 938 livestock production.

939 4. The state purchased hundreds of thousands of acres of
 940 land for parks, preserves, wildlife management areas, forests,
 941 and other public purposes. The use of prescribed burning for
 942 management of public lands is essential to maintain the specific
 943 resource values for which these lands were acquired.

944 5. A public education program is necessary to make
 945 citizens and visitors aware of the public safety, resource, and
 946 economic benefits of prescribed burning.

947 6. Proper training in the use of prescribed burning is
 948 necessary to ensure maximum benefits and protection for the
 949 public.

950 7. As Florida's population continues to grow, pressures
 951 from liability issues and nuisance complaints inhibit the use of
 952 prescribed burning. Therefore, the division is urged to maximize

953 the opportunities for prescribed burning conducted during its
 954 daytime and nighttime authorization process.

955 (b) Certified prescribed burning pertains only to
 956 broadcast burning for purposes of silviculture, wildland fire
 957 hazard reduction, wildlife management, ecological maintenance
 958 and restoration, and range and pasture management. It must be
 959 conducted in accordance with this subsection and:

960 1. May be accomplished only when a certified prescribed
 961 burn manager is present on site with a copy of the prescription
 962 from ignition of the burn to its completion.

963 2. Requires that a written prescription be prepared before
 964 receiving authorization to burn from the division.

965 3. Requires that the specific consent of the landowner or
 966 his or her designee be obtained before requesting an
 967 authorization.

968 4. Requires that an authorization to burn be obtained from
 969 the division before igniting the burn.

970 5. Requires that there be adequate firebreaks at the burn
 971 site and sufficient personnel and firefighting equipment for the
 972 control of the fire.

973 6. Is considered to be in the public interest and does not
 974 constitute a public or private nuisance when conducted under
 975 applicable state air pollution statutes and rules.

976 7. Is considered to be a property right of the property
 977 owner if vegetative fuels are burned as required in this
 978 subsection.

979 (c) Neither a property owner nor his or her agent is
 980 liable pursuant to s. 590.13 for damage or injury caused by the

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981 fire or resulting smoke or considered to be in violation of
 982 subsection (2) for burns conducted in accordance with this
 983 subsection unless gross negligence is proven.

984 (d) Any certified burner who violates this section commits
 985 a misdemeanor of the second degree, punishable as provided in s.
 986 775.082 or s. 775.083.

987 (e) The division shall adopt rules for the use of
 988 prescribed burning and for certifying and decertifying certified
 989 prescribed burn managers based on their past experience,
 990 training, and record of compliance with this section.

991 (4) CERTIFIED PILE BURNING.-

992 (a) Certified pile burning pertains to the disposal of
 993 piled, naturally occurring debris from an agricultural,
 994 silvicultural, or temporary land-clearing operation. A land-
 995 clearing operation is temporary if it operates for 6 months or
 996 less. Certified pile burning must be conducted in accordance
 997 with the following:

998 1. A certified pile burner must ensure, before ignition,
 999 that the piles are properly placed and that the content of the
 1000 piles is conducive to efficient burning.

1001 2. A certified pile burner must ensure that the piles are
 1002 properly extinguished no later than 1 hour after sunset. If the
 1003 burn is conducted in an area designated by the division as smoke
 1004 sensitive, a certified pile burner must ensure that the piles
 1005 are properly extinguished at least 1 hour before sunset.

1006 3. A written pile burning plan must be prepared before
 1007 receiving authorization from the division to burn.

1008 4. The specific consent of the landowner or his or her

1009 agent must be obtained before requesting authorization to burn.

1010 5. An authorization to burn must be obtained from the
 1011 division or its designated agent before igniting the burn.

1012 6. There must be adequate firebreaks and sufficient
 1013 personnel and firefighting equipment at the burn site to control
 1014 the fire.

1015 (b) If a burn is conducted in accordance with paragraph
 1016 (a), the property owner and his or her agent are not liable
 1017 under s. 590.13 for damage or injury caused by the fire or
 1018 resulting smoke, and are not in violation of subsection (2),
 1019 unless gross negligence is proven.

1020 (c) A certified pile burner who violates this subsection
 1021 commits a misdemeanor of the second degree, punishable as
 1022 provided in s. 775.082 or s. 775.083.

1023 (d) The division shall adopt rules regulating certified
 1024 pile burning. The rules shall include procedures and criteria
 1025 for certifying and decertifying certified pile burn managers
 1026 based on past experience, training, and record of compliance
 1027 with this section.

1028 (5)(4) WILDFIRE HAZARD REDUCTION TREATMENT BY THE
 1029 DIVISION.—The division may conduct fuel reduction initiatives,
 1030 including, but not limited to, burning and mechanical and
 1031 chemical treatment, on any area of wild land within the state
 1032 which is reasonably determined to be in danger of wildfire in
 1033 accordance with the following procedures:

1034 (a) Describe the areas that will receive fuels treatment
 1035 to the affected local governmental entity.

1036 (b) Publish a treatment notice, including a description of

1037 the area to be treated, in a conspicuous manner in at least one
 1038 newspaper of general circulation in the area of the treatment
 1039 not less than 10 days before the treatment.

1040 (c) Prepare, and send ~~the county tax collector shall~~
 1041 ~~include with the annual tax statement,~~ a notice to be sent to
 1042 all landowners in each area ~~township~~ designated by the division
 1043 as a wildfire hazard area. The notice must describe particularly
 1044 the area to be treated and the tentative date or dates of the
 1045 treatment and must list the reasons for and the expected
 1046 benefits from the wildfire hazard reduction.

1047 (d) Consider any landowner objections to the fuels
 1048 treatment of his or her property. The landowner may apply to the
 1049 director of the division for a review of alternative methods of
 1050 fuel reduction on the property. If the director or his or her
 1051 designee does not resolve the landowner objection, the director
 1052 shall convene a panel made up of the local forestry unit
 1053 manager, the fire chief of the jurisdiction, and the affected
 1054 county or city manager, or any of their designees. If the
 1055 panel's recommendation is not acceptable to the landowner, the
 1056 landowner may request further consideration by the Commissioner
 1057 of Agriculture or his or her designee and shall thereafter be
 1058 entitled to an administrative hearing pursuant to the provisions
 1059 of chapter 120.

1060 (6) DIVISION APPROVAL OF LOCAL GOVERNMENT OPEN BURNING
 1061 AUTHORIZATION PROGRAMS.—

1062 (a) A county or municipality may exercise the division's
 1063 authority, if delegated by the division under this subsection,
 1064 to issue authorizations for the burning of yard trash or debris

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1065 from land-clearing operations. A county's or municipality's
 1066 existing or proposed open burning authorization program must:

1067 1. Be approved by the division. The division may not
 1068 approve a program if it fails to meet the requirements of
 1069 subsections (2) and (4) and any rules adopted under those
 1070 subsections.

1071 2. Provide by ordinance or local law the requirements for
 1072 obtaining and performing a burn authorization that complies with
 1073 subsections (2) and (4) and any rules adopted under those
 1074 subsections.

1075 3. Provide for the enforcement of the program's
 1076 requirements.

1077 4. Provide financial, personnel, and other resources
 1078 needed to carry out the program.

1079 (b) If the division determines that a county's or
 1080 municipality's open burning authorization program does not
 1081 comply with subsections (2) and (4) and any rules adopted under
 1082 those subsections, the division shall require the county or
 1083 municipality to take necessary corrective actions within 90 days
 1084 after receiving notice from the division of its determination.

1085 1. If the county or municipality fails to take the
 1086 necessary corrective actions within the required period, the
 1087 division shall resume administration of the open burning
 1088 authorization program in the county or municipality and the
 1089 county or municipality shall cease administration of its
 1090 program.

1091 2. Each county and municipality administering an open
 1092 burning authorization program must cooperate with and assist the

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1093 division in carrying out the division's powers, duties, and
 1094 functions.

1095 3. A person who violates the requirements of a county's or
 1096 municipality's open burning authorization program, as provided
 1097 by ordinance or local law enacted pursuant to this subsection,
 1098 commits a violation of this chapter, punishable as provided in
 1099 s. 590.14.

1100 (7)(5) DUTIES OF AGENCIES.—The Department of Education
 1101 shall incorporate, where feasible and appropriate, the issues of
 1102 fuels treatment, including prescribed burning, into its
 1103 educational materials.

1104 Section 40. Section 590.14, Florida Statutes, is amended
 1105 to read:

1106 590.14 Notice of violation; penalties; legislative
 1107 intent.—

1108 (1) If a division employee determines that a person has
 1109 violated chapter 589, ~~or~~ this chapter, or any rule adopted by
 1110 the division to administer provisions of law conferring duties
 1111 upon the division, the division employee ~~he or she~~ may issue a
 1112 notice of violation indicating the statute or rule violated.
 1113 This notice will be filed with the division and a copy forwarded
 1114 to the appropriate law enforcement entity for further action if
 1115 necessary.

1116 (2) In addition to any penalties provided by law, any
 1117 person who causes a wildfire or permits any authorized fire to
 1118 escape the boundaries of the authorization or to burn past the
 1119 time of the authorization is liable for the payment of all
 1120 reasonable costs and expenses incurred in suppressing the fire

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1121 or \$150, whichever is greater. All costs and expenses incurred
 1122 by the division shall be payable to the division. When such
 1123 costs and expenses are not paid within 30 days after demand, the
 1124 division may take proper legal proceedings for the collection of
 1125 the costs and expenses. Those costs incurred by an agency acting
 1126 at the division's direction are recoverable by that agency.

1127 (3) The department may also impose an administrative fine,
 1128 not to exceed \$1,000 per violation of any section of chapter 589
 1129 or this chapter or violation of any rule adopted by the division
 1130 to administer provisions of law conferring duties upon the
 1131 division. The fine shall be based upon the degree of damage, the
 1132 prior violation record of the person, and whether the person
 1133 knowingly provided false information to obtain an authorization.
 1134 The fines shall be deposited in the Incidental Trust Fund of the
 1135 division.

1136 (4) A person commits a misdemeanor of the second degree,
 1137 punishable as provided in s. 775.082 or s. 775.083, if the
 1138 person:

1139 (a) Fails to comply with any rule or order adopted by the
 1140 division to administer provisions of law conferring duties upon
 1141 the division; or

1142 (b) Knowingly makes any false statement or representation
 1143 in any application, record, plan, or other document required by
 1144 this chapter or any rules adopted under this chapter.

1145 (5) It is the intent of the Legislature that a penalty
 1146 imposed by a court under subsection (4) be of a severity that
 1147 ensures immediate and continued compliance with this section.

1148 (6)-(4) The penalties provided in this section shall extend

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1149 | to both the actual violator and the person or persons, firm, or
 1150 | corporation causing, directing, or permitting the violation.

1151 | Section 41. Subsection (4) of section 597.005, Florida
 1152 | Statutes, is amended to read:

1153 | 597.005 Aquaculture Review Council.—

1154 | ~~(4) EXPENSES; PER DIEM. Members of the council shall~~
 1155 | ~~receive expenses and per diem for travel, including attendance~~
 1156 | ~~at meetings, as allowed state officers and employees pursuant to~~
 1157 | ~~s. 112.061.~~

1158 | Section 42. Subsection (2) of section 599.002, Florida
 1159 | Statutes, is amended to read:

1160 | 599.002 Viticulture Advisory Council.—

1161 | (2) The meetings, powers and duties, procedures, and
 1162 | recordkeeping of the Viticulture Advisory Council, ~~and per diem~~
 1163 | ~~and reimbursement of expenses of council members,~~ shall be
 1164 | governed by the provisions of s. 570.0705 relating to advisory
 1165 | committees established within the department.

1166 | Section 43. Paragraph (a) of subsection (1) and subsection
 1167 | (3) of section 616.252, Florida Statutes, are amended to read:

1168 | 616.252 Florida State Fair Authority; membership; number,
 1169 | terms, compensation.—

1170 | (1)(a) The authority shall be composed of 22 ~~21~~ members.
 1171 | The Commissioner of Agriculture, or her or his designee, shall
 1172 | serve as a voting member. There shall also be a member who is
 1173 | the member of the Board of County Commissioners of Hillsborough
 1174 | County representing the county commission district in which the
 1175 | Florida State Fairgrounds is located, who shall serve as a
 1176 | voting member. There shall also be an appointed youth member who

1177 is an active member of the Florida Future Farmers of America or
 1178 a 4-H Club, who shall serve as a nonvoting member. The
 1179 Commissioner of Agriculture shall appoint each other member of
 1180 the authority. Each member appointed by the Commissioner of
 1181 Agriculture shall serve at the pleasure of the Commissioner of
 1182 Agriculture. The term of each member appointed by the
 1183 Commissioner of Agriculture shall be 4 years, but the term of
 1184 the nonvoting youth member shall be for 1 year ~~except, to~~
 1185 ~~provide staggered terms, 9 of the members shall be initially~~
 1186 ~~appointed for a 2-year term and 10 of the members shall be~~
 1187 ~~initially appointed for a 3-year term.~~ Members may be appointed
 1188 for more than one term. Any vacancy shall be filled for the
 1189 remainder of the unexpired term pursuant to the method provided
 1190 in this section for appointment. Six of the members may be from
 1191 Hillsborough County. The Commissioner of Agriculture shall
 1192 appoint and set the compensation of an executive director. The
 1193 executive director shall serve at the pleasure of the
 1194 Commissioner of Agriculture.

1195 (3) Members of the authority are ~~shall~~ not be entitled to
 1196 compensation for their services as members and may not, but
 1197 ~~shall~~ be reimbursed for travel expenses. Except for the
 1198 nonvoting youth member, each member ~~as provided in s. 112.061~~
 1199 ~~and~~ may be compensated for any special or full-time service
 1200 performed in the authority's ~~its~~ behalf as officers or agents of
 1201 the authority.

1202 Section 44. Paragraph (c) of subsection (2) of section
 1203 812.014, Florida Statutes, is amended to read:

1204 812.014 Theft.—

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1205 (2)

1206 (c) It is grand theft of the third degree and a felony of

1207 the third degree, punishable as provided in s. 775.082, s.

1208 775.083, or s. 775.084, if the property stolen is:

1209 1. Valued at \$300 or more, but less than \$5,000.

1210 2. Valued at \$5,000 or more, but less than \$10,000.

1211 3. Valued at \$10,000 or more, but less than \$20,000.

1212 4. A will, codicil, or other testamentary instrument.

1213 5. A firearm.

1214 6. A motor vehicle, except as provided in paragraph (a).

1215 7. Any commercially farmed animal, including any animal of

1216 the equine, bovine, or swine class, or other grazing animal; a

1217 bee colony of a registered beekeeper; ~~and including~~ aquaculture

1218 species raised at a certified aquaculture facility. If the

1219 property stolen is aquaculture species raised at a certified

1220 aquaculture facility, then a \$10,000 fine shall be imposed.

1221 8. Any fire extinguisher.

1222 9. Any amount of citrus fruit consisting of 2,000 or more

1223 individual pieces of fruit.

1224 10. Taken from a designated construction site identified

1225 by the posting of a sign as provided for in s. 810.09(2)(d).

1226 11. Any stop sign.

1227 12. Anhydrous ammonia.

1228

1229 However, if the property is stolen within a county that is

1230 subject to a state of emergency declared by the Governor under

1231 chapter 252, the property is stolen after the declaration of

1232 emergency is made, and the perpetration of the theft is

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1233 facilitated by conditions arising from the emergency, the
 1234 offender commits a felony of the second degree, punishable as
 1235 provided in s. 775.082, s. 775.083, or s. 775.084, if the
 1236 property is valued at \$5,000 or more, but less than \$10,000, as
 1237 provided under subparagraph 2., or if the property is valued at
 1238 \$10,000 or more, but less than \$20,000, as provided under
 1239 subparagraph 3. As used in this paragraph, the term "conditions
 1240 arising from the emergency" means civil unrest, power outages,
 1241 curfews, voluntary or mandatory evacuations, or a reduction in
 1242 the presence of or the response time for first responders or
 1243 homeland security personnel. For purposes of sentencing under
 1244 chapter 921, a felony offense that is reclassified under this
 1245 paragraph is ranked one level above the ranking under s.
 1246 921.0022 or s. 921.0023 of the offense committed.

1247 Section 45. Paragraphs (f) and (g) of subsection (1) of
 1248 section 812.015, Florida Statutes, are amended to read:

1249 812.015 Retail and farm theft; transit fare evasion;
 1250 mandatory fine; alternative punishment; detention and arrest;
 1251 exemption from liability for false arrest; resisting arrest;
 1252 penalties.—

1253 (1) As used in this section:

1254 (f) "Farmer" means a person who is engaging in the growing
 1255 or producing of farm produce, milk products, honey, eggs, or
 1256 meat, either part time or full time, for personal consumption or
 1257 for sale and who is the owner or lessee of the land or a person
 1258 designated in writing by the owner or lessee to act as her or
 1259 his agent. No person defined as a farm labor contractor pursuant
 1260 to s. 450.28 shall be designated to act as an agent for purposes

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1261 | of this section.

1262 | (g) "Farm theft" means the unlawful taking possession of
 1263 | any items that are grown or produced on land owned, rented, or
 1264 | leased by another person. The term includes the unlawful taking
 1265 | possession of equipment and associated materials used to grow or
 1266 | produce farm products as defined in s. 823.14(3)(c).

1267 | Section 46. The sum of \$744,000 in nonrecurring funds is
 1268 | appropriated to the Department of Agriculture and Consumer
 1269 | Services from the Florida Forever Trust Fund for the 2011-2012
 1270 | fiscal year in the Fixed Capital Outlay-Agency Managed-Land
 1271 | Management appropriation category pursuant to s. 259.105(3)(f),
 1272 | Florida Statutes.

1273 | Section 47. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7227 PCB CMAS 11-06 Affordable Housing
SPONSOR(S): Community & Military Affairs Subcommittee, Grant
TIED BILLS: **IDEN./SIM. BILLS:** HB 757

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Community & Military Affairs Subcommittee	8 Y, 3 N	Duncan	Hoagland
1) Economic Affairs Committee		Duncan	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The Florida Housing Finance Corporation (FHFC) is the state entity primarily responsible for encouraging the investment of private capital in residential and rental housing and stimulating the construction and rehabilitation of affordable housing in Florida. The FHFC administers a number of multifamily and single family housing programs that help local governments assist Floridians in obtaining safe, decent affordable housing.

The State Apartment Incentive Loan (SAIL) Program was created to provide first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide affordable housing to very-low-income persons.

The bill provides that not less than 50 percent of the moneys in the SAIL Program Fund in each calendar year must be awarded for constructing new affordable rental housing developments, which the primary source of financing is an allocation of tax exempt private activity bonds issued by the FHFC or by a local or regional agency pursuant to Part VI of ch. 159, F.S.

Development projects located outside of a 2.5 mile radius of a Florida Housing Guarantee Fund Development are eligible to receive subordinate loan financing through the FHFC. Subordinate loan financing awarded by the FHFC must occur using the process established by law.

The FHFC is directed to generate and distribute an estimate of the total amount of State Apartment Incentive Loan Fund moneys available in the calendar year in which the subordinate loan financing is awarded. The FHFC must provide this information prior to the receipt of applications. The amount of program income, including principal and interest must be included in the moneys available to be awarded. A rank ordered list of application selected to receive subordinate loan financing must be presented to the FHFC's Board of Directors.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Housing Finance Corporation (FHFC)¹ is the state entity primarily responsible for encouraging the investment of private capital in residential and rental housing and stimulating the construction and rehabilitation of affordable housing in Florida. The FHFC administers a number of multifamily and single family housing programs that help local governments assist Floridians in obtaining safe, decent affordable housing.

The State Apartment Incentive Loan Program

The State Apartment Incentive Loan (SAIL) Program was created to provide first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide affordable housing to very-low-income persons.² Program funds are distributed over successive 3-year periods that meet the need and demand for very-low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available at the beginning of each 3-year period. However, at least 10 percent of the program funds distributed during a 3-year period must be allocated to each of the following categories³ of counties:⁴

- Counties that have a population of 825,000 or more.
- Counties that have a population of more than 100,000 but less than 825,000.
- Counties that have a population of 100,000 or less.

The FHFC has the power to underwrite and make state apartment incentive loans or loan guarantees to sponsors provided:

- The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended.
- The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which must be adjusted for family size; or
- The sponsor uses the federal low-income housing tax credit, and the project meets the tenant income eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended.

The SAIL Program provides low-interest loans on a competitive basis as gap financing to leverage mortgage revenue bonds or competitive Low Housing Income Tax Credit resources to secure the full financing needed to construct or rehabilitate affordable rental units for very-low-income families. SAIL Program funds may also be used to reduce the debt on new or existing properties to make a small portion of units in each development affordable to extremely-low-income residents.⁵

¹ The Florida Housing Finance Corporation (FHFC) was created as a public corporation within the Department of Community Affairs (DCA). However, the FHFC is a separate budget entity and is not subject to the control, supervision, or direction of DCA. Section 420.504, F.S.

² Section 420.5087, F.S.

³ Categories are determined by using population statistics published in the most recent edition of the Florida Statistical Abstract. Section 420.5087(1), F.S.

⁴ *Id.*

⁵ Florida Housing Finance Corporation, *2010 Annual Report*, State Apartment Incentive Loan, March 2011, p.7, *available at* http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf.

During 2010, approximately \$48.9 million in SAIL Program funding was provided to 18 existing Guarantee Program properties to serve extremely-low-income households. This allowed the FHFC to match available units with current rental housing needs, while reducing Guarantee Program risk. In the 18 properties awarded SAIL Program funding, there were a total of 5,280 units with 4,667 units set aside as affordable. According to the FHFC, this new financing will ensure that rents on 655 of the 4,667 existing affordable units will be lowered to be affordable to extremely low-income households. An additional \$15.9 million in SAIL Program funding was provided as gap financing to 372 new units of which 322 units will be set aside as affordable.⁶

Low Income Housing Tax Credit Program

The competitive (9 percent) and non-competitive (4 percent) Low Income Housing Tax Credit Program provides developers with equity, based on a dollar-for-dollar reduction in federal tax liability for investors in exchange for the acquisition, rehabilitation, and new construction of affordable rental housing. Special consideration is given to properties that target specific demographic groups, such as the elderly, homeless persons, and farmworkers. Additionally, consideration is given to properties that target specific geographic areas, such as the Florida Keys, rural areas, and urban areas.⁷

During 2010, \$58.8 million in competitive (9 percent) housing credits were allocated and a total of 3,823 units were funded. Of that total number of units, 3,764 units will be set aside as affordable. In addition, \$10.7 million in non-competitive (4 percent) housing credits were allocated and a total of 2,884 units were funded. Of that total number of units, 2,721 units will be set aside as affordable.⁸

Multifamily Mortgage Revenue Bonds

The Multifamily Mortgage Revenue Bond (MMRB) Program uses both taxable and tax-exempt bonds to provide below market rate loans to non-profit and for-profit developers who set aside a certain percentage of their apartment units for low-income families. Proceeds from the sale of these bonds are used to construct or acquire and rehabilitate multifamily rental properties. The MMRB Program application scoring and ranking criteria encourage increased set-asides for low-income households.⁹ During 2010, \$430.4 million was provided toward affordable rental housing development and 6,319 units were funded. Of that total number of units, 5,897 units will be set aside as affordable.¹⁰

Florida Affordable Housing Guarantee Program

The Florida Affordable Housing Guarantee Program was created to:¹¹

- Stimulate creative private sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing.
- Create security mechanisms to allow lenders to sell affordable housing loans in the secondary market.
- Encourage affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of the program.

“Affordable housing guarantee” means an obligation of the guarantee fund to guarantee the payment of an obligation made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

The FHFC was authorized to issue revenue bonds to establish the guarantee fund. The revenue bonds are primarily payable from and secured by annual debt service reserves, from interest earned on funds

⁶ *Id.*

⁷ Florida Housing Finance Corporation, *2010 Annual Report*, Multifamily, March 2011, p.6, available at http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 420.5092(1), F.S.

on deposit in the guarantee fund, from fees, charges, and reimbursements established by the FHFC for the issuance of affordable housing guarantees, and from other revenue sources received by the FHFC and deposited by the FHFC into the guarantee fund for the issuance of affordable housing guarantees. Should the primary revenue sources be insufficient to fully fund the annual debt service reserve, the certified deficiency must be payable from the first proceeds of the documentary stamp tax¹² moneys deposited into the State Housing Trust Fund..

Effect of Proposed Changes

The bill provides that not less than 50 percent of the funds in the SAIL Program Fund in each calendar year must be awarded for constructing new affordable rental housing developments, which the primary source of financing is an allocation of tax exempt private activity bonds issued by the FHFC or by a local or regional agency pursuant to Part VI of ch. 159, F.S.

Development projects located outside of a 2.5 mile radius of a Florida Housing Guarantee Fund Development are eligible to receive subordinate loan financing through the FHFC. Subordinate loan financing awarded by the FHFC must occur using the process established by law.¹³

The FHFC is directed to generate and distribute an estimate of the total amount of SAIL Program funds available in the calendar year in which the subordinate loan financing is awarded. The FHFC must provide this information prior to the receipt of applications. The amount of program income, including principal and interest must be included in the funds available to be awarded. A rank ordered list of application selected to receive subordinate loan financing must be presented to the FHFC's Board of Directors.

B. SECTION DIRECTORY:

Section 1: Creates subsection (9) of s. 420.5087, F.S.; requiring not less than 50 percent of the State Apartment Incentive Loan Program funds to be awarded as subordinate loan financing for the new construction of affordable rental housing developments.

Section 2: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹² See s. 201.15(9)(a) and (10)(a), F.S.

¹³ The process that the Florida Housing Finance Corporation is required to follow in order to award state apartment incentive loans is provided in s. 420.5087(6), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that affordable rental developments will be built, developers and members of the construction industry will benefit, as well as those individuals and families receiving safe, decent, affordable housing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Florida Housing Finance Corporation may be required to amend its rule governing the SAIL Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

1 A bill to be entitled
 2 An act relating to affordable housing; amending s.
 3 420.5087, F.S.; specifying a percentage of moneys in the
 4 State Apartment Incentive Loan Fund to be awarded as
 5 subordinate loan financing for the new construction of
 6 affordable rental housing developments; providing
 7 eligibility requirements; providing duties of the Florida
 8 Housing Development Corporation; providing an effective
 9 date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (9) is added to section 420.5087,
 14 Florida Statutes, to read:

15 420.5087 State Apartment Incentive Loan Program.—There is
 16 hereby created the State Apartment Incentive Loan Program for
 17 the purpose of providing first, second, or other subordinated
 18 mortgage loans or loan guarantees to sponsors, including for-
 19 profit, nonprofit, and public entities, to provide housing
 20 affordable to very-low-income persons.

21 (9) At least 50 percent of the moneys in the State
 22 Apartment Incentive Loan Fund in each calendar year shall be
 23 awarded as subordinate loan financing for the new construction
 24 of affordable rental housing developments, for which the primary
 25 source of financing is an allocation of tax-exempt private
 26 activity bonds issued by the corporation or by a local or
 27 regional housing finance authority pursuant to part VI of
 28 chapter 159. Development projects located outside of a 2.5 mile

29 radius of a Florida Affordable Housing Guarantee Fund
 30 development are eligible to receive subordinate loan financing
 31 through the corporation. Such subordinate loan financing shall
 32 be awarded as provided in subsection (6). Before the receipt of
 33 competitive applications for the award of such subordinate loan
 34 financing, the corporation shall generate and distribute an
 35 estimate of the total amount of State Apartment Incentive Loan
 36 Fund moneys available in the calendar year such subordinate loan
 37 financing will be awarded. The moneys available to be awarded
 38 under this subsection shall include program income, including
 39 principal and interest. A rank-ordered list of applications
 40 selected for receipt of subordinate loan financing shall be
 41 presented to the corporation's board of directors.

42 Section 2. This act shall take effect July 1, 2011.