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# **Transportation & Economic Development Appropriations Subcommittee**

**Monday, March 24, 2014  
12:30 PM - 2:30 PM  
Reed Hall (102 HOB)**

**MEETING PACKET**

**Will Weatherford  
Speaker**

**Ed Hooper  
Chair**



# **The Florida House of Representatives**

## **Appropriations Committee**

### **Transportation & Economic Development Appropriations Subcommittee**

**Will Weatherford**  
**Speaker**

**Ed Hooper**  
**Chair**

**March 24, 2014**

**AGENDA**  
**12:30 PM – 2:30 PM**  
**Reed Hall**

- I. Call to Order/Roll Call**
- II. Consideration of Bills**
  - CS/HB 3 Freight Logistics Zones by Rep. Ray**
  - CS/HB 147 Concrete Masonry Education by Rep. Caldwell**
  - CS/HB 311 Orlando-Orange County Expressway Authority by Rep. Artiles**
  - HB 7005 Department of Transportation by Rep. Artiles**
  - HB 7063 Certificates of Destruction by Rep. Ray**
- III. Closing Remarks/Adjourn**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 3 Freight Logistics Zones  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee; Ray and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 136

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Johnson	Miller
2) Transportation & Economic Development Appropriations Subcommittee		Proctor <i>IP</i>	Davis <i>[Signature]</i>
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill creates s. 311.103, F.S., defining a freight logistics zone as a grouping of activities and infrastructure dealing with freight transportation and related services within a defined area, and allows a county, or two or more contiguous counties to designate a freight logistics zone. Projects within freight logistics zones, which are consistent with the Department of Transportation's (DOT) Freight Logistics and Trade plan, may be eligible for priority in state funding for certain incentive programs. Currently, freight logistics zones are not defined or designated.

The bill has an indeterminate fiscal impact on both state and local governments.

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### **Freight**

The U.S. economy's success depends on a complex, interconnected transportation network comprised of highways, railways, seaports, and airports. The growing importance of freight movement in the overall economy is reflected in the recently enacted federal transportation authorization legislation, Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21).<sup>1</sup> MAP 21 creates a streamlined, performance-based, and multimodal program to address the many challenges facing all modes of U.S. transportation. In terms of freight, MAP-21 policies and provisions outline the requirements for developing a 27,000 mile National Freight Network that is critical to the nation's long-term economic growth. Additionally, MAP-21 provides a number of new funding opportunities, including up to 95 percent match for certain freight-related projects.

In recent years, Florida has taken a number of steps to address freight mobility needs and diversify the state's economy. The Department of Transportation (DOT) is pursuing a goal to develop a coordinated multi-modal transportation system for freight movement in Florida. In furthering that goal, DOT established the Office of Freight Mobility and Passenger Operations.

In 2012, the Legislature enacted HB 599,<sup>2</sup> which created the Florida Freight Mobility and Trade Plan (FMTP).<sup>3</sup> The FMTP will play an important role in transforming the state's economy to become a global hub of trade, logistics, and export oriented manufacturing activities. The four main objectives of the FMTP include:

- Increasing the flow of domestic and international trade through the state's seaports and airports, including specific policies and investments that will recapture cargo currently shipped through seaports and airports located outside the state;
- Increasing the development of intermodal logistic centers in the state, including specific strategies, policies, and investments that capitalize on the state's empty backhaul trucking and rail market;
- Increasing the development of manufacturing industries in the state, including specific policies and investments in transportation facilities that will promote the successful development and expansion of manufacturing facilities; and
- Increasing the implementation of compressed natural gas (CNG), liquefied natural gas (LNG), and propane energy policies that reduce transportation costs for businesses and residents located in the state.<sup>4</sup>

The FMTP is being developed in two phases. The Policy Element was adopted on June 19, 2013, and lays out the policy framework through the development of objectives, strategies, and action items.<sup>5</sup> The Implementation Element will develop a collaborative and transparent project prioritization process to match funding for short-term and long-term investment.

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<sup>1</sup> P.L. 112-141

<sup>2</sup> Ch. 2012-174, L.O.F.

<sup>3</sup> Information on the development of the FMTP is available at <http://www.freightmovesflorida.com/freight-mobility-and-trade-plan/freight-mobility-and-trade-plan-overview> (Last visited October 28, 2013).

<sup>4</sup> S. 334.044(4)(a), F.S.

<sup>5</sup> A copy of the Policy Element of the FMTP is available at <http://www.freightmovesflorida.com/freight-mobility-and-trade-plan/policy-element> (Last visited October 28, 2013).

Another key element of Florida's freight mobility strategy is the establishment of intermodal logistics centers (ILCs). Section 311.101(2), F.S., defines an ILC as a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities related to the transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09, F.S.<sup>6</sup>

Section 311.101, F.S., also establishes the ILC Infrastructure Support Program which provides \$5 million in funds annually to support projects that create or improve the movement of freight goods along all modes of transportation. This program is open to state, local, or private entities that have obtained local support and funding for their project. The eligibility of a project is determined by DOT and the Department of Economic Opportunity (DEO). Eligible projects must show a benefit to the community as well as demonstrate the improvement of freight movement within the affected region.

Finally in 2012, ILCs were added to the list of transportation facilities eligible to receive funding for transportation capacity improvements under the Strategic Intermodal System (SIS).<sup>7</sup> Designation as part of the SIS requires review and approval by DOT. DOT is currently finalizing updated SIS eligibility criteria for ILCs.

Currently, freight logistics zones are not defined or designated.

#### **Incentive Programs: Parts I, III, and V of ch. 288, F.S.**

Current law provides a number of economic development incentives in various forms, including tax credits, tax refunds, tax exemptions, infrastructure funding, and cash grants.<sup>8</sup>

With respect to part I of ch. 288, F.S., the Quick Response Training Program is intended to meet the short-term, immediate, workforce-skill needs of certain "business and industries that support the state's economic development goals, particularly high value-added businesses or businesses that locate in and provide jobs the state's distressed urban areas."<sup>9</sup>

The Rural Infrastructure Fund facilitates "the planning, preparing, and financing of infrastructure projects in rural communities that will encourage job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade, and economic development."<sup>10</sup>

Section 288.106, F.S., establishes a tax refund program for qualified, eligible target industry businesses for projects that create a new business or expand an existing business.

Part III of ch. 288, F.S., authorizes any corporation or government agency to apply to federal authorities for a grant of privilege of establishing, operating, and maintaining foreign trade zones and subzones in or adjacent to ports of entry of the United States pursuant to the Foreign Trade Zone Act of 1934. A grant includes authority to select and describe the location of zones or subzones and to make rules as may be necessary to comply with the rules and regulations made in accordance with the Act.

Part V of ch. 288, F.S., creates the Florida Export Finance Corporation as a not-for-profit corporation. The corporation's intended purpose is to assist small and medium-sized Florida businesses in the expansion of international trade and to expand job opportunities for Florida's workforce.

Each of the various programs under parts I, III, and V of ch. 288, F.S., has its own set of eligibility criteria and related requirements.

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<sup>6</sup> Section 311.09(1), F.S. lists the following seaports: Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>7</sup> The SIS is created pursuant to ss. 339.61 through 339.65, F.S.

<sup>8</sup> See ch. 288, F.S., relating to Commercial Development and Capital Improvements.

<sup>9</sup> S. 288.047, F.S.

<sup>10</sup> S. 288.0655, F.S.

### **Proposed Changes**

The bill creates s. 311.103, F.S., defining a freight logistics zone as a grouping of activities and infrastructure associated with freight transportation and related services around an ILC. The bill allows a county, or two or more contiguous counties, to designate a geographic area or areas within its jurisdiction as a freight logistics zone. The plan must be accompanied by a strategic plan adopted by the county or counties. At a minimum, the strategic plan must include, but is not limited to:

- A map depicting the geographic area or areas to be included within the designation.
- Identification of existing or planned freight facilities or logistics clusters located within the zone.
- Identification of existing transportation infrastructure, such as roads, rail, airports, and seaports, within or in close proximity to the proposed freight logistics zone.
- Identification of existing workforce availability within or in close proximity to the proposed zone.
- Identification of any existing or planned local, state, or federal workforce training capabilities available for a business seeking to expand or locate within the proposed zone.
- Identification of any local, state, or federal plans, including transportation, seaport, or airport plans, concerning the movement of freight within or in close proximity to the proposed zone.
- Identification of financial or other local government incentives to encourage new development, expansion of existing development, or redevelopment within the proposed zone.
- Documentation that the plan is consistent with applicable local government comprehensive plans and adopted long range transportation plans of a Metropolitan Planning Organization, where applicable.

The bill provides that projects within freight logistics zones, which are consistent with DOT's Freight Mobility and Trade Plan,<sup>11</sup> may be eligible for priority in state funding and incentive programs relating to freight logistics zones under applicable programs in parts I, III, and V of ch. 288, F.S.

The bill provides criteria for evaluating projects within a designated freight logistics zone to determine funding or incentive program eligibility, consideration must be given to:

- The presence of an existing or planned intermodal logistics center within the freight logistics zone.
- The ability of the project to serve a strategic state interest.
- The ability of the project to facilitate the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues.
- The extent to which the project efficiently interacts with and supports the existing or planned transportation network.
- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the county or counties have commitments with private sector businesses planning to locate operations within the freight logistics zone.
- Demonstrated local financial support and commitment to the project, including in-kind contributions.

The bill has an effective date of July 1, 2014.

#### **B. SECTION DIRECTORY:**

Section 1      Creates s. 311.103, F.S., relating to the designation of state freight logistics zones.

Section 2      Provides an effective date.

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<sup>11</sup> DOT's Freight Mobility and Trade Plan is developed pursuant to s. 334.044(33), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. Creating new freight logistics zones that are eligible for priority incentive funding under applicable programs in parts I, III, and V of ch. 288, F.S., may promote more use of the state's economic incentive programs. The extent to which any projects are deemed viable for utilizing state incentive programs, however, would still be determined by the Department of Economic Opportunity, and subject to the availability of funding through legislative appropriation in the annual General Appropriations Act.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The growth of the freight industry and related businesses in the freight logistics zones may have a positive impact on revenues generated from local taxes and fees.

2. Expenditures:

Indeterminate. Financial or other local government incentives are to be identified in the strategic plan for a designated freight logistics zone and will vary from project to project.

Counties that choose to designate freight logistics zones will incur expenses, in unknown amounts, associated with creating strategic plans and designating freight logistics zones.

Local government financial support and commitment, in unknown amounts, are to be identified in the required strategic plans.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may promote the growth of the freight industry and related businesses in freight logistics zones.

### D. FISCAL COMMENTS:

There is no direct impact to DOT. Projects within freight logistic zones may be given priority consideration for funding during the development of the Five-Year Tentative Work Program, but there are no requirements placed on the department.<sup>12</sup> The eligibility incentivizes coordination of local, regional and state planning of, and investment in, intermodal infrastructure.

## 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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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<sup>12</sup> DOT's work program is developed pursuant to s. 339.135, F.S.  
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DATE: 3/20/2014



2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 9, 2014, the Transportation & Highway Safety Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Corrects bill drafting errors.
- Provides for the identification of existing or planned workforce training capabilities.
- Clarifies that projects within freight logistics zones are being evaluated for incentive programs.
- Provides that a project may support an existing or planned transportation network.
- Allows for the consideration of in-kind contributions as it relates to financial support at commitment.

The analysis is drafted to the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to freight logistics zones; creating  
 3           s. 311.103, F.S.; defining the term "freight logistics  
 4           zone"; authorizing a county or two or more contiguous  
 5           counties to designate a geographic area or areas  
 6           within its jurisdiction as a freight logistics zone;  
 7           requiring the adoption of a strategic plan which must  
 8           include certain information; providing that certain  
 9           projects within freight logistics zones may be  
 10          eligible for priority in state funding and certain  
 11          incentive programs; providing evaluation criteria for  
 12          freight logistics zones; providing an effective date.

13  
 14 Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Section 311.103, Florida Statutes, is created  
 17 to read:

18           311.103 Designation of state freight logistics zones.-

19           (1) As used in this section, the term "freight logistics  
 20 zone" means a grouping of activities and infrastructure  
 21 associated with freight transportation and related services  
 22 within a defined area around an intermodal logistics center as  
 23 defined in s. 311.101(2).

24           (2) A county, or two or more contiguous counties, may  
 25 designate a geographic area or areas within its jurisdiction as  
 26 a freight logistics zone. The designation must be accompanied by

27 a strategic plan adopted by the county or counties. At a  
 28 minimum, the strategic plan must include, but is not limited to:

29 (a) A map depicting the geographic area or areas to be  
 30 included within the designation.

31 (b) Identification of the existing or planned freight  
 32 facilities or logistics clusters located within the designated  
 33 zone.

34 (c) Identification of existing transportation  
 35 infrastructure, such as roads, rail, airports, and seaports,  
 36 within or in close proximity to the proposed freight logistics  
 37 zone.

38 (d) Identification of existing workforce availability  
 39 within or in close proximity to the proposed zone.

40 (e) Identification of any existing or planned local,  
 41 state, or federal workforce training capabilities available for  
 42 a business seeking to locate or expand within the proposed zone.

43 (f) Identification of any local, state, or federal plans,  
 44 including transportation, seaport, or airport plans, concerning  
 45 the movement of freight within or in close proximity to the  
 46 proposed zone.

47 (g) Identification of financial or other local government  
 48 incentives to encourage new development, expansion of existing  
 49 development, or redevelopment within the proposed zone.

50 (h) Documentation that the plan is consistent with  
 51 applicable local government comprehensive plans and adopted  
 52 long-range transportation plans of a Metropolitan Planning

53 Organization, where applicable.

54 (3) Projects within freight logistics zones designated  
 55 pursuant to this section, which are consistent with the Freight  
 56 Mobility and Trade Plan developed in accordance with s.  
 57 334.044(33), may be eligible for priority in state funding and  
 58 incentive programs relating to freight logistics zones,  
 59 including applicable programs identified in parts I, III, and V  
 60 of chapter 288.

61 (4) When evaluating projects within a designated freight  
 62 logistics zone for purposes of determining funding or incentive  
 63 program eligibility under this section, consideration must be  
 64 given to:

65 (a) The presence of an existing or planned intermodal  
 66 logistics center within the freight logistics zone.

67 (b) Whether the project serves a strategic state interest.

68 (c) Whether the project facilitates the cost-effective and  
 69 efficient movement of goods.

70 (d) The extent to which the project contributes to  
 71 economic activity, including job creation, increased wages, and  
 72 revenues.

73 (e) The extent to which the project efficiently interacts  
 74 with and supports the existing or planned transportation  
 75 network.

76 (f) The amount of investment or commitments made by the  
 77 owner or developer of the existing or proposed facility.

78 (g) The extent to which the county or counties have

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2014

79 commitments with private sector businesses planning to locate  
80 operations within the freight logistics zone.

81 (h) Demonstrated local financial support and commitment to  
82 the project, including in-kind contributions.

83 Section 2. This act shall take effect July 1, 2014.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Transportation & Economic  
2 Development Appropriations Subcommittee  
3 Representative Ray offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (b) of subsection (3) of section  
8 311.07, Florida Statutes, is amended to read:

9 311.07 Florida seaport transportation and economic  
10 development funding.-

11 (3)

12 (b) Projects eligible for funding by grants under the  
13 program are limited to the following port facilities or port  
14 transportation projects:

15 1. Transportation facilities within the jurisdiction of  
16 the port.

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17 2. The dredging or deepening of channels, turning basins,  
18 or harbors.

19 3. The construction or rehabilitation of wharves, docks,  
20 structures, jetties, piers, storage facilities, cruise  
21 terminals, automated people mover systems, or any facilities  
22 necessary or useful in connection with any of the foregoing.

23 4. The acquisition of vessel tracking systems, container  
24 cranes, or other mechanized equipment used in the movement of  
25 cargo or passengers in international commerce.

26 5. The acquisition of land to be used for port purposes.

27 6. The acquisition, improvement, enlargement, or extension  
28 of existing port facilities.

29 7. Environmental protection projects which are necessary  
30 because of requirements imposed by a state agency as a condition  
31 of a permit or other form of state approval; which are necessary  
32 for environmental mitigation required as a condition of a state,  
33 federal, or local environmental permit; which are necessary for  
34 the acquisition of spoil disposal sites and improvements to  
35 existing and future spoil sites; or which result from the  
36 funding of eligible projects listed in this paragraph.

37 8. Transportation facilities as defined in s. 334.03(30)  
38 which are not otherwise part of the Department of  
39 Transportation's adopted work program.

40 9. Intermodal access projects.

41 10. Construction or rehabilitation of port facilities as  
42 defined in s. 315.02, excluding any park or recreational

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43 facilities, in ports listed in s. 311.09(1) with operating  
44 revenues of \$5 million or less, provided that such projects  
45 create economic development opportunities, capital improvements,  
46 and positive financial returns to such ports.

47 11. Seaport master plan or strategic plan development or  
48 updates, including the purchase of data to support such plans,  
49 and asset management plans.

50 Section 2. Subsection (7) of section 311.101, Florida  
51 Statutes, is amended to read:

52 311.101 Intermodal Logistics Center Infrastructure Support  
53 Program.—

54 (7) Beginning in fiscal year 2014-2015, at least 2012-  
55 2013, up to \$5 million per year shall be made available from the  
56 State Transportation Trust Fund for the program. The Department  
57 of Transportation shall include projects proposed to be funded  
58 under this section in the tentative work program developed  
59 pursuant to s. 339.135(4).

60 Section 3. Section 311.103, Florida Statutes, is created  
61 to read:

62 311.103 Designation of state freight logistics zones.—

63 (1) As used in this section, the term "freight logistics  
64 zone" means a grouping of activities and infrastructure  
65 associated with freight transportation and related services  
66 within a defined area around an intermodal logistics center as  
67 defined in s. 311.101(2).

68 (2) A county, or two or more contiguous counties, may



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69 designate a geographic area or areas within its jurisdiction as  
70 a freight logistics zone. The designation must be accompanied by  
71 a strategic plan adopted by the county or counties. At a  
72 minimum, the strategic plan must include, but is not limited to:

73 (a) A map depicting the geographic area or areas to be  
74 included within the designation.

75 (b) Identification of the existing or planned freight  
76 facilities or logistics clusters located within the designated  
77 zone.

78 (c) Identification of existing transportation  
79 infrastructure, such as roads, rail, airports, and seaports,  
80 within or in close proximity to the proposed freight logistics  
81 zone.

82 (d) Identification of existing workforce availability  
83 within or in close proximity to the proposed zone.

84 (e) Identification of any existing or planned local,  
85 state, or federal workforce training capabilities available for  
86 a business seeking to locate or expand within the proposed zone.

87 (f) Identification of any local, state, or federal plans,  
88 including transportation, seaport, or airport plans, concerning  
89 the movement of freight within or in close proximity to the  
90 proposed zone.

91 (g) Identification of financial or other local government  
92 incentives to encourage new development, expansion of existing  
93 development, or redevelopment within the proposed zone.

94 (h) Documentation that the plan is consistent with

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95 applicable local government comprehensive plans and adopted  
96 long-range transportation plans of a Metropolitan Planning  
97 Organization, where applicable.

98 (3) Projects within freight logistics zones designated  
99 pursuant to this section, which are consistent with the Freight  
100 Mobility and Trade Plan developed in accordance with s.  
101 334.044(33), may be eligible for priority in state funding and  
102 incentive programs relating to freight logistics zones,  
103 including applicable programs identified in parts I, III, and V  
104 of chapter 288.

105 (4) When evaluating projects within a designated freight  
106 logistics zone for purposes of determining funding or incentive  
107 program eligibility under this section, consideration must be  
108 given to:

109 (a) The presence of an existing or planned intermodal  
110 logistics center within the freight logistics zone.

111 (b) Whether the project serves a strategic state interest.

112 (c) Whether the project facilitates the cost-effective and  
113 efficient movement of goods.

114 (d) The extent to which the project contributes to  
115 economic activity, including job creation, increased wages, and  
116 revenues.

117 (e) The extent to which the project efficiently interacts  
118 with and supports the existing or planned transportation  
119 network.

120 (f) The amount of investment or commitments made by the

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121 owner or developer of the existing or proposed facility.

122 (g) The extent to which the county or counties have  
123 commitments with private sector businesses planning to locate  
124 operations within the freight logistics zone.

125 (h) Demonstrated local financial support and commitment to  
126 the project, including in-kind contributions.

127 Section 4. Section 311.141, Florida Statutes, is created  
128 to read:

129 311.141 Florida seaports continuity of operations and  
130 resumption of trade plan, and asset management planning.-

131 (1) The Department of Transportation, in consultation with  
132 the Division of Emergency Management and the Florida Seaport  
133 Transportation and Economic Development Council, and other  
134 appropriate partners, shall review the need for, and, if needed,  
135 develop, a statewide all-hazards economic recovery and  
136 resumption of trade plan for Florida's seaports listed in s.  
137 311.09. The review shall examine existing continuity of  
138 operations plans at the seaports and at other appropriate  
139 agencies and shall identify any gaps or needed linkages to  
140 ensure expedited resumption of business operations following any  
141 major incident at a Florida port. This review shall also include  
142 examining current procedures and planning developed pursuant to  
143 s. 252.35 to identify any changes needed to ensure appropriate  
144 integration of this plan into statewide emergency management  
145 plans.

146 (2) The Department of Transportation, in consultation with

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147 the Florida Seaport Transportation and Economic Development  
148 Council, shall examine the need for, and possible benefits from,  
149 implementation of a consistent asset management program at each  
150 of Florida's seaports listed in s. 311.09(1). Any asset  
151 management plans developed will identify systematic and  
152 coordinated activities and practices to optimally and  
153 sustainably manage assets and asset systems, their associated  
154 performance, risks and expenditures over their lifecycles for  
155 the purposes of achieving statewide transportation and economic  
156 development goals as well as goals of the seaport's strategic  
157 plan.

158 Section 5. Subsection (2) of section 320.525, Florida  
159 Statutes, is amended to read:

160 320.525 Port vehicles and equipment; definition;  
161 exemption.-

162 (2) Port vehicles and equipment shall be exempt from the  
163 provisions of this chapter which require the registration of  
164 motor vehicles, the payment of license taxes, and the display of  
165 license plates when operated or used within the port facility of  
166 any deepwater port of this state, as listed in s. 403.021(9)(b),  
167 for the purpose of transporting cargo, containers, or other  
168 equipment:

169 (a) From wharves to storage areas or terminals and return  
170 to wharves within the port; ~~and~~

171 (b) From such storage areas or terminals to other storage  
172 areas or terminals within the port; and-

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173 (c) On public roads connecting port facilities of a single  
174 deepwater port listed in s. 403.021(9)(b), that are designated  
175 as Port District Roads for the purpose of transporting cargo,  
176 containers, and other equipment. Port District Roads shall be  
177 designated by the Department of Transportation with appropriate  
178 signage.

179 Section 6. This act shall take effect July 1, 2014.  
180  
181  
182

183 -----  
184 **T I T L E A M E N D M E N T**

185 Remove everything before the enacting clause and insert:  
186 An act relating to freight and trade; amending s. 311.07, F.S.,  
187 providing that seaport asset management plans are eligible for  
188 funding from the Florida Seaport Transportation and Economic  
189 Development Program; amending s. 311.101, F.S.; revising the  
190 amount of funds to be annually made available from the State  
191 Transportation Trust Fund for the Intermodal Logistics Center  
192 Infrastructure Support Program; creating s. 311.103, F.S.;  
193 defining the term "freight logistics zone"; authorizing a county  
194 or two or more contiguous counties to designate a geographic  
195 area or areas within its jurisdiction as a freight logistics  
196 zone; requiring the adoption of a strategic plan which must  
197 include certain information; providing that certain projects  
198 within freight logistics zones may be eligible for priority in

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199 state funding and certain incentive programs; providing  
200 evaluation criteria for freight logistics zones; creating s.  
201 311.141, F.S.; providing for a review and the development of a  
202 all-hazard recovery plan for seaports; providing for asset  
203 management programs for seaports; amending s. 320.525, F.S.,  
204 providing that certain public roads may be designated as port  
205 district roads; requiring authorization from the Department of  
206 Transportation and signage; providing an effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 147 Concrete Masonry Education  
**SPONSOR(S):** Higher Education & Workforce Subcommittee, Caldwell and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 286

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	11 Y, 2 N, As CS	Ammel	Sherry
2) Transportation & Economic Development Appropriations Subcommittee		Proctor <i>TP</i>	Davis <i>(gdy)</i>
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill creates the "Concrete Masonry Education Act," and establishes the Florida Concrete Masonry Education Council, Inc., (council) as a nonprofit corporation operating as a direct-support organization of the Department of Economic Opportunity (DEO). The bill:

- Outlines administrative powers and duties of the council including the power to plan, implement, and conduct educational programs related to the field of concrete masonry, particularly for individuals seeking employment.
- Provides for the appointment of a 13 member governing board.
- Allows the council to accept grants, donations, contributions, gifts, and to collect self-imposed, voluntary assessments on concrete masonry units produced and sold by concrete masonry manufacturers in the state.
- Requires the council to adopt bylaws that must be approved by DEO.
- Prohibits the council from participating or intervening in any political campaign on behalf of or in opposition to any candidate for public office or any state or local ballot initiative.

There is no fiscal impact on state revenues or expenditures. There is an indeterminate fiscal impact on concrete masonry manufacturers. (See fiscal section for more details.)

The bill provides an effective date of July 1, 2014.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Concrete Masonry Education Programs

Educational programs to train individuals in the field of concrete masonry are currently offered by school districts, colleges and apprenticeship programs throughout Florida. The Florida Department of Education develops Career and Technical Education programs in 'Concrete Masonry' as well as 'Brick and Block Masonry.' These programs are provided through a "network of service providers, which include District Technical Centers, Adult Education Providers and Florida colleges."<sup>1</sup> Career and Technical Education programs are reviewed on a three-year cycle by programmatic review committees,<sup>2</sup> with industry members comprising 50 percent of the review committees in the case of masonry programs.<sup>3</sup> The 2012 review of the Concrete Masonry program recommended deletion of the program due to low enrollment.<sup>4</sup> The program will be removed from inventory in the 2014-2015 school year.<sup>5</sup>

The Florida Masonry Apprentice and Educational Foundation, Inc., was created in 2002 as a non-profit educational foundation associated with the Masonry Association of Florida and the Florida Concrete & Products Association, coordinates and provides apprenticeship education of the masonry trade. The sole financial support for the Florida Masonry Apprentice & Educational Foundation comes from voluntary contributions.<sup>6</sup>

##### Effect of Proposed Changes

The bill creates the Concrete Masonry Education Act and establishes the Florida Concrete Masonry Education Council (council) as a nonprofit corporation acting as a direct-support organization of DEO. The council must operate under a written contract with DEO, and the contract requires, at a minimum, that the council's articles of incorporation, bylaws, and budget be approved by DEO. The contract also provides for a reversion of funds to DEO should the council cease to exist.

The bill requires the council to:

- Plan, implement, and conduct programs of education to train individuals in the field of concrete masonry.
- Develop and improve access to education for individuals seeking employment in the field of concrete masonry.
- Develop and implement outreach programs to ensure diversity among individuals trained in the programs.
- Coordinate educational programs with national programs and programs of other states.
- Inform and educate the public about the sustainability and economic benefits of concrete masonry products in order to increase employment opportunities.

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<sup>1</sup> Florida Department of Education, Career and Adult Education, available at [http://www.fldoe.org/workforce/dwdframe/arch\\_cluster\\_frame13.asp](http://www.fldoe.org/workforce/dwdframe/arch_cluster_frame13.asp) (last visited Feb. 7, 2014).

<sup>2</sup> Section 1004.92(2)(b)4, F.S.

<sup>3</sup> Department of Education, *Senate Bill 286 Agency Legislative Bill Analysis* (Oct. 23, 2013).

<sup>4</sup> In the 2012-2013 school year, the concrete masonry program was offered in three school districts with only 24 students statewide. Conversation with Florida Department of Education representative (Dec. 11, 2013).

<sup>5</sup> *Id.*

<sup>6</sup> Fourteen apprentice programs throughout the state have approximately 300 enrollees. Florida Masonry Apprentice & Educational Foundation, About Us, available at <http://www.masonryeducation.org/about.html> (last visited Feb. 7, 2014).

- Develop, implement, and monitor a system for the collection of self-imposed voluntary assessments.
- Keep a separate accounting of all money received through voluntary assessments and provide for an annual financial audit in accordance with s. 215.981, F.S.
- Adopt bylaws by September 30, 2014.
- Provide a report, by January 15 of each year, to the Governor, President of the Senate and Speaker of the House of Representatives outlining the following: revenues received; use of funds received; annual goals and objectives and methods for achieving those; the number of individuals who received training or assistance from the programs; and information related to job placements and industry workforce needs.

The bill provides that the council may:

- Provide to governmental bodies, upon request, information relating to the concrete masonry industry.
- Sue and be sued as a council.
- Maintain a financial reserve for emergency use, not to exceed 10 percent of the council's anticipated income.
- Employ officers and employees of the council, prescribe their duties, and determine their compensation and terms of employment.
- Cooperate with other agencies or organizations in work or activities consistent with the council's objectives.
- Meet with masonry manufacturers to coordinate the collection of self-imposed voluntary assessments.
- Accept grants, donations, contributions, or gifts to be used for activities consistent with the council's objectives.
- Make payments to other organizations for work or services performed and if so, must secure a written agreement that recipients submit, at least annually, a written report detailing the activities and use of such funds.

The bill prohibits the council from:

- Participating in a political campaign, or state or local ballot initiatives.
- Using receipts to benefit directors, officers, or other private persons, not including reasonable compensation for services.
- Participating in activities prohibited for non-profit corporations under federal tax law.

The bill provides that each manufacturer who agrees to pay the self-imposed voluntary assessment shall collect such moneys and submit them quarterly to the council and must commit to paying the assessment for at least one year. The assessment shall be paid for each masonry unit produced and sold by the manufacturer.

The bill also establishes a 13-member board of directors for the council. Members are appointed by the Governor, President of the Senate, and the Speaker of the House as follows:

The Governor shall appoint three members:

- Two representing concrete masonry manufacturers.
- One representing a major building industry association in the state.

The President of the Senate shall appoint five members:

- Three representing concrete masonry manufacturers.

- One who is a stakeholder in the masonry industry, but is not a masonry contractor or manufacturer or employee of such.
- One who is a masonry contractor and is a member of the Masonry Association of Florida.

The Speaker of the House of Representatives shall appoint five members:

- Three representing concrete masonry manufacturers.
- One who has expertise in apprenticeship or has workforce education training.
- One who is a masonry contractor and is also a member of the Masonry Association of Florida.

The initial board members will be assigned to staggered terms. Thereafter, members shall be appointed to 3-year terms and may be reappointed to serve an additional consecutive term. All members serve without compensation but may be reimbursed for per diem and travel expenses.

**B. SECTION DIRECTORY:**

**Section 1.** Creates the Concrete Masonry Education Act in an unspecified section of Florida Statutes.

**Section 2.** Establishes the Concrete Masonry Education Council as a direct-support organization to DEO; outlines specific duties, responsibilities, and prohibitions for the council; establishes a 13-member governing board with specific membership requirements; and requires an annual report to the Governor, President of the Senate and Speaker of the House of Representatives.

**Section 3.** Provides an effective date of July 1, 2014.

**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.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Proposed payments by concrete masonry manufacturers to Florida Concrete Masonry Education Council, Inc., are self-imposed voluntary assessments on concrete masonry units produced and sold in the state. Additionally, the council may accept grants, donations, contributions, or gifts.

The fiscal impact cannot be determined because of the voluntary nature of the anticipated revenue.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

None.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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A bill to be entitled  
 An act relating to concrete masonry education;  
 providing a short title; creating the Florida Concrete  
 Masonry Education Council, Inc.; requiring the council  
 to operate under a written contract with the  
 Department of Economic Opportunity; providing powers  
 and duties of the council; providing restrictions;  
 providing for appointment and terms of the governing  
 board of the council; authorizing the council to  
 accept grants, donations, contributions, and gifts  
 under certain circumstances; authorizing the council  
 to make payments to other organizations under certain  
 circumstances; providing for collection of a voluntary  
 assessment on concrete masonry units; requiring  
 manufacturers who elect to pay the assessment to  
 commit to paying the assessment for a specified  
 period; requiring the council to adopt bylaws;  
 providing for the adoption of bylaws and amendments to  
 bylaws; providing an effective date.

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

Section 1. This section may be cited as the "Concrete  
 Masonry Education Act."

Section 2. Concrete masonry education.—

(1) (a) The Florida Concrete Masonry Education Council,

27 Inc., is created as a nonprofit corporation organized under the  
 28 laws of this state and operating as a direct-support  
 29 organization of the Department of Economic Opportunity.

30 (b) The council shall operate under a written contract  
 31 with the department which provides, at a minimum, for:

32 1. Approval of the articles of incorporation and bylaws of  
 33 the council by the department.

34 2. Submission of an annual budget for approval by the  
 35 department.

36 3. Reversion of moneys and property held in trust by the  
 37 council for concrete masonry education to the department if the  
 38 council ceases to exist or to the state if the department ceases  
 39 to exist.

40 (c) The council shall:

41 1. Plan, implement, and conduct programs of education for  
 42 the purpose of training individuals in the field of concrete  
 43 masonry.

44 2. Develop and improve access to education for individuals  
 45 seeking employment in the field of concrete masonry.

46 3. Develop and implement outreach programs to ensure  
 47 diversity among individuals trained in the programs conducted  
 48 pursuant to this section.

49 4. Coordinate educational programs with national programs  
 50 or programs of other states.

51 5. Inform and educate the public about the sustainability  
 52 and economic benefits of concrete masonry products in order to

53 increase employment opportunities for individuals trained in the  
 54 programs conducted pursuant to this section.

55 6. Develop, implement, and monitor a system for the  
 56 collection of a self-imposed voluntary assessment on each  
 57 concrete masonry unit produced and sold by concrete masonry  
 58 manufacturers in this state.

59 7. Submit a report to the Governor, the President of the  
 60 Senate, and the Speaker of the House of Representatives by  
 61 January 15 of each year outlining the revenues received by the  
 62 council, the percentage of the industry participating in the  
 63 programs, the use of the funds received, goals and objectives  
 64 for the year and methods of achieving such goals and objectives,  
 65 the number of individuals who have received training or  
 66 assistance from the programs supported by the council, and  
 67 information relating to job placements and industry workforce  
 68 needs.

69 (d) The council may:

70 1. Provide to governmental bodies, on request, information  
 71 relating to subjects of concern to the concrete masonry industry  
 72 and act jointly or in cooperation with the state or Federal  
 73 Government, and agencies thereof, in the development or  
 74 administration of programs that the council considers to be  
 75 consistent with the objectives of this section.

76 2. Sue and be sued as a council without individual  
 77 liability of the members for actions of the council when acting  
 78 within the scope of the powers conferred by this section and in

79 the manner prescribed by the laws of this state.

80 3. Maintain a financial reserve for emergency use, the  
 81 total of which must not exceed 10 percent of the council's  
 82 anticipated annual income.

83 4. Employ subordinate officers and employees of the  
 84 council, prescribe their duties, and fix their compensation and  
 85 terms of employment.

86 5. Cooperate with any local, state, regional, or  
 87 nationwide organization or agency engaged in work or activities  
 88 consistent with the objectives of this section.

89 6. Meet with concrete masonry manufacturers in this state  
 90 to coordinate the collection of self-imposed voluntary  
 91 assessments on concrete masonry units.

92 (e)1. The council may not participate or intervene in any  
 93 political campaign on behalf of or in opposition to any  
 94 candidate for public office or any state or local ballot  
 95 initiative, including, but not limited to, the publication or  
 96 distribution of any statement.

97 2. The net receipts of the council may not in any part  
 98 inure to the benefit of or be distributable to its directors,  
 99 its officers, or other private persons; however, the council may  
 100 pay reasonable compensation for services rendered by council  
 101 officers and employees and may make payments and distributions  
 102 in furtherance of the purposes of this section.

103 3. Notwithstanding any other provision of law, the council  
 104 may not carry on any other activity not permitted to be carried



105 on by a corporation:

106 a. That is exempt from federal income taxation under s.  
 107 501(c)(3) of the Internal Revenue Code; or

108 b. To which charitable contributions are deductible under  
 109 s. 170(c)(2) of the Internal Revenue Code.

110 (2)(a) The Florida Concrete Masonry Education Council,  
 111 Inc., shall be governed by a board of directors composed of 13  
 112 voting members as follows:

113 1. Eight members representing concrete masonry  
 114 manufacturers of various sizes. After receiving recommendations  
 115 from the Masonry Association of Florida, the Governor shall  
 116 appoint two of these board members, and the President of the  
 117 Senate and the Speaker of the House of Representatives shall  
 118 each appoint three of these board members. Of the eight board  
 119 members appointed under this subparagraph, at least five members  
 120 must be representatives of manufacturers that are members of the  
 121 Masonry Association of Florida. A manufacturer may not be  
 122 represented by more than one board member.

123 2. One member representing a major building industry  
 124 association in the state appointed by the Governor.

125 3. One member having expertise in apprenticeship or  
 126 workforce education training appointed by the Speaker of the  
 127 House of Representatives.

128 4. One member who is not a masonry contractor or  
 129 manufacturer or an employee of a masonry contractor or  
 130 manufacturer but who is otherwise a stakeholder in the masonry

131 industry. This member shall be appointed by the President of the  
 132 Senate.

133 5. Two members who are masonry contractors and who are  
 134 members of the Masonry Association of Florida, one of whom shall  
 135 be appointed by the President of the Senate and one of whom  
 136 shall be appointed by the Speaker of the House of  
 137 Representatives.

138 (b)1. Five of the initial board members shall be appointed  
 139 to serve 1-year terms. Of the five members, one shall be  
 140 appointed by the Governor, two shall be appointed by the  
 141 President of the Senate, and two shall be appointed by the  
 142 Speaker of the House of Representatives.

143 2. Four of the initial board members shall be appointed to  
 144 serve 2-year terms. Of the four members, one shall be appointed  
 145 by the Governor, one shall be appointed by the President of the  
 146 Senate, and two shall be appointed by the Speaker of the House  
 147 of Representatives.

148 3. Four of the initial board members shall be appointed to  
 149 serve 3-year terms. Of the four members, one shall be appointed  
 150 by the Governor, two shall be appointed by the President of the  
 151 Senate, and one shall be appointed by the Speaker of the House  
 152 of Representatives.

153 4. Each subsequent vacancy on the board of directors shall  
 154 be filled in accordance with the initial appointment.  
 155 Thereafter, each board member shall be appointed to serve a 3-  
 156 year term and may be reappointed to serve an additional

157 consecutive term. However, a member may not serve more than two  
 158 consecutive terms.

159 (c) A board member may not be required to participate in a  
 160 voluntary assessment on concrete masonry units as a condition of  
 161 appointment. A member representing a manufacturer must have been  
 162 employed by a manufacturer engaging in the trade of manufacture  
 163 of concrete masonry products for at least 5 years immediately  
 164 preceding the first day of his or her service on the board. All  
 165 members of the board shall serve without compensation but are  
 166 entitled to reimbursement for per diem and travel expenses  
 167 incurred in carrying out the intents and purposes of this  
 168 section in accordance with s. 112.061, Florida Statutes.

169 (d) In addition to the 13 voting members described in  
 170 paragraph (a), the executive director of the Department of  
 171 Economic Opportunity, or his or her designee, shall serve ex  
 172 officio as a nonvoting member of the board of directors of the  
 173 council.

174 (3) The council may accept grants, donations,  
 175 contributions, or gifts from any source if the use of such  
 176 resources is not restricted in a manner that the council  
 177 considers to be inconsistent with the objectives of this  
 178 section.

179 (4)(a) The council may make payments to other  
 180 organizations for work or services performed that are consistent  
 181 with the objectives of this section.

182 (b) Before making payments described in this subsection,

183 the council must secure a written agreement that the  
 184 organization receiving payment will furnish at least annually,  
 185 or more frequently upon request of the council, written or  
 186 printed reports of program activities and reports of financial  
 187 data that are relative to the council's funding of such  
 188 activities.

189 (c) The council may require adequate proof of security  
 190 bonding on the payments to any individual, business, or other  
 191 organization.

192 (5) (a) The self-imposed voluntary assessment shall be paid  
 193 for each masonry unit produced and sold by the manufacturer.

194 (b) Each manufacturer that elects to pay the self-imposed  
 195 voluntary assessment must commit to paying the assessment for at  
 196 least 1 year. Thereafter, the manufacturer may elect to  
 197 terminate payment or continue payment for the next year.

198 (c) The manufacturer shall collect all such moneys and  
 199 forward them quarterly to the council.

200 (d) The council shall maintain within its financial  
 201 records a separate accounting of all moneys received under this  
 202 subsection. The council shall provide for an annual financial  
 203 audit of its accounts and records in accordance with s. 215.981,  
 204 Florida Statutes.

205 (6) (a) The council shall, by September 30, 2014, adopt  
 206 bylaws to carry out the intents and purposes of this section.  
 207 Before adoption by the council, the bylaws must be approved by  
 208 the department. The bylaws must conform to the requirements of

CS/HB 147

2014

209 this section but may also address any matter not in conflict  
 210 with the general laws of this state.


211 (b) Amendments to adopted bylaws may be proposed with 30  
 212 days' notice to board members at any regular or special meeting  
 213 called for such purpose and may be adopted by the council  
 214 following approval by the department.

215 Section 3. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 311 Orlando-Orange County Expressway Authority  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Nelson  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Local & Federal Affairs Committee	18 Y, 0 N	Flegiel	Rojas
3) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
4) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill renames the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law. Specifically, the bill:

- Creates the Central Florida Expressway Authority (CFX) and provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) to CFX.
- Provides for the composition of the governing body of CFX and the appointment of its officers.
- Provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Removes the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.
- Removes the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.
- Provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title will be retained by the state, and extends the terms of lease-purchase agreements from 40 to 99 years.
- Provides for the transfer of the Osceola County Expressway System to CFX and provides for the repeal of part V of ch. 348, F.S., when the Osceola County Expressway System is transferred to CFX.
- Makes numerous conforming, grammatical, and editorial changes.

The bill does not have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Orlando Orange County Expressway Authority**

The Orlando Orange County Expressway Authority (OOCEA), created in part III of ch. 348, F.S.,<sup>1</sup> currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.<sup>2</sup>

The OOCEA's governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County Mayor and the Department of Transportation's (DOT) district five secretary serve as *ex-officio* members of the Board.<sup>3</sup>

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County, which includes:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);
- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 5 miles of the John Land Apopka Expressway (SR 414).

Pursuant to an existing Memorandum of Understanding (MOU) and lease-purchase agreement between DOT and OOCEA, OOCEA will independently finance, build, own, and manage certain portions of the Wekiva Parkway. In order to ensure that funds are available to DOT for the Wekiva Parkway, in 2012, the Legislature codified references to the existing MOU and lease-purchase agreements, and established a repayment schedule for OOCEA to reimburse DOT for the costs of operation and maintenance of the Orlando-Orange County Expressway System in accordance with terms of the MOU.<sup>4</sup>

The OOCEA was required to pay DOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay off the long-term debt obligation to DOT. When the debt has been fully repaid, DOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system will terminate, and ownership of the system will remain with OOCEA. DOT advises that OOCEA's current long-term debt is over \$211 million.<sup>5</sup>

##### **Osceola County Expressway Authority**

Created in 2010, as part V of ch. 348, F.S.,<sup>6</sup> the Osceola County Expressway Authority (OCX) currently serves Osceola County and has the purposes and powers identified in the Florida Expressway

<sup>1</sup> Part III of ch. 348, F.S., consists of ss. 348.751 through 348.765, F.S.

<sup>2</sup> S. 348.754(2)(n), F.S.

<sup>3</sup> S. 348.753(2), F.S.

<sup>4</sup> Ch. 2012-128, L.O.F.

<sup>5</sup> Florida Department of Transportation bill analysis of SB 230. On file with Transportation & Highway Safety Subcommittee staff.

<sup>6</sup> Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.



Authority Act,<sup>7</sup> including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.<sup>8</sup>

The OCX governing board consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five members are appointed by the governing body of the county and the remaining two are appointed by the Governor. DOT's district five secretary serves as an *ex-officio*, non-voting member.<sup>9</sup>

OCX is not currently operating any facility and has no funding or staffing. Staff assistance and other support have been provided by Osceola County. The Florida Transportation Commission indicates that in 2012, DOT provided \$2.5 million in funding to OCX, which will primarily be used for two Project Development & Environment Studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a master plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension. OCX has an agreement with Osceola County under which the county will advance funds for operation and startup costs until OCX has a revenue-producing project and which requires OCX to repay the county within 15 years of receiving the funds. A 2012 agreement calls for the issuance of bonds by the county to pay for the Poinciana Parkway project costs incurred by OCX. OCX will design and construct the parkway pursuant to a lease-purchase agreement with the county.<sup>10</sup>

### **Seminole County and Lake County**

In 2011, the Legislature abolished the Seminole County Expressway authority,<sup>11</sup> and Seminole County is currently not served by an expressway authority. Lake County is also not currently served by an expressway authority.

### **Proposed Changes**

#### **Short Title (Section 1)**

The bill amends s. 348.751, F.S., changing the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

#### **Definitions (Section 2)**

The bill amends s. 348.752, F.S., revising various definitions used in part III of ch. 348, F.S.

The bill defines "Central Florida Expressway Authority" to mean the body politic and corporate and agency of the state created by this part.

The bill defines "Central Florida Expressway System" to mean any expressway or appurtenant facilities within the jurisdiction of the authority, including all approaches, roads, bridges, and avenues for the expressway and any rapid transit transportation system, tram, or fixed-guideway system located within the right-of-way of an expressway.

The bill defines "transportation facilities" to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

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<sup>7</sup> Part I of ch. 348, F.S.

<sup>8</sup> S. 348.0004, F.S.

<sup>9</sup> S. 348.9952, F.S.

<sup>10</sup> Florida Transportation Commission *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 171.

<sup>11</sup> Ch. 2011-64, L.O.F.

The bill deletes the definitions for "city" and "county," and revises various definitions making plain-language changes and conforming terminology to the renaming.

The bill removes a provision providing that the singular includes the plural and vice versa, and words importing persons include firms and corporations. This provision is redundant to s. 1.01, F.S., regarding general statutory construction.

### **Central Florida Expressway Authority (Section 3)**

The bill amends s. 348.753, F.S., changing the catchline from Orlando-Orange County Expressway Authority to Central Florida Expressway Authority.

The bill provides that effective July 1, 2015; the Central Florida Expressway Authority (CFX) assumes the governance and control of the OOCEA system, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property. Any rights in such property and other legal rights of the authority are transferred to CFX. CFX succeeds and assumes the powers, responsibilities, and obligations of OOCEA on July 1, 2015.

The transfer is subject to the terms and covenants provided for the protection of the OOCEA bondholders and in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds. Further, the transfer does not impair the terms of the contract between the OOCEA and the bondholders, does not act to the detriment of the bondholders, and does not diminish the security of the bonds.

After the transfer, CFX shall operate and maintain the expressway system and any other facilities of the OOCEA in accordance with the terms, conditions, and covenants contained in the bond resolutions and lease-purchase agreement securing the bonds of the authority. CFX shall collect toll revenues and apply them to the payment of debt service as provided in the bond resolution securing the bonds and shall expressly assume all obligations relating to the bonds to ensure that the transfer will have no adverse impact on the security for the bonds. The transfer does not make the obligation to pay the principal and interest on the bonds a general liability of CFX or pledge additional expressway system revenues to payment of the bonds.

Revenues that are generated by the expressway system and other facilities of CFX which were pledged by OOCEA to payment of the bonds will remain subject to the pledge for the benefit of the bondholders. The transfer does not modify or eliminate any prior obligation of DOT to pay certain costs of the expressway system from sources other than revenues of the expressway system.

The bill also provides for an 11 member governing board for CFX. The chairs of the boards of the county commissions of Seminole, Lake, and Osceola Counties each appoint one member, who may be a commission member or chair. The Governor appoints six citizen members; two must be citizens of Orange County, one member each must be a citizen of Seminole, Lake, or Osceola Counties, and one member may be a citizen of any of the identified counties. The 10<sup>th</sup> member is the mayor of Orange County and the 11<sup>th</sup> member is the mayor of the City of Orlando. The executive director of the Florida Turnpike Enterprise serves as a non-voting advisor to the governing body of the authority.

Each board member appointed by the Governor serves a four-year term, and county appointed members serve a two-year term. Standing board members complete their terms. Except as provided, a person who is an officer or employee of a municipality or county is not eligible for appointment to the authority.

### **Purposes and Powers (Section 4)**

The bill amends s. 348.754, F.S., relating to the purposes and powers of CFX. The bill provides that except otherwise specifically provided; the area served by the authority is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties. The bill authorizes CFX to construct the

Central Florida Expressway System including rapid transit, trams, fixed guideways, thoroughfares, and boulevards.

To ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by DOT, CFX may not, without prior consent of the secretary of DOT, construct any extensions, additions, or improvements to the expressway system in Lake County.

The bill changes from 40 years to 99 years the length of time CFX is authorized to enter into and make lease-purchase agreements with DOT.

The bill provides that CFX is a party to a lease-purchase agreement between DOT and OOCEA dated December 23, 1985, as supplemented by a first supplement to the lease purchase agreement dated November 25, 1986, and a second supplement to the lease-purchase agreement dated October 28, 1988. CFX may not enter into another lease-purchase agreement with DOT and may not amend the existing agreement in a manner that expands or increases DOT's obligation unless DOT determines that the agreement or amendment is necessary to permit the refunding of bonds issued before July 1, 2013.

The bill provides that toll revenues attributable to an increase in toll rates charged on or after July 1, 2015, for use of a facility or portion of a facility may not be used to construct or expand a different facility unless a two-thirds majority of the members of the authority votes to approve such use. This requirement does not apply if and to the extent that:

- Application of the requirement would violate any covenant established in a resolution or trust indenture under which bonds were issued by OOCEA on or before July 1, 2015; or
- Application of the requirement would cause the authority to be unable to meet its obligations under the terms of the MOU between the authority and DOT as ratified by the OOCEA board on February 22, 2012.

Notwithstanding s. 338.165, F.S.,<sup>12</sup> except as otherwise prohibited by part III of ch. 348, F.S., to the extent revenues of the expressway system exceed amounts required to comply with any covenants made with holders of the bonds, revenues may be used, within the right-of-way of the expressway system, for the financing or refinancing the planning design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of an intermodal facility of facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system, provide the expenditures are consistent with the metropolitan planning organization's long-range plan.

The bill provides that CFX shall encourage the inclusion of local businesses, small businesses, and minority-owned and women-owned businesses in its procurement and contracting opportunities.

The requirement for approval of the municipal governing board of a project route prior to the acquisition of right-of-way for a project within the boundaries of Orange County is removed, as are provisions authorizing CFX to waive payment and performance bonds on certain construction contracts and related small business provisions.

#### **Conforming Changes (Sections 5 through 11)**

The bill amends the following sections conforming terminology, and make grammatical and editorial changes:

- Section 348.7543, F.S., relating to improvements, bond financing authority for.
- Section 348.7544, F.S., relating to Northwest Beltway Part A, construction authorized; financing.
- Section 348.7545, F.S., relating to Western Beltway part C, construction authorized; financing.

<sup>12</sup> Section 338.165, F.S., relates to the continuation of tolls.

- Section 348.7546, F.S., relating to Wekiva Parkway, construction authorized; financing.
- Section 348.7547, F.S., relating to Maitland Boulevard Extension and Northwest Beltway Part A Realignment construction authorized; financing.
- Section 348.755, F.S., relating to bonds of the authority.
- Section 348.756, F.S., relating to remedies of the bondholders.

#### **Lease-Purchase Agreements (Section 12)**

The bill amends s. 348.757, F.S., providing that upon the termination of the current lease-purchase agreement between OOCEA and DOT, title in fee simple absolute to the former OOCEA system must be transferred to the state. The bill also makes conforming, grammatical, and editorial changes to that section.

#### **Conforming Changes (Sections 13 through 18)**

The bill amends the following sections conforming terminology, and make grammatical and editorial changes:

- Section 348.758, F.S., relating to appointment of DOT as agent of authority for construction.
- Section 348.759, F.S., relating to acquisition of land and property.
- Section 348.760, F.S., relating to cooperation with other units, boards, agencies, and individuals.<sup>13</sup>
- Section 348.761, F.S., relating to covenant of the state.
- Section 348.765, F.S., relating to this part complete and additional authority.
- Section 369.317, F.S., relating to the Wekiva Parkway.

#### **Wekiva River Basin Commission (Section 19)**

The bill amends s. 369.324(1), F.S., removing and replacing references to the OOCEA and previously repealed Seminole County Expressway Authority, and revises the composition of the Wekiva River Basin Commission due to the previous repeal of the Seminole County Expressway Authority.

#### **Transfer of the Osceola County Expressway System (Section 20)**

The bill provides that effective upon the completion of the Poinciana Parkway,<sup>14</sup> a limited-access facility of approximately nine miles in Osceola County between the intersection of County Road 54 and U.S. 17/U.S. 92 and the intersection of Rhododendron and Cypress Parkway, described in OCX's May 8, 2012, master plan,<sup>15</sup> all powers, governance, and control of the Osceola County Expressway System<sup>16</sup> is transferred to CFX, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX are transferred to CFX. The effective date of the transfer shall be extended until completion of construction of such portions of the Southport Connector Expressway, the Northeast Connector Expressway, such portions of the Poinciana Parkway to connect to State Road 429, and the Osceola Parkway Connection, as each is described in OCX's May 8, 2012, Master Plan, which are included in any design contract executed by OCX before July 1, 2020. Since it is based on contingencies, there is not a date certain when OCX will be transferred to CFX. Part V of Ch. 348, F.S.,<sup>17</sup> is repealed on the same date that the OCX is transferred to CFX.

The bill requires CFX to reimburse any and all obligations of any other governmental entities with respect to the Osceola County Expressway System, including any obligations of Osceola County with respect to operations and maintenance of the Osceola County Expressway System and any loan

<sup>13</sup> This section also removes a reference to the previously repealed Seminole County Expressway Authority.

<sup>14</sup> Information on the Poinciana Parkway is available at: [http://www.osceolaxway.com/ocx/297-21261-21262/poinciana\\_parkway\\_project.cfm](http://www.osceolaxway.com/ocx/297-21261-21262/poinciana_parkway_project.cfm) (Last visited November 14, 2013).

<sup>15</sup> The Poinciana Parkway is expected to be completely open to traffic in June 2016. *Ground Broken on Poinciana Parkway*. Lakeland Ledger, December 18, 2013. Available at: <http://www.theledger.com/article/20131218/NEWSCHIEF/131219179> (Last Visited: February 10, 2014).

<sup>16</sup> The Osceola County Expressway System is created pursuant to part V of Ch. 348, F.S.

<sup>17</sup> Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

repayment obligations, including repayment obligations with respect to state infrastructure bank loans. Such reimbursement shall be made from revenues available for such purpose after payment of all amounts required:

- Otherwise by law;
- By the terms of any resolution authorizing the issuance of bonds by CFX, OOCEA, or OCX;
- By the terms of any resolution under which bonds are issued by Osceola County for the purpose of constructing improvements to the Osceola County Expressway System; and
- By the terms of the MOU between OOCEA and DOT as ratified by the board of OOCEA on February 22, 2012.

**Effective Date (Section 21)**

The bill has an effective date of July 1, 2015.

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 348.751, F.S, providing a short title.
- Section 2 Amends s. 348.752, F.S., providing definitions.
- Section 3 Amends s. 348.753, F.S., relating to the Central Florida Expressway Authority.
- Section 4 Amends s. 348.754, F.S., relating to purposes and powers.
- Section 5 Amends s. 348.7543, F.S., relating to improvements, bond financing authority for.
- Section 6 Amends s. 348.7544, F.S., relating to Northwest Beltway Part A, construction authorized; financing.
- Section 7 Amends s. 348.7545, F.S., relating to Western Beltway Part C, construction authorized; financing.
- Section 8 Amends s. 348.7546, F.S., relating to Wekiva Parkway, construction authorized; financing.
- Section 9 Amends s. 348.7547, F.S., relating to Maitland Boulevard Extension and Northwest Beltway Part A Realignment construction authorized; financing.
- Section 10 Amends s. 348.755, F.S., relating to bonds of the authority.
- Section 11 Amends s. 348.756, F.S., relating to remedies of bondholders.
- Section 12 Amends s. 348.757, F.S., relating to lease-purchase agreements.
- Section 13 Amends s. 348.758, F.S., relating to appointment of the department as agent of authority for construction.
- Section 14 Amends s. 348.759, F.S., relating to acquisition of lands and property.
- Section 15 Amend s. 348.760, F.S., relating to cooperation with other unites, boards, agencies, and individuals.
- Section 16 Amends s. 348.761, F.S., relating to covenant of the state.
- Section 17 Amends s. 348.765, F.S., relating to this part complete and additional authority.

- Section 18 Amends s. 369.317, F.S., relating to the Wekiva Parkway.
- Section 19 Amends s. 369.324, F.S., relating to the Wekiva River Basin Commission.
- Section 20 Provides for the transfer of the Osceola County Expressway Authority to the Central Florida Expressway Authority.
- Section 21 Provides an effective date.

## 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.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill provides that the existing lease-purchase agreement may not be amended to expand or increase DOT's obligations unless the department determines that such amendment is necessary to permit the refunding of bonds issued before July 1, 2013. OOCEA's current long-term debt is over \$211 million.

## 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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

In section 7, the bill makes conforming changes to s. 348.7545, F.S. This statute authorizes OOCEA to construct the Western Beltway, Part C. According to DOT, since the statute's original passage, Western Beltway, Part C, has been constructed and opened. However, although the statute authorizes OOCEA to build the entire roadway segment, OOCEA only built one half of the segment. This section could be corrected to reflect the roadway limits actually constructed, owned, and operated by OOCEA.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A

1                                   A bill to be entitled  
 2           An act relating to the Orlando-Orange County  
 3           Expressway Authority; amending s. 348.751, F.S.;  
 4           revising a short title; amending s. 348.752, F.S.;  
 5           revising and providing definitions; amending s.  
 6           348.753, F.S.; creating the Central Florida Expressway  
 7           Authority; providing for the Central Florida  
 8           Expressway Authority to assume the governance and  
 9           control of the Orlando-Orange County Expressway  
 10          Authority System; providing for transfer of governance  
 11          and control, legal rights and powers,  
 12          responsibilities, terms, and obligations; providing  
 13          conditions for the transfer; providing for membership  
 14          and organization of the governing body of the Central  
 15          Florida Expressway Authority; providing quorum and  
 16          voting requirements; providing for agents and  
 17          employees; amending s. 348.754, F.S.; providing that  
 18          the area served by the authority is within the  
 19          geographical boundaries of Orange, Seminole, Lake, and  
 20          Osceola Counties; requiring the authority to have  
 21          prior consent from the secretary of the Department of  
 22          Transportation to construct an extension, addition, or  
 23          improvement to the expressway system in Lake County;  
 24          extending the term of lease-purchase agreements;  
 25          limiting the authority's authority to enter into a  
 26          lease-purchase agreement; limiting the use of certain



27 toll-revenues; providing exceptions; removing the  
 28 requirement that the route of a project be approved by  
 29 a municipality before the right-of-way can be  
 30 acquired; requiring that the authority encourage the  
 31 inclusion of local, small, minority-owned, and women-  
 32 owned businesses in its procurement and contracting  
 33 opportunities; removing the authority and criteria for  
 34 an authority to waive payment and performance bonds  
 35 for certain public works projects that are awarded  
 36 pursuant to an economic development program; amending  
 37 ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547,  
 38 348.755, and 348.756, F.S.; conforming terminology;  
 39 amending s. 348.757, F.S.; providing that upon  
 40 termination of the lease-purchase agreement of the  
 41 former Orlando-Orange County Expressway System, title  
 42 in fee simple to the former system will be retained by  
 43 the authority; amending ss. 348.758, 348.759, 348.760,  
 44 348.761, 348.765, and 369.317, F.S.; conforming  
 45 terminology; amending s. 369.324, F.S.; revising the  
 46 membership of the Wekiva River Basin Commission;  
 47 providing criteria for the transfer of the Osceola  
 48 County Expressway Authority System to the Central  
 49 Florida Expressway Authority; providing for the repeal  
 50 of part V of ch. 348, F.S., relating to the Osceola  
 51 County Expressway Authority, when such system is  
 52 transferred to the Central Florida Expressway

53 Authority; requiring the Central Florida Expressway  
 54 Authority to reimburse other governmental entities for  
 55 obligations related to the Osceola County Expressway  
 56 System; providing an effective date.

57

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

59

60 Section 1. Section 348.751, Florida Statutes, is amended  
 61 to read:

62 348.751 Short title.—This part ~~shall be known and~~ may be  
 63 cited as the "Central Florida ~~Orlando-Orange County~~ Expressway  
 64 Authority Law."

65 Section 2. Section 348.752, Florida Statutes, is amended  
 66 to read:

67 348.752 Definitions.—As used in this part, the term ~~The~~  
 68 ~~following terms, whenever used or referred to in this law, shall~~  
 69 ~~have the following meanings, except in those instances where the~~  
 70 ~~context clearly indicates otherwise:~~

71 (1) ~~The term~~ "Agency of the state" means ~~and includes~~ the  
 72 state and any department of, or corporation, agency, or  
 73 instrumentality ~~heretofore or hereafter~~ created, designated, or  
 74 established by, the state.

75 (2) ~~The term~~ "Authority" means the Central Florida  
 76 Expressway Authority ~~body politic and corporate, and agency of~~  
 77 ~~the state created by this part.~~

78 (3) ~~The term~~ "Bonds" means ~~and includes~~ the notes, bonds,

79 | refunding bonds, or other evidences of indebtedness or  
 80 | obligations, in either temporary or definitive form, that ~~which~~  
 81 | the authority may ~~is authorized to~~ issue pursuant to this part.

82 |       (4) "Central Florida Expressway Authority" means the body  
 83 | politic and corporate and agency of the state created by this  
 84 | part.

85 |       (5) "Central Florida Expressway System" means any  
 86 | expressway and appurtenant facilities within the jurisdiction of  
 87 | the authority, including all approaches, roads, bridges, and  
 88 | avenues for the expressway and any rapid transit transportation  
 89 | system, tram, or fixed-guideway system located within the right-  
 90 | of-way of an expressway.

91 |       ~~(4) The term "city" means the City of Orlando.~~

92 |       ~~(5) The term "county" means the County of Orange.~~

93 |       (6) ~~The term "Department" means the Department of~~  
 94 | ~~Transportation existing under chapters 334-339.~~

95 |       (7) ~~The term "Expressway" has the same meaning is the same~~  
 96 | ~~as limited access expressway.~~

97 |       (8) ~~The term "Federal agency" means and includes the~~  
 98 | ~~United States, the President of the United States, and any~~  
 99 | ~~department of, or corporation, agency, or instrumentality~~  
 100 | ~~heretofore or hereafter created, designated, or established by,~~  
 101 | ~~the United States.~~

102 |       (9) ~~The term "Lease-purchase agreement" means the lease-~~  
 103 | ~~purchase agreements that ~~which~~ the authority may ~~is authorized~~~~  
 104 | ~~pursuant to this part to enter into with the Department of~~

105 Transportation pursuant to this part.

106 (10) ~~The term "Limited access expressway"~~ means a street  
 107 or highway specifically ~~especially~~ designed for through traffic,  
 108 and over, from, or to which ~~a, no~~ person does not ~~shall~~ have the  
 109 right of easement, use, or access except in accordance with the  
 110 rules of ~~and regulations promulgated and established by the~~  
 111 authority governing its use for the use of such facility. Such  
 112 highways or streets may be parkways that do not allow traffic  
 113 by, ~~from which~~ trucks, buses, and other commercial vehicles  
 114 ~~shall be excluded, or they may be~~ freeways open to use by all  
 115 customary forms of street and highway traffic.

116 (11) ~~The term "members" means the governing body of the~~  
 117 ~~authority, and the term "Member" means~~ an individual who serves  
 118 on the ~~one of the individuals constituting such~~ governing body  
 119 of the authority.

120 (12) ~~The term "Orange County gasoline tax funds" means all~~  
 121 the revenue derived from the 80-percent surplus gasoline tax  
 122 funds accruing in each year to the Department of Transportation  
 123 for use in Orange County under ~~the provisions of~~ s. 9, Art. XII  
 124 of the State Constitution, after deducting ~~deduction only of~~ any  
 125 amounts of said gasoline tax funds previously ~~heretofore~~ pledged  
 126 by the department or the county for outstanding obligations.

127 ~~(13) The term "Orlando-Orange County Expressway System"~~  
 128 ~~means any and all expressways and appurtenant facilities~~  
 129 ~~thereto, including, but not limited to, all approaches, roads,~~  
 130 ~~bridges, and avenues of access for said expressway or~~

131 ~~expressways.~~

132 (13) ~~(14)~~ ~~The term~~ "State Board of Administration" means  
 133 the body corporate existing under ~~the provisions of~~ s. 4, Art.  
 134 IV of the State Constitution, or any successor ~~thereto~~.

135 (14) "Transportation facilities" means and includes the  
 136 mobile and fixed assets, and the associated real or personal  
 137 property or rights, used in the transportation of persons or  
 138 property by any means of conveyance and all appurtenances, such  
 139 as, but not limited to, highways; limited or controlled access  
 140 lanes, avenues of access, and facilities; vehicles; fixed  
 141 guideway facilities, including maintenance facilities; and  
 142 administrative and other office space for the exercise by the  
 143 authority of the powers and obligations granted in this part.

144 ~~(15)~~ ~~Words importing singular number include the plural~~  
 145 ~~number in each case and vice versa, and words importing persons~~  
 146 ~~include firms and corporations.~~

147 Section 3. Section 348.753, Florida Statutes, is amended  
 148 to read:

149 348.753 Central Florida ~~Orlando-Orange County~~ Expressway  
 150 Authority.-

151 (1) There is ~~hereby~~ created and established a body politic  
 152 and corporate, an agency of the state, to be known as the  
 153 Central Florida ~~Orlando-Orange County~~ Expressway Authority.7  
 154 ~~hereinafter referred to as "authority."~~

155 (2) (a) Effective July 1, 2015, the Central Florida  
 156 Expressway Authority shall assume the governance and control of

157 the Orlando-Orange County Expressway Authority System, including  
 158 its assets, personnel, contracts, obligations, liabilities,  
 159 facilities, and tangible and intangible property. Any rights in  
 160 such property and other legal rights of the authority are  
 161 transferred to the Central Florida Expressway Authority. The  
 162 Central Florida Expressway Authority shall succeed to and assume  
 163 the powers, responsibilities, and obligations of the Orlando-  
 164 Orange County Expressway Authority on July 1, 2015.

165 (b) The transfer pursuant to this subsection is subject to  
 166 the terms and covenants provided for the protection of the  
 167 holders of the Orlando-Orange County Expressway Authority bonds  
 168 in the lease-purchase agreement and the resolutions adopted in  
 169 connection with the issuance of the bonds. Further, the transfer  
 170 does not impair the terms of the contract between the Orlando-  
 171 Orange County Expressway Authority and the bondholders, does not  
 172 act to the detriment of the bondholders, and does not diminish  
 173 the security for the bonds. After the transfer, the Central  
 174 Florida Expressway Authority shall operate and maintain the  
 175 expressway system and any other facilities of the Orlando-Orange  
 176 County Expressway Authority in accordance with the terms,  
 177 conditions, and covenants contained in the bond resolutions and  
 178 lease-purchase agreement securing the bonds of the authority.  
 179 The Central Florida Expressway Authority shall collect toll  
 180 revenues and apply them to the payment of debt service as  
 181 provided in the bond resolution securing the bonds and shall  
 182 expressly assume all obligations relating to the bonds to ensure

183 that the transfer will have no adverse impact on the security  
 184 for the bonds. The transfer does not make the obligation to pay  
 185 the principal and interest on the bonds a general liability of  
 186 the Central Florida Expressway Authority or pledge additional  
 187 expressway system revenues to payment of the bonds. Revenues  
 188 that are generated by the expressway system and other facilities  
 189 of the Central Florida Expressway Authority which were pledged  
 190 by the Orlando-Orange County Expressway Authority to payment of  
 191 the bonds will remain subject to the pledge for the benefit of  
 192 the bondholders. The transfer does not modify or eliminate any  
 193 prior obligation of the department to pay certain costs of the  
 194 expressway system from sources other than revenues of the  
 195 expressway system.

196 (3)(2) The governing body of the authority shall consist  
 197 of 11 ~~five~~ members. The chairs of the boards of the county  
 198 commissions of Seminole, Lake, and Osceola Counties shall each  
 199 appoint one member, who may be a commission member or chair. The  
 200 Governor shall appoint six citizen members. Of the Governor's  
 201 appointments, two ~~Three~~ members must ~~shall~~ be citizens of Orange  
 202 County, one member each must be a citizen of Seminole, Lake, and  
 203 Osceola Counties, and one member may be a citizen of any of the  
 204 identified counties ~~who shall be appointed by the Governor.~~ The  
 205 10th ~~fourth~~ member must ~~shall~~ be, ~~ex officio,~~ the Mayor of ~~chair~~  
 206 of the County Commissioners of Orange County. The 11th member  
 207 must be the Mayor of the City of Orlando. The executive director  
 208 of the Florida Turnpike Enterprise shall serve as a nonvoting

209 ~~advisor to the governing body of the authority, and the fifth~~  
 210 ~~member shall be, ex officio, the district secretary of the~~  
 211 ~~Department of Transportation serving in the district that~~  
 212 ~~contains Orange County. The term of~~ Each appointed member  
 213 appointed by the Governor shall serve ~~be~~ for 4 years. Each  
 214 county-appointed member shall serve for 2 years. Standing board  
 215 members shall complete their terms. Each appointed member shall  
 216 hold office until his or her successor has been appointed and  
 217 has qualified. A vacancy occurring during a term must ~~shall~~ be  
 218 filled only for the balance of the unexpired term. Each  
 219 appointed member of the authority must ~~shall~~ be a person of  
 220 outstanding reputation for integrity, responsibility, and  
 221 business ability, but, except as provided in this subsection, a  
 222 ~~no~~ person who is an officer or employee of a municipality or any  
 223 city or of Orange county may not in any other capacity shall be  
 224 an appointed member of the authority. Any member of the  
 225 authority is ~~shall be~~ eligible for reappointment.

226 (4)(3) (a) The authority shall elect one of its members as  
 227 chair of the authority. The authority shall also elect one of  
 228 its members as vice chair, one of its members as a secretary,  
 229 and one of its members as a treasurer ~~who may or may not be~~  
 230 ~~members of the authority.~~ The chair, vice chair, secretary, and  
 231 treasurer shall hold such offices at the will of the authority.  
 232 Six ~~Three~~ members of the authority ~~shall~~ constitute a quorum,  
 233 and the vote of six ~~three~~ members is ~~shall be~~ necessary for any  
 234 action taken by the authority. A ~~No~~ vacancy in the authority



235 does not ~~shall~~ impair the right of a quorum of the authority to  
 236 exercise all of the rights and perform all of the duties of the  
 237 authority.

238 (b) Upon the effective date of his or her appointment, or  
 239 as soon thereafter as practicable, each appointed member of the  
 240 authority shall enter upon his or her duties.

241 (c) Members of the authority may be removed from office by  
 242 the Governor for misconduct, malfeasance, misfeasance, or  
 243 nonfeasance in office.

244 (d) Members of the authority may receive from the  
 245 authority travel and other necessary expenses incurred in  
 246 connection with the business of the authority as provided in s.  
 247 112.061 but may not draw salaries or other compensation.

248 (5)(4)(a) The authority may employ an executive secretary,  
 249 an executive director, its own counsel and legal staff,  
 250 technical experts, and the ~~such~~ engineers, ~~and such~~ employees  
 251 that, permanent or temporary, as it requires. The authority may  
 252 ~~require and~~ may determine the qualifications and fix the  
 253 compensation of such persons, firms, or corporations and may  
 254 employ a fiscal agent or agents; ~~provided, however, that~~ the  
 255 authority shall solicit sealed proposals from at least three  
 256 persons, firms, or corporations for the performance of any  
 257 services as fiscal agents. The authority may delegate to one or  
 258 more of its agents or employees the ~~such of its~~ power as it  
 259 deems ~~shall deem~~ necessary to carry out the purposes of this  
 260 part, ~~subject always to the supervision and control of the~~

261 ~~authority. Members of the authority may be removed from their~~  
 262 ~~office by the Governor for misconduct, malfeasance, misfeasance,~~  
 263 ~~or nonfeasance in office.~~

264 ~~(b) Members of the authority shall be entitled to receive~~  
 265 ~~from the authority their travel and other necessary expenses~~  
 266 ~~incurred in connection with the business of the authority as~~  
 267 ~~provided in s. 112.061, but they shall draw no salaries or other~~  
 268 ~~compensation.~~

269 Section 4. Section 348.754, Florida Statutes, is amended  
 270 to read:

271 348.754 Purposes and powers.—

272 (1) (a) The authority created and established under by the  
 273 ~~provisions of this part is hereby~~ granted and has shall have the  
 274 right to acquire, hold, construct, improve, maintain, operate,  
 275 own, and lease in the capacity of lessor, the Central Florida  
 276 ~~Orlando Orange County~~ Expressway System, hereinafter referred to  
 277 as "system." Except as otherwise specifically provided by law,  
 278 including paragraph (2) (n), the area served by the authority  
 279 shall be within the geographical boundaries of Orange, Seminole,  
 280 Lake, and Osceola Counties.

281 ~~(b) It is the express intention of this part that said~~  
 282 ~~authority,~~ In the construction of the Central Florida said  
 283 ~~Orlando Orange County~~ Expressway System, the authority may shall  
 284 ~~be authorized to~~ construct any extensions, additions, or  
 285 improvements to the said system or appurtenant facilities,  
 286 including all necessary approaches, roads, bridges, ~~and~~ avenues

287 of access, rapid transit, trams, fixed guideways, thoroughfares,  
 288 and boulevards with any ~~such~~ changes, modifications, or  
 289 revisions of the said project which are ~~as shall be~~ deemed  
 290 desirable and proper.

291 (c) Notwithstanding any other provision of this section,  
 292 to ensure the continued financial feasibility of the portion of  
 293 the Wekiva Parkway to be constructed by the department, the  
 294 authority may not, without the prior consent of the secretary of  
 295 the department, construct any extensions, additions, or  
 296 improvements to the expressway system in Lake County.

297 (2) The authority ~~is hereby granted, and shall have and~~  
 298 may exercise all powers necessary, appurtenant, convenient, or  
 299 incidental to the implementation ~~carrying out~~ of the stated  
 300 ~~aforsaid~~ purposes, including, but not ~~without being~~ limited to,  
 301 the following rights and powers:

302 (a) To sue and be sued, implead and be impleaded,  
 303 complain, and defend in all courts.

304 (b) To adopt, use, and alter at will a corporate seal.

305 (c) To acquire by donation or otherwise, purchase, hold,  
 306 lease as lessee, and use any franchise or any property, real,  
 307 personal, ~~or~~ mixed, or tangible or intangible, or any options  
 308 ~~thereof~~ in its own name or in conjunction with others, or  
 309 interest in those options ~~therein~~, necessary or desirable to  
 310 carry ~~for carrying~~ out the purposes of the authority, and to  
 311 sell, lease as lessor, transfer, and dispose of any property or  
 312 interest in the property ~~therein~~ at any time acquired by it.

313 (d) To enter into and make leases for terms not exceeding  
 314 99 years, as ~~either~~ lessee or lessor, in order to carry out the  
 315 right to lease as specified ~~set forth~~ in this part.

316 (e) To enter into and make lease-purchase agreements with  
 317 the department for terms not exceeding 99 ~~40~~ years, or until any  
 318 bonds secured by a pledge of rentals pursuant to the agreement  
 319 ~~thereunder~~, and any refundings pursuant to the agreement  
 320 ~~thereof~~, are fully paid as to both principal and interest,  
 321 whichever is longer. The authority is a party to a lease-  
 322 purchase agreement between the department and the Orlando-Orange  
 323 County Expressway Authority dated December 23, 1985, as  
 324 supplemented by a first supplement to the lease-purchase  
 325 agreement dated November 25, 1986, and a second supplement to  
 326 the lease-purchase agreement dated October 27, 1988. The  
 327 authority may not enter into other lease-purchase agreements  
 328 with the department and may not amend the existing agreement in  
 329 a manner that expands or increases the department's obligations  
 330 unless the department determines that the agreement or amendment  
 331 is necessary to permit the refunding of bonds issued before July  
 332 1, 2013.

333 (f) To fix, alter, charge, establish, and collect rates,  
 334 fees, rentals, and other charges for the services and facilities  
 335 of the Central Florida ~~Orlando-Orange County~~ Expressway System,  
 336 which must ~~rates, fees, rentals and other charges~~ shall always  
 337 be sufficient to comply with any covenants made with the holders  
 338 of any bonds issued pursuant to this part; ~~provided~~, however,

339 ~~that~~ such right and power may be assigned or delegated~~7~~ by the  
 340 authority~~7~~ to the department. Toll revenues attributable to an  
 341 increase in the toll rates charged on or after July 1, 2015, for  
 342 the use of a facility or portion of a facility may not be used  
 343 to construct or expand a different facility unless a two-thirds  
 344 majority of the members of the authority votes to approve such  
 345 use. This requirement does not apply if and to the extent that:

346 1. Application of the requirement would violate any  
 347 covenant established in a resolution or trust indenture under  
 348 which bonds were issued by the Orlando-Orange County Expressway  
 349 Authority on or before July 1, 2015; or

350 2. Application of the requirement would cause the  
 351 authority to be unable to meet its obligations under the terms  
 352 of the memorandum of understanding between the authority and the  
 353 department as ratified by the Orlando-Orange County Expressway  
 354 Authority board on February 22, 2012.

355  
 356 Notwithstanding s. 338.165 and except as otherwise prohibited by  
 357 this part, to the extent revenues of the expressway system  
 358 exceed amounts required to comply with any covenants made with  
 359 the holders of bonds issued pursuant to this part, revenues may  
 360 be used for purposes enumerated in subsection (6), provided the  
 361 expenditures are consistent with the metropolitan planning  
 362 organization's adopted long-range plan.

363 (g) To borrow money; to~~7~~ make and issue negotiable notes,  
 364 bonds, refunding bonds, and other evidences of indebtedness or

365 obligations, either in temporary or definitive form, ~~hereinafter~~  
 366 ~~in this chapter sometimes called "bonds" of the authority,~~ for  
 367 the purpose of financing all or part of the improvement or  
 368 extension of the Central Florida ~~Orlando-Orange County~~  
 369 Expressway System, and appurtenant facilities, including all  
 370 approaches, streets, roads, bridges, and avenues of access for  
 371 the Central Florida ~~said Orlando-Orange County~~ Expressway System  
 372 and for any other purpose authorized by this part; ~~said bonds~~  
 373 ~~to mature in not exceeding 40 years from the date of the~~  
 374 ~~issuance thereof,~~ and to secure the payment of such bonds or any  
 375 part thereof by a pledge of any or all of its revenues, rates,  
 376 fees, rentals, or other charges, including all or any portion of  
 377 the Orange County gasoline tax funds received by the authority  
 378 pursuant to ~~the terms of~~ any lease-purchase agreement between  
 379 the authority and the department; and in general to provide for  
 380 the security of the ~~said~~ bonds and the rights and remedies of  
 381 the holders thereof. ~~Provided, However, that~~ no portion of the  
 382 Orange County gasoline tax funds may ~~shall~~ be pledged for the  
 383 construction of any project for which a toll is to be charged  
 384 unless the anticipated toll is ~~tolls are~~ reasonably estimated by  
 385 the board of county commissioners, at the date of its resolution  
 386 pledging the ~~said~~ funds, to be sufficient to cover the principal  
 387 and interest of such obligations during the period when the ~~said~~  
 388 pledge of funds is ~~shall be~~ in effect. The bonds issued under  
 389 this paragraph must mature not more than 40 years after their  
 390 issue dates.

391 1. The authority shall reimburse Orange County for any  
 392 sums expended from the ~~said~~ gasoline tax funds used for the  
 393 payment of such obligations. Any gasoline tax funds so disbursed  
 394 must ~~shall~~ be repaid when the authority deems it practicable,  
 395 together with interest at the highest rate applicable to any  
 396 obligations of the authority.

397 2. If, pursuant to this section, ~~In the event~~ the  
 398 authority funds ~~shall determine to fund~~ or refunds ~~refund~~ any  
 399 bonds previously ~~theretofore~~ issued by the ~~said~~ authority, or  
 400 the by said commission before the bonds mature as aforesaid  
 401 ~~prior to the maturity thereof,~~ the proceeds of such funding or  
 402 refunding must ~~bonds shall,~~ pending the prior redemption of  
 403 these ~~the~~ bonds ~~to be funded or refunded,~~ be invested in direct  
 404 obligations of the United States, ~~and it is the express~~  
 405 ~~intention of this part that such outstanding bonds may be funded~~  
 406 ~~or refunded by the issuance of bonds pursuant to this part.~~

407 (h) To make contracts ~~of every name and nature,~~ including,  
 408 but not limited to, partnerships providing for participation in  
 409 ownership and revenues, and to execute all instruments necessary  
 410 or convenient for conducting ~~the carrying on of~~ its business.

411 (i) Notwithstanding paragraphs (a)-(h) ~~Without limitation~~  
 412 ~~of the foregoing,~~ to borrow money and accept grants from, and to  
 413 enter into contracts, leases, or other transactions with, any  
 414 federal agency, the state, any agency of the state, Orange the  
 415 ~~County of Orange,~~ the City of Orlando, or ~~with~~ any other public  
 416 body of the state.

417 (j) ~~To have~~ The power of eminent domain, including the  
 418 procedural powers granted under ~~both~~ chapters 73 and 74.

419 (k) To pledge, hypothecate, or otherwise encumber ~~all or~~  
 420 any part of the revenues, rates, fees, rentals, or other charges  
 421 or receipts of the authority, including all or any portion of  
 422 the Orange County gasoline tax funds received by the authority  
 423 pursuant to the terms of any lease-purchase agreement between  
 424 the authority and the department, as security for ~~all or~~ any of  
 425 the obligations of the authority.

426 (l) To enter into partnership and other agreements  
 427 respecting ownership and revenue participation in order to  
 428 facilitate financing and constructing the Western Beltway, ~~or~~  
 429 portions thereof.

430 (m) To do everything ~~all acts and things~~ necessary or  
 431 convenient for the conduct of its business and the general  
 432 welfare of the authority, ~~in order to~~ comply with ~~carry out the~~  
 433 ~~powers granted to it by~~ this part or any other law.

434 (n) With the consent of the county within whose  
 435 jurisdiction the following activities occur, ~~the authority shall~~  
 436 ~~have the right~~ to construct, operate, and maintain roads,  
 437 bridges, avenues of access, transportation facilities,  
 438 thoroughfares, and boulevards outside the jurisdictional  
 439 boundaries of Orange, Seminole, Lake, and Osceola Counties  
 440 County, ~~and together with the right~~ to construct, repair,  
 441 replace, operate, install, and maintain electronic toll payment  
 442 systems thereon, ~~with all necessary and incidental powers to~~



443 ~~accomplish the foregoing.~~

444 (3) The authority may not ~~shall have no power at any time~~  
 445 ~~or in any manner to~~ pledge the credit or taxing power of the  
 446 state or any political subdivision or agency thereof, including  
 447 any city or any county ~~the City of Orlando and the County of~~  
 448 ~~Orange,~~ nor may ~~shall~~ any of the authority's obligations be  
 449 deemed to be obligations of the state or of any political  
 450 subdivision or agency thereof, nor may ~~shall~~ the state or any  
 451 political subdivision or agency thereof, except the authority,  
 452 be liable for the payment of the principal of or interest on  
 453 such obligations.

454 ~~(4) Anything in this part to the contrary notwithstanding,~~  
 455 ~~acquisition of right-of-way for a project of the authority which~~  
 456 ~~is within the boundaries of any municipality in Orange County~~  
 457 ~~shall not be begun unless and until the route of said project~~  
 458 ~~within said municipality has been given prior approval by the~~  
 459 ~~governing body of said municipality.~~

460 ~~(4)(5)~~ The authority has ~~shall have~~ no power, other than  
 461 by consent of an affected ~~Orange~~ county or ~~any affected~~ city, to  
 462 enter into any agreement that ~~which~~ would legally prohibit the  
 463 construction of a any road by the respective county or city  
 464 ~~Orange County or by any city within Orange County.~~

465 (5) The authority shall encourage the inclusion of local  
 466 businesses, small businesses, and minority-owned and women-owned  
 467 businesses in its procurement and contracting opportunities.

468 ~~(6)(a)~~ The authority may, within the right-of-way of the

469 expressway system, finance or refinance the planning, design,  
 470 acquisition, construction, extension, rehabilitation, equipping,  
 471 preservation, maintenance, or improvement of an intermodal  
 472 facility or facilities, a multimodal corridor or corridors, or  
 473 any programs or projects that will improve the levels of service  
 474 on the expressway system ~~Notwithstanding s. 255.05, the Orlando-~~  
 475 ~~Orange County Expressway Authority may waive payment and~~  
 476 ~~performance bonds on construction contracts for the construction~~  
 477 ~~of a public building, for the prosecution and completion of a~~  
 478 ~~public work, or for repairs on a public building or public work~~  
 479 ~~that has a cost of \$500,000 or less and when the project is~~  
 480 ~~awarded pursuant to an economic development program for the~~  
 481 ~~encouragement of local small businesses that has been adopted by~~  
 482 ~~the governing body of the Orlando-Orange County Expressway~~  
 483 ~~Authority pursuant to a resolution or policy.~~

484 ~~(b) The authority's adopted criteria for participation in~~  
 485 ~~the economic development program for local small businesses~~  
 486 ~~requires that a participant:~~

- 487 ~~1. Be an independent business.~~
- 488 ~~2. Be principally domiciled in the Orange County Standard~~  
 489 ~~Metropolitan Statistical Area.~~
- 490 ~~3. Employ 25 or fewer full-time employees.~~
- 491 ~~4. Have gross annual sales averaging \$3 million or less~~  
 492 ~~over the immediately preceding 3 calendar years with regard to~~  
 493 ~~any construction element of the program.~~
- 494 ~~5. Be accepted as a participant in the Orlando-Orange~~

495 ~~County Expressway Authority's microcontracts program or such~~  
 496 ~~other small business program as may be hereinafter enacted by~~  
 497 ~~the Orlando Orange County Expressway Authority.~~

498 ~~6. Participate in an educational curriculum or technical~~  
 499 ~~assistance program for business development that will assist the~~  
 500 ~~small business in becoming eligible for bonding.~~

501 ~~(c) The authority's adopted procedures for waiving payment~~  
 502 ~~and performance bonds on projects with values not less than~~  
 503 ~~\$200,000 and not exceeding \$500,000 shall provide that payment~~  
 504 ~~and performance bonds may only be waived on projects that have~~  
 505 ~~been set aside to be competitively bid on by participants in an~~  
 506 ~~economic development program for local small businesses. The~~  
 507 ~~authority's executive director or his or her designee shall~~  
 508 ~~determine whether specific construction projects are suitable~~  
 509 ~~for:~~

510 ~~1. Bidding under the authority's microcontracts program by~~  
 511 ~~registered local small businesses; and~~

512 ~~2. Waiver of the payment and performance bond.~~

513  
 514 ~~The decision of the authority's executive director or deputy~~  
 515 ~~executive director to waive the payment and performance bond~~  
 516 ~~shall be based upon his or her investigation and conclusion that~~  
 517 ~~there exists sufficient competition so that the authority~~  
 518 ~~receives a fair price and does not undertake any unusual risk~~  
 519 ~~with respect to such project.~~

520 ~~(d) For any contract for which a payment and performance~~

521 ~~bond has been waived pursuant to the authority set forth in this~~  
 522 ~~section, the Orlando Orange County Expressway Authority shall~~  
 523 ~~pay all persons defined in s. 713.01 who furnish labor,~~  
 524 ~~services, or materials for the prosecution of the work provided~~  
 525 ~~for in the contract to the same extent and upon the same~~  
 526 ~~conditions that a surety on the payment bond under s. 255.05~~  
 527 ~~would have been obligated to pay such persons if the payment and~~  
 528 ~~performance bond had not been waived. The authority shall record~~  
 529 ~~notice of this obligation in the manner and location that surety~~  
 530 ~~bonds are recorded. The notice shall include the information~~  
 531 ~~describing the contract that s. 255.05(1) requires be stated on~~  
 532 ~~the front page of the bond. Notwithstanding that s. 255.05(9)~~  
 533 ~~generally applies when a performance and payment bond is~~  
 534 ~~required, s. 255.05(9) shall apply under this subsection to any~~  
 535 ~~contract on which performance or payment bonds are waived and~~  
 536 ~~any claim to payment under this subsection shall be treated as a~~  
 537 ~~contract claim pursuant to s. 255.05(9).~~

538 ~~(e) A small business that has been the successful bidder~~  
 539 ~~on six projects for which the payment and performance bond was~~  
 540 ~~waived by the authority pursuant to paragraph (a) shall be~~  
 541 ~~ineligible to bid on additional projects for which the payment~~  
 542 ~~and performance bond is to be waived. The local small business~~  
 543 ~~may continue to participate in other elements of the economic~~  
 544 ~~development program for local small businesses as long as it is~~  
 545 ~~eligible.~~

546 ~~(f) The authority shall conduct bond eligibility training~~

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547 | ~~for businesses qualifying for bond waiver under this subsection~~  
 548 | ~~to encourage and promote bond eligibility for such businesses.~~

549 | ~~(g) The authority shall prepare a biennial report on the~~  
 550 | ~~activities undertaken pursuant to this subsection to be~~  
 551 | ~~submitted to the Orange County legislative delegation. The~~  
 552 | ~~initial report shall be due December 31, 2010.~~

553 | Section 5. Section 348.7543, Florida Statutes, is amended  
 554 | to read:

555 | 348.7543 Improvements, bond financing authority for.—  
 556 | Pursuant to s. 11(f), Art. VII of the State Constitution, the  
 557 | Legislature hereby approves for bond financing by the Central  
 558 | Florida Orlando-Orange County Expressway Authority improvements  
 559 | to toll collection facilities, interchanges to the legislatively  
 560 | approved expressway system, and any other facility appurtenant,  
 561 | necessary, or incidental to the approved system. Subject to  
 562 | terms and conditions of applicable revenue bond resolutions and  
 563 | covenants, such costs may be financed in whole or in part by  
 564 | revenue bonds issued pursuant to s. 348.755(1)(a) or (b),  
 565 | whether currently issued or issued in the future, or by a  
 566 | combination of such bonds.

567 | Section 6. Section 348.7544, Florida Statutes, is amended  
 568 | to read:

569 | 348.7544 Northwest Beltway Part A, construction  
 570 | authorized; financing.—Notwithstanding s. 338.2275, the Central  
 571 | Florida Orlando-Orange County Expressway Authority may ~~is hereby~~  
 572 | ~~authorized to~~ construct, finance, operate, own, and maintain

573 that portion of the Western Beltway known as the Northwest  
 574 Beltway Part A, extending from Florida's Turnpike near Ocoee  
 575 north to U.S. 441 near Apopka, as part of the authority's 20-  
 576 year capital projects plan. This project may be financed with  
 577 any funds available to the authority for such purpose or revenue  
 578 bonds issued by the Division of Bond Finance of the State Board  
 579 of Administration on behalf of the authority pursuant to s. 11,  
 580 Art. VII of the State Constitution and the State Bond Act, ss.  
 581 215.57-215.83.

582 Section 7. Section 348.7545, Florida Statutes, is amended  
 583 to read:

584 348.7545 Western Beltway Part C, construction authorized;  
 585 financing.—Notwithstanding s. 338.2275, the Central Florida  
 586 ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~  
 587 exercise its condemnation powers over, construct, finance,  
 588 operate, own, and maintain that portion of the Western Beltway  
 589 known as the Western Beltway Part C, extending from Florida's  
 590 Turnpike near Ocoee in Orange County southerly through Orange  
 591 and Osceola Counties to an interchange with I-4 near the  
 592 Osceola-Polk County line, as part of the authority's 20-year  
 593 capital projects plan. This project may be financed with any  
 594 funds available to the authority for such purpose or revenue  
 595 bonds issued by the Division of Bond Finance of the State Board  
 596 of Administration on behalf of the authority pursuant to s. 11,  
 597 Art. VII of the State Constitution and the State Bond Act, ss.  
 598 215.57-215.83. This project may be refinanced with bonds issued

599 by the authority pursuant to s. 348.755(1)(d).

600 Section 8. Section 348.7546, Florida Statutes, is amended  
601 to read:

602 348.7546 Wekiva Parkway, construction authorized;  
603 financing.—

604 (1) The Central Florida ~~Orlando-Orange County~~ Expressway  
605 Authority may ~~is authorized to~~ exercise its condemnation powers  
606 and ~~to~~ construct, finance, operate, own, and maintain those  
607 portions of the Wekiva Parkway which are identified by agreement  
608 between the authority and the department and which are included  
609 as part of the authority's long-range capital improvement plan.  
610 The "Wekiva Parkway" means any limited access highway or  
611 expressway constructed between State Road 429 and Interstate 4  
612 specifically incorporating the corridor alignment recommended by  
613 Recommendation 2 of the Wekiva River Basin Area Task Force final  
614 report dated January 15, 2003, and the recommendations of the SR  
615 429 Working Group which were adopted January 16, 2004. This  
616 project may be financed with any funds available to the  
617 authority for such purpose or revenue bonds issued by the  
618 authority under s. 11, Art. VII of the State Constitution and s.  
619 348.755(1)(b). This section does not invalidate the exercise by  
620 the authority of its condemnation powers or the acquisition of  
621 any property for the Wekiva Parkway before July 1, 2012.

622 (2) Notwithstanding any other provision of law ~~to the~~  
623 ~~contrary~~, in order to ensure that funds are available to the  
624 department for its portion of the Wekiva Parkway, beginning July

625 1, 2012, the authority shall repay the expenditures by the  
 626 department for costs of operation and maintenance of the Central  
 627 Florida Orlando-Orange County Expressway System in accordance  
 628 with the terms of the memorandum of understanding between the  
 629 authority and the department as ratified by the authority board  
 630 on February 22, 2012, which requires the authority to pay the  
 631 department \$10 million on July 1, 2012, and \$20 million on each  
 632 successive July 1 until the department has been fully reimbursed  
 633 for all costs of the Central Florida Orlando-Orange County  
 634 Expressway System which were paid, advanced, or reimbursed to  
 635 the authority by the department, with a final payment in the  
 636 amount of the balance remaining. Notwithstanding any other law  
 637 ~~to the contrary~~, the funds paid to the department pursuant to  
 638 this subsection must ~~shall~~ be allocated by the department for  
 639 construction of the Wekiva Parkway.

640 (3) The department's obligation to construct its portions  
 641 of the Wekiva Parkway is contingent upon the timely payment by  
 642 the authority of the annual payments required of the authority  
 643 and receipt of all required environmental permits and approvals  
 644 by the Federal Government.

645 Section 9. Section 348.7547, Florida Statutes, is amended  
 646 to read:

647 348.7547 Maitland Boulevard Extension and Northwest  
 648 Beltway Part A Realignment construction authorized; financing.-  
 649 Notwithstanding s. 338.2275, the Central Florida Orlando-Orange  
 650 County Expressway Authority may ~~is hereby authorized to~~ exercise



651 its condemnation powers over, construct, finance, operate, own,  
 652 and maintain the portion of State Road 414 known as the Maitland  
 653 Boulevard Extension and the realigned portion of the Northwest  
 654 Beltway Part A as part of the authority's long-range capital  
 655 improvement plan. The Maitland Boulevard Extension extends ~~will~~  
 656 ~~extend~~ from the current terminus of State Road 414 at U.S. 441  
 657 west to State Road 429 in west Orange County. The realigned  
 658 portion of the Northwest Beltway Part A runs ~~will run~~ from the  
 659 point at or near where the Maitland Boulevard Extension connects  
 660 ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to  
 661 the west and then north resulting in the northern terminus of  
 662 State Road 429 moving farther west before reconnecting with U.S.  
 663 441. However, under no circumstances may ~~shall~~ the realignment  
 664 of the Northwest Beltway Part A conflict with or contradict ~~with~~  
 665 the alignment of the Wekiva Parkway as defined in s. 348.7546.  
 666 This project may be financed with any funds available to the  
 667 authority for such purpose or revenue bonds issued by the  
 668 authority under s. 11, Art. VII of the State Constitution and s.  
 669 348.755(1)(b).

670 Section 10. Subsections (2) and (3) of section 348.755,  
 671 Florida Statutes, are amended to read:

672 348.755 Bonds of the authority.—

673 (2) Any ~~such~~ resolution that authorizes ~~or resolutions~~  
 674 ~~authorizing~~ any bonds issued under this section ~~hereunder~~ may  
 675 contain provisions that must ~~which shall~~ be part of the contract  
 676 with the holders of such bonds, relating ~~as~~ to:

677 (a) The pledging of ~~all or~~ any part of the revenues,  
 678 rates, fees, rentals, ~~including all or~~ any portion of the  
 679 Orange County gasoline tax funds received by the authority  
 680 pursuant to the terms of any lease-purchase agreement between  
 681 the authority and the department, or any part thereof, or other  
 682 charges or receipts of the authority, derived by the authority,  
 683 from the Central Florida ~~Orlando-Orange County~~ Expressway  
 684 System.

685 (b) The completion, improvement, operation, extension,  
 686 maintenance, repair, and lease or lease-purchase agreement of  
 687 the said system, and the duties of the authority and others,  
 688 including the department, ~~with reference thereto.~~

689 (c) Limitations on the purposes to which the proceeds of  
 690 the bonds, then or thereafter to be issued, or of any loan or  
 691 grant by the United States or the state may be applied.

692 (d) The fixing, charging, establishing, and collecting of  
 693 rates, fees, rentals, or other charges for use of the services  
 694 and facilities of the Central Florida ~~Orlando-Orange County~~  
 695 Expressway System or any part thereof.

696 (e) The setting aside of reserves or sinking funds or  
 697 repair and replacement funds and the regulation and disposition  
 698 thereof.

699 (f) Limitations on the issuance of additional bonds.

700 (g) The terms and provisions of any lease-purchase  
 701 agreement, deed of trust, or indenture securing the bonds, or  
 702 under which the same may be issued.

703 (h) Any other or additional agreements with the holders of  
 704 the bonds which the authority may deem desirable and proper.

705 (3) The authority may employ fiscal agents as provided by  
 706 this part or the State Board of Administration of Florida may,  
 707 upon request of the authority, act as fiscal agent for the  
 708 authority in the issuance of any bonds that ~~which~~ may be issued  
 709 pursuant to this part, and the State Board of Administration  
 710 may, upon request of the authority, take over the management,  
 711 control, administration, custody, and payment of any ~~or all~~ debt  
 712 services or funds or assets now or hereafter available for any  
 713 bonds issued pursuant to this part. The authority may enter into  
 714 any deeds of trust, indentures or other agreements with its  
 715 fiscal agent, or with any bank or trust company within or  
 716 without the state, as security for such bonds, and may, under  
 717 such agreements, sign and pledge ~~all or~~ any of the revenues,  
 718 rates, fees, rentals or other charges or receipts of the  
 719 authority, including ~~all or~~ any portion of the Orange County  
 720 gasoline tax funds received by the authority pursuant to the  
 721 terms of any lease-purchase agreement between the authority and  
 722 the department, ~~thereunder~~. Such deed of trust, indenture, or  
 723 other agreement may contain such provisions as are customary in  
 724 such instruments, ~~or~~ as the authority may authorize, including,  
 725 ~~but~~ without limitation, provisions as to:

726 (a) The completion, improvement, operation, extension,  
 727 maintenance, repair, and lease of, or lease-purchase agreement  
 728 relating to, the Central Florida ~~Orlando-Orange County~~

729 Expressway System, and the duties of the authority and others,  
 730 including the department, with reference thereto.

731 (b) The application of funds and the safeguarding of funds  
 732 on hand or on deposit.

733 (c) The rights and remedies of the trustee and the holders  
 734 of the bonds.

735 (d) The terms and provisions of the bonds or the  
 736 resolutions authorizing the issuance of the bonds ~~same~~.

737 Section 11. Subsections (3) and (4) of section 348.756,  
 738 Florida Statutes, are amended to read:

739 348.756 Remedies of the bondholders.—

740 (3) When a ~~Any~~ trustee is ~~when~~ appointed pursuant to  
 741 subsection (1) as aforesaid, or is acting under a deed of trust,  
 742 indenture, or other agreement, regardless of ~~and~~ whether ~~or not~~  
 743 all bonds have been declared due and payable, the trustee is  
 744 ~~shall be~~ entitled ~~as of right~~ to the appointment of a receiver.  
 745 The receiver, ~~who~~ may enter upon and take possession of the  
 746 Central Florida Orlando-Orange County Expressway System or the  
 747 facilities or any part of the system or facilities and ~~or parts~~  
 748 ~~thereof,~~ the rates, fees, rentals, or other revenues, charges,  
 749 or receipts that ~~from which~~ are, or may be, applicable to the  
 750 payment of the bonds so in default, and, subject to and in  
 751 compliance with ~~the provisions of~~ any lease-purchase agreement  
 752 between the authority and the department, may operate and  
 753 maintain the same, for and on behalf of and in the name of, the  
 754 authority, the department, and the bondholders, and may collect

755 and receive all rates, fees, rentals, and other charges or  
 756 receipts or revenues arising therefrom in the same manner as the  
 757 authority or the department might do, and shall deposit all such  
 758 moneys in a separate account and apply the same in such manner  
 759 as the court directs ~~shall direct~~. In any suit, action, or  
 760 proceeding by the trustee, the fees, counsel fees, and expenses  
 761 of the trustee, and the ~~said~~ receiver, if any, and all costs and  
 762 disbursements allowed by the court must ~~shall~~ be a first charge  
 763 on any rates, fees, rentals, or other charges, revenues, or  
 764 receipts, derived from the Central Florida ~~Orlando-Orange County~~  
 765 Expressway System, or the facilities or services or any part of  
 766 the system or facilities ~~or parts thereof~~, including payments  
 767 under any such lease-purchase agreement, as aforesaid ~~which said~~  
 768 rates, fees, rentals, or other charges, revenues, or receipts  
 769 ~~shall or~~ may be applicable to the payment of the bonds that are  
 770 ~~so~~ in default. The ~~Such~~ trustee has ~~shall~~, ~~in addition to the~~  
 771 ~~foregoing, have and possess~~ all of the powers necessary or  
 772 appropriate for the exercise of any functions specifically set  
 773 forth in this section ~~herein~~ or incident to the representation  
 774 of the bondholders in the enforcement and protection of their  
 775 rights.

776 (4) ~~Nothing in This section or any other section of this~~  
 777 ~~part does not shall~~ authorize any receiver appointed pursuant  
 778 ~~hereto~~ for the purpose, subject to and in compliance with ~~the~~  
 779 ~~provisions of~~ any lease-purchase agreement between the authority  
 780 and the department, of operating and maintaining the Central

781 Florida Orlando-Orange County Expressway System or any  
 782 facilities or part of the system or facilities ~~or parts thereof,~~  
 783 to sell, assign, mortgage, or otherwise dispose of any of the  
 784 assets of whatever kind and character belonging to the  
 785 authority. ~~It is the intention of this part to limit~~ The powers  
 786 of the ~~such~~ receiver, subject to and in compliance with ~~the~~  
 787 ~~provisions of~~ any lease-purchase agreement between the authority  
 788 and the department, are limited to the operation and maintenance  
 789 of the Central Florida Orlando-Orange County Expressway System,  
 790 or any facility, or part of the system or facility ~~or parts~~  
 791 ~~thereof,~~ as the court may direct, in the name and for and on  
 792 behalf of the authority, the department, and the bondholders. A  
 793 receiver may not, and, in any suit, action, or proceeding at law  
 794 or in equity, a bondholder or trustee may not compel nor may a  
 795 court no holder of bonds on the authority nor any trustee, shall  
 796 ~~ever have the right in any suit, action or proceeding at law or~~  
 797 ~~in equity, to compel a receiver, nor shall any receiver be~~  
 798 ~~authorized or any court be empowered to~~ direct the receiver to  
 799 sell, assign, mortgage, or otherwise dispose of any assets ~~of~~  
 800 ~~whatever kind or character~~ belonging to the authority.

801 Section 12. Subsections (1) through (7) of section  
 802 348.757, Florida Statutes, are amended to read:

803 348.757 Lease-purchase agreement.—

804 (1) ~~In order to effectuate the purposes of this part and~~  
 805 ~~as authorized by this part,~~ The authority may enter into a  
 806 lease-purchase agreement with the department relating to and

807 covering the former Orlando-Orange County Expressway System.

808 (2) The ~~Such~~ lease-purchase agreement must ~~shall~~ provide  
 809 for the leasing of the former Orlando-Orange County Expressway  
 810 System, by the authority, as lessor, to the department, as  
 811 lessee, must ~~shall~~ prescribe the term of such lease and the  
 812 rentals to be paid, ~~thereunder~~ and must ~~shall~~ provide that upon  
 813 the completion of the faithful performance ~~thereunder~~ and the  
 814 termination of the ~~such~~ lease-purchase agreement, title in fee  
 815 simple absolute to the former Orlando-Orange County Expressway  
 816 System as then constituted shall be transferred in accordance  
 817 with law by the authority, to the state and the authority shall  
 818 deliver to the department such deeds and conveyances as shall be  
 819 necessary or convenient to vest title in fee simple absolute in  
 820 the state.

821 (3) The ~~Such~~ lease-purchase agreement may include ~~such~~  
 822 other provisions, agreements, and covenants that ~~as~~ the  
 823 authority and the department deem advisable or required,  
 824 including, but not limited to, provisions as to the bonds to be  
 825 issued under, and for the purposes of, this part, the  
 826 completion, extension, improvement, operation, and maintenance  
 827 of the former Orlando-Orange County Expressway System and the  
 828 expenses and the cost of operation of the ~~said~~ authority, the  
 829 charging and collection of tolls, rates, fees, and other charges  
 830 for the use of the services and facilities of the system  
 831 ~~thereof~~, the application of federal or state grants or aid that  
 832 ~~which~~ may be made or given to assist the authority in the

833 completion, extension, improvement, operation, and maintenance  
 834 of the former Orlando-Orange County ~~Orlando~~ Expressway System,  
 835 which the authority is ~~hereby~~ authorized to accept and apply to  
 836 such purposes, the enforcement of payment and collection of  
 837 rentals, and any other terms, provisions, or covenants  
 838 necessary, incidental, or appurtenant to the making of and full  
 839 performance under the ~~such~~ lease-purchase agreement.

840 (4) The department as lessee under the ~~such~~ lease-purchase  
 841 agreement ~~may, is hereby authorized to pay as rentals~~ under the  
 842 agreement thereunder any rates, fees, charges, funds, moneys,  
 843 receipts, or income accruing to the department from the  
 844 operation of the former Orlando-Orange County Expressway System  
 845 and the Orange County gasoline tax funds and may also pay as  
 846 rentals any appropriations received by the department pursuant  
 847 to any act of the Legislature of the state heretofore or  
 848 hereafter enacted; ~~provided,~~ however, this part or the ~~that~~  
 849 ~~nothing herein nor in such~~ lease-purchase agreement is not  
 850 intended to and does not ~~nor shall this part or such lease-~~  
 851 ~~purchase agreement~~ require the making or continuance of such  
 852 appropriations, and ~~nor shall~~ any holder of bonds issued  
 853 pursuant to this part does not ~~ever~~ have any right to compel the  
 854 making or continuance of such appropriations.

855 (5) A ~~No~~ pledge of the ~~said~~ Orange County gasoline tax  
 856 funds as rentals under a ~~such~~ lease-purchase agreement may not  
 857 ~~shall~~ be made without the consent of Orange ~~the~~ County ~~of Orange~~  
 858 evidenced by a resolution duly adopted by the board of county



859 commissioners of Orange ~~said~~ County at a public hearing held  
 860 pursuant to due notice thereof published at least once a week  
 861 for 3 consecutive weeks before the hearing in a newspaper of  
 862 general circulation in Orange County. The ~~Said~~ resolution, among  
 863 other things, must ~~shall~~ provide that any excess of the ~~said~~  
 864 pledged gasoline tax funds which is not required for debt  
 865 service or reserves for the ~~such~~ debt service for any bonds  
 866 issued by the ~~said~~ authority shall be returned annually to the  
 867 department for distribution to Orange County as provided by law.  
 868 Before making any application for a ~~such~~ pledge of gasoline tax  
 869 funds, the authority shall present the plan of its proposed  
 870 project to the Orange County planning and zoning commission for  
 871 its comments and recommendations.

872 (6) The ~~Said~~ department may ~~shall have power to~~ covenant  
 873 in any lease-purchase agreement that it will pay all or any part  
 874 of the cost of the operation, maintenance, repair, renewal, and  
 875 replacement of the ~~said~~ system, and any part of the cost of  
 876 completing the ~~said~~ system to the extent that the proceeds of  
 877 bonds issued ~~therefor~~ are insufficient, from sources other than  
 878 the revenues derived from the operation of the ~~said~~ system and  
 879 the ~~said~~ Orange County gasoline tax funds. The ~~said~~ department  
 880 may also agree to make such other payments from any moneys  
 881 available to the ~~said~~ commission, the ~~said~~ county, or the ~~said~~  
 882 city in connection with the construction or completion of the  
 883 ~~said~~ system as shall be deemed by the ~~said~~ department to be fair  
 884 and proper under any ~~such~~ covenants ~~heretofore or hereafter~~

885 entered into.

886 (7) The ~~said~~ system must ~~shall~~ be a part of the state road  
 887 system, and the ~~said~~ department may ~~is hereby authorized~~, upon  
 888 the request of the authority, ~~to~~ expend out of any funds  
 889 available for such ~~the~~ purpose the ~~such~~ moneys, and ~~to~~ use such  
 890 ~~of~~ its engineering and other forces, as may be necessary and  
 891 ~~desirable in the judgment of said department~~, for the operation  
 892 of the ~~said~~ authority and for traffic surveys, borings, surveys,  
 893 preparation of plans and specifications, estimates of cost, and  
 894 other preliminary engineering and other studies; provided,  
 895 however, ~~that~~ the aggregate amount of moneys expended for such  
 896 ~~said~~ purposes by the ~~said~~ department may ~~shall~~ not exceed the  
 897 ~~sum of~~ \$375,000.

898 Section 13. Section 348.758, Florida Statutes, is amended  
 899 to read:

900 348.758 Appointment of department as ~~may be appointed~~  
 901 agent of authority for construction.—The department may be  
 902 appointed by the ~~said~~ authority as its agent for the purpose of  
 903 constructing improvements and extensions to the Central Florida  
 904 ~~Orlando-Orange County~~ Expressway System and for its ~~the~~  
 905 completion ~~thereof~~. In such event, the authority shall provide  
 906 the department with complete copies of all documents,  
 907 agreements, resolutions, contracts, and instruments relating  
 908 thereto; and shall request the department to do such  
 909 construction work, including the planning, surveying, and actual  
 910 construction of the completion, extensions, and improvements to

911 | the Central Florida ~~Orlando-Orange County~~ Expressway System; and  
 912 | shall transfer to the credit of an account of the department in  
 913 | the State Treasury ~~of the state~~ the necessary funds. ~~therefor~~  
 914 | ~~and~~ The department may then ~~shall thereupon be authorized,~~  
 915 | ~~empowered and directed to~~ proceed with such construction and ~~to~~  
 916 | use the ~~said~~ funds for such purpose in the same manner that it  
 917 | is ~~now~~ authorized to use the funds ~~otherwise provided by law~~ for  
 918 | the ~~its use in~~ construction of roads and bridges.

919 | Section 14. Section 348.759, Florida Statutes, is amended  
 920 | to read:

921 | 348.759 Acquisition of lands and property.-

922 | (1) For the purposes of this part, the Central Florida  
 923 | ~~Orlando-Orange County~~ Expressway Authority may acquire private  
 924 | or public property and property rights, including rights of  
 925 | access, air, view, and light, by gift, devise, purchase, or  
 926 | condemnation by eminent domain proceedings, ~~as the authority~~  
 927 | deems ~~may deem~~ necessary for any of the purposes of this part,  
 928 | including, but not limited to, any lands reasonably necessary  
 929 | for securing applicable permits, areas necessary for management  
 930 | of access, borrow pits, drainage ditches, water retention areas,  
 931 | rest areas, replacement access for landowners whose access is  
 932 | impaired due to the construction of a facility, and replacement  
 933 | rights-of-way for relocated rail and utility facilities; for  
 934 | existing, proposed, or anticipated transportation facilities on  
 935 | the Central Florida ~~Orlando-Orange County~~ Expressway System or  
 936 | in a transportation corridor designated by the authority; or for

937 the purposes of screening, relocation, removal, or disposal of  
 938 junkyards and scrap metal processing facilities. The authority  
 939 ~~may shall also have the power to~~ condemn any material and  
 940 property necessary for such purposes.

941 (2) The ~~right of eminent domain herein conferred shall be~~  
 942 ~~exercised by the~~ authority shall exercise the right of eminent  
 943 domain in the manner provided by law.

944 (3) When the authority acquires property for a  
 945 transportation facility or in a transportation corridor, it is  
 946 not subject to any liability imposed by chapter 376 or chapter  
 947 403 for preexisting soil or groundwater contamination due solely  
 948 to its ownership. This section does not affect the rights or  
 949 liabilities of any past or future owners of the acquired  
 950 property and ~~nor~~ does not ~~it~~ affect the liability of any  
 951 governmental entity for the results of its actions which create  
 952 or exacerbate a pollution source. The authority and the  
 953 Department of Environmental Protection may enter into  
 954 interagency agreements for the performance, funding, and  
 955 reimbursement of the investigative and remedial acts necessary  
 956 for property acquired by the authority.

957 Section 15. Section 348.760, Florida Statutes, is amended  
 958 to read:

959 348.760 Cooperation with other units, boards, agencies,  
 960 and individuals. ~~A Express authority and power is hereby given~~  
 961 ~~and granted any~~ county, municipality, drainage district, road  
 962 and bridge district, school district or any other political

963 subdivision, board, commission, or individual in, or of, the  
 964 state may ~~to~~ make and enter into with the authority, contracts,  
 965 leases, conveyances, partnerships, or other agreements pursuant  
 966 to within the provisions and purposes of this part. The  
 967 authority may ~~is hereby expressly authorized to~~ make and enter  
 968 into contracts, leases, conveyances, partnerships, and other  
 969 agreements with any political subdivision, agency, or  
 970 instrumentality of the state and any ~~and all~~ federal agency,  
 971 corporation, or individual agencies, corporations, and  
 972 individuals, for the purpose of carrying out ~~the provisions of~~  
 973 this part ~~or with the consent of the Seminole County Expressway~~  
 974 ~~Authority, for the purpose of carrying out and implementing part~~  
 975 ~~VIII of this chapter.~~

976 Section 16. Section 348.761, Florida Statutes, is amended  
 977 to read:

978 348.761 Covenant of the state.—The state pledges ~~does~~  
 979 ~~hereby pledge to,~~ and agrees, with any person, firm, or  
 980 corporation, or federal or state agency subscribing to, or  
 981 acquiring the bonds to be issued by the authority for the  
 982 purposes of this part that the state will not limit or alter the  
 983 rights that are ~~hereby~~ vested in the authority and the  
 984 department until all issued bonds and interest ~~at any time~~  
 985 ~~issued, together with the interest thereon,~~ are fully paid and  
 986 discharged insofar as the pledge ~~same~~ affects the rights of the  
 987 holders of bonds issued pursuant to this part ~~hereunder.~~ The  
 988 state does further pledge to, and agree, with the United States

989 that in the event any federal agency constructs or contributes  
 990 ~~shall construct or contribute~~ any funds for the completion,  
 991 extension, or improvement of the Central Florida ~~Orlando-Orange~~  
 992 ~~County~~ Expressway System, or any part or portion of the system  
 993 ~~thereof~~, the state will not alter or limit the rights and powers  
 994 of the authority and the department in any manner that ~~which~~  
 995 would be inconsistent with the continued maintenance and  
 996 operation of the Central Florida ~~Orlando-Orange County~~  
 997 Expressway System or the completion, extension, or improvement  
 998 of the system ~~thereof~~, or that ~~which~~ would be inconsistent with  
 999 the due performance of any agreements between the authority and  
 1000 any such federal agency, and the authority and the department  
 1001 shall continue to have and may exercise all powers ~~herein~~  
 1002 granted in this part, so long as the powers are ~~same shall be~~  
 1003 necessary or desirable for the carrying out of the purposes of  
 1004 this part and the purposes of the United States in the  
 1005 completion, extension, or improvement of the Central Florida  
 1006 ~~Orlando-Orange County~~ Expressway System, or any part of the  
 1007 system ~~or portion thereof~~.

1008 Section 17. Section 348.765, Florida Statutes, is amended  
 1009 to read:

1010 348.765 This part complete and additional authority.—

1011 (1) The powers conferred by this part are ~~shall be~~ in  
 1012 addition and supplemental to the existing powers of the said  
 1013 board and the department, and this part may ~~shall~~ not be  
 1014 construed as repealing any of the provisions, of any other law,

1015 general, special, or local, but to supersede such other laws in  
 1016 the exercise of the powers provided in this part, and to provide  
 1017 a complete method for the exercise of the powers granted in this  
 1018 part. The extension and improvement of the Central Florida ~~said~~  
 1019 ~~Orlando-Orange County~~ Expressway System, and the issuance of  
 1020 bonds pursuant to this part hereunder to finance all or part of  
 1021 the cost of the system thereof, may be accomplished upon  
 1022 compliance with ~~the provisions of~~ this part without regard to or  
 1023 necessity for compliance with the provisions, limitations, or  
 1024 restrictions contained in any other general, special, or local  
 1025 law, including, but not limited to, s. 215.821, and no approval  
 1026 of any bonds issued under this part by the qualified electors or  
 1027 qualified electors who are freeholders in the state or in Orange  
 1028 ~~said County of Orange~~, the ~~or in said~~ City of Orlando, or ~~in~~ any  
 1029 other political subdivision of the state is, ~~shall be~~ required  
 1030 for the issuance of such bonds pursuant to this part.

1031 (2) This part does ~~shall not be deemed to~~ repeal, rescind,  
 1032 or modify any other law ~~or laws~~ relating to the ~~said~~ State Board  
 1033 of Administration, the ~~said~~ Department of Transportation, or the  
 1034 Division of Bond Finance of the State Board of Administration,  
 1035 but supersedes any ~~shall be deemed to and shall supersede such~~  
 1036 ~~other~~ law that is ~~or laws as are~~ inconsistent with the  
 1037 ~~provisions of~~ this part, including, but not limited to, s.  
 1038 215.821.

1039 Section 18. Subsections (6) and (7) of section 369.317,  
 1040 Florida Statutes, are amended to read:

1041 369.317 Wekiva Parkway.—  
 1042 (6) The Central Florida ~~Orlando-Orange County~~ Expressway  
 1043 Authority may ~~is hereby granted the authority to~~ act as a third-  
 1044 party acquisition agent, pursuant to s. 259.041 on behalf of the  
 1045 Board of Trustees or chapter 373 on behalf of the governing  
 1046 board of the St. Johns River Water Management District, for the  
 1047 acquisition of all necessary lands, property, and ~~all~~ interests  
 1048 in property identified herein, including fee simple or less-  
 1049 than-fee simple interests. The lands subject to this authority  
 1050 are identified in paragraph 10.a., State of Florida, Office of  
 1051 the Governor, Executive Order 03-112 of July 1, 2003, and in  
 1052 Recommendation 16 of the Wekiva Basin Area Task Force created by  
 1053 Executive Order 2002-259, such lands otherwise known as  
 1054 Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and  
 1055 Lake Counties within Sections 27, 28, 33, and 34 of Township 19  
 1056 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20  
 1057 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre  
 1058 parcel located in Lake County within Section 37, Township 19  
 1059 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in  
 1060 Lake County within Sections 23, 25, 26, 35, and 36, Township 19  
 1061 South, Range 28 East; Pine Plantation, a 617+/-acre tract  
 1062 consisting of eight individual parcels within the Apopka City  
 1063 limits. The Department of Transportation, the Department of  
 1064 Environmental Protection, the St. Johns River Water Management  
 1065 District, and other land acquisition entities shall participate  
 1066 and cooperate in providing information and support to the third-



1067 party acquisition agent. The land acquisition process authorized  
 1068 by this subsection ~~paragraph~~ shall begin no later than December  
 1069 31, 2004. Acquisition of the properties identified as  
 1070 Neighborhood Lakes, Pine Plantation, and New Garden Coal, or  
 1071 approval as a mitigation bank shall be concluded no later than  
 1072 December 31, 2010. Department of Transportation and Central  
 1073 Florida ~~Orlando-Orange County~~ Expressway Authority funds  
 1074 expended to purchase an interest in those lands identified in  
 1075 this subsection shall be eligible as environmental mitigation  
 1076 for road-construction-related ~~road-construction-related~~ impacts  
 1077 in the Wekiva Study Area. If any of the lands identified in this  
 1078 subsection are used as environmental mitigation for road-  
 1079 construction-related impacts incurred by the Department of  
 1080 Transportation or the Central Florida ~~Orlando-Orange County~~  
 1081 Expressway Authority, or for other impacts incurred by other  
 1082 entities, within the Wekiva Study Area or within the Wekiva  
 1083 parkway alignment corridor, and if the mitigation offsets these  
 1084 impacts, the St. Johns River Water Management District and the  
 1085 Department of Environmental Protection shall consider the  
 1086 activity regulated under part IV of chapter 373 to meet the  
 1087 cumulative impact requirements of s. 373.414(8)(a).

1088 (a) Acquisition of the land described in this section is  
 1089 required to provide right-of-way for the Wekiva Parkway, a  
 1090 limited access roadway linking State Road 429 to Interstate 4,  
 1091 an essential component in meeting regional transportation needs  
 1092 to provide regional connectivity, improve safety, accommodate

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1093 projected population and economic growth, and satisfy critical  
 1094 transportation requirements caused by increased traffic volume  
 1095 growth and travel demands.

1096 (b) Acquisition of the lands described in this section is  
 1097 also required to protect the surface water and groundwater  
 1098 resources of Lake, Orange, and Seminole Counties, otherwise  
 1099 known as the Wekiva Study Area, including recharge within the  
 1100 springshed that provides for the Wekiva River system. Protection  
 1101 of this area is crucial to the long-term ~~long-term~~ viability of  
 1102 the Wekiva River and springs and the central Florida region's  
 1103 water supply. Acquisition of the lands described in this section  
 1104 is also necessary to alleviate pressure from growth and  
 1105 development affecting the surface and groundwater resources  
 1106 within the recharge area.

1107 (c) Lands acquired pursuant to this section that are  
 1108 needed for transportation facilities for the Wekiva Parkway  
 1109 shall be determined not necessary for conservation purposes  
 1110 pursuant to ss. 253.034(6) and 373.089(5) and shall be  
 1111 transferred to or retained by the Central Florida ~~Orlando-Orange~~  
 1112 ~~County~~ Expressway Authority or the Department of Transportation  
 1113 upon reimbursement of the full purchase price and acquisition  
 1114 costs.

1115 (7) The Department of Transportation, the Department of  
 1116 Environmental Protection, the St. Johns River Water Management  
 1117 District, the Central Florida ~~Orlando-Orange-County~~ Expressway  
 1118 Authority, and other land acquisition entities shall cooperate

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1119 and establish funding responsibilities and partnerships by  
 1120 agreement to the extent funds are available to the various  
 1121 entities. Properties acquired with Florida Forever funds shall  
 1122 be in accordance with s. 259.041 or chapter 373. The Central  
 1123 Florida Orlando-Orange County Expressway Authority shall acquire  
 1124 land in accordance with this section ~~of law~~ to the extent funds  
 1125 are available from the various funding partners, but shall not  
 1126 be required or ~~not~~ assumed to fund the land acquisition beyond  
 1127 the agreement and funding provided by the various land  
 1128 acquisition entities.

1129 Section 19. Subsection (1) of section 369.324, Florida  
 1130 Statutes, is amended to read:

1131 369.324 Wekiva River Basin Commission.—

1132 (1) The Wekiva River Basin Commission is created to  
 1133 monitor and ensure the implementation of the recommendations of  
 1134 the Wekiva River Basin Coordinating Committee for the Wekiva  
 1135 Study Area. The East Central Florida Regional Planning Council  
 1136 shall provide staff support to the commission with funding  
 1137 assistance from the Department of Economic Opportunity. The  
 1138 commission shall be comprised of a total of 18 ~~19~~ members  
 1139 appointed by the Governor, 9 of whom shall be voting members and  
 1140 9 of whom ~~10~~ shall be ad hoc nonvoting members.

1141 (a) The voting members shall include:

1142 1. ~~(a)~~ One member of each of the Boards of County  
 1143 Commissioners for Lake, Orange, and Seminole Counties.

1144 2. ~~(b)~~ One municipal elected official to serve as a

1145 representative of the municipalities located within the Wekiva  
 1146 Study Area of Lake County.

1147 3.~~(e)~~ One municipal elected official to serve as a  
 1148 representative of the municipalities located within the Wekiva  
 1149 Study Area of Orange County.

1150 4.~~(d)~~ One municipal elected official to serve as a  
 1151 representative of the municipalities located within the Wekiva  
 1152 Study Area of Seminole County.

1153 5.~~(e)~~ One citizen representing an environmental or  
 1154 conservation organization, one citizen representing a local  
 1155 property owner, a land developer, or an agricultural entity, and  
 1156 one at-large citizen who shall serve as chair of the council.

1157 (b)~~(f)~~ The ad hoc nonvoting members shall include one  
 1158 representative from each of the following entities:

- 1159 1. St. Johns River Management District.
- 1160 2. Department of Economic Opportunity.
- 1161 3. Department of Environmental Protection.
- 1162 4. Department of Health.
- 1163 5. Department of Agriculture and Consumer Services.
- 1164 6. Fish and Wildlife Conservation Commission.
- 1165 7. Department of Transportation.
- 1166 8. MetroPlan Orlando.
- 1167 9. Central Florida ~~Orlando-Orange County~~ Expressway  
 1168 Authority.

1169 ~~10. Seminole County Expressway Authority.~~

1170 Section 20. (1) Effective upon the completion of

1171 construction of the Poinciana Parkway, a limited access facility  
 1172 of approximately 9 miles in length in Osceola County with its  
 1173 northwestern terminus at the intersection of County Road 54 and  
 1174 U.S. 17/U.S. 92 and its southeastern terminus at the current  
 1175 intersection of Rhododendron and Cypress Parkway, described in  
 1176 the Osceola County Expressway Authority May 8, 2012, Master  
 1177 Plan, all powers, governance, and control of the Osceola County  
 1178 Expressway System, created pursuant to part V of chapter 348,  
 1179 Florida Statutes, is transferred to the Central Florida  
 1180 Expressway Authority, and the assets, liabilities, facilities,  
 1181 tangible and intangible property and any rights in the property,  
 1182 and any other legal rights of the Osceola County Expressway  
 1183 Authority are transferred to the Central Florida Expressway  
 1184 Authority. The effective date of such transfer shall be extended  
 1185 until completion of construction of such portions of the  
 1186 Southport Connector Expressway, the Northeast Connector  
 1187 Expressway, such portions of the Poinciana Parkway to connect to  
 1188 State Road 429, and the Osceola Parkway Extension, as each is  
 1189 described in the Osceola County Expressway Authority May 8,  
 1190 2012, Master Plan, which are included in any design contract  
 1191 executed by the Osceola County Expressway Authority before July  
 1192 1, 2020. Part V of chapter 348, Florida Statutes, consisting of  
 1193 ss. 348.9950-348.9961, Florida Statutes, is repealed on the same  
 1194 date that the Osceola County Expressway System is transferred to  
 1195 the Central Florida Expressway Authority.

1196 (2) The Central Florida Expressway Authority shall

1197 reimburse any and all obligations of any other governmental  
 1198 entities with respect to the Osceola County Expressway System,  
 1199 including any obligations of Osceola County with respect to  
 1200 operations and maintenance of the Osceola County Expressway  
 1201 System and any loan repayment obligations, including repayment  
 1202 obligations with respect to state infrastructure bank loans.  
 1203 Such reimbursement shall be made from revenues available for  
 1204 such purpose after payment of all amounts required:

1205       (a) Otherwise by law;

1206       (b) By the terms of any resolution authorizing the  
 1207 issuance of bonds by the authority, the Orlando-Orange County  
 1208 Expressway Authority, or the Osceola County Expressway  
 1209 Authority;

1210       (c) By the terms of any resolution under which bonds are  
 1211 issued by Osceola County for the purpose of constructing  
 1212 improvements to the Osceola County Expressway System; and

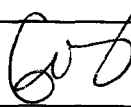
1213       (d) By the terms of the memorandum of understanding  
 1214 between the Orlando-Orange County Expressway Authority and the  
 1215 Department of Transportation as ratified by the board of the  
 1216 Orlando-Orange County Expressway Authority on February 22, 2012.

1217       Section 21. This act shall take effect July 1, 2015.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7005      PCB THSS 14-01      Department of Transportation  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Artiles  
**TIED BILLS:**            **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	10 Y, 3 N	Johnson	Miller
1) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill is a comprehensive bill related to transportation. In summary, the bill:

- Extends the Florida Transportation Commission's (FTC) oversight of expressway and bridge authorities to the Mid-Bay Bridge Authority.
- Repeals the Florida Statewide Passenger Rail Commission.
- Removes the local government authorization to further install and enforce additional traffic infraction detectors, better known as red light cameras.
- Reduces the red light camera penalties by the amount local governments are allocated and revises the distribution of the remaining penalty amount.
- Authorizes local governments to impose a surcharge for red light camera infractions at intersections with existing cameras to fund existing contractual agreements.
- Prohibits charges from being imposed on public parking within the right-of-way limits of the State Highway System.
- Modifies the terms and conditions under which the Department of Transportation (DOT) may sell or lease properties acquired for rights-of-way.
- Clarifies DOT's authority and responsibilities when DOT receives an unsolicited proposal to enter into a lease of DOT property for joint public-private development or commercial development by aligning the process for unsolicited proposals for such uses with the process for unsolicited proposals for public-private transportation projects.
- Clarifies DOT's authority to enter into agreements with public or private transportation facility owners for the use of DOT systems to collect and enforce tolls, fares, administrative fees, and other applicable charges due in connection with the use of the owner's facility.
- Revises provisions related to environmental mitigation for transportation projects.
- Allows toll revenues on the Pinellas Bayway to be used for maintenance.

The Revenue Estimating Conference (REC) projects a significant negative impact on General Revenue funds in FY 2014-15 related to the red light camera provisions of the legislation. This first-year impact is negative \$23.1 million, with a recurring negative impact of \$13.8 million. The REC also projects a first-year negative impact of \$4.5 million to state trust funds, with a recurring negative impact of \$2.7 million. The remainder of the bill has an indeterminate fiscal impact on both state and local government revenues and expenditures. See the Fiscal Analysis & Economic Impact statement of this analysis for specific details.

The bill has an effective date of July 1, 2014.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The bill is a comprehensive bill related to transportation. For ease of understanding, this analysis is arranged by topic.

#### **Florida Transportation Commission (Section 1)**

##### Current Situation

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

Monitor the efficiency, productivity, and management of the authorities created under chapters 348 and 349, F.S.,<sup>1</sup> including any authority formed using the provisions of part I of ch. 348, F.S., and any authority formed under ch. 343, F.S., which is not monitored under subsection (3). The commission shall also conduct periodic reviews of each authority's operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles.<sup>2</sup>

There is no state entity currently charged with monitoring the Mid-Bay Bridge Authority, which was created by special law.<sup>3</sup>

##### Proposed Changes

The bill amends s. 20.23(2)(b)8., F.S., giving the FTC oversight authority over the Mid-Bay Bridge Authority.

#### **Florida Statewide Passenger Rail Commission (Section 1)**

##### Current Situation

In 2009, the Legislature provided a statutory framework for enhancing the consideration of passenger rail as a modal choice in the development and operation of Florida's transportation network.<sup>4</sup> The Legislature created the Florida Rail Enterprise,<sup>5</sup> modeled after the Florida Turnpike Enterprise, to coordinate the development and operation of passenger rail services statewide, and established the Florida Statewide Passenger Rail Commission (FSPRC) to monitor, advise, and review publicly-funded passenger rail systems.<sup>6</sup>

Specifically, and similar to the duty of the FTC, the Legislature charged the FSPRC with the function of:

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<sup>1</sup> Chapter 343, F.S., entities include the South Florida Regional Transportation Authority, the Central Florida Regional Transportation Authority, the Northwest Florida Transportation Corridor Authority, and the Tampa Bay Area Regional Transportation Authority. Chapter 348, F.S., entities include the Miami-Dade Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Santa Rosa Bay Bridge Authority, and the Osceola County Expressway Authority. Chapter 349, F.S., establishes the Jacksonville Transportation Authority.

<sup>2</sup> S. 20.23(2)(b)8., F.S.

<sup>3</sup> Ch. 2000-411, L.O.F.

<sup>4</sup> Ch. 2009-271, L.O.F.

<sup>5</sup> The Florida Rail Enterprise is created in ss. 341.8201 through 341.842, F.S.

<sup>6</sup> The first phase (31 miles) of a commuter rail project, SunRail, – an eventual 61-mile stretch of existing rail freight tracks through Orange, Seminole, Volusia and Osceola counties and the City of Orlando -- is under construction, and service could begin as early as 2014.

Monitoring the efficiency, productivity, and management of all publicly funded passenger rail systems in the state, including, but not limited to, any authority created under chapters 343, 349, or 163, F.S., if the authority receives public funds for the provision of passenger rail service. The commission shall advise each monitored authority of its findings and recommendations. The commission shall also conduct periodic reviews of each monitored authority's passenger rail and associated transit operations and budget, acquisition of property, management of revenue and bond proceeds, and compliance with applicable laws and generally accepted accounting principles. The commission may seek the assistance of the Auditor General in conducting such reviews and shall report the findings of such reviews to the Legislature. This paragraph does not preclude the Florida Transportation Commission from conducting its performance and work program monitoring responsibilities.<sup>7</sup>

The only publicly-funded passenger rail system in the state (Tri-Rail) then and now existing is operated by the South Florida Regional Transportation Authority, which is established in part II of ch. 343, F.S. No publicly-funded statewide passenger rail service has been built since the creation of the FSPRC nor is any type of service planned.<sup>8</sup> In addition, the FTC provides most of the same roles as the FSPRC for all areas of transportation in the state.

DOT provides administrative support and service to the FSPRC. The commission last met in July 2012. Six of the nine seats on the FSPRC are currently vacant and the three seats expire in August 2014.<sup>9</sup>

#### Proposed Changes

The bill repeals s. 20.23(3), F.S., eliminating the Florida Statewide Passenger Rail Commission.

#### Red Light Cameras (Sections 2 through 5)

##### Current Situation

##### **Red Light Cameras Generally**

Traffic infraction detectors<sup>10</sup> or red light cameras enforce traffic laws by automatically photographing vehicles running red lights. The cameras are connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system photographs vehicles that enter the intersection above a pre-set minimum speed after the signal has turned red; a second photograph typically shows the driver in the intersection. In some cases, video cameras are used. Red light cameras also record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle's speed.

##### **Red Light Cameras in Florida**

In 2010, the Florida Legislature enacted ch. 2010-80, L.O.F.<sup>11</sup> The law expressly preempted to the state regulation of the use of cameras for enforcing the provisions of Ch. 316, F.S.<sup>12</sup> The law also

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<sup>7</sup> S. 20.23(3)(b)1., F.S.

<sup>8</sup> All Aboard Florida is privately funded.

<sup>9</sup> October 8, 2013, and February 24, 2014 e-mails from DOT to House Transportation & Highway Safety Subcommittee Staff. Copies on file with subcommittee staff.

<sup>10</sup> Section 316.003(87), F.S., defines "traffic infraction detector" as "[a] vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s. 316.0083(1)(b) or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated."

<sup>11</sup> House Bill 325 (2010).

<sup>12</sup> S. 316.0076, F.S.

authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to employ red light camera programs.<sup>13</sup>

*Jurisdiction, Installation, and Awareness*

Every red light camera must meet requirements established by DOT and must be tested at regular intervals according to procedures prescribed by DOT.<sup>14</sup> If DHSMV, a county, or a municipality installs a red light camera at an intersection, the respective governmental entity must notify the public that a camera is in use at that intersection, including specific notification of enforcement of right-on-red violations.<sup>15</sup> Such signage must meet specifications adopted by DOT pursuant to s. 316.0745, F.S.<sup>16</sup>

*Notifications and Citations*

If a red light camera captures an image of a driver running a red light, the visual information is reviewed by a traffic infraction enforcement officer. A notice of violation must be issued to the registered owner of the vehicle within 30 days of the alleged violation.<sup>17</sup> The notice must be accompanied by a photograph or other recorded image of the violation, and must include a statement of the vehicle owner's right to review images or video of the violation, and the time, place, and Internet location where the evidence may be reviewed.<sup>18</sup> Violations may not be issued if the driver is making a right-hand turn in a "careful and prudent manner."<sup>19</sup>

A person who has been issued a notice of violation for a red light camera violation is authorized to elect to receive a hearing within 60 days following the date of the notice of violation. No payment or fee may be required in order to receive the hearing. Further, if a person elects to receive a hearing, the person waives his or her right to challenge delivery of the notice of violation.<sup>20</sup> If the notice of violation is upheld, the local hearing officer must require the petitioner to pay the \$158 penalty and may also require the petitioner to pay county or municipal costs, not to exceed \$250.<sup>21</sup>

If the registered owner of the vehicle does not pay the violation within 60 days of the notification described above, the traffic infraction enforcement officer must issue a uniform traffic citation (UTC) to the owner.<sup>22</sup> The UTC must be mailed by certified mail, and must be issued no later than 60 days after the violation.<sup>23</sup> The UTC must also include the photograph and statements described above regarding review of the photographic or video evidence.<sup>24</sup> The report of an officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used to commit the violation.<sup>25</sup>

A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of a UTC to the violator.<sup>26</sup>

*Exemptions*

The registered owner of the motor vehicle is responsible for payment of the penalty unless the owner can establish that the:

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<sup>13</sup> S. 316.0083, F.S.

<sup>14</sup> S. 316.0776, F.S.

<sup>15</sup> S. 316.0776(2), F.S.

<sup>16</sup> Id.

<sup>17</sup> S. 316.0083(1)(b), F.S.

<sup>18</sup> Id.

<sup>19</sup> S. 316.0083(2), F.S.

<sup>20</sup> Id.

<sup>21</sup> SS. 316.0083(5)(e), and 318.18(22), F.S.

<sup>22</sup> S. 316.0083(1)(c), F.S.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> S. 316.0083(1)(e), F.S.

<sup>26</sup> S. 316.650(3)(c), F.S.

- Vehicle passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Vehicle passed through the intersection at the direction of a law enforcement officer;
- Vehicle was, at the time of the violation, in the care, custody, or control of another person;
- Driver received a UTC for the alleged violation issued by a law enforcement officer; or
- Vehicle owner was deceased on or before the date that the UTC was issued.<sup>27</sup>

To establish any of these exemptions, the registered owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued.<sup>28</sup> If the registered owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number of the driver.<sup>29</sup> A UTC may be issued to the driver, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding the driver's alleged violation of ss. 316.074(1) or 316.075(1)(c)1., F.S.<sup>30</sup> Submission of a false affidavit is a second degree misdemeanor.

If the vehicle is leased, the owner of the leased vehicle is not responsible for paying the UTC, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.<sup>31</sup> If a person presents documentation from the appropriate governmental entity that a UTC was issued in error, the clerk of court may dismiss the UTC and may not charge for such service.<sup>32</sup>

#### *Penalties*

Red light camera citations carry a \$158 penalty. When the \$158 penalty is the result of local government enforcement, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).<sup>33</sup> DOR subsequently distributes the penalty by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health (DOH) Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>34</sup>

When the \$158 penalty is the result of enforcement by DHSMV, \$45 is retained by the local government and \$113 is deposited with DOR.<sup>35</sup> DOR subsequently distributes the penalty by depositing \$100 in the General Revenue Fund, \$10 in the DOH Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>36</sup> DHSMV does not currently operate any red light cameras.<sup>37</sup>

If a law enforcement officer cites a motorist for the same offense, the penalty is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Administrative Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.<sup>38</sup>

<sup>27</sup> S. 316.0083(1)(d), F.S.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> S. 318.18(15), F.S.

<sup>33</sup> S. 318.18(15), F.S., s. 316.0083(1)(b)3., F.S.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> December 6, 2013 e-mail from DHSMV to Transportation & Highway Safety Subcommittee Staff. Copy on file with the subcommittee.

<sup>38</sup> S. 318.18(15), F.S.

Red light camera citations may not result in points assessed against the driver's driver license and may not be used for the purpose of setting motor vehicle insurance rates.<sup>39</sup>

*Actual Revenue*

In FY 2012 – 2013, there were 77 jurisdictions operating red light camera programs throughout the state. The following chart details the state portion of the penalties remitted from participating local governments to DOR as a result of red light camera programs in place for FY 2012 – 2013.<sup>40</sup>

JURISDICTION	COUNTY	Total
COCOA BEACH	Brevard	\$273,485
PALM BAY	Brevard	\$167,743
CORAL SPRINGS	Broward	\$206,919
DAVIE	Broward	\$422,350
FORT LAUDERDALE	Broward	\$1,347,417
HALLANDALE BEACH	Broward	\$122,840
HOLLYWOOD	Broward	\$1,756,529
MARGATE	Broward	\$444,299
PEMBROKE PINES	Broward	\$926,280
SUNRISE	Broward	\$747,041
WEST PARK	Broward	\$153,467
GREEN COVE SPRINGS	Clay	\$695,042
COLLIER COUNTY BOCC	Collier	\$471,268
PALM COAST	Flagler	\$590,047
CLEWISTON	Hendry	\$157,285
BROOKSVILLE	Hernando	\$1,233,546
HILLSBOROUGH COUNTY BOCC	Hillsborough	\$1,458,376
TAMPA	Hillsborough	\$3,083,943
TEMPLE TERRACE	Hillsborough	\$479,740
CAMPBELLTON	Jackson	\$36,668
GROVELAND	Lake	\$129,406
TALLAHASSEE	Leon	\$863,532
BRADENTON	Manatee	\$455,172
COUNTY OF MANATEE BOARD OF COUNTY COMMISSIONERS	Manatee	\$253,399
DUNNELLON	Marion	\$443,801
AVENTURA	Miami-Dade	\$1,574,925
BAL HARBOUR VILLAGE	Miami-Dade	\$1,056,731
CORAL GABLES	Miami-Dade	\$392,451
CUTLER BAY	Miami-Dade	\$222,855
DORAL	Miami-Dade	\$763,015
EL PORTAL	Miami-Dade	\$54,614
FLORIDA CITY	Miami-Dade	\$924,108
HIALEAH GARDENS	Miami-Dade	\$225,922
HOMESTEAD	Miami-Dade	\$419,482
KEY BISCAYNE	Miami-Dade	\$58,847
MEDLEY	Miami-Dade	\$450,690
MIAMI	Miami-Dade	\$6,464,870
MIAMI BEACH	Miami-Dade	\$227,088
MIAMI GARDENS	Miami-Dade	\$3,198,239

<sup>39</sup> S. 322.27(3)(d)6., F.S.

<sup>40</sup> The Department of Revenue makes its most-recent data available online at <http://dor.myflorida.com/dor/taxes/distributions.html> (Last visited on November 25, 2013).

MIAMI SPRINGS	Miami-Dade	\$586,477
NORTH BAY VILLAGE	Miami-Dade	\$534,105
NORTH MIAMI FLORIDA	Miami-Dade	\$2,016,729
OPA LOCKA	Miami-Dade	\$509,699
SURFSIDE	Miami-Dade	\$366,362
SWEETWATER	Miami-Dade	\$1,388,081
WEST MIAMI	Miami-Dade	\$750,113
APOPKA	Orange	\$2,031,425
EDGEWOOD	Orange	\$662,547
MAITLAND	Orange	\$1,116,516
OCOEE	Orange	\$487,542
ORANGE COUNTY BOCC	Orange	\$699,524
ORLANDO	Orange	\$1,909,332
WINTER PARK	Orange	\$1,055,511
KISSIMMEE	Osceola	\$1,450,591
BOCA RATON	Palm Beach	\$1,588,258
BOYNTON BEACH	Palm Beach	\$936,616
JUNO BEACH	Palm Beach	\$401,068
PALM BEACH COUNTY BOARD OF C	Palm Beach	\$299,213
PALM SPRINGS	Palm Beach	\$413,838
WEST PALM BEACH	Palm Beach	\$438,113
NEW PORT RICHEY	Pasco	\$931,924
PORT RICHEY	Pasco	\$542,943
CLEARWATER	Pinellas	\$542,737
GULFPORT	Pinellas	\$164,423
KENNETH CITY	Pinellas	\$486,712
OLDSMAR	Pinellas	\$440,082
SOUTH PASADENA	Pinellas	\$621,982
ST PETERSBURG	Pinellas	\$1,585,901
HAINES CITY	Polk	\$1,156,190
LAKELAND	Polk	\$511,730
PALATKA	Putnam	\$181,688
GULF BREEZE	Santa Rosa	\$388,523
MILTON	Santa Rosa	\$151,807
SARASOTA	Sarasota	\$1,135,108
WINTER SPRINGS	Seminole	\$0
DAYTONA BEACH	Volusia	\$797,464
HOLLY HILL	Volusia	\$220,614
<b>Grand Total</b>		<b>\$62,454,920</b>
\$70 General Revenue portion		\$52,663,609
\$10 Health Admin. Trust Fund		\$7,510,916
\$3 Brain & Spinal Cord Injury TF		\$2,257,262

## Litigation

### *Preemption*

Prior to passage of Ch. 2010-80, L.O.F., some cities in Florida implemented red light camera programs of their own through local ordinances, notwithstanding concerns stated by the Florida Attorney General's office. A 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the [sole] basis for issuing a citation for such

violations.”<sup>41</sup> A 2005 Attorney General opinion reached the same conclusion, stating that, “legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices” as collected from a photographic record from unmanned cameras monitoring intersections.<sup>42</sup>

In at least some cases, lawsuits were successful in attacking pre-2010 red light camera ordinances on the grounds that a camera cannot “observe” a driver’s commission of a traffic infraction to the extent necessary to issue a citation. Other lawsuits were unsuccessful, on the grounds that the violation was merely a violation of a municipal ordinance, not a uniform traffic citation. The legality of the use of red light cameras prior to the 2010 legislative preemption is currently pending before the Florida Supreme Court.<sup>43</sup>

### *Due Process*

Courts have rejected claims that red light camera ordinances and statutes violate due process. A lawsuit filed in the 15<sup>th</sup> Judicial Circuit argues that as a result of ch. 2010-80 L.O.F., the “burden of proof” has been unconstitutionally shifted from the state to the motorist, because the statute provides that “if the state is able to prove that a vehicle registered to the Petitioner was involved in the commission of a red light camera violation, [the owner] is presumed to be guilty.”<sup>44</sup> The suit further asserts that “the State is not required to prove the identity of the driver who committed the red light camera violation.”<sup>45</sup> In a Motion for Summary Judgment (Motion), the state and city of West Palm Beach, among other defenses, argued that the law affords adequate due process to violators by creating a ‘rebuttable presumption’ that the owner was also the operator. The burden-shifting created by this rebuttable presumption, the state argued, is appropriate in “noncriminal situations... [that] contemplate reasonable notice and an opportunity to hear and be heard.”<sup>46</sup> The Motion was granted, and the Florida Fourth District Court of Appeal affirmed the circuit court’s decision.<sup>47</sup>

### **Impacts**

#### *Insurance Institute for Highway Safety (IIHS) Analysis*

In February 2011, the IIHS published an analysis titled, ‘Effects of Red Light Camera Enforcement on Fatal Crashes in Large US Cities.’<sup>48</sup> For the analysis, IIHS researchers studied 14 cities with red light camera programs (RLCs) and forty-eight cities without RLCs. The IIHS analysis concluded that the “average annual rate of fatal red light running crashes declined for both groups, but the decline was larger for cities with red light camera enforcement programs,” than those without, 35 percent versus 14 percent, respectively.<sup>49</sup> Further, “[a]fter controlling for population density and land area, the rate of fatal red light running crashes during 2004-2008 for RLC cities was an estimated 24 percent lower than what would have been expected without cameras.”<sup>50</sup>

#### *Florida Public Health Review Report*

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<sup>41</sup> Attorney General Opinion AGO 97-06.

<sup>42</sup> Attorney General Opinion AGO 2005-41.

<sup>43</sup> *City of Orlando v. Udowychenko*, 98 So. 3d 589 (Fla. Dist. Ct. App. 2011), review granted, 2012 WL 5991338 (Fla. Nov. 6, 2012) (No. SC12-1471).

<sup>44</sup> Action for Declaratory Judgment, *Salvatore Altimari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15<sup>th</sup> Cir.)

<sup>45</sup> *Id.* at 2.

<sup>46</sup> Defendant State of Florida’s Motion to Dismiss, *Salvatore Altimari vs. State of Florida; City of West Palm Beach*, 2010 CA 022083, (15<sup>th</sup> Cir.)

<sup>47</sup> *Altimari v. State of Florida; City of West Palm Beach*, 107 So.3d 552 (Fla. 4<sup>th</sup> DCA 2013).

<sup>48</sup> “Effects of Red Light Camera Enforcement on Fatal Crashes in Large US Cities.” Wen Hu, Anne T. McCart and Eric R. Teoh.

Insurance Institute for Highway Safety, February 2011. The IIHS press release on this analysis may be viewed at <http://www.iihs.org/news/rss/pr020111.html> (Last visited November 26, 2013). The IIHS study is on file with the Transportation and Highway Safety Subcommittee.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

In a January 2012 report, University of South Florida (USF) researchers argued that the IIHS analysis (mentioned above) was “logically flawed” and violated “basic scientific methods.”<sup>51</sup> Specifically, the USF report argued that the IIHS analysis actually found that RLCs had a 25 percent higher red light running fatality rate during the ‘after’ period than non-RLCs.<sup>52</sup> In addition, USF researchers pointed out, but did not limit their concerns to the following, regarding the IIHS analysis:

- It analyzed city-wide data, not specific to camera sites.
- It excluded variables known to be associated with traffic fatalities, such as changes in public policy or engineering improvements made during or between the periods.
- It expressed its findings as a “percentage change in the rate of red light running fatalities,” instead of a “change in the number of fatalities.” In other words, USF researchers argued the results of the IIHS analysis are misleading because certain variables – namely those relating to population – are reported multiple times. For example, population is a denominator, “fatalities per 100,000,” as well as a numerator, “population per square mile.”
- It was biased in its selection of both RLCs and non-RLCs. Specifically, USF researchers argued “the authors of the IIHS study ignored the fact that the non-RLCs had substantially fewer red light running related fatalities in the ‘before’ period . . . [o]f even greater impact, 23 [percent] of the non-RLCs had two or fewer (including zero) red light running related accidents.” Essentially, USF researchers argued that the non-RLCs had very little room to reduce the total number – or percentage rate – of accidents during the ‘after’ period.
- It alleges the IIHS data is incorrect and the research suspect because IIHS is supported by insurers.<sup>53</sup>

#### *IIHS Response to Florida Public Health Review Report*

In response to the USF study, IIHS provided that, generally, regarding the validity of its research, IIHS “...examined fatal crashes before and after the cities implemented red light camera programs, and then compared the results... The idea was to see how the rate of fatal crashes changed after the introduction of photo enforcement. The independent, peer-reviewed *Journal of Safety Research* published the study in August 2011.”<sup>54</sup>

Regarding USF’s finding that RLCs had a 25 percent higher red light running fatality rate during the ‘after’ period than non-RLCs, IIHS rebuts that, “[i]t is true that crash rates were 25 percent higher, but...” the USF report, “...ignores the fact that they were 65 percent higher in the “before” period.”<sup>55</sup>

Furthermore, IIHS provides that, “[t]he measure that matters is what happened to fatal crashes after photo enforcement was implemented, compared with what would have been expected without it.” The IIHS study stands by its claims that, “camera cities experienced a bigger drop in fatal crash rates. In the 14 cities that had cameras in 2004-08 but didn’t have them in an earlier comparison period, automated red light enforcement saved 159 lives.”<sup>56</sup>

Regarding the USF claim that IIHS is biased because insurers benefit from photo enforcement by raising rates on ticketed drivers, IIHS rebuts, “in most jurisdictions, including Florida, there is no insurance consequence from photo enforcement. Florida law prohibits insurers from using the violations to set rates, and in most other states tickets from cameras don’t go on driver records, and no

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<sup>51</sup> “Counterpoint: The Insurance Institute for Highway Safety Study Actually Found Cities Using Red Light Cameras Had Higher Red Light Running Fatality Rates.” Barbara Langeland-Orban, PhD, Etienne E. Pracht, PhD, and John T. Large, PhD. *Florida Public Health Review*, 2012, Volume 9. This study may be viewed at <http://health.usf.edu/publichealth/fphr/current.htm> (Last visited November 26, 2013).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> “Institute responds to criticism of red light camera research.” Status Report, Vol. 47, No. 3; April 12, 2012. Insurance Institute for Highway Safety, February 2011. The IIHS status report on this analysis may be viewed at <http://www.iihs.org/iihs/sr/statusreport/article/47/3/4> (Last visited November 26, 2013).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*



points are assessed. Many studies have concluded that red light cameras are effective, and most of them were conducted by government agencies and other traffic safety experts not connected to the insurance industry.<sup>57, 58</sup>

#### *DHSMV – 2013 Red Light Camera Program Analysis*

Florida law requires each county or municipality operating a red light camera program to annually self-report data to DHSMV containing:

- Red light camera program results over the preceding fiscal year;
- The procedures for enforcement; and
- Other statistical data and information required by DHSMV.<sup>59</sup>

Based on this data covering the period between July 1, 2012 and June 30, 2013 (survey period), DHSMV submitted a summary report to the Governor and Legislature containing the following findings:

- Seventy-five agencies reported that there are 922 approaches to intersections across the state with red light cameras installed.
- Historical traffic crash data was the most important factor considered when selecting red light camera locations (roughly 61 percent); however, roughly 39 percent did not consider historical traffic crash data as the most important factor. The next most important factors were law enforcement officer observations, and video evidence of red light violations. In addition to the choices provided, the agencies considered overall traffic volume.
- During the survey period, the agencies issued a total of 1,094,106 Notices of Violation.<sup>60</sup>
- The number of Notices of Violation challenged was 36,063. Of those violations challenged, 24,285 were dismissed (nearly 70 percent).
- In calendar year 2012, 342,308 Uniform Traffic Citations (UTC) were issued to owners who failed to pay the red light camera fine or contest the Notice of Violation within 60 days.<sup>61</sup>
- Florida law states that “a notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.” Of the 75 agencies, 44 issue Notices of Violation and UTCs for right-on-red violations, but only 15 agencies have a policy defining ‘careful and prudent.’
- Effect on Crashes – According to DHSMV, At least one-fourth of the agencies are not tracking crash data at red light camera intersections and an additional 15 percent that do track overall crash data are not collecting data related to specific collision types (side impact, front to rear impact, etc.). Respondents who reported crash data indicated an overall decrease in crashes at intersections with red light cameras. However, crash data maintained by DHSMV indicates that crashes at all red light intersections typically increased, both statewide and in the surveyed jurisdictions.
- Agencies also reported that traffic safety improved throughout their jurisdictions. The most common improvements were reductions in drivers running red lights at intersections using

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<sup>57</sup> Id.

<sup>58</sup> Section 322.27(3)(d)6., F.S., provides, “... no points shall be imposed for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer. In addition, a violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer may not be used for purposes of setting motor vehicle insurance rates.”

<sup>59</sup> S. 316.0083(4), F.S. DHSMV uses an on-line questionnaire to facilitate data collection.

<sup>60</sup> According to DHSMV, 72,465 citations were issued to drivers who ran red lights by law enforcement officers in calendar year 2012.

<sup>61</sup> While the reporting period for the DHMSV report was from July 1, 2012 through June 30, 2013, information regarding the number of UTCs issued was reported for calendar year 2012.

cameras, increased driver and public awareness, and a jurisdiction-wide increase in cautious driving.<sup>62</sup>

Since its inception, Florida's red light camera program has been the topic of much debate – particularly with regard to the impact that red light cameras have on accidents. As stated in the report, surveyed jurisdictions reported an overall decrease in crashes in most cases; however, it must be noted that 25 percent of the agencies did not submit crash data. Further, 39 percent of the agencies did not consider historical traffic crash data as the most important factor when deciding on camera placement. Instead, these agencies may have considered video evidence of red light violations, law enforcement officer observations, citizen complaints, or historical traffic citation data as the most important factor.

To be clear, however, while there was a requirement that agencies self-report the details of the results of using red light cameras to DHSMV, there is no clear statutory requirement that this data include crash statistics.

### Proposed Changes

The bill removes the local government authorization to further install and enforce additional red light camera systems. In addition, the bill reduces red light camera penalties by the amount that local governments are allocated, revises the distribution of the remaining penalty amounts, and allows local governments to impose a surcharge for violations in order to fund existing red light camera contractual agreements. To accomplish the installation and enforcement prohibition, the bill:

- Amends s. 316.0076, F.S., (the section of law that expressly preempts to the state regulation and use of red light cameras) expressly prohibiting counties and municipalities from using cameras for enforcing ch. 316, F.S., at any traffic control signal device location that did not have an active traffic infraction detector installed prior to July 1, 2014;
- Amends s. 316.0083(1)(a), F.S., (the section of law that provides criteria for when a notice of violation and citation can be sent) restricting counties and municipalities to only issue the notice and citation at intersections that had an active red light camera system installed prior to July 1, 2014;
- Amends s. 316.0776(1), F.S., (the section of law that provides engineering specifications for installation of red light cameras) including the requirement that county and municipal red light cameras are only allowed when installed and active prior to July 1, 2014; and
- Amends s. 316.0776(2)(b), F.S., removing the county and municipal requirement to make a public announcement and conduct a public awareness campaign before commencing a new red light camera enforcement program.

To reduce red light camera penalties by the amount that local governments are allocated and revise the distribution of the penalties, the bill:

- Amends s. 316.0083(1)(b)1.a., F.S., correcting a cross reference relating to the penalty amount specified in the notification to the registered owner of a motor vehicle involved in a violation;
- Amends s. 316.0083(1)(b)2., F.S., removing county and municipal authority to retain penalties from red light camera violations; and
- Amends s. 316.0083(1)(b)3., F.S., making the following changes:
  - When enforcement is by DHSMV, the bill:
    - Reduces the penalty from \$158 to \$83;
    - Removes the \$45 amount of the penalty that is distributed to counties and municipalities; and
    - Reduces from \$100 to \$70 the amount of the penalty that the Department of Revenue (DOR) deposits in the General Revenue Fund.

<sup>62</sup> See the Department of Highway Safety and Motor Vehicles' "Red Light Camera Summary Report" December 17, 2013 (Revised January 8, 2014). Available at: <http://www.flhsmv.gov/html/safety.html> (Last visited January 10, 2013).

- When enforcement is by a county or municipality, the bill:
  - Reduces the penalty from \$158 to \$83; and
  - Removes the \$75 amount of the penalty that is distributed to counties and municipalities.

The bill also amends s. 318.18(15), F.S., making conforming changes regarding the amount of red light camera penalties and distributions required for noncriminal dispositions<sup>63</sup> and criminal offenses.<sup>64</sup>

The bill amends ss. 316.0083(5)(e), and 318.18(22), F.S., reducing the amount of county and municipal costs that may be assessed and collected when a notice of violation is upheld by a local hearing officer, from \$250 to the current amount of the penalty, which will be \$83 if the bill becomes law.

The bill does not remove all authority for local governments to receive funds from red light camera penalties. The bill allows counties and municipalities to impose a surcharge for red light camera violations to fund existing camera systems. Specifically, a county or municipality may impose by ordinance at a public hearing and by majority vote, a surcharge for violations of s. 316.074(1), F.S.; or s. 316.075(1)(c)1., F.S. The surcharge is:

- Only valid for such violations that occur at intersections that had an active traffic infraction detector installed prior to July 1, 2014; and
- Solely purposed to fund administrative costs and contractual agreements with manufacturers and vendors of traffic infraction detectors.

The bill requires surcharge revenue to be distributed quarterly to the manufacturer or vendor in accordance with each respective contractual agreement. Surplus revenue must be sent to DOR for deposit in the General Revenue Fund.

The bill also provides a reporting requirement for local governments that enact a surcharge ordinance. No later than 30 days after the end of each quarter, each county or municipality is required to report in an electronic format to DOR the amount of surcharge funds collected during each quarter of the fiscal year. The bill also requires DOR to submit the report in an electronic format to the Governor, President of the Senate, and Speaker of the House of Representatives.

## **Parking Meters (Section 6)**

### **Current Situation**

Existing throughout the state today within the right-of-way limits of state roads under DOT's jurisdiction are parking meters or other parking time-limit devices whose revenue is collected and used by the local jurisdictions that installed the devices. Parking meters and other parking time-limit devices facilitate commerce by ensuring that parking spaces turn over at regular intervals, and provide convenient customer access to abutting businesses.

There is no statute authorizing parking time-limit devices on DOT right-of-way. DOT has no rule or statewide procedure for issuance of permits for parking time-limit devices installed within the right-of-way limits of state roads under the DOT's jurisdiction. DOT does not receive any portion of this revenue and reports the number and location of these existing devices is unknown. Costs incurred by the local jurisdictions to purchase, install, and maintain the existing devices are unknown, as are costs incurred to enforce time limits reflected on the devices.

### **Proposed Changes**

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<sup>63</sup> S. 318.14, F.S.

<sup>64</sup> S. 318.17, F.S.

The bill creates s. 335.10(4), F.S., providing that no charge may be imposed for public parking within designated parking spaces located within the right-of-way limits of a road on the State Highway System.

### **Surplus Property (Section 7)**

#### **Current Situation**

Section 337.25, F.S., authorizes DOT to purchase, lease, exchange, or otherwise acquire any land, property interests, buildings or other improvements necessary for rights-of-way for existing or anticipated transportation facilities on the State Highway System, on the State Park Road System, or in a DOT designated rail or transportation corridor. DOT may also accept donations of land, building, or other improvements for transportation rights-of-way and may compensate an entity by providing replacement facilities when the land, building, or other improvements are needed for transportation purposes but are held by a federal, state, or local governmental entity and used for public purposes other than transportation.

DOT is required to conduct a complete inventory of all real or personal property immediately upon acquisition, including an itemized listing of all appliances, fixtures, and other severable items, a statement of the location or site of each piece of realty, structure, or severable item, and the serial number assigned to each. DOT must evaluate the inventory of real property which has been owned for at least 10 years and which is not within a transportation corridor or the right-of-way of a transportation facility.<sup>65</sup> If the property is not located within a transportation corridor or is not needed for a transportation facility, DOT is authorized to dispose of the property. According to the DOT, approximately 79 percent of its currently-owned surplus property is valued at under \$50,000.

#### **Sale of Property**

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

- DOT may negotiate the sale of property at no less than fair market value as determined by an independent appraisal, to the owner holding title to abutting property, if in DOT's discretion public sale would be inequitable.
- DOT may sell property acquired for use as a borrow pit, at no less than fair market value, to the owner of abutting land from which the pit was originally acquired, if the pit is no longer needed.
- DOT may convey to a county without consideration any property acquired by a county or by DOT using constitutional gas tax funds for a right-of-way or borrow pit for a road on the State Highway System, State Park Road System, or county road system if the property is no longer used or needed by DOT; and the county may sell the property on receipt of competitive bids.
- A governmental entity may authorize re-conveyance to the original donor of property donated to the state for transportation purposes if the facility has not been constructed for at least five years, no plans have been prepared for construction of the facility, and the property is not located within a transportation corridor.
- DOT may negotiate the sale of property as replacement housing if the property was originally acquired for persons displaced by transportation projects and if the state receives no less than its investment in such properties or fair market value, whichever is lower. This benefit extends only to persons actually displaced by a project, and dispositions to any other person must be for fair market value.

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<sup>65</sup> Section 334.03(30), F.S., defines "transportation facility" as "any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.

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

- Negotiate the sale of property if its value is \$10,000 or less as determined by DOT estimate;
- Sell the property to the highest bidder through “due advertisement” of receipt of sealed competitive bids or by public auction if its value exceeds \$10,000 as determined by the DOT estimate;
- Determine the fair market value of property through appraisal conducted by an DOT appraiser, if the DOT begins the process for disposing of property on its own initiative, either by authorized negotiation or by authorized receipt of sealed competitive bids or public auction;
- Convey the property without consideration to a governmental entity if the property is to be used for a public purpose; and
- Use the projected maintenance costs of the property over the next five years to offset the market value in establishing a value for disposal of the property, even if that value is zero, if the DOT determines that the property will require significant costs to be incurred or that continued ownership of the property exposes the DOT to significant liability risks.

### **Lease of Property**

DOT is further authorized to convey a leasehold interest for commercial or other purposes to any acquired land, building, or other property, real or personal, subject to the following:

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

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

### **Proposed Changes**

The bill amends s. 337.25, F.S., revising the terms and conditions under which DOT may sell or lease properties acquired for transportation rights-of-way and authorizing DOT to contract for auction services used in the conveyance of real or personal property or leasehold interest<sup>66</sup> and authorizing such contracts to allow the contractor to retain a portion of the proceeds as compensation.

DOT is authorized to “convey” rather than “sell” land, buildings, or other real or personal property after determining the property isn’t needed for a transportation facility and to dispose of property through negotiations, sealed competitive bids, auctions, or any other means deemed to be in DOT’s best interest. Due advertisement is required for property valued at more than \$10,000, and no property may be sold at less than fair market value except as specified. DOT is authorized, rather than required, to

<sup>66</sup> This is pursuant to s. 287.055, F.S.  
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afford the right of first refusal to a political subdivision, or local government in which the parcel is located, except in conveyances when the property has been donated to the state for transportation purposes and a facility has not been constructed for at least five years, the property was originally required for replacement housing for persons displaced by transportation projects, or property which DOT has determined a sale to anyone other than the abutting land owner would be inequitable.

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

DOT's estimate of value must be prepared in accordance with DOT procedures, guidelines, and rules of valuation of real property, if the value of the property exceeds \$50,000; the sale will be negotiated at a price not less than fair market value as determined by an independent appraisal. If the estimate of value is \$50,000 or less, DOT may use a staff appraiser or obtain an independent appraisal.

The bill provides that s. 337.25, F.S., does not modify the requirements of s. 73.013, F.S.<sup>67</sup>

### **Unsolicited Lease Proposals (Section 8)**

#### **Current Situation**

Section 337.251, F.S., authorizes DOT to request proposals for the lease of DOT property for joint public-private development or commercial development. DOT may also receive and consider unsolicited proposals for such uses. If DOT receives an unsolicited proposal to negotiate a lease, the DOT must publish a notice in a newspaper of general circulation at least once a week for two weeks, stating that it has received the proposal and will accept, for 60 days after the date of publication, other proposals for use of the space. DOT must also mail a copy of the notice to each local government in the affected area:

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

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

Unlike s. 337.251, F.S., before approving a proposal, DOT must determine that the proposed project is in the public's best interest; would not require state funds to be used unless the project is on the State Highway System; would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default or cancellation of the agreement by DOT; would have adequate safeguards in place to ensure that DOT or the private entity has the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations; and would be owned by the DOT upon

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<sup>67</sup> Chapter 73.013, F.S., relates to conveyance of property taken by eminent domain; preservation of government entity communications services eminent domain limitation; exception to restrictions on power of eminent domain.

completion or termination of the agreement.<sup>68</sup> In addition, before awarding a contract for lease of an existing toll facility through a public-private partnership, DOT is required to provide an independent analysis of the proposed lease that demonstrates the cost-effectiveness and overall public benefit.

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

#### **Proposed Changes**

The bill amends s. 337.251(2), F.S., providing statutory guidance regarding unsolicited lease proposals. It changes the time period in which DOT will accept other proposals for the lease of a particular property from 60 days to 120 days. It requires DOT to establish an application fee for the submission of proposals by rule. The fee must be limited to the amount needed to pay for the anticipated costs of evaluating the proposals. DOT may engage the services of private consultants to assist in the evaluation. Before approval, DOT must determine that the proposed lease:

- Is in the public's best interest;
- Would not require state funds to be used;
- Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and residents of the state in the event of default by the private lessee or upon termination or expiration of the lease.

#### **Toll Interoperability (Section 9)**

##### **Current Situation**

HB 599<sup>69</sup> and SB 1998<sup>70</sup> both passed in 2012 and both contained language relating to DOT's authority to enter into agreements with public or private transportation facility owners (whose systems become interoperable with DOT's systems) for the use of DOT systems to collect and enforce tolls, fares, administrative fees, and other applicable charges due in connection with use of the owner's facility. However, the bills were not identical. Language contained in the last passed bill, HB 599, is potentially ambiguous as to whether DOT is collecting tolls, fares, and fees on behalf of the facility owner or whether the facility owner would be collecting them on behalf of DOT, leading to more than one possible interpretation.

##### **Proposed Changes**

The bill amends s. 338.161(5), F.S., clarifying that DOT may collect and enforce tolls, fares, administrative fees, and other applicable charges due in connection with use of the public or private transportation facility.

#### **Environmental Mitigation (Section 10)**

##### **Current Situation**

Under existing law, DOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to water management districts (WMDs) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the Department of Environmental Protection (DEP). The ability to exclude a project from the mitigation plan is provided to DOT, a participating transportation authority, or a WMD.

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<sup>68</sup> The ownership requirement in s. 334.30, F.S., would not, of course, apply to a lease arrangement under s. 337.251, F.S.

<sup>69</sup> Ch. 2012-174, L.O.F.

<sup>70</sup> Ch. 2012-128, L.O.F.

More specifically s. 373.4137, F.S., enacted in 1996,<sup>71</sup> created mitigation requirements for specified transportation projects. Historically, the statute directed DOT and transportation authorities<sup>72</sup> to fund, and the WMD to develop and implement, mitigation plans to mitigate these impacts. In 2012, HB 599<sup>73</sup> modified the statute to reflect that adverse impacts be offset by the use of mitigation banks and any other option that satisfies state and federal requirements. "Other" mitigation options include DOT's payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory created by DOT reflecting habitats that would be adversely impacted by transportation projects listed in the next three years of DOT's tentative work program. DOT provides funding in its work program to DEP or WMDs for its mitigation requirements. To fund the programs, the statute directs DOT and the authorities to pay \$75,000, as adjusted by a calculation using the CPI, per impacted acre.<sup>74</sup>

The statute provides that WMD developed mitigation plans should use sound ecosystem management to address significant water resource needs and focus on activities of DEP and WMDs in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. WMDs must also consider the purchase of credits from public and private mitigation banks when such purchase provides equal benefit to water resources and is the most cost effective option. Before each transportation project is added to the WMD mitigation plan, DOT must investigate the use of mitigation bank credits considering cost-effectiveness, time saved, transfer of liability and long-term maintenance. Final approval of the mitigation plan rests with DEP.

DOT and participating expressway authorities are required to transfer funds to pay for mitigation of that year's projected impact acreage resulting from projects identified in the inventory. Quarterly, the projected impact acreage and costs are reconciled with the actual impact acreage, and costs and the balances are adjusted.

Under existing law, the statute provides for exclusion of specific transportation projects from the mitigation plan at the discretion of DOT, participating transportation authorities and the WMDs.

#### Proposed Changes

The bill amends s. 373.4137, F.S., providing that mitigation take place in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness. The bill requires the following for the development of environmental impact inventories for transportation projects proposed by DOT or a transportation authority.<sup>75</sup>

- DOT must submit an environmental impact inventory of habitat impacts<sup>76</sup> and the anticipated amount of mitigation needed to offset the impacts to the WMDs by July 1, and may include in the inventory the habitat impacts and the anticipated amount of mitigation needed for future projects; and
- The environmental impact inventory must include the proposed amount of mitigation needed based on the Uniform Mitigation Assessment Method (UMAM)<sup>77, 78</sup> and identification of the proposed mitigation option.

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<sup>71</sup> Ch. 96-238, L.O.F.

<sup>72</sup> The statute applies to transportation authorities created in ch. 348 or 349, F.S.

<sup>73</sup> Ch. 2012-174, L.O.F.

<sup>74</sup> The fiscal year 2014-2015 cost per acre is \$111,426.

<sup>75</sup> The statute applies to transportation authorities established pursuant to ch. 348 or ch. 349, F.S.

<sup>76</sup> The environmental impact inventory is based on the rules adopted pursuant to part IV of ch. 373, F.S., relating to the management of storage and surface waters and s. 404 of the Clean Water Act (33 U.S.C. s. 1344).

<sup>77</sup> UMAM is adopted in ch. 62-345, F.A.C. Information on UMAM is available at:

<http://www.dep.state.fl.us/water/wetlands/mitigation/umam/index.htm> (Last visited November 7, 2013).

<sup>78</sup> Rule 62-345.100(1), F.A.C., implements s. 373.414(18), F.S. requiring "the establishment of a uniform mitigation assessment method to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits." Rule 62-345.100(2), F.A.C., recites that the assessment method is "a standardized procedure for



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

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

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

The bill requires funding for the identified mitigation option in the inventory to be included in DOT's work program,<sup>79</sup> and requires the amount programmed each year to correspond to an estimated cost of \$150,000 per mitigation credit, multiplied by the projected number of credits identified in the inventory. The estimated cost per credit will be adjusted every two years by DOT based on the average cost per UMAM credit.

The bill specifies that for mitigation implemented by the WMDs or the DEP, the amount paid each year must be based on mitigation services provided by the WMD or the DEP pursuant to an approved WMD mitigation plan. The WMDs or the DEP may request payment no sooner than 30 days before the date the funds are needed.

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

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

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

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

The bill requires each WMD or the DEP to invoice DOT for mitigation services to offset only the impacts of a DOT project identified in the inventory, beginning with the March 2015 WMD plans. If the WMD identifies the use of mitigation bank credits to offset a DOT impact, the WMD must exclude that purchase from the mitigation plan and DOT must purchase the bank credits.

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

The WMD must maintain records of the costs incurred including:

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assessing the functions provided by wetlands and other surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss.”

<sup>79</sup> DOT's work program is developed pursuant to s. 339.135, F.S.

- Planning;
- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements.<sup>80</sup>

The bill requires the funds identified in DOT's work program or participating transportation authorities' escrow accounts, for preparing and implementing the mitigation plans, adopted by the WMDs on or before March 1, 2014, to correspond to \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to FDOT or the participating transportation authority. This provision expires June 30, 2015.

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

### **Pinellas Bayway (Section 11)**

#### **Current Situation**

Opened in 1962, the Pinellas Bayway is a series of toll bridges on State Roads 682 and 679 in Pinellas County, which are owned and operated by DOT. All tolls collected on the Pinellas Bayway shall first be used for the payment of annual operating costs and second to discharge the current bond indebtedness. Thereafter, tolls collected shall be used, together with the interest earned, by DOT for the construction of Blind Pass Road, State Road 699 improvements, and for Phase II of the Pinellas Bayway improvements.<sup>81</sup>

#### **Proposed Changes**

The bill amends section 2 of ch. 85-364, L.O.F., as amended by ch. 95-382, L.O.F., providing that payment of maintenance costs will become an eligible use of Pinellas Bayway toll revenue before it is deposited into the toll construction account. Additionally, the bill removes references to Blind Pass Road and State Road 699 improvements which have been completed.

#### **Conforming Changes (Section 12)**

The bill amends ss. 110.205(2)(j) and (m)3., F.S., conforming cross-references.

#### **Effective Date (Section 13)**

The bill has an effective date of July 1, 2014.

### **B. SECTION DIRECTORY:**

Section 1 Amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 Amends s. 316.0076, F.S., relating to the regulation and use of cameras.

<sup>80</sup> The federal requirements are pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332

<sup>81</sup> Ch. 95-382, L.O.F., amending section 2 of ch. 85-364, L.O.F.

- Section 3 Amends s. 316.0083, F.S., relating to the Mark Wandall Traffic Safety Program; administration; report.
- Section 4 Amends s. 316.0776, F.S., relating to traffic infraction detectors; placement and installation.
- Section 5 Amends s. 318.18, F.S., relating to the amount of penalties.
- Section 6 Amends s. 335.10, F.S., relating to the State Highway System; vehicle regulation; prohibited use and traffic; liability for damage; parking.
- Section 7 Amends s. 337.25, F.S., relating to the acquisition, lease, and disposal of real and personal property.
- Section 8 Amends s. 337.251, F.S., relating to the lease of property for joint public-private development and areas above or below department property.
- Section 9 Amends s. 338.161, F.S., relating to the authority of department or toll agencies to advertise and promote electronic toll collection; expanded uses of electronic toll collection system; authority of department to collect tolls, fares, and fees for private and public entities.
- Section 10 Amends s. 373.4137, F.S., relating to mitigation requirements for specified transportation projects.
- Section 11 Amends s. 2 of ch. 85-386, L.O.F., as amended by ch. 95-382, L.O.F., relating to the Pinellas Bayway.
- Section 12 Amends s. 110.205, F.S., relating to career service; exemptions to conform.
- Section 13 Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

On January 10, 2014, the Revenue Estimating Conference projected a significant negative fiscal impact on state revenues due to the red light camera provisions of this bill. This includes a loss of \$23.1 million of General Revenue and \$4.5 million in state trust funds in the first year, with a recurring negative impact of \$13.8 million from General Revenue and \$2.7 million from state trust funds. The trust funds impacted include: the Emergency Medical Services Trust Fund, the Brain and Spinal Cord Injury Trust Fund, the State Courts Revenue Trust Fund, the State Attorneys Revenue Trust Fund, the Public Defenders Revenue Trust Fund, the State Radio System Trust Fund, and the Additional Court Cost Clearing Trust Fund.

In FY 2012 – 2013, the state portion of the penalties collected from red light camera violations has resulted in \$62,454,920, of which \$52,663,609 was distributed to the General Revenue Fund; \$7,510,916 to the DOH Administrative Trust Fund; and \$2,257,262 to the Brain and Spinal Cord Injury Program Trust Fund.

The bill reduces from \$100 to \$70 the amount of the penalty that DOR deposits in the General Revenue Fund when the fine is the result of a DHSMV red light camera. However, DHSMV does

not currently operate red light camera programs or enforce such violations. The bill does not change the \$70 amount of the penalty that DOR deposits in the General Revenue Fund when the fine is the result of a local government's red light camera. Also, revenue from penalties levied as a result of a law enforcement officer's citation, as opposed to a red light camera, would continue to be distributed to these funds.

Unsolicited lease proposals of DOT property for joint public-private development or commercial development may bring an indeterminate amount of revenue to DOT through fees DOT would be authorized to collect to defray the cost of reviewing such proposals. Such fees would be sufficient to pay the costs of evaluating these proposals; and this authorization is consistent with authority already provided to the department for evaluating similar public-private partnership proposals.

## 2. Expenditures:

The Florida Transportation Commission may incur an indeterminate, but insignificant increase in expenses associated with its monitoring of the Mid-Bay Bridge Authority.

The changes to provisions relating to the disposal of DOT's surplus property could reduce the cost of sale and leasing. While indeterminate, there could be nominal savings associated with eliminating the need for outside contracted appraisals of certain properties.

DOT may incur an indeterminate negative fiscal impact associated with reviewing unsolicited lease proposals for development of DOT property. However, the expenses should be offset by the fees DOT is authorized to collect.

DOT anticipates an indeterminate reduction in costs associated with the change to the environmental mitigation provisions.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

On January 10, 2014, the Revenue Estimating Conference projected a significant negative fiscal impact on local revenues due to the red light camera provisions of this bill. This includes a loss of \$27.1 million in the first year with a recurring negative impact of \$16.3 million.

Current law requires local governments to retain up to \$75 out of each \$158 red light camera penalty. The bill would eliminate this source of revenue for local governments. The bill also removes the local government authorization to further install and enforce additional red light camera systems. However, the bill allows local governments to impose a surcharge limited to the amount necessary for funding administrative costs and contracts related to existing red light cameras.

Although the bill reduces the amount of county and municipal costs that may be assessed and collected from red light camera violations through the local hearing process from \$250 to the current amount of the penalty, this still would allow for local governments to assess and collect \$83 in such costs, which are in addition to the \$83 penalty amount.

Local governments may see a decrease in revenues due to the prohibition of charging for public parking within the right-of-way limits of the State Highway System. However, the amount of the potential decrease is indeterminate.

If disposal of surplus DOT property becomes more efficient, there will likely be a positive impact to local governments as more of these parcels are returned to the property tax rolls. However, due to widely varying factors that could impact the amount, it is impossible to estimate a dollar amount.

### 2. Expenditures:

Expenditures from the red light camera surcharge are only to be used to fund administrative costs and contractual agreements with manufacturers and vendors of red light camera systems.

For those local governments that have implemented red light camera programs as a result of the 2010 legislation, the bill would eliminate the revenues currently expected by those governments, but would also reduce expenses related to enforcement, legal challenges, and initial costs of implementation, related to additional red light camera systems.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the possibility of motor vehicle operators being issued a \$158 penalty for violations occurring at additional red light cameras, and reduces the penalty amount to \$83 for violations occurring at existing red light cameras. The bill also reduces the amount of county and municipal costs that may be assessed and collected when a notice of violation is upheld by a local hearing officer, from \$250 to the current amount of the penalty, which will be \$83 if the bill is enacted into law.

Consequently, the bill will reduce the overall amount that motor vehicle operators would have to pay from \$158 (original penalty alone) to \$108 (reduced penalty + surcharge), and when an infraction is upheld through the local hearing process from a maximum of \$408 (original penalty + original county and municipal fee) to \$191 (reduced penalty + reduced county and municipal fee + surcharge).

#### D. FISCAL COMMENTS:

In Fiscal Year 2009-2010, DOT implemented the FSPRC without any additional resources or appropriations. Eliminating the FSPRC enables these resources to be directed back to their original purpose.

Although the bill reduces the red light camera penalty from \$158 to \$83, it does not change the \$158 penalty for when a law enforcement officer cites a motorist for a red light violation on the street. It is important to note the difference in costs between a red light citation that is issued on the street and one that is issued from photographic evidence. Procedurally, red light camera notices of violation may be contested and paid through a local hearing process before the violation becomes a more costly uniform traffic citation (additional costs include court costs and fees). From an enforcement standpoint, a red light camera violation does not require a law enforcement officer to make the traffic stop and issue the citation on the street. This would provide for cheaper enforcement, and additional officers to focus on other crimes.

Local governments will see a decrease in revenues due to the prohibition of charging for public parking within the right-of-way limits of the State Highway System. It is unknown whether any local governments have issued bonds secured by revenues from parking meters or other parking time-limit devices located on state right-of-way.

DOT advised environmental mitigation projects are currently included in DOT's work program budget submitted annually for legislative approval, and the additional tracking and accounting requirements will have no fiscal impact.

### 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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill requires DOT to establish by rule an application fee for the submission of unsolicited lease proposals.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 9, 2014, the Transportation & Highway Safety Subcommittee adopted two amendments to PCB THSS 14-01 before reporting it favorably. The amendments:

- Revise the surcharge that the cities and counties are allowed to impose for a red light camera violation.
- Prohibit charges from being imposed on public parking within the right-of-way limits of the State Highway System.

The analysis is drafted to the PCB as amended.

1 A bill to be entitled  
 2 An act relating to the Department of Transportation;  
 3 amending s. 20.23, F.S.; revising provisions relating  
 4 to functions of the Florida Transportation Commission  
 5 to add certain monitoring of the Mid-Bay Bridge  
 6 Authority; repealing provisions for the Florida  
 7 Statewide Passenger Rail Commission; amending s.  
 8 316.0076, F.S.; prohibiting the use of cameras at  
 9 certain locations to enforce the Florida Uniform  
 10 Traffic Control Law; amending s. 316.0083, F.S.;  
 11 revising provisions for enforcement by a traffic  
 12 infraction enforcement officer of specified provisions  
 13 requiring vehicular traffic facing a steady red signal  
 14 to stop; reducing the penalty for notices of  
 15 violations; restricting issuance by such officer of  
 16 notices and citations to violations at certain  
 17 locations; revising penalties and distribution of  
 18 penalties collected; authorizing counties and  
 19 municipalities to impose a surcharge for certain  
 20 purposes; providing procedures and requirements for  
 21 imposing the local surcharge; providing for the  
 22 distribution and use of funds collected from the local  
 23 surcharge; requiring counties and municipalities to  
 24 make certain reports; revising limits on amounts that  
 25 may be assessed for certain costs; amending s.  
 26 316.0776, F.S.; revising provisions authorizing the

27 use of traffic infraction detectors; revising  
 28 provisions for implementation of a traffic infraction  
 29 detector program; amending s. 318.18, F.S.; conforming  
 30 penalty provisions; conforming provisions for  
 31 assessment of county and municipal costs; amending s.  
 32 335.10, F.S.; prohibiting charges for public parking  
 33 in certain parking spaces; amending s. 337.25, F.S.;  
 34 revising provisions for disposition of property by the  
 35 department; authorizing the department to contract for  
 36 auction services for conveyance of property; revising  
 37 requirements for an inventory of property; amending s.  
 38 337.251, F.S.; revising provisions for lease of  
 39 property; requiring the department to publish a notice  
 40 of receipt of a proposal for lease of particular  
 41 department property and accept other proposals;  
 42 revising notice procedures; requiring the department  
 43 to establish by rule an application fee for lease  
 44 proposals; authorizing the department to engage the  
 45 services of private consultants to assist in  
 46 evaluating proposals; requiring the department to make  
 47 specified determinations before approving a proposed  
 48 lease; amending s. 338.161, F.S.; revising provisions  
 49 for the department to enter into agreements for  
 50 certain purposes with public or private transportation  
 51 facility owners whose systems become interoperable  
 52 with the department's systems; amending s. 373.4137,



53 F.S.; providing legislative intent that environmental  
54 mitigation be implemented in a manner that promotes  
55 efficiency, timeliness, and cost-effectiveness in  
56 project delivery; revising the criteria of the  
57 environmental impact inventory; revising the criteria  
58 for mitigation of projected impacts identified in the  
59 environmental impact inventory; requiring the  
60 Department of Transportation to include funding for  
61 environmental mitigation for its projects in its work  
62 program; revising the process and criteria for the  
63 payment by the department or participating  
64 transportation authorities of mitigation implemented  
65 by water management districts or the Department of  
66 Environmental Protection; revising the requirements  
67 for the payment to a water management district or the  
68 Department of Environmental Protection of the costs of  
69 mitigation planning and implementation of the  
70 mitigation required by a permit; revising the payment  
71 criteria for preparing and implementing mitigation  
72 plans adopted by water management districts for  
73 transportation impacts based on the environmental  
74 impact inventory; adding federal requirements for the  
75 development of a mitigation plan; providing for  
76 transportation projects in the environmental  
77 mitigation plan for which mitigation has not been  
78 specified; revising a water management district's

79 responsibilities relating to a mitigation plan;  
 80 amending s. 2 of ch. 85-364, Laws of Florida, as  
 81 amended by ch. 95-382, Laws of Florida, relating to  
 82 the Department of Transportation; authorizing tolls  
 83 from the Pinellas Bayway to be used for maintenance  
 84 costs; removing certain projects from the flow of  
 85 funds; amending s. 110.205, F.S.; conforming cross-  
 86 references; providing an effective date.

87

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

89

90 Section 1. Subsections (2) and (3) of section 20.23,  
 91 Florida Statutes, are amended to read:

92 20.23 Department of Transportation.—There is created a  
 93 Department of Transportation which shall be a decentralized  
 94 agency.

95 (2)

96 (b) The commission shall ~~have the primary functions to:~~

97 1. Recommend major transportation policies for the  
 98 Governor's approval, and assure that approved policies and any  
 99 revisions thereto are properly executed.

100 2. Periodically review the status of the state  
 101 transportation system including highway, transit, rail, seaport,  
 102 intermodal development, and aviation components of the system  
 103 and recommend improvements therein to the Governor and the  
 104 Legislature.

105           3. Perform an in-depth evaluation of the annual department  
 106 budget request, the Florida Transportation Plan, and the  
 107 tentative work program for compliance with all applicable laws  
 108 and established departmental policies. Except as specifically  
 109 provided in s. 339.135(4)(c)2., (d), and (f), the commission may  
 110 not consider individual construction projects, but shall  
 111 consider methods of accomplishing the goals of the department in  
 112 the most effective, efficient, and businesslike manner.

113           4. Monitor the financial status of the department on a  
 114 regular basis to assure that the department is managing revenue  
 115 and bond proceeds responsibly and in accordance with law and  
 116 established policy.

117           5. Monitor on at least a quarterly basis, the efficiency,  
 118 productivity, and management of the department, using  
 119 performance and production standards developed by the commission  
 120 pursuant to s. 334.045.

121           6. Perform an in-depth evaluation of the factors causing  
 122 disruption of project schedules in the adopted work program and  
 123 recommend to the Legislature and the Governor methods to  
 124 eliminate or reduce the disruptive effects of these factors.

125           7. Recommend to the Governor and the Legislature  
 126 improvements to the department's organization in order to  
 127 streamline and optimize the efficiency of the department. In  
 128 reviewing the department's organization, the commission shall  
 129 determine if the current district organizational structure is  
 130 responsive to Florida's changing economic and demographic

131 development patterns. The initial report by the commission must  
 132 be delivered to the Governor and Legislature by December 15,  
 133 2000, and each year thereafter, as appropriate. The commission  
 134 may retain such experts as are reasonably necessary to  
 135 effectuate this subparagraph, and the department shall pay the  
 136 expenses of such experts.

137 8. Monitor the efficiency, productivity, and management of  
 138 the authorities created under chapters 348 and 349, including  
 139 any authority formed using the provisions of part I of chapter  
 140 348; the Mid-Bay Bridge Authority created pursuant to chapter  
 141 2000-411, Laws of Florida; and any authority formed under  
 142 chapter 343 ~~which is not monitored under subsection (3)~~. The  
 143 commission shall also conduct periodic reviews of each  
 144 authority's operations and budget, acquisition of property,  
 145 management of revenue and bond proceeds, and compliance with  
 146 applicable laws and generally accepted accounting principles.

147 ~~(3) There is created the Florida Statewide Passenger Rail~~  
 148 ~~Commission.~~

149 ~~(a)1. The commission shall consist of nine voting members~~  
 150 ~~appointed as follows:~~

151 ~~a. Three members shall be appointed by the Governor, one~~  
 152 ~~of whom must have a background in the area of environmental~~  
 153 ~~concerns, one of whom must have a legislative background, and~~  
 154 ~~one of whom must have a general business background.~~

155 ~~b. Three members shall be appointed by the President of~~  
 156 ~~the Senate, one of whom must have a background in civil~~

157 | ~~engineering, one of whom must have a background in~~  
 158 | ~~transportation construction, and one of whom must have a general~~  
 159 | ~~business background.~~

160 | ~~e. Three members shall be appointed by the Speaker of the~~  
 161 | ~~House of Representatives, one of whom must have a legal~~  
 162 | ~~background, one of whom must have a background in financial~~  
 163 | ~~matters, and one of whom must have a general business~~  
 164 | ~~background.~~

165 | ~~2. The initial term of each member appointed by the~~  
 166 | ~~Governor shall be for 4 years. The initial term of each member~~  
 167 | ~~appointed by the President of the Senate shall be for 3 years.~~  
 168 | ~~The initial term of each member appointed by the Speaker of the~~  
 169 | ~~House of Representatives shall be for 2 years. Succeeding terms~~  
 170 | ~~for all members shall be for 4 years.~~

171 | ~~3. A vacancy occurring during a term shall be filled by~~  
 172 | ~~the respective appointing authority in the same manner as the~~  
 173 | ~~original appointment and only for the balance of the unexpired~~  
 174 | ~~term. An appointment to fill a vacancy shall be made within 60~~  
 175 | ~~days after the occurrence of the vacancy.~~

176 | ~~4. The commission shall elect one of its members as chair~~  
 177 | ~~of the commission. The chair shall hold office at the will of~~  
 178 | ~~the commission. Five members of the commission shall constitute~~  
 179 | ~~a quorum, and the vote of five members shall be necessary for~~  
 180 | ~~any action taken by the commission. The commission may meet upon~~  
 181 | ~~the constitution of a quorum. A vacancy in the commission does~~  
 182 | ~~not impair the right of a quorum to exercise all rights and~~

183 ~~perform all duties of the commission.~~

184 ~~5. The members of the commission are not entitled to~~  
 185 ~~compensation but are entitled to reimbursement for travel and~~  
 186 ~~other necessary expenses as provided in s. 112.061.~~

187 ~~(b) The commission shall have the primary functions of:~~

188 ~~1. Monitoring the efficiency, productivity, and management~~  
 189 ~~of all publicly funded passenger rail systems in the state,~~  
 190 ~~including, but not limited to, any authority created under~~  
 191 ~~chapter 343, chapter 349, or chapter 163 if the authority~~  
 192 ~~receives public funds for the provision of passenger rail~~  
 193 ~~service. The commission shall advise each monitored authority of~~  
 194 ~~its findings and recommendations. The commission shall also~~  
 195 ~~conduct periodic reviews of each monitored authority's passenger~~  
 196 ~~rail and associated transit operations and budget, acquisition~~  
 197 ~~of property, management of revenue and bond proceeds, and~~  
 198 ~~compliance with applicable laws and generally accepted~~  
 199 ~~accounting principles. The commission may seek the assistance of~~  
 200 ~~the Auditor General in conducting such reviews and shall report~~  
 201 ~~the findings of such reviews to the Legislature. This paragraph~~  
 202 ~~does not preclude the Florida Transportation Commission from~~  
 203 ~~conducting its performance and work program monitoring~~  
 204 ~~responsibilities.~~

205 ~~2. Advising the department on policies and strategies used~~  
 206 ~~in planning, designing, building, operating, financing, and~~  
 207 ~~maintaining a coordinated statewide system of passenger rail~~  
 208 ~~services.~~

209 ~~3. Evaluating passenger rail policies and providing advice~~  
 210 ~~and recommendations to the Legislature on passenger rail~~  
 211 ~~operations in the state.~~

212 ~~(c) The commission or a member of the commission may not~~  
 213 ~~enter into the day to day operation of the department or a~~  
 214 ~~monitored authority and is specifically prohibited from taking~~  
 215 ~~part in:~~

216 ~~1. The awarding of contracts.~~

217 ~~2. The selection of a consultant or contractor or the~~  
 218 ~~prequalification of any individual consultant or contractor.~~  
 219 ~~However, the commission may recommend to the secretary standards~~  
 220 ~~and policies governing the procedure for selection and~~  
 221 ~~prequalification of consultants and contractors.~~

222 ~~3. The selection of a route for a specific project.~~

223 ~~4. The specific location of a transportation facility.~~

224 ~~5. The acquisition of rights of way.~~

225 ~~6. The employment, promotion, demotion, suspension,~~  
 226 ~~transfer, or discharge of any department personnel.~~

227 ~~7. The granting, denial, suspension, or revocation of any~~  
 228 ~~license or permit issued by the department.~~

229 ~~(d) The commission is assigned to the Office of the~~  
 230 ~~Secretary of the Department of Transportation for administrative~~  
 231 ~~and fiscal accountability purposes, but it shall otherwise~~  
 232 ~~function independently of the control and direction of the~~  
 233 ~~department except that reasonable expenses of the commission~~  
 234 ~~shall be subject to approval by the Secretary of Transportation.~~

235 ~~The department shall provide administrative support and service~~  
 236 ~~to the commission.~~

237 Section 2. Section 316.0076, Florida Statutes, is amended  
 238 to read:

239 316.0076 Regulation and use of cameras.—Regulation of the  
 240 use of cameras for enforcing the provisions of this chapter is  
 241 expressly preempted to the state. Notwithstanding any other  
 242 provision of law, a county or municipality may not use cameras  
 243 for enforcing this chapter at any traffic control signal device  
 244 location that did not have an active traffic infraction detector  
 245 installed before July 1, 2014. The regulation of the use of  
 246 cameras for enforcing the provisions of this chapter is not  
 247 required to comply with provisions of chapter 493.

248 Section 3. Paragraphs (a) and (b) of subsection (1) and  
 249 paragraph (e) of subsection (5) of section 316.0083, Florida  
 250 Statutes, are amended to read:

251 316.0083 Mark Wandall Traffic Safety Program;  
 252 administration; report.—

253 (1) (a) For purposes of administering this section, the  
 254 department, a county, or a municipality may authorize a traffic  
 255 infraction enforcement officer under s. 316.640 to issue a  
 256 traffic citation for a violation of s. 316.074(1) or s.  
 257 316.075(1)(c)1. A notice of violation and a traffic citation may  
 258 not be issued for failure to stop at a red light if the driver  
 259 is making a right-hand turn in a careful and prudent manner at  
 260 an intersection where right-hand turns are permissible. A notice



261 of violation and a traffic citation may not be issued under this  
 262 section if the driver of the vehicle came to a complete stop  
 263 after crossing the stop line and before turning right if  
 264 permissible at a red light, but failed to stop before crossing  
 265 over the stop line or other point at which a stop is required. A  
 266 notice of violation and a traffic citation may only be issued by  
 267 a county or municipality under this section for violations at  
 268 intersections that had an active traffic infraction detector  
 269 installed before July 1, 2014. This paragraph does not prohibit  
 270 a review of information from a traffic infraction detector by an  
 271 authorized employee or agent of the department, a county, or a  
 272 municipality before issuance of the traffic citation by the  
 273 traffic infraction enforcement officer. This paragraph does not  
 274 prohibit the department, a county, or a municipality from  
 275 issuing notification as provided in paragraph (b) to the  
 276 registered owner of the motor vehicle involved in the violation  
 277 of s. 316.074(1) or s. 316.075(1)(c)1.

278 (b)1.a. Within 30 days after a violation, notification  
 279 must be sent to the registered owner of the motor vehicle  
 280 involved in the violation specifying the remedies available  
 281 under s. 318.14 and that the violator must pay the penalty of  
 282 \$83 ~~\$150~~ to the department, county, or municipality, or furnish  
 283 an affidavit in accordance with paragraph (d), or request a  
 284 hearing within 60 days following the date of the notification in  
 285 order to avoid the issuance of a traffic citation. The  
 286 notification must be sent by first-class mail. The mailing of

287 the notice of violation constitutes notification.

288       b. Included with the notification to the registered owner  
 289 of the motor vehicle involved in the infraction must be a notice  
 290 that the owner has the right to review the photographic or  
 291 electronic images or the streaming video evidence that  
 292 constitutes a rebuttable presumption against the owner of the  
 293 vehicle. The notice must state the time and place or Internet  
 294 location where the evidence may be examined and observed.

295       c. Notwithstanding any other provision of law, a person  
 296 who receives a notice of violation under this section may  
 297 request a hearing within 60 days following the notification of  
 298 violation or pay the penalty pursuant to the notice of  
 299 violation, but a payment or fee may not be required before the  
 300 hearing requested by the person. The notice of violation must be  
 301 accompanied by, or direct the person to a website that provides,  
 302 information on the person's right to request a hearing and on  
 303 all court costs related thereto and a form to request a hearing.  
 304 As used in this sub-subparagraph, the term "person" includes a  
 305 natural person, registered owner or coowner of a motor vehicle,  
 306 or person identified on an affidavit as having care, custody, or  
 307 control of the motor vehicle at the time of the violation.

308       d. If the registered owner or coowner of the motor  
 309 vehicle, or the person designated as having care, custody, or  
 310 control of the motor vehicle at the time of the violation, or an  
 311 authorized representative of the owner, coowner, or designated  
 312 person, initiates a proceeding to challenge the violation

313 pursuant to this paragraph, such person waives any challenge or  
 314 dispute as to the delivery of the notice of violation.

315 2. Penalties assessed and collected by the department,  
 316 county, or municipality authorized to collect the funds provided  
 317 for in this paragraph, ~~less the amount retained by the county or~~  
 318 ~~municipality pursuant to subparagraph 3.,~~ shall be paid to the  
 319 Department of Revenue weekly. Payment by the department, county,  
 320 or municipality to the state shall be made by means of  
 321 electronic funds transfers. In addition to the payment, summary  
 322 detail of the penalties remitted shall be reported to the  
 323 Department of Revenue.

324 3. Penalties to be assessed and collected by the  
 325 department, county, or municipality are as follows:

326 a. Eighty-three ~~One hundred fifty eight~~ dollars for a  
 327 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 328 failed to stop at a traffic signal if enforcement is by the  
 329 department's traffic infraction enforcement officer. Seventy ~~One~~  
 330 ~~hundred~~ dollars shall be remitted to the Department of Revenue  
 331 for deposit into the General Revenue Fund, \$10 shall be remitted  
 332 to the Department of Revenue for deposit into the Department of  
 333 Health Emergency Medical Services Trust Fund, and \$3 shall be  
 334 remitted to the Department of Revenue for deposit into the Brain  
 335 and Spinal Cord Injury Trust Fund, ~~and \$45 shall be distributed~~  
 336 ~~to the municipality in which the violation occurred, or, if the~~  
 337 ~~violation occurred in an unincorporated area, to the county in~~  
 338 ~~which the violation occurred.~~ Funds deposited into the

339 Department of Health Emergency Medical Services Trust Fund under  
 340 this sub-subparagraph shall be distributed as provided in s.  
 341 395.4036(1). Proceeds of the infractions in the Brain and Spinal  
 342 Cord Injury Trust Fund shall be distributed quarterly to the  
 343 Miami Project to Cure Paralysis and used for brain and spinal  
 344 cord research.

345 b. Eighty-three ~~One hundred fifty eight~~ dollars for a  
 346 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 347 failed to stop at a traffic signal if enforcement is by a county  
 348 or municipal traffic infraction enforcement officer. Seventy  
 349 dollars shall be remitted by the county or municipality to the  
 350 Department of Revenue for deposit into the General Revenue Fund,  
 351 \$10 shall be remitted to the Department of Revenue for deposit  
 352 into the Department of Health Emergency Medical Services Trust  
 353 Fund, and \$3 shall be remitted to the Department of Revenue for  
 354 deposit into the Brain and Spinal Cord Injury Trust Fund, ~~and~~  
 355 ~~\$75 shall be retained by the county or municipality enforcing~~  
 356 ~~the ordinance enacted pursuant to this section.~~ Funds deposited  
 357 into the Department of Health Emergency Medical Services Trust  
 358 Fund under this sub-subparagraph shall be distributed as  
 359 provided in s. 395.4036(1). Proceeds of the infractions in the  
 360 Brain and Spinal Cord Injury Trust Fund shall be distributed  
 361 quarterly to the Miami Project to Cure Paralysis and used for  
 362 brain and spinal cord research.

363 4. A county or municipality, by majority vote of the  
 364 governing board of the respective county or municipality, may

365 impose a surcharge for violations of s. 316.074(1) or s.  
 366 316.075(1)(c)1. which occur at any intersection that had an  
 367 active traffic infraction detector installed before July 1,  
 368 2014, for the sole purpose of funding administrative costs and  
 369 contractual agreements with manufacturers and vendors of traffic  
 370 infraction detectors. The surcharge must be authorized by an  
 371 ordinance requiring public hearings.

372 a. Revenue collected from the surcharge under this  
 373 subparagraph must be distributed quarterly to the manufacturer  
 374 or vendor in accordance with each respective contractual  
 375 agreement.

376 b. Surplus revenue from the surcharge under this  
 377 subparagraph shall be remitted to the Department of Revenue for  
 378 deposit into the General Revenue Fund.

379 c. Each county or municipality shall, no later than 30  
 380 days after the end of each quarter, report in an electronic  
 381 format to the Department of Revenue the amount of funds  
 382 collected under this subparagraph during each quarter of the  
 383 fiscal year. The Department of Revenue shall submit the report  
 384 annually in an electronic format to the Governor, the President  
 385 of the Senate, and the Speaker of the House of Representatives.

386 ~~5.4.~~ An individual may not receive a commission from any  
 387 revenue collected from violations detected through the use of a  
 388 traffic infraction detector. A manufacturer or vendor may not  
 389 receive a fee or remuneration based upon the number of  
 390 violations detected through the use of a traffic infraction

391 detector.

392 (5) Procedures for a hearing under this section are as  
 393 follows:

394 (e) At the conclusion of the hearing, the local hearing  
 395 officer shall determine whether a violation under this section  
 396 has occurred, in which case the hearing officer shall uphold or  
 397 dismiss the violation. The local hearing officer shall issue a  
 398 final administrative order including the determination and, if  
 399 the notice of violation is upheld, require the petitioner to pay  
 400 the penalty previously assessed under paragraph (1)(b), and may  
 401 also require the petitioner to pay county or municipal costs,  
 402 not to exceed the amount of the penalty assessed and collected  
 403 by the county or municipality ~~\$250~~. The final administrative  
 404 order shall be mailed to the petitioner by first-class mail.

405 Section 4. Section 316.0776, Florida Statutes, is amended  
 406 to read:

407 316.0776 Traffic infraction detectors; placement and  
 408 installation.—

409 (1) Traffic infraction detectors are allowed on state  
 410 roads when permitted by the Department of Transportation and  
 411 under placement and installation specifications developed by the  
 412 Department of Transportation. Traffic infraction detectors are  
 413 allowed on streets and highways under the jurisdiction of  
 414 counties or municipalities in accordance with placement and  
 415 installation specifications developed by the Department of  
 416 Transportation, only if such traffic infraction detectors were

417 installed and active before July 1, 2014.

418 (2) (a) If the department, county, or municipality installs  
 419 a traffic infraction detector at an intersection, the  
 420 department, county, or municipality shall notify the public that  
 421 a traffic infraction device may be in use at that intersection  
 422 and must specifically include notification of camera enforcement  
 423 of violations concerning right turns. Such signage used to  
 424 notify the public must meet the specifications for uniform  
 425 signals and devices adopted by the Department of Transportation  
 426 pursuant to s. 316.0745.

427 (b) If the department, ~~county, or municipality~~ begins a  
 428 traffic infraction detector program in a county or municipality  
 429 that has never conducted such a program, the ~~respective~~  
 430 ~~department, county, or municipality~~ shall also make a public  
 431 announcement and conduct a public awareness campaign of the  
 432 proposed use of traffic infraction detectors at least 30 days  
 433 before starting ~~commencing~~ the enforcement program.

434 Section 5. Subsections (15) and (22) of section 318.18,  
 435 Florida Statutes, are amended to read:

436 318.18 Amount of penalties.—The penalties required for a  
 437 noncriminal disposition pursuant to s. 318.14 or a criminal  
 438 offense listed in s. 318.17 are as follows:

439 (15) (a) 1. One hundred and fifty-eight dollars for a  
 440 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 441 has failed to stop at a traffic signal and when enforced by a  
 442 law enforcement officer. Sixty dollars shall be distributed as

443 provided in s. 318.21, \$30 shall be distributed to the General  
 444 Revenue Fund, \$3 shall be remitted to the Department of Revenue  
 445 for deposit into the Brain and Spinal Cord Injury Trust Fund,  
 446 and the remaining \$65 shall be remitted to the Department of  
 447 Revenue for deposit into the Emergency Medical Services Trust  
 448 Fund of the Department of Health.

449 2. Eighty-three ~~One hundred and fifty-eight~~ dollars for a  
 450 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 451 has failed to stop at a traffic signal and when enforced by the  
 452 department's traffic infraction enforcement officer. Seventy ~~One~~  
 453 ~~hundred~~ dollars shall be remitted to the Department of Revenue  
 454 for deposit into the General Revenue Fund, ~~\$45 shall be~~  
 455 ~~distributed to the county for any violations occurring in any~~  
 456 ~~unincorporated areas of the county or to the municipality for~~  
 457 ~~any violations occurring in the incorporated boundaries of the~~  
 458 ~~municipality in which the infraction occurred,~~ \$10 shall be  
 459 remitted to the Department of Revenue for deposit into the  
 460 Department of Health Emergency Medical Services Trust Fund for  
 461 distribution as provided in s. 395.4036(1), and \$3 shall be  
 462 remitted to the Department of Revenue for deposit into the Brain  
 463 and Spinal Cord Injury Trust Fund.

464 3. Eighty-three ~~One hundred and fifty-eight~~ dollars for a  
 465 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 466 has failed to stop at a traffic signal and when enforced by a  
 467 county's or municipality's traffic infraction enforcement  
 468 officer. Seventy dollars ~~Seventy-five dollars shall be~~



469 ~~distributed to the county or municipality issuing the traffic~~  
 470 ~~citation, \$70~~ shall be remitted to the Department of Revenue for  
 471 deposit into the General Revenue Fund, \$10 shall be remitted to  
 472 the Department of Revenue for deposit into the Department of  
 473 Health Emergency Medical Services Trust Fund for distribution as  
 474 provided in s. 395.4036(1), and \$3 shall be remitted to the  
 475 Department of Revenue for deposit into the Brain and Spinal Cord  
 476 Injury Trust Fund.

477 (b) Amounts deposited into the Brain and Spinal Cord  
 478 Injury Trust Fund pursuant to this subsection shall be  
 479 distributed quarterly to the Miami Project to Cure Paralysis and  
 480 shall be used for brain and spinal cord research.

481 (c) If a person who is mailed a notice of violation or  
 482 cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as  
 483 enforced by a traffic infraction enforcement officer under s.  
 484 316.0083, presents documentation from the appropriate  
 485 governmental entity that the notice of violation or traffic  
 486 citation was in error, the clerk of court or clerk to the local  
 487 hearing officer may dismiss the case. The clerk of court or  
 488 clerk to the local hearing officer may not charge for this  
 489 service.

490 (d) An individual may not receive a commission or per-  
 491 ticket fee from any revenue collected from violations detected  
 492 through the use of a traffic infraction detector. A manufacturer  
 493 or vendor may not receive a fee or remuneration based upon the  
 494 number of violations detected through the use of a traffic

495 | infraction detector.

496 |       (e) Funds deposited into the Department of Health  
 497 | Emergency Medical Services Trust Fund under this subsection  
 498 | shall be distributed as provided in s. 395.4036(1).

499 |       (22) In addition to the penalty prescribed under s.  
 500 | 316.0083 for violations enforced under s. 316.0083 which are  
 501 | upheld, the local hearing officer may also order the payment of  
 502 | county or municipal costs, not to exceed the amount of the  
 503 | penalty assessed and collected by the county or municipality  
 504 | ~~\$250~~.

505 |       Section 6. Subsection (4) is added to section 335.10,  
 506 | Florida Statutes, to read:

507 |       335.10 State Highway System; vehicle regulation;  
 508 | prohibited use and traffic; liability for damage; parking.-

509 |       (4) No charge may be imposed for public parking within  
 510 | designated parking spaces located within the right-of-way limits  
 511 | of a road on the State Highway System.

512 |       Section 7. Section 337.25, Florida Statutes, is amended to  
 513 | read:

514 |       337.25 Acquisition, lease, and disposal of real and  
 515 | personal property.-

516 |       (1)(a) The department may purchase, lease, exchange, or  
 517 | otherwise acquire any land, property interests, or buildings or  
 518 | other improvements, including personal property within such  
 519 | buildings or on such lands, necessary to secure or utilize  
 520 | transportation rights-of-way for existing, proposed, or

521 anticipated transportation facilities on the State Highway  
 522 System, on the State Park Road System, in a rail corridor, or in  
 523 a transportation corridor designated by the department. Such  
 524 property shall be held in the name of the state.

525 (b) The department may accept donations of any land or  
 526 buildings or other improvements, including personal property  
 527 within such buildings or on such lands with or without such  
 528 conditions, reservations, or reverter provisions as are  
 529 acceptable to the department. Such donations may be used as  
 530 transportation rights-of-way or to secure or utilize  
 531 transportation rights-of-way for existing, proposed, or  
 532 anticipated transportation facilities on the State Highway  
 533 System, on the State Park Road System, or in a transportation  
 534 corridor designated by the department.

535 (c) When lands, buildings, or other improvements are  
 536 needed for transportation purposes, but are held by a federal,  
 537 state, or local governmental entity and utilized for public  
 538 purposes other than transportation, the department may  
 539 compensate the entity for such properties by providing  
 540 functionally equivalent replacement facilities. The providing of  
 541 replacement facilities under this subsection may only be  
 542 undertaken with the agreement of the governmental entity  
 543 affected.

544 (d) The department may contract pursuant to s. 287.055 for  
 545 auction services used in the conveyance of real or personal  
 546 property or the conveyance of leasehold interests under the

547 provisions of subsections (4) and (5). The contract may allow  
 548 for the contractor to retain a portion of the proceeds as  
 549 compensation for its services.

550 (2) A complete inventory shall be made of all real or  
 551 personal property immediately upon possession or acquisition.  
 552 Such inventory shall include ~~an itemized listing of all~~  
 553 ~~appliances, fixtures, and other severable items,~~ a statement of  
 554 the location or site of each piece of realty, structure, or  
 555 severable item, ~~and the serial number assigned to each.~~ Copies  
 556 of each inventory shall be filed in the district office in which  
 557 the property is located. Such inventory shall be carried forward  
 558 to show the final disposition of each item of property, both  
 559 real and personal.

560 (3) The inventory of real property which was acquired by  
 561 the state after December 31, 1988, which has been owned by the  
 562 state for 10 or more years, and which is not within a  
 563 transportation corridor or within the right-of-way of a  
 564 transportation facility shall be evaluated to determine the  
 565 necessity for retaining the property. If the property is not  
 566 needed for the construction, operation, and maintenance of a  
 567 transportation facility, or is not located within a  
 568 transportation corridor, the department may dispose of the  
 569 property pursuant to subsection (4).

570 (4) The department may convey ~~sell~~, in the name of the  
 571 state, any land, building, or other property, real or personal,  
 572 which was acquired under the provisions of subsection (1) and

573 which the department has determined is not needed for the  
 574 construction, operation, and maintenance of a transportation  
 575 facility. ~~With the exception of any parcel governed by paragraph~~  
 576 ~~(c), paragraph (d), paragraph (f), paragraph (g), or paragraph~~  
 577 ~~(i), the department shall afford first right of refusal to the~~  
 578 ~~local government in the jurisdiction of which the parcel is~~  
 579 ~~situated.~~ When such a determination has been made, property may  
 580 be disposed of through negotiation, sealed competitive bid,  
 581 auction, or any other means that the department deems to be in  
 582 its best interest, with due advertisement for property valued by  
 583 the department at more than \$10,000. A sale may not occur at a  
 584 price less than the department's current estimate of value  
 585 except as provided in paragraphs (a)-(d). The department may  
 586 afford the right of first refusal to the local government or  
 587 other political subdivision in the jurisdiction in which the  
 588 parcel is situated, except in conveyances transacted under  
 589 paragraph (a), paragraph (c), or paragraph (e). ~~in the following~~  
 590 ~~manner:~~

591 (a) If a the value of the property has been donated to the  
 592 state for transportation purposes, the facility has not been  
 593 constructed for a period of at least 5 years, no plans have been  
 594 prepared for the construction of such facility, and the property  
 595 is not located in a transportation corridor, the governmental  
 596 entity may authorize reconveyance of the donated property  
 597 without consideration to the original donor or the donor's  
 598 heirs, successors, assigns, or representatives ~~is \$10,000 or~~

599 ~~less as determined by department estimate, the department may~~  
 600 ~~negotiate the sale.~~

601 (b) If the ~~value of the~~ property is to be used for a  
 602 public purpose, the property may be conveyed to a governmental  
 603 entity without consideration exceeds \$10,000 as determined by  
 604 ~~department estimate, such property may be sold to the highest~~  
 605 ~~bidder through receipt of sealed competitive bids, after due~~  
 606 ~~advertisement, or by public auction held at the site of the~~  
 607 ~~improvement which is being sold.~~

608 (c) If the property was originally acquired specifically  
 609 to provide replacement housing for persons displaced by  
 610 transportation projects, the department may negotiate for the  
 611 sale of such property as replacement housing. As compensation,  
 612 the state shall receive no less than its investment in such  
 613 properties or the department's current estimate of value,  
 614 whichever is lower. It is expressly intended that this benefit  
 615 be extended only to those persons actually displaced by such  
 616 project. Disposition to any other person must be for no less  
 617 than the department's current estimate of value, in the  
 618 ~~discretion of the department, public sale would be inequitable,~~  
 619 ~~properties may be sold by negotiation to the owner holding title~~  
 620 ~~to the property abutting the property to be sold, provided such~~  
 621 ~~sale is at a negotiated price not less than fair market value as~~  
 622 ~~determined by an independent appraisal, the cost of which shall~~  
 623 ~~be paid by the owner of the abutting land. If negotiations do~~  
 624 ~~not result in the sale of the property to the owner of the~~

625 ~~abutting land and the property is sold to someone else, the cost~~  
 626 ~~of the independent appraisal shall be borne by the purchaser,~~  
 627 ~~and the owner of the abutting land shall have the cost of the~~  
 628 ~~appraisal refunded to him or her. If, however, no purchase takes~~  
 629 ~~place, the owner of the abutting land shall forfeit the sum paid~~  
 630 ~~by him or her for the independent appraisal. If, due to action~~  
 631 ~~of the department, the property is removed from eligibility for~~  
 632 ~~sale, the cost of any appraisal prepared shall be refunded to~~  
 633 ~~the owner of the abutting land.~~

634 (d) If the department determines that the property will  
 635 require significant costs to be incurred or that continued  
 636 ownership of the property exposes the department to significant  
 637 liability risks, the department may use the projected  
 638 maintenance costs over the next 10 years to offset the  
 639 property's value in establishing a value for disposal of the  
 640 property, even if that value is zero ~~property acquired for use~~  
 641 ~~as a borrow pit is no longer needed, the department may sell~~  
 642 ~~such property to the owner of the parcel of abutting land from~~  
 643 ~~which the borrow pit was originally acquired, provided the sale~~  
 644 ~~is at a negotiated price not less than fair market value as~~  
 645 ~~determined by an independent appraisal, the cost of which shall~~  
 646 ~~be paid by the owner of such abutting land.~~

647 (e) If, in the discretion of the department, a sale to  
 648 anyone other than an abutting property owner would be  
 649 inequitable, the property may be sold to the abutting owner for  
 650 the department's current estimate of value ~~the department begins~~

651 ~~the process for disposing of the property on its own initiative,~~  
 652 ~~either by negotiation under the provisions of paragraph (a),~~  
 653 ~~paragraph (c), paragraph (d), or paragraph (i), or by receipt of~~  
 654 ~~sealed competitive bids or public auction under the provisions~~  
 655 ~~of paragraph (b) or paragraph (i), a department staff appraiser~~  
 656 ~~may determine the fair market value of the property by an~~  
 657 ~~appraisal.~~

658 ~~(f) Any property which was acquired by a county or by the~~  
 659 ~~department using constitutional gas tax funds for the purpose of~~  
 660 ~~a right of way or borrow pit for a road on the State Highway~~  
 661 ~~System, State Park Road System, or county road system and which~~  
 662 ~~is no longer used or needed by the department may be conveyed~~  
 663 ~~without consideration to that county. The county may then sell~~  
 664 ~~such surplus property upon receipt of competitive bids in the~~  
 665 ~~same manner prescribed in this section.~~

666 ~~(g) If a property has been donated to the state for~~  
 667 ~~transportation purposes and the facility has not been~~  
 668 ~~constructed for a period of at least 5 years and no plans have~~  
 669 ~~been prepared for the construction of such facility and the~~  
 670 ~~property is not located in a transportation corridor, the~~  
 671 ~~governmental entity may authorize reconveyance of the donated~~  
 672 ~~property for no consideration to the original donor or the~~  
 673 ~~donor's heirs, successors, assigns, or representatives.~~

674 ~~(h) If property is to be used for a public purpose, the~~  
 675 ~~property may be conveyed without consideration to a governmental~~  
 676 ~~entity.~~



677 ~~(i) If property was originally acquired specifically to~~  
 678 ~~provide replacement housing for persons displaced by~~  
 679 ~~transportation projects, the department may negotiate for the~~  
 680 ~~sale of such property as replacement housing. As compensation,~~  
 681 ~~the state shall receive no less than its investment in such~~  
 682 ~~properties or fair market value, whichever is lower. It is~~  
 683 ~~expressly intended that this benefit be extended only to those~~  
 684 ~~persons actually displaced by such project. Dispositions to any~~  
 685 ~~other persons must be for fair market value.~~

686 ~~(j) If the department determines that the property will~~  
 687 ~~require significant costs to be incurred or that continued~~  
 688 ~~ownership of the property exposes the department to significant~~  
 689 ~~liability risks, the department may use the projected~~  
 690 ~~maintenance costs over the next 5 years to offset the market~~  
 691 ~~value in establishing a value for disposal of the property, even~~  
 692 ~~if that value is zero.~~

693 (5) The department may convey a leasehold interest for  
 694 commercial or other purposes, in the name of the state, to any  
 695 land, building, or other property, real or personal, which was  
 696 acquired under the provisions of subsection (1). A lease may not  
 697 occur at a price less than the department's current estimate of  
 698 value. The department's estimate of value shall be prepared in  
 699 accordance with department procedures, guidelines, and rules for  
 700 valuation of real property, the cost of which shall be paid by  
 701 the party seeking to lease the property.

702           (a) All leases shall be entered into by negotiation,  
 703 sealed competitive bid, auction, or any other means that the  
 704 department deems to be in its best interest. ~~The department may~~  
 705 ~~negotiate such a lease at the prevailing market value with the~~  
 706 ~~owner from whom the property was acquired; with the holders of~~  
 707 ~~leasehold estates existing at the time of the department's~~  
 708 ~~acquisition; or, if public bidding would be inequitable, with~~  
 709 ~~the owner holding title to privately owned abutting property, if~~  
 710 ~~reasonable notice is provided to all other owners of abutting~~  
 711 ~~property.~~ The department may allow an outdoor advertising sign  
 712 to remain on the property acquired, or be relocated on  
 713 department property, and such sign shall not be considered a  
 714 nonconforming sign pursuant to chapter 479.

715           (b) If, in the discretion of the department, a lease to  
 716 anyone other than an abutting property owner or a tenant with a  
 717 leasehold interest in the abutting property would be  
 718 inequitable, the property may be leased to the abutting owner or  
 719 tenant for no less than the department's current estimate of  
 720 value ~~All other leases shall be by competitive bid.~~

721           (c) A ~~No~~ lease signed pursuant to paragraph (a) may not ~~or~~  
 722 ~~paragraph (b) shall~~ be for a period of more than 5 years;  
 723 however, the department may renegotiate or extend such a lease  
 724 for an additional term of 5 years as the department deems  
 725 appropriate ~~without rebidding.~~

726           (d) Each lease shall provide that unless otherwise  
 727 directed by the lessor, any improvements made to the property

728 during the term of the lease shall be removed at the lessee's  
 729 expense.

730 (e) If property is to be used for a public purpose,  
 731 ~~including a fair, art show, or other educational, cultural, or~~  
 732 ~~fundraising activity,~~ the property may be leased without  
 733 consideration to a governmental entity ~~or school board~~. Any  
 734 public-purpose lease is exempt from the term limits provided in  
 735 paragraph (c).

736 (f) Paragraphs (c) and (e) ~~(d)~~ do not apply to leases  
 737 entered into pursuant to s. 260.0161(3), except as provided in  
 738 such a lease.

739 (g) A ~~No~~ lease executed under this subsection may not be  
 740 used ~~utilized~~ by the lessee to establish the ~~4 years~~ standing  
 741 required by s. 73.071(3)(b) if the business had not been  
 742 established for the specified number of 4 years on the date  
 743 title passed to the department.

744 (h) The department may enter into a long-term lease  
 745 without compensation with a public port listed in s.  
 746 403.021(9)(b) for rail corridors used for the operation of a  
 747 short-line railroad to the port.

748 (6) Nothing in this chapter prevents the joint use of  
 749 right-of-way for alternative modes of transportation; provided  
 750 that the joint use does not impair the integrity and safety of  
 751 the transportation facility.

752 (7) The department's estimate of value, as required in  
 753 subsection (4), shall be prepared in accordance with department

754 procedures, guidelines, and rules for valuation of real  
 755 property. If the value of the property exceeds \$50,000 as  
 756 determined by department estimate, the sale will be at a  
 757 negotiated price of not less than fair market value as  
 758 determined by an independent appraisal prepared in accordance  
 759 with department procedures, guidelines, and rules for valuation  
 760 of real property, the cost of which shall be paid by the party  
 761 seeking the purchase of the property. If the estimated value is  
 762 \$50,000 or less, the department may use a department staff  
 763 appraiser or obtain an independent appraisal ~~required by~~  
 764 ~~paragraphs (4)(c) and (d) shall be prepared in accordance with~~  
 765 ~~department guidelines and rules by an independent appraiser who~~  
 766 ~~has been certified by the department. If federal funds were used~~  
 767 ~~in the acquisition of the property, the appraisal shall also be~~  
 768 ~~subject to the approval of the Federal Highway Administration.~~

769 (8) A "due advertisement" under this section is an  
 770 advertisement in a newspaper of general circulation in the area  
 771 of the improvements of not less than 14 calendar days before  
 772 ~~prior to~~ the date of the receipt of bids or the date on which a  
 773 public auction is to be held.

774 (9) The department, with the approval of the Chief  
 775 Financial Officer, may ~~is authorized to~~ disburse state funds for  
 776 real estate closings in a manner consistent with good business  
 777 practices and in a manner minimizing costs and risks to the  
 778 state.

779 (10) The department may ~~is authorized to~~ purchase title

780 insurance in those instances where it is determined that such  
 781 insurance is necessary to protect the public's investment in  
 782 property being acquired for transportation purposes. The  
 783 department shall adopt procedures to be followed in making the  
 784 determination to purchase title insurance for a particular  
 785 parcel or group of parcels which, at a minimum, shall set forth  
 786 criteria which the parcels shall ~~must~~ meet.

787 (11) This section does not modify the requirements of s.  
 788 73.013.

789 Section 8. Subsection (2) of section 337.251, Florida  
 790 Statutes, is amended to read:

791 337.251 Lease of property for joint public-private  
 792 development and areas above or below department property.-

793 (2) The department may request proposals for the lease of  
 794 such property or, if the department receives a proposal for ~~to~~  
 795 ~~negotiate~~ a lease of particular department property that the  
 796 department desires to consider, it shall publish a notice in a  
 797 newspaper of general circulation at least once a week for 2  
 798 weeks, stating that it has received the proposal and will  
 799 accept, for 120 ~~60~~ days after the date of publication, other  
 800 proposals for lease of the particular property ~~use of the space~~.  
 801 A copy of the notice must be mailed to each local government in  
 802 the affected area. The department shall adopt rules establishing  
 803 an application fee for the submission of proposals under this  
 804 section. The fee must be limited to the amount needed to pay the  
 805 anticipated costs of evaluating the proposals. The department

806 may engage the services of private consultants to assist in the  
 807 evaluation. Before approval, the department must determine that  
 808 the proposed lease:

- 809 (a) Is in the public's best interest;
- 810 (b) Would not require state funds to be used; and
- 811 (c) Would have adequate safeguards in place to ensure that  
 812 no additional costs or service disruptions would be realized by  
 813 the traveling public and residents of the state in the event of  
 814 default by the private lessee or upon termination or expiration  
 815 of the lease.

816 Section 9. Subsection (5) of section 338.161, Florida  
 817 Statutes, is amended to read:

818 338.161 Authority of department or toll agencies to  
 819 advertise and promote electronic toll collection; expanded uses  
 820 of electronic toll collection system; authority of department to  
 821 collect tolls, fares, and fees for private and public entities.-

822 (5) If the department finds that it can increase nontoll  
 823 revenues or add convenience or other value for its customers,  
 824 and if a public or private transportation facility owner agrees  
 825 that its facility will become interoperable with the  
 826 department's electronic toll collection and video billing  
 827 systems, the department may ~~is authorized to~~ enter into an  
 828 agreement with the owner of such facility under which the  
 829 department uses ~~private or public entities for the department's~~  
 830 ~~use of~~ its electronic toll collection and video billing systems  
 831 to collect and enforce for the owner tolls, fares,

832 administrative fees, and other applicable charges due ~~imposed~~ in  
 833 connection with use of the owner's facility ~~transportation~~  
 834 ~~facilities of the private or public entities that become~~  
 835 ~~interoperable with the department's electronic toll collection~~  
 836 ~~system~~. The department may modify its rules regarding toll  
 837 collection procedures and the imposition of administrative  
 838 charges to be applicable to toll facilities that are not part of  
 839 the turnpike system or otherwise owned by the department. This  
 840 subsection may not be construed to limit the authority of the  
 841 department under any other provision of law or under any  
 842 agreement entered into before ~~prior to~~ July 1, 2012.

843 Section 10. Section 373.4137, Florida Statutes, is amended  
 844 to read:

845 373.4137 Mitigation requirements for specified  
 846 transportation projects.-

847 (1) The Legislature finds that environmental mitigation  
 848 for the impact of transportation projects proposed by the  
 849 Department of Transportation or a transportation authority  
 850 established pursuant to chapter 348 or chapter 349 can be more  
 851 effectively achieved by regional, long-range mitigation planning  
 852 rather than on a project-by-project basis. It is the intent of  
 853 the Legislature that mitigation to offset the adverse effects of  
 854 these transportation projects be funded by the Department of  
 855 Transportation and be carried out by the use of mitigation banks  
 856 and any other mitigation options that satisfy state and federal  
 857 requirements in a manner that promotes efficiency, timeliness in

858 project delivery, and cost-effectiveness.

859 (2) Environmental impact inventories for transportation  
 860 projects proposed by the Department of Transportation or a  
 861 transportation authority established pursuant to chapter 348 or  
 862 chapter 349 shall be developed as follows:

863 (a) By July 1 of each year, the Department of  
 864 Transportation, or a transportation authority established  
 865 pursuant to chapter 348 or chapter 349 which chooses to  
 866 participate in the program, shall submit to the water management  
 867 districts a list of its projects in the adopted work program and  
 868 an environmental impact inventory of habitat impacts and the  
 869 anticipated amount of mitigation needed to offset impacts as  
 870 described in paragraph (b). The environmental impact inventory  
 871 must be based on ~~habitats addressed in~~ the rules adopted  
 872 pursuant to this part, ~~and~~ s. 404 of the Clean Water Act, 33  
 873 U.S.C. s. 1344, and the Department of Transportation's ~~which may~~  
 874 ~~be impacted by its~~ plan of construction for transportation  
 875 projects in the next 3 years of the tentative work program. The  
 876 Department of Transportation or a transportation authority  
 877 established pursuant to chapter 348 or chapter 349 may also  
 878 include in its environmental impact inventory the habitat  
 879 impacts and the anticipated amount of mitigation needed for ~~of~~  
 880 any future transportation project. The Department of  
 881 Transportation and each transportation authority established  
 882 pursuant to chapter 348 or chapter 349 may fund any mitigation  
 883 activities for future projects using current year funds.



884 (b) The environmental impact inventory must ~~shall~~ include  
 885 a description of ~~these~~ habitat impacts, including ~~their~~  
 886 location, acreage, and type; the anticipated amount of  
 887 mitigation needed based on the functional loss as determined  
 888 through the uniform mitigation assessment method (UMAM) adopted  
 889 by rule of the Department of Environmental Protection pursuant  
 890 to s. 373.414(18); identification of the proposed mitigation  
 891 option; state water quality classification of impacted wetlands  
 892 and other surface waters; any other state or regional  
 893 designations for these habitats; and a list of threatened  
 894 species, endangered species, and species of special concern  
 895 affected by the proposed project.

896 (c) Before projects are identified for inclusion in a  
 897 water management district mitigation plan as described in  
 898 subsection (4), the Department of Transportation must consider  
 899 using credits from a permitted mitigation bank. The Department  
 900 of Transportation must consider the availability of suitable and  
 901 sufficient mitigation bank credits within the transportation  
 902 project's area, the ability to satisfy commitments to regulatory  
 903 and resource agencies, the availability of suitable and  
 904 sufficient mitigation purchased or developed through this  
 905 section, the ability to complete existing water management  
 906 district or Department of Environmental Protection suitable  
 907 mitigation sites initiated with Department of Transportation  
 908 mitigation funds, and the ability to satisfy state and federal  
 909 requirements including long-term maintenance and liability.

910           (3) (a) To implement the mitigation option fund development  
 911 ~~and implementation of the mitigation plan for the projected~~  
 912 ~~impacts~~ identified in the environmental impact inventory  
 913 described in subsection (2), the Department of Transportation  
 914 may purchase credits for current and future use directly from a  
 915 mitigation bank, purchase mitigation services through the water  
 916 management districts or the Department of Environmental  
 917 Protection, conduct its own mitigation, or use other mitigation  
 918 options that meet state and federal requirements. Funding for  
 919 the identified mitigation option as described in the  
 920 environmental impact inventory must be included in shall  
 921 ~~identify funds quarterly in an escrow account within the State~~  
 922 ~~Transportation Trust Fund for the environmental mitigation phase~~  
 923 ~~of projects budgeted by the Department of~~ Transportation's work  
 924 program developed pursuant to s. 339.135. The amount programmed  
 925 each year by the Department of Transportation and participating  
 926 transportation authorities established pursuant to chapter 348  
 927 or chapter 349 must correspond to an estimated cost per credit  
 928 of \$150,000 multiplied by the projected number of credits  
 929 identified in the environmental impact inventory described in  
 930 subsection (2). This estimated cost per credit will be adjusted  
 931 every 2 years by the Department of Transportation based on the  
 932 average cost per UMAM credit paid through this section.  
 933 ~~Transportation for the current fiscal year. The escrow account~~  
 934 ~~shall be maintained by the Department of Transportation for the~~  
 935 ~~benefit of the water management districts. Any interest earnings~~

936 ~~from the escrow account shall remain with the Department of~~  
 937 ~~Transportation.~~

938 (b) Each transportation authority established pursuant to  
 939 chapter 348 or chapter 349 that chooses to participate in this  
 940 program shall create an escrow account within its financial  
 941 structure and deposit funds in the account to pay for the  
 942 environmental mitigation phase of projects budgeted for the  
 943 current fiscal year. The escrow account shall be maintained by  
 944 the authority for the benefit of the water management districts.  
 945 Any interest earnings from the escrow account shall remain with  
 946 the authority.

947 (c) For mitigation implemented by the water management  
 948 district or the Department of Environmental Protection, as  
 949 appropriate, the amount paid each year must be based on  
 950 mitigation services provided by the water management districts  
 951 or Department of Environmental Protection pursuant to an  
 952 approved water management district plan, as described in  
 953 subsection (4). ~~Except for current mitigation projects in the~~  
 954 ~~monitoring and maintenance phase and except as allowed by~~  
 955 ~~paragraph (d),~~ The water management districts or the Department  
 956 of Environmental Protection, as appropriate, may request payment  
 957 ~~a transfer of funds from an escrow account~~ no sooner than 30  
 958 days before the date the funds are needed to pay for activities  
 959 associated with development or implementation of permitted  
 960 mitigation meeting the requirements pursuant to this part, 33  
 961 U.S.C. s. 1344, and 33 C.F.R. part 332 in the approved

962 mitigation plan described in subsection (4) for the current  
 963 fiscal year, ~~including, but not limited to, design, engineering,~~  
 964 ~~production, and staff support. Actual conceptual plan~~  
 965 ~~preparation costs incurred before plan approval may be submitted~~  
 966 ~~to the Department of Transportation or the appropriate~~  
 967 ~~transportation authority each year with the plan. The conceptual~~  
 968 ~~plan preparation costs of each water management district will be~~  
 969 ~~paid from mitigation funds associated with the environmental~~  
 970 ~~impact inventory for the current year. The amount transferred to~~  
 971 ~~the escrow accounts each year by the Department of~~  
 972 ~~Transportation and participating transportation authorities~~  
 973 ~~established pursuant to chapter 348 or chapter 349 shall~~  
 974 ~~correspond to a cost per acre of \$75,000 multiplied by the~~  
 975 ~~projected acres of impact identified in the environmental impact~~  
 976 ~~inventory described in subsection (2). However, the \$75,000 cost~~  
 977 ~~per acre does not constitute an admission against interest by~~  
 978 ~~the state or its subdivisions and is not admissible as evidence~~  
 979 ~~of full compensation for any property acquired by eminent domain~~  
 980 ~~or through inverse condemnation. Each July 1, the cost per acre~~  
 981 ~~shall be adjusted by the percentage change in the average of the~~  
 982 ~~Consumer Price Index issued by the United States Department of~~  
 983 ~~Labor for the most recent 12-month period ending September 30,~~  
 984 ~~compared to the base year average, which is the average for the~~  
 985 ~~12-month period ending September 30, 1996. Each quarter, the~~  
 986 projected amount of mitigation must ~~acreage of impact shall be~~  
 987 reconciled with the actual amount of mitigation needed for

988 ~~acreage of impact of~~ projects as permitted, including permit  
 989 modifications, pursuant to this part and s. 404 of the Clean  
 990 Water Act, 33 U.S.C. s. 1344. The subject year's programming  
 991 ~~transfer~~ of funds shall be adjusted ~~accordingly~~ to reflect the  
 992 mitigation acreage of impacts as permitted. If the water  
 993 management district excludes a project from an approved water  
 994 management district mitigation plan, if the water management  
 995 district cannot timely permit a mitigation site to offset the  
 996 impacts of a Department of Transportation project identified in  
 997 the environmental impact inventory, or if the proposed  
 998 mitigation does not meet state and federal requirements, the  
 999 Department of Transportation may use the associated funds for  
 1000 the purchase of mitigation bank credits or any other mitigation  
 1001 option that satisfies state and federal requirements. ~~The~~  
 1002 ~~Department of Transportation and participating transportation~~  
 1003 ~~authorities established pursuant to chapter 348 or chapter 349~~  
 1004 ~~are authorized to transfer such funds from the escrow accounts~~  
 1005 ~~to the water management districts to carry out the mitigation~~  
 1006 ~~programs. Environmental mitigation funds that are identified for~~  
 1007 ~~or maintained in an escrow account for the benefit of a water~~  
 1008 ~~management district may be released if the associated~~  
 1009 ~~transportation project is excluded in whole or part from the~~  
 1010 ~~mitigation plan. For a mitigation project that is in the~~  
 1011 ~~maintenance and monitoring phase, the water management district~~  
 1012 ~~may request and receive a one time payment based on the~~  
 1013 ~~project's expected future maintenance and monitoring costs.~~ Upon

1014 ~~final disbursement of the final maintenance and monitoring~~  
 1015 payment for mitigation of a transportation project as permitted,  
 1016 the obligation of the Department of Transportation or the  
 1017 participating transportation authority is satisfied and the  
 1018 water management district or the Department of Environmental  
 1019 Protection, as appropriate, will have continuing responsibility  
 1020 for the mitigation project, the escrow account for the project  
 1021 established by the Department of Transportation or the  
 1022 participating transportation authority may be closed. Any  
 1023 interest earned on these disbursed funds shall remain with the  
 1024 water management district and must be used as authorized under  
 1025 this section.

1026 (d) Beginning with the March 2015 water management  
 1027 district mitigation plans in the 2005-2006 fiscal year, each  
 1028 water management district or the Department of Environmental  
 1029 Protection, as appropriate, shall invoice the Department of  
 1030 Transportation for mitigation services to offset only the  
 1031 impacts of a Department of Transportation project identified in  
 1032 the environmental impact inventory, including planning, design,  
 1033 construction, maintenance, monitoring, and other costs necessary  
 1034 to meet requirements under this section, 33 U.S.C. s. 1344, and  
 1035 33 C.F.R. part 332. If the water management district identifies  
 1036 the use of mitigation bank credits to offset a Department of  
 1037 Transportation impact, the water management district shall  
 1038 exclude that purchase from the mitigation plan, and the  
 1039 Department of Transportation must purchase the bank credits. ~~be~~

1040 ~~paid a lump sum amount of \$75,000 per acre, adjusted as provided~~  
 1041 ~~under paragraph (c), for federally funded transportation~~  
 1042 ~~projects that are included on the environmental impact inventory~~  
 1043 ~~and that have an approved mitigation plan. Beginning in the~~  
 1044 ~~2009-2010 fiscal year, each water management district shall be~~  
 1045 ~~paid a lump sum amount of \$75,000 per acre, adjusted as provided~~  
 1046 ~~under paragraph (c), for federally funded and nonfederally~~  
 1047 ~~funded transportation projects that have an approved mitigation~~  
 1048 ~~plan. All mitigation costs, including, but not limited to, the~~  
 1049 ~~costs of preparing conceptual plans and the costs of design,~~  
 1050 ~~construction, staff support, future maintenance, and monitoring~~  
 1051 ~~the mitigated acres shall be funded through these lump sum~~  
 1052 ~~amounts.~~

1053 (e) For mitigation activities occurring on existing water  
 1054 management district or Department of Environmental Protection  
 1055 mitigation sites initiated with Department of Transportation  
 1056 mitigation funds before July 1, 2013, the water management  
 1057 district or the Department of Environmental Protection shall  
 1058 invoice the Department of Transportation or a participating  
 1059 transportation authority at a cost per acre of \$75,000  
 1060 multiplied by the projected acres of impact as identified in the  
 1061 environmental impact inventory. The cost per acre must be  
 1062 adjusted by the percentage change in the average of the Consumer  
 1063 Price Index issued by the United States Department of Labor for  
 1064 the most recent 12-month period ending September 30, compared to  
 1065 the base year average, which is the average for the 12-month

1066 period ending September 30, 1996. When implementing the  
 1067 mitigation activities necessary to offset the permitted impacts  
 1068 as provided in the approved mitigation plan, the water  
 1069 management district shall maintain records of the costs incurred  
 1070 in implementing the mitigation. The records must include, but  
 1071 are not limited to, costs for planning, land acquisition,  
 1072 design, construction, staff support, long-term maintenance and  
 1073 monitoring of the mitigation site, and other costs necessary to  
 1074 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part  
 1075 332.

1076 (f) For purposes of preparing and implementing the  
 1077 mitigation plans to be adopted by the water management districts  
 1078 on or before March 1, 2014, for impacts based on the July 1,  
 1079 2013, environmental impact inventory, the funds identified in  
 1080 the Department of Transportation's work program or participating  
 1081 transportation authorities' escrow accounts must correspond to a  
 1082 cost per acre of \$75,000 multiplied by the projected acres of  
 1083 impact as identified in the environmental impact inventory. The  
 1084 cost per acre shall be adjusted by the percentage change in the  
 1085 average of the Consumer Price Index issued by the United States  
 1086 Department of Labor for the most recent 12-month period ending  
 1087 September 30, compared to the base year average, which is the  
 1088 average for the 12-month period ending September 30, 1996.  
 1089 Payment as provided under this paragraph is limited to those  
 1090 mitigation activities that are identified in the first year of  
 1091 the 2013 mitigation plan and for which the transportation



1092 project is permitted and is in the Department of  
 1093 Transportation's adopted work program, or equivalent for a  
 1094 transportation authority. When implementing the mitigation  
 1095 activities necessary to offset the permitted impacts as provided  
 1096 in the approved mitigation plan, the water management district  
 1097 shall maintain records of the costs incurred in implementing the  
 1098 mitigation. The records must include, but are not limited to,  
 1099 costs for planning, land acquisition, design, construction,  
 1100 staff support, long-term maintenance and monitoring of the  
 1101 mitigation site, and other costs necessary to meet the  
 1102 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the  
 1103 extent moneys paid to a water management district by the  
 1104 Department of Transportation or a participating transportation  
 1105 authority exceed the amount expended by the water management  
 1106 districts in implementing the mitigation to offset the permitted  
 1107 impacts, these funds must be refunded to the Department of  
 1108 Transportation or participating transportation authority. This  
 1109 paragraph expires June 30, 2015.

1110 (4) Before March 1 of each year, each water management  
 1111 district shall develop a mitigation plan to offset only the  
 1112 impacts of transportation projects in the environmental impact  
 1113 inventory for which a water management district is implementing  
 1114 mitigation that meets the requirements of this section, 33  
 1115 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management  
 1116 district mitigation plan must be developed, in consultation with  
 1117 the Department of Environmental Protection, the United States

1118 Army Corps of Engineers, the Department of Transportation,  
 1119 participating transportation authorities established pursuant to  
 1120 chapter 348 or chapter 349, and other appropriate federal,  
 1121 state, and local governments, and other interested parties,  
 1122 including entities operating mitigation banks, ~~shall develop a~~  
 1123 ~~plan for the primary purpose of complying with the mitigation~~  
 1124 ~~requirements adopted pursuant to this part and 33 U.S.C. s.~~  
 1125 ~~1344.~~ In developing such plans, the water management districts  
 1126 shall use sound ecosystem management practices to address  
 1127 significant water resource needs and consider ~~shall focus on~~  
 1128 activities of the Department of Environmental Protection and the  
 1129 water management districts, such as surface water improvement  
 1130 and management (SWIM) projects and lands identified for  
 1131 potential acquisition for preservation, restoration, or  
 1132 enhancement, and the control of invasive and exotic plants in  
 1133 wetlands and other surface waters, to the extent that the  
 1134 activities comply with the mitigation requirements adopted under  
 1135 this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The  
 1136 water management district mitigation plan must identify each  
 1137 site where the water management district will mitigate for a  
 1138 transportation project. For each mitigation site, the water  
 1139 management district shall provide the scope of the mitigation  
 1140 services, provide the functional gain as determined through the  
 1141 UMAM adopted by rule of the Department of Environmental  
 1142 Protection pursuant to s. 373.414(18), describe how the  
 1143 mitigation offsets the impacts of each transportation project as

1144 permitted, and provide a schedule for the mitigation services.  
 1145 The water management districts shall maintain records of costs  
 1146 incurred and payments received for providing these services.  
 1147 Records must include, but are not limited to, planning, land  
 1148 acquisition, design, construction, staff support, long-term  
 1149 maintenance and monitoring of the mitigation site, and other  
 1150 costs necessary to meet the requirements of 33 U.S.C. s. 1344  
 1151 and 33 C.F.R. part 332. To the extent moneys paid to a water  
 1152 management district by the Department of Transportation or a  
 1153 participating transportation authority exceed the amount  
 1154 expended by the water management districts in providing the  
 1155 mitigation services to offset the permitted transportation  
 1156 project impacts, these moneys must be refunded to the Department  
 1157 of Transportation or participating transportation authority. ~~In~~  
 1158 ~~determining the activities to be included in the plans, the~~  
 1159 ~~districts shall consider the purchase of credits from public or~~  
 1160 ~~private mitigation banks permitted under s. 373.4136 and~~  
 1161 ~~associated federal authorization and shall include the purchase~~  
 1162 ~~as a part of the mitigation plan when the purchase would offset~~  
 1163 ~~the impact of the transportation project, provide equal benefits~~  
 1164 ~~to the water resources than other mitigation options being~~  
 1165 ~~considered, and provide the most cost-effective mitigation~~  
 1166 ~~option.~~ The mitigation plan shall be submitted to the water  
 1167 management district governing board, or its designee, for review  
 1168 and approval. At least 14 days before approval by the governing  
 1169 board, the water management district shall provide a copy of the

1170 draft mitigation plan to the Department of Environmental  
 1171 Protection and any person who has requested a copy. The  
 1172 mitigation plan, after governing board approval, must be  
 1173 submitted to the Department of Environmental Protection for  
 1174 approval. The plan may not be implemented until it is submitted  
 1175 to and approved, in part or in its entirety, by the Department  
 1176 of Environmental Protection.

1177 ~~(a) For each transportation project with a funding request~~  
 1178 ~~for the next fiscal year, the mitigation plan must include a~~  
 1179 ~~brief explanation of why a mitigation bank was or was not chosen~~  
 1180 ~~as a mitigation option, including an estimation of identifiable~~  
 1181 ~~costs of the mitigation bank and nonbank options and other~~  
 1182 ~~factors such as time saved, liability for success of the~~  
 1183 ~~mitigation, and long term maintenance.~~

1184 (a)(b) Specific projects may be excluded from the  
 1185 mitigation plan, in whole or in part, and are not subject to  
 1186 this section upon the election of the Department of  
 1187 Transportation, a transportation authority if applicable, or the  
 1188 appropriate water management district. The Department of  
 1189 Transportation or a participating transportation authority may  
 1190 not exclude a transportation project from the mitigation plan  
 1191 when mitigation is scheduled for implementation by the water  
 1192 management district in the current fiscal year, except when the  
 1193 transportation project is removed from the Department of  
 1194 Transportation's work program or transportation authority  
 1195 funding plan, the mitigation cannot be timely permitted to

1196 offset the impacts of a Department of Transportation project  
 1197 identified in the environmental impact inventory, or the  
 1198 proposed mitigation does not meet state and federal  
 1199 requirements. If a project is removed from the work program or  
 1200 the mitigation plan, costs expended by the water management  
 1201 district before removal are eligible for reimbursement by the  
 1202 Department of Transportation or participating transportation  
 1203 authority.

1204 (b) ~~(e)~~ When determining which projects to include in or  
 1205 exclude from the mitigation plan, the Department of  
 1206 Transportation shall investigate using credits from a permitted  
 1207 mitigation bank before those projects are submitted for  
 1208 inclusion in a water management district mitigation ~~the~~ plan.  
 1209 The Department of Transportation shall exclude a project from  
 1210 the mitigation plan if the investigation undertaken pursuant to  
 1211 this paragraph results in the conclusion that the use of credits  
 1212 from a permitted mitigation bank promotes efficiency, timeliness  
 1213 in project delivery, cost-effectiveness, and transfer of  
 1214 liability for success and long-term maintenance. ~~The~~  
 1215 ~~investigation shall consider the cost effectiveness of~~  
 1216 ~~mitigation bank credits, including, but not limited to, factors~~  
 1217 ~~such as time saved, transfer of liability for success of the~~  
 1218 ~~mitigation, and long term maintenance.~~

1219 (5) The water management district shall ensure that  
 1220 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33  
 1221 C.F.R. part 332 are met for the impacts identified in the

1222 environmental impact inventory for which the water management  
 1223 district will implement mitigation described in subsection (2),  
 1224 by implementation of the approved mitigation plan described in  
 1225 subsection (4) to the extent funding is provided by the  
 1226 Department of Transportation, or a transportation authority  
 1227 established pursuant to chapter 348 or chapter 349, if  
 1228 applicable. In developing and implementing the mitigation plan,  
 1229 the water management district shall comply with federal  
 1230 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33  
 1231 C.F.R. part 332. During the federal permitting process, the  
 1232 water management district may deviate from the approved  
 1233 mitigation plan in order to comply with federal permitting  
 1234 requirements upon notice and coordination with the Department of  
 1235 Transportation or participating transportation authority.

1236 (6) The water management district mitigation plans shall  
 1237 be updated annually to reflect the most current Department of  
 1238 Transportation work program and project list of a transportation  
 1239 authority established pursuant to chapter 348 or chapter 349, if  
 1240 applicable, and may be amended throughout the year to anticipate  
 1241 schedule changes or additional projects which may arise. Before  
 1242 amending the mitigation plan to include new projects, the  
 1243 Department of Transportation shall consider mitigation banks and  
 1244 other available mitigation options that meet state and federal  
 1245 requirements. Each update and amendment of the mitigation plan  
 1246 shall be submitted to the governing board of the water  
 1247 management district or its designee for approval. However, such

1248 approval shall not be applicable to a deviation as described in  
 1249 subsection (5).

1250 (7) Upon approval by the governing board of the water  
 1251 management district and the Department of Environmental  
 1252 Protection ~~or its designee~~, the mitigation plan shall be deemed  
 1253 to satisfy the mitigation requirements under this part for  
 1254 impacts specifically identified in the environmental impact  
 1255 inventory described in subsection (2) and any other mitigation  
 1256 requirements imposed by local, regional, and state agencies for  
 1257 these same impacts. The approval of the governing board of the  
 1258 water management district and the Department of Environmental  
 1259 Protection ~~or its designee~~ shall authorize the activities  
 1260 proposed in the mitigation plan, and no other state, regional,  
 1261 or local permit or approval shall be necessary.

1262 (8) This section shall not be construed to eliminate the  
 1263 need for the Department of Transportation or a transportation  
 1264 authority established pursuant to chapter 348 or chapter 349 to  
 1265 comply with the requirement to implement practicable design  
 1266 modifications, including realignment of transportation projects,  
 1267 to reduce or eliminate the impacts of its transportation  
 1268 projects on wetlands and other surface waters as required by  
 1269 rules adopted pursuant to this part, or to diminish the  
 1270 authority under this part to regulate other impacts, including  
 1271 water quantity or water quality impacts, or impacts regulated  
 1272 under this part that are not identified in the environmental  
 1273 impact inventory described in subsection (2).

1274 ~~(9) The process for environmental mitigation for the~~  
 1275 ~~impact of transportation projects under this section shall be~~  
 1276 ~~available to an expressway, bridge, or transportation authority~~  
 1277 ~~established under chapter 348 or chapter 349. Use of this~~  
 1278 ~~process may be initiated by an authority depositing the~~  
 1279 ~~requisite funds into an escrow account set up by the authority~~  
 1280 ~~and filing an environmental impact inventory with the~~  
 1281 ~~appropriate water management district. An authority that~~  
 1282 ~~initiates the environmental mitigation process established by~~  
 1283 ~~this section shall comply with subsection (6) by timely~~  
 1284 ~~providing the appropriate water management district with the~~  
 1285 ~~requisite work program information. A water management district~~  
 1286 ~~may draw down funds from the escrow account as provided in this~~  
 1287 ~~section.~~

1288 Section 11. Section 2 of chapter 85-364, Laws of Florida,  
 1289 as amended by chapter 95-382, Laws of Florida, is amended to  
 1290 read:

1291 Section 2. All tolls collected shall first be used for the  
 1292 payment of annual operating and maintenance costs and second to  
 1293 discharge the current bond indebtedness related to the Pinellas  
 1294 Bayway. Thereafter, tolls collected shall be used to establish a  
 1295 reserve construction account to be used, together with interest  
 1296 earned thereon, by the department ~~for the construction of Blind~~  
 1297 ~~Pass Road, State Road 699 improvements, and for Phase II of the~~  
 1298 Pinellas Bayway improvements. ~~A portion of the tolls collected~~  
 1299 ~~shall first be used specifically for the construction of the~~



1300 ~~Blind Pass Road improvements, which improvements consist of~~  
 1301 ~~widening to four lanes the Blind Pass Road, State Road 699, from~~  
 1302 ~~75th Avenue north to the approach of the Blind Pass Bridge,~~  
 1303 ~~including necessary right of way acquisition along said portion~~  
 1304 ~~of Blind Pass Road, and intersection improvements at 75<sup>th</sup> Avenue~~  
 1305 ~~and Blind Pass Road in Pinellas County. Said improvements shall~~  
 1306 ~~be included in the department's current 5 year work program.~~  
 1307 ~~Upon completion of the Blind Pass Road improvements, the tolls~~  
 1308 ~~collected shall be used, together with interest earned thereon,~~  
 1309 ~~by the department for~~ Phase II of the Pinellas Bayway  
 1310 improvements, ~~which improvements~~ consists of widening to four  
 1311 lanes the Pinellas Bayway from State Road 679 west to Gulf  
 1312 Boulevard, including necessary approaches, bridges, and avenues  
 1313 of access. Upon completion of the Phase II improvements, the  
 1314 department shall continue to collect tolls on the Pinellas  
 1315 Bayway for purposes of reimbursing the department for all  
 1316 accrued maintenance costs for the Pinellas Bayway.

1317 Section 12. Paragraphs (j) and (m) of subsection (2) of  
 1318 section 110.205, Florida Statutes, are amended to read:

1319 110.205 Career service; exemptions.—

1320 (2) EXEMPT POSITIONS.—The exempt positions that are not  
 1321 covered by this part include the following:

1322 (j) The appointed secretaries and the State Surgeon  
 1323 General, assistant secretaries, deputy secretaries, and deputy  
 1324 assistant secretaries of all departments; the executive  
 1325 directors, assistant executive directors, deputy executive

1326 | directors, and deputy assistant executive directors of all  
 1327 | departments; the directors of all divisions and those positions  
 1328 | determined by the department to have managerial responsibilities  
 1329 | comparable to such positions, which positions include, but are  
 1330 | not limited to, program directors, assistant program directors,  
 1331 | district administrators, deputy district administrators, the  
 1332 | Director of Central Operations Services of the Department of  
 1333 | Children and Family Services, the State Transportation  
 1334 | Development Administrator, State Public Transportation and Modal  
 1335 | Administrator, district secretaries, district directors of  
 1336 | transportation development, transportation operations,  
 1337 | transportation support, and the managers of the offices  
 1338 | specified in s. 20.23(3)(b) ~~s. 20.23(4)(b)~~, of the Department of  
 1339 | Transportation. Unless otherwise fixed by law, the department  
 1340 | shall set the salary and benefits of these positions in  
 1341 | accordance with the rules of the Senior Management Service; and  
 1342 | the county health department directors and county health  
 1343 | department administrators of the Department of Health.

1344 |         (m) All assistant division director, deputy division  
 1345 | director, and bureau chief positions in any department, and  
 1346 | those positions determined by the department to have managerial  
 1347 | responsibilities comparable to such positions, which include,  
 1348 | but are not limited to:

- 1349 |             1. Positions in the Department of Health and the  
 1350 | Department of Children and Family Services that are assigned  
 1351 | primary duties of serving as the superintendent or assistant

1352 superintendent of an institution.

1353         2. Positions in the Department of Corrections that are  
 1354 assigned primary duties of serving as the warden, assistant  
 1355 warden, colonel, or major of an institution or that are assigned  
 1356 primary duties of serving as the circuit administrator or deputy  
 1357 circuit administrator.

1358         3. Positions in the Department of Transportation that are  
 1359 assigned primary duties of serving as regional toll managers and  
 1360 managers of offices, as defined in s. 20.23(3)(b) and (4)(c) ~~s.~~  
 1361 ~~20.23(4)(b) and (5)(e)~~.

1362         4. Positions in the Department of Environmental Protection  
 1363 that are assigned the duty of an Environmental Administrator or  
 1364 program administrator.

1365         5. Positions in the Department of Health that are assigned  
 1366 the duties of Environmental Administrator, Assistant County  
 1367 Health Department Director, and County Health Department  
 1368 Financial Administrator.

1369         6. Positions in the Department of Highway Safety and Motor  
 1370 Vehicles that are assigned primary duties of serving as captains  
 1371 in the Florida Highway Patrol.

1372  
 1373 Unless otherwise fixed by law, the department shall set the  
 1374 salary and benefits of the positions listed in this paragraph in  
 1375 accordance with the rules established for the Selected Exempt  
 1376 Service.

1377         Section 13. This act shall take effect July 1, 2014.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Artiles offered the following:

**Amendment (with title amendment)**

Remove lines 237-505 and insert:

7 Section 1. Section 316.0083, Florida Statutes, is amended  
8 to read:

9 316.0083 Mark Wandall Traffic Safety Program;  
10 administration; report.-

11 (1) (a) For purposes of administering this section, ~~the~~  
 12 ~~department,~~ a county, or a municipality may authorize a traffic  
 13 infraction enforcement officer under s. 316.640 to issue a  
 14 traffic citation for a violation of s. 316.074(1) or s.  
 15 316.075(1)(c)1. A notice of violation ~~and a traffic citation~~ may  
 16 not be issued for failure to stop at a red light at an  
 17 intersection where right hand or left hand turns on red signal

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18 are permissible if the driver is making a right-hand or left-  
19 hand turn, unless pedestrians are in or immediately adjacent to  
20 the crosswalk in a careful and prudent manner at an intersection  
21 where right hand turns are permissible. A notice of violation  
22 may be issued at an intersection where right or left hand turns  
23 on red signal are permissible if in the reviewing traffic  
24 infraction enforcement officer's discretion the driver is making  
25 a turn and one or more of the following factors is present at  
26 the time of violation:

- 27 1. The operator of the motor vehicle fails to yield to a  
28 pedestrian or bicyclist; or  
29 2. The operator of the motor vehicle fails to yield to  
30 another vehicle.

31 (b) A notice of violation and a traffic citation may not be  
32 issued under this section if the driver of the vehicle came to a  
33 complete stop after crossing the stop line and before turning  
34 right if permissible at a red light, but failed to stop before  
35 crossing over the stop line or other point at which a stop is  
36 required. This paragraph does not prohibit a review of  
37 information from a traffic infraction detector by an authorized  
38 employee or agent of the department, a county, or a municipality  
39 before issuance of the notice of violation traffic citation by  
40 the traffic infraction enforcement officer. This paragraph does  
41 not prohibit the department, a county, or a municipality from  
42 issuing notification as provided in paragraph (b) to the

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43 registered owner of the motor vehicle involved in the violation  
44 of s. 316.074(1) or s. 316.075(1)(c)1.

45 (c) ~~(b)~~1.a. Within 30 days after a violation, notification  
46 must be sent to the registered owner of the motor vehicle  
47 involved in the violation specifying the remedies available  
48 under s. 318.14 and that the violator must pay the penalty of  
49 \$158 as described in this section to the ~~department~~, county, or  
50 municipality, or furnish an affidavit in accordance with  
51 paragraph (c) ~~(d)~~, or request a hearing within 60 days following  
52 the date of the notification in order to avoid a hold on the  
53 vehicle's registration pursuant to s. 320.03(8) ~~the issuance of~~  
54 ~~a traffic citation~~. The notification must be sent by first-class  
55 mail. The mailing of the notice of violation constitutes  
56 notification.

57 b. Included with the notification to the registered owner  
58 of the motor vehicle involved in the infraction must be a notice  
59 that the owner has the right to review the photographic or  
60 electronic images or the streaming video evidence that  
61 constitutes a rebuttable presumption against the owner of the  
62 vehicle. The notice must state the time and place or Internet  
63 location where the evidence may be examined and observed.

64 c. Notwithstanding any other provision of law, a person  
65 who receives a notice of violation under this section may  
66 request a hearing within 60 days following the notification of  
67 violation or pay the penalty pursuant to the notice of  
68 violation, but a payment or fee may not be required before the

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69 hearing requested by the person. The notice of violation must be  
70 accompanied by, or direct the person to a website that provides,  
71 information on the person's right to request a hearing and on  
72 all court costs related thereto and a form to request a hearing.  
73 As used in this sub-subparagraph, the term "person" includes a  
74 natural person, registered owner or coowner of a motor vehicle,  
75 or person identified on an affidavit as having care, custody, or  
76 control of the motor vehicle at the time of the violation.

77 d. If the registered owner or coowner of the motor  
78 vehicle, or the person designated as having care, custody, or  
79 control of the motor vehicle at the time of the violation, or an  
80 authorized representative of the owner, coowner, or designated  
81 person, initiates a proceeding to challenge the violation  
82 pursuant to this paragraph, such person waives any challenge or  
83 dispute as to the delivery of the notice of violation.

84 2. Penalties assessed and collected by the ~~department,~~  
85 county, or municipality authorized to collect the funds provided  
86 for in this paragraph, less the amount retained by the county or  
87 municipality pursuant to subparagraph 3., shall be paid to the  
88 Department of Revenue weekly. Payment by the ~~department,~~ county,  
89 or municipality to the state shall be made by means of  
90 electronic funds transfers. In addition to the payment, summary  
91 detail of the penalties remitted shall be reported to the  
92 Department of Revenue.

93 3. Penalties to be assessed and collected by the  
94 ~~department,~~ county, or municipality are ~~as follows:~~

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95 ~~a. One hundred fifty-eight dollars for a violation of s.~~  
96 ~~316.074(1) or s. 316.075(1)(c)1. when a driver failed to stop at~~  
97 ~~a traffic signal if enforcement is by the department's traffic~~  
98 ~~infraction enforcement officer. One hundred dollars shall be~~  
99 ~~remitted to the Department of Revenue for deposit into the~~  
100 ~~General Revenue Fund, \$10 shall be remitted to the Department of~~  
101 ~~Revenue for deposit into the Department of Health Emergency~~  
102 ~~Medical Services Trust Fund, \$3 shall be remitted to the~~  
103 ~~Department of Revenue for deposit into the Brain and Spinal Cord~~  
104 ~~Injury Trust Fund, and \$45 shall be distributed to the~~  
105 ~~municipality in which the violation occurred, or, if the~~  
106 ~~violation occurred in an unincorporated area, to the county in~~  
107 ~~which the violation occurred. Funds deposited into the~~  
108 ~~Department of Health Emergency Medical Services Trust Fund under~~  
109 ~~this sub-subparagraph shall be distributed as provided in s.~~  
110 ~~395.4036(1). Proceeds of the infractions in the Brain and Spinal~~  
111 ~~Cord Injury Trust Fund shall be distributed quarterly to the~~  
112 ~~Miami Project to Cure Paralysis and used for brain and spinal~~  
113 ~~cord research.~~

114 ~~b. One hundred fifty-eight dollars for a violation of s.~~  
115 ~~316.074(1) or s. 316.075(1)(c)1. when a driver failed to stop at~~  
116 ~~a traffic signal if enforcement is by a county or municipal~~  
117 ~~traffic infraction enforcement officer. Seventy dollars shall be~~  
118 ~~remitted by the county or municipality to the Department of~~  
119 ~~Revenue for deposit into the General Revenue Fund, \$10 shall be~~  
120 ~~remitted to the Department of Revenue for deposit into the~~



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121 Department of Health Emergency Medical Services Trust Fund, \$3  
122 shall be remitted to the Department of Revenue for deposit into  
123 the Brain and Spinal Cord Injury Trust Fund, and \$75 shall be  
124 retained by the county or municipality enforcing the ordinance  
125 enacted pursuant to this section. Seventy percent of the funds  
126 retained by the county or municipality must be used for traffic  
127 safety projects. Funds deposited into the Department of Health  
128 Emergency Medical Services Trust Fund under this sub-  
129 subparagraph shall be distributed as provided in s. 395.4036(1).  
130 Proceeds of the infractions in the Brain and Spinal Cord Injury  
131 Trust Fund shall be distributed quarterly to the Miami Project  
132 to Cure Paralysis and used for brain and spinal cord research.

133 4. An individual may not receive a commission from any  
134 revenue collected from violations detected through the use of a  
135 traffic infraction detector. A manufacturer or vendor may not  
136 receive a fee or remuneration based upon the number of  
137 violations detected through the use of a traffic infraction  
138 detector.

139 ~~(c)1.a. A traffic citation issued under this section shall~~  
140 ~~be issued by mailing the traffic citation by certified mail to~~  
141 ~~the address of the registered owner of the motor vehicle~~  
142 ~~involved in the violation if payment has not been made within 60~~  
143 ~~days after notification under paragraph (b), if the registered~~  
144 ~~owner has not requested a hearing as authorized under paragraph~~  
145 ~~(b), or if the registered owner has not submitted an affidavit~~  
146 ~~under this section.~~

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147 ~~b. Delivery of the traffic citation constitutes~~  
148 ~~notification under this paragraph. If the registered owner or~~  
149 ~~coowner of the motor vehicle, or the person designated as having~~  
150 ~~care, custody, or control of the motor vehicle at the time of~~  
151 ~~the violation, or a duly authorized representative of the owner,~~  
152 ~~coowner, or designated person, initiates a proceeding to~~  
153 ~~challenge the citation pursuant to this section, such person~~  
154 ~~waives any challenge or dispute as to the delivery of the~~  
155 ~~traffic citation.~~

156 ~~c. In the case of joint ownership of a motor vehicle, the~~  
157 ~~traffic citation shall be mailed to the first name appearing on~~  
158 ~~the registration, unless the first name appearing on the~~  
159 ~~registration is a business organization, in which case the~~  
160 ~~second name appearing on the registration may be used.~~

161 ~~2. Included with the notification to the registered owner~~  
162 ~~of the motor vehicle involved in the infraction shall be a~~  
163 ~~notice that the owner has the right to review, in person or~~  
164 ~~remotely, the photographic or electronic images or the streaming~~  
165 ~~video evidence that constitutes a rebuttable presumption against~~  
166 ~~the owner of the vehicle. The notice must state the time and~~  
167 ~~place or Internet location where the evidence may be examined~~  
168 ~~and observed.~~

169 ~~(d) (d)1.~~ The owner of the motor vehicle involved in the  
170 violation is responsible and liable for paying the notice of  
171 violation ~~the uniform traffic citation~~ issued for a violation of

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172 s. 316.074(1) or s. 316.075(1)(c)1. when the driver failed to  
173 stop at a traffic signal, unless the owner can establish that:

174 a. The motor vehicle passed through the intersection in  
175 order to yield right-of-way to an emergency vehicle or as part  
176 of a funeral procession;

177 b. The motor vehicle passed through the intersection at  
178 the direction of a law enforcement officer;

179 c. The motor vehicle was, at the time of the violation, in  
180 the care, custody, or control of another person;

181 d. A uniform traffic citation was issued by a law  
182 enforcement officer to the driver of the motor vehicle for the  
183 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1.; or

184 e. The motor vehicle's owner was deceased on or before the  
185 date that the notice of violation ~~uniform traffic citation~~ was  
186 issued, as established by an affidavit submitted by the  
187 representative of the motor vehicle owner's estate or other  
188 designated person or family member.

189 2. In order to establish such facts, the owner of the  
190 motor vehicle shall, within 30 days after the date of issuance  
191 of the notice of violation ~~traffic citation~~, furnish to the  
192 appropriate governmental entity an affidavit setting forth  
193 detailed information supporting an exemption as provided in this  
194 paragraph.

195 a. An affidavit supporting an exemption under sub-  
196 subparagraph 1.c. must include the name, address, date of birth,  
197 and, if known, the driver license number of the person who

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198 leased, rented, or otherwise had care, custody, or control of  
199 the motor vehicle at the time of the alleged violation. If the  
200 vehicle was stolen at the time of the alleged offense, the  
201 affidavit must include the police report indicating that the  
202 vehicle was stolen.

203 b. If a traffic citation for a violation of s. 316.074(1)  
204 or s. 316.075(1)(c)1. was issued at the location of the  
205 violation by a law enforcement officer, the affidavit must  
206 include the serial number of the uniform traffic citation.

207 c. If the motor vehicle's owner to whom a notice of  
208 violation ~~a traffic citation~~ has been issued is deceased, the  
209 affidavit must include a certified copy of the owner's death  
210 certificate showing that the date of death occurred on or before  
211 the issuance of the uniform traffic citation and one of the  
212 following:

213 (I) A bill of sale or other document showing that the  
214 deceased owner's motor vehicle was sold or transferred after his  
215 or her death, but on or before the date of the alleged  
216 violation.

217 (II) Documentary proof that the registered license plate  
218 belonging to the deceased owner's vehicle was returned to the  
219 department or any branch office or authorized agent of the  
220 department, but on or before the date of the alleged violation.

221 (III) A copy of a police report showing that the deceased  
222 owner's registered license plate or motor vehicle was stolen

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223 after the owner's death, but on or before the date of the  
224 alleged violation.

225  
226 Upon receipt of the affidavit and documentation required under  
227 this sub-subparagraph, the governmental entity must dismiss the  
228 notice of violation ~~citation~~ and provide proof of such dismissal  
229 to the person that submitted the affidavit.

230 3. Upon receipt of an affidavit, the person designated as  
231 having care, custody, or control of the motor vehicle at the  
232 time of the violation may be issued a notice of violation  
233 pursuant to paragraph (b) for a violation of s. 316.074(1) or s.  
234 316.075(1)(c)1. when the driver failed to stop at a traffic  
235 signal. The affidavit is admissible in a proceeding pursuant to  
236 this section for the purpose of providing proof that the person  
237 identified in the affidavit was in actual care, custody, or  
238 control of the motor vehicle. The owner of a leased vehicle for  
239 which a notice of violation ~~traffic citation~~ is issued for a  
240 violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver  
241 failed to stop at a traffic signal is not responsible for paying  
242 the notice of violation ~~traffic citation~~ and is not required to  
243 submit an affidavit as specified in this subsection if the motor  
244 vehicle involved in the violation is registered in the name of  
245 the lessee of such motor vehicle.

246 4. Paragraph ~~Paragraphs~~ (b) and ~~(c)~~ applies ~~apply~~ to the  
247 person identified on the affidavit, except that the notification  
248 under sub-subparagraph (b)1.a. must be sent to the person

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249 identified on the affidavit within 30 days after receipt of an  
250 affidavit.

251 5. The submission of a false affidavit is a misdemeanor of  
252 the second degree, punishable as provided in s. 775.082 or s.  
253 775.083.

254 (e)~~(e)~~ The photographic or electronic images or streaming  
255 video attached to or referenced in the notice of violation  
256 ~~traffic citation~~ is evidence that a violation of s. 316.074(1)  
257 or s. 316.075(1)(c)1. when the driver failed to stop at a  
258 traffic signal has occurred and is admissible in any proceeding  
259 to enforce this section and raises a rebuttable presumption that  
260 the motor vehicle named in the report or shown in the  
261 photographic or electronic images or streaming video evidence  
262 was used in violation of s. 316.074(1) or s. 316.075(1)(c)1.  
263 when the driver failed to stop at a traffic signal. The  
264 photographic or electronic images or streaming video are not  
265 admissible as evidence in any other proceeding.

266 (2) A notice of violation ~~and a traffic citation~~ may not  
267 be issued for failure to stop at a red light at an intersection  
268 where right-hand or left-hand turns on red signal are  
269 permissible if the driver is making a right-hand or left-hand  
270 turn, unless pedestrians are in or immediately adjacent to the  
271 crosswalk in a careful and prudent manner at an intersection  
272 ~~where right hand turns are permissible.~~

273 (a) A notice of violation may be issued at an intersection  
274 where right or left hand turns on red signal are permissible if

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275 in the reviewing traffic infraction enforcement officer's  
276 discretion the driver is making a turn and one or more of the  
277 following factors is present at the time of violation:

278 1. The operator of the motor vehicle fails to yield to a  
279 pedestrian or bicyclist; or

280 2. The operator of the motor vehicle fails to yield to  
281 another vehicle.

282 (3) This section supplements the enforcement of s.  
283 316.074(1) or s. 316.075(1)(c)1. by law enforcement officers  
284 when a driver fails to stop at a traffic signal and does not  
285 prohibit a law enforcement officer from issuing a traffic  
286 citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
287 when a driver fails to stop at a traffic signal in accordance  
288 with normal traffic enforcement techniques.

289 (4)(a) Each county or municipality that operates a traffic  
290 infraction detector shall submit a report by October 1, and  
291 April 1, 2014-2012, and semiannually on these dates annually  
292 thereafter, to the department. The report shall detail which  
293 details the results of using the traffic infraction detector and  
294 the procedures for enforcement for the preceding state fiscal  
295 year. The department shall notify the Department of  
296 Transportation which counties and municipalities fail to submit  
297 the report. The information submitted by the counties and  
298 municipalities must include statistical data and information  
299 required by the department to complete the report required under

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300 paragraph (b), including details of engineering countermeasures,  
301 traffic studies performed, and crash data by type of crash.

302 (b) Within 30 days following the semiannual reporting date,  
303 the Department of Transportation shall notify by certified mail  
304 any county or municipality that fails to submit the semiannual  
305 report that the report is overdue. A county or municipality that  
306 does not submit the report within 60 days following receipt of  
307 the notice by the Department of Transportation shall immediately  
308 disable all traffic infraction detectors within the county or  
309 municipality until the report is submitted to the department.

310 (c) On or before January ~~December~~ 31, of each year ~~2012,~~  
311 ~~and annually thereafter,~~ the department shall provide a summary  
312 report to the Governor, the President of the Senate, and the  
313 Speaker of the House of Representatives regarding the use and  
314 operation of traffic infraction detectors under this section,  
315 along with the department's recommendations and any necessary  
316 legislation. The summary report must include a review of the  
317 information submitted to the department by the counties and  
318 municipalities and must describe the enhancement of the traffic  
319 safety and enforcement programs, details of engineering  
320 countermeasures taken, traffic studies performed, and crash data  
321 by type of crash.

322 (5) Procedures for a hearing under this section are as  
323 follows:

324 (a) The department shall publish and make available  
325 electronically to each county and municipality a model Request



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326 for Hearing form to assist each local government administering  
327 this section.

328 (b) The charter county, noncharter county, or municipality  
329 electing to authorize traffic infraction enforcement officers to  
330 issue notices of violation ~~traffic citations~~ under paragraph  
331 (1)(a) shall designate by resolution existing staff to serve as  
332 the clerk to the local hearing officer.

333 (c) Any person, herein referred to as the "petitioner,"  
334 who elects to request a hearing under paragraph (1)(b) shall be  
335 scheduled for a hearing by the clerk to the local hearing  
336 officer to appear before a local hearing officer with notice to  
337 be sent by first-class mail. Upon receipt of the notice, the  
338 petitioner may reschedule the hearing once by submitting a  
339 written request to reschedule to the clerk to the local hearing  
340 officer, at least 5 calendar days before the day of the  
341 originally scheduled hearing. The petitioner may cancel his or  
342 her appearance before the local hearing officer by paying the  
343 penalty assessed under paragraph (1)(b), plus \$25 ~~\$50~~ in  
344 administrative costs, before the start of the hearing.

345 (d) All testimony at the hearing shall be under oath and  
346 shall be recorded. The local hearing officer shall take  
347 testimony from a traffic infraction enforcement officer and the  
348 petitioner, and may take testimony from others. The local  
349 hearing officer shall review the photographic or electronic  
350 images or the streaming video made available under sub-

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351 subparagraph(1)(b)1.b. Formal rules of evidence do not apply,  
352 but due process shall be observed and govern the proceedings.

353 (e) At the conclusion of the hearing, the local hearing  
354 officer shall determine whether a violation under this section  
355 has occurred, in which case the hearing officer shall uphold or  
356 dismiss the violation. The local hearing officer shall issue a  
357 final administrative order including the determination and, if  
358 the notice of violation is upheld, require the petitioner to pay  
359 the penalty previously assessed under paragraph (1)(b), and may  
360 also require the petitioner to pay county or municipal costs,  
361 not to exceed \$100 ~~\$250~~. The final administrative order shall be  
362 mailed to the petitioner by first-class mail.

363 (f) An aggrieved party may appeal a final administrative  
364 order consistent with the process provided under s. 162.11.

365 Section 2. Subsection (1) of section 316.0776, Florida  
366 Statutes, is amended to read:

367 316.0776 Traffic infraction detectors; placement and  
368 installation.—

369 (1) Traffic infraction detectors are allowed on state  
370 roads when permitted by the Department of Transportation and  
371 under placement and installation specifications developed by the  
372 Department of Transportation. Traffic infraction detectors are  
373 allowed on streets and highways under the jurisdiction of  
374 counties or municipalities in accordance with placement and  
375 installation specifications developed by the Department of  
376 Transportation. In addition, the Department of Transportation

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377 | shall identify engineering countermeasures intended to reduce  
378 | violations of s. 316.074(1) and s. 316.075(1)(c)1. to be  
379 | considered prior to the installation of a traffic infraction  
380 | detector on any roadway. The determination to place a traffic  
381 | infraction detector on any roadway must be based on the results  
382 | of a traffic engineering study which documents the  
383 | implementation and failure of any engineering countermeasure  
384 | appropriate for the specific location. The study must be signed  
385 | and sealed by a professional engineer licensed in this state.

386 | Section 3. Paragraph (b) of subsection (1) of section  
387 | 316.640, Florida Statutes, is amended to read:

388 | 316.640 Enforcement.—The enforcement of the traffic laws  
389 | of this state is vested as follows:

390 | (1) STATE.—

391 | (b)1. The Department of Transportation has authority to  
392 | enforce on all the streets and highways of this state all laws  
393 | applicable within its authority.

394 | 2.a. The Department of Transportation shall develop  
395 | training and qualifications standards for toll enforcement  
396 | officers whose sole authority is to enforce the payment of tolls  
397 | pursuant to s. 316.1001. Nothing in this subparagraph shall be  
398 | construed to permit the carrying of firearms or other weapons,  
399 | nor shall a toll enforcement officer have arrest authority.

400 | b. For the purpose of enforcing s. 316.1001, governmental  
401 | entities, as defined in s. 334.03, which own or operate a toll  
402 | facility may employ independent contractors or designate

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403 employees as toll enforcement officers; however, any such toll  
404 enforcement officer must successfully meet the training and  
405 qualifications standards for toll enforcement officers  
406 established by the Department of Transportation.

407 ~~3. For the purpose of enforcing s. 316.0083, the~~  
408 ~~department may designate employees as traffic infraction~~  
409 ~~enforcement officers. A traffic infraction enforcement officer~~  
410 ~~must successfully complete instruction in traffic enforcement~~  
411 ~~procedures and court presentation through the Selective Traffic~~  
412 ~~Enforcement Program as approved by the Division of Criminal~~  
413 ~~Justice Standards and Training of the Department of Law~~  
414 ~~Enforcement, or through a similar program, but may not~~  
415 ~~necessarily otherwise meet the uniform minimum standards~~  
416 ~~established by the Criminal Justice Standards and Training~~  
417 ~~Commission for law enforcement officers or auxiliary law~~  
418 ~~enforcement officers under s. 943.13. This subparagraph does not~~  
419 ~~authorize the carrying of firearms or other weapons by a traffic~~  
420 ~~infraction enforcement officer and does not authorize a traffic~~  
421 ~~infraction enforcement officer to make arrests. The department's~~  
422 ~~traffic infraction enforcement officers must be physically~~  
423 ~~located in the state.~~

424 Section 4. Subsection (3) of section 318.15, Florida  
425 Statutes, is amended to read:

426 318.15 Failure to comply with civil penalty or to appear;  
427 penalty.—

428 (3) The clerk shall provide ~~notify~~ the department with a

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429 list of persons who were mailed a notice of violation of s.  
430 316.074(1) or s. 316.075(1)(c)1. pursuant to s. 316.0083 and who  
431 failed to enter into, or comply with the terms of, a penalty  
432 payment plan, or order with the clerk to the local hearing  
433 officer or failed to appear at a scheduled hearing within 10  
434 days after such failure, and shall reference the person's driver  
435 license number, and vehicle registration number that is  
436 identified on the notice of violation, or in the case of a  
437 business entity, the vehicle registration number identified on  
438 the notice of violation.

439 (a) Pursuant to s. 320.03(8), upon receipt of such notice,  
440 the department, or authorized agent thereof, may not issue a  
441 license plate or revalidation sticker to a person on the list  
442 for the any motor vehicle that is identified on the traffic  
443 infraction detector violation owned or coowned by that person  
444 pursuant to s. 320.03(8) until the amounts assessed have been  
445 fully paid.

446 (b) The clerk shall notify the department to remove a  
447 person's name from the list upon payment of the outstanding  
448 finances and civil penalties ~~After the issuance of the person's~~  
449 ~~license plate or revalidation sticker is withheld pursuant to~~  
450 ~~paragraph (a), the person may challenge the withholding of the~~  
451 ~~license plate or revalidation sticker only on the basis that the~~  
452 ~~outstanding fines and civil penalties have been paid pursuant to~~  
453 ~~s. 320.03(8)~~.

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454 Section 5. Subsections (15) and (22) of section 318.18,  
455 Florida Statutes, is amended to read:

456 318.18 Amount of penalties.—The penalties required for a  
457 noncriminal disposition pursuant to s. 318.14 or a criminal  
458 offense listed in s. 318.17 are as follows:

459 (15)(a)1. One hundred and fifty-eight dollars for a  
460 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
461 has failed to stop at a traffic signal and when enforced by a  
462 law enforcement officer. Sixty dollars shall be distributed as  
463 provided in s. 318.21, \$30 shall be distributed to the General  
464 Revenue Fund, \$3 shall be remitted to the Department of Revenue  
465 for deposit into the Brain and Spinal Cord Injury Trust Fund,  
466 and the remaining \$65 shall be remitted to the Department of  
467 Revenue for deposit into the Emergency Medical Services Trust  
468 Fund of the Department of Health.

469 ~~2. One hundred and fifty-eight dollars for a violation of~~  
470 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
471 ~~stop at a traffic signal and when enforced by the department's~~  
472 ~~traffic infraction enforcement officer. One hundred dollars~~  
473 ~~shall be remitted to the Department of Revenue for deposit into~~  
474 ~~the General Revenue Fund, \$45 shall be distributed to the county~~  
475 ~~for any violations occurring in any unincorporated areas of the~~  
476 ~~county or to the municipality for any violations occurring in~~  
477 ~~the incorporated boundaries of the municipality in which the~~  
478 ~~infraction occurred, \$10 shall be remitted to the Department of~~  
479 ~~Revenue for deposit into the Department of Health Emergency~~

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480 ~~Medical Services Trust Fund for distribution as provided in s.~~  
481 ~~395.4036(1), and \$3 shall be remitted to the Department of~~  
482 ~~Revenue for deposit into the Brain and Spinal Cord Injury Trust~~  
483 ~~Fund.~~

484 2.3. One hundred and fifty-eight dollars for a violation  
485 of s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed  
486 to stop at a traffic signal and when enforced by a county's or  
487 municipality's traffic infraction enforcement officer. Seventy-  
488 five dollars shall be distributed to the county or municipality  
489 issuing the traffic citation, \$70 shall be remitted to the  
490 Department of Revenue for deposit into the General Revenue Fund,  
491 \$10 shall be remitted to the Department of Revenue for deposit  
492 into the Department of Health Emergency Medical Services Trust  
493 Fund for distribution as provided in s. 395.4036(1), and \$3  
494 shall be remitted to the Department of Revenue for deposit into  
495 the Brain and Spinal Cord Injury Trust Fund. Seventy percent of  
496 the revenue distributed to the municipality or county must be  
497 used for traffic safety.

498 (b) Amounts deposited into the Brain and Spinal Cord  
499 Injury Trust Fund pursuant to this subsection shall be  
500 distributed quarterly to the Miami Project to Cure Paralysis and  
501 shall be used for brain and spinal cord research.

502 (c) If a person who is mailed a notice of violation or  
503 cited for a violation of s. 316.074(1) or s. 316.075(1)(c)1., as  
504 enforced by a traffic infraction enforcement officer under s.  
505 316.0083, presents documentation from the appropriate

Amendment No. 1

506 governmental entity that the notice of violation ~~or traffic~~  
507 ~~citation~~ was in error, the clerk of court or clerk to the local  
508 hearing officer may dismiss the case. The clerk of court or  
509 clerk to the local hearing officer may not charge for this  
510 service.

511 (d) An individual may not receive a commission or per-  
512 ticket fee from any revenue collected from violations detected  
513 through the use of a traffic infraction detector. A manufacturer  
514 or vendor may not receive a fee or remuneration based upon the  
515 number of violations detected through the use of a traffic  
516 infraction detector.

517 (e) Funds deposited into the Department of Health  
518 Emergency Medical Services Trust Fund under this subsection  
519 shall be distributed as provided in s. 395.4036(1).

520 (22) In addition to the penalty prescribed under s.  
521 316.0083 for violations enforced under s. 316.0083 which are  
522 upheld, the local hearing officer may also order the payment of  
523 county or municipal costs, not to exceed \$100 ~~\$250~~.

524 Section 6. Subsection (8) of section 320.03, Florida  
525 Statutes, is amended to read:

526 320.03 Registration; duties of tax collectors;  
527 International Registration Plan.—

528 (8) If the applicant's name appears on the list referred  
529 to in s. 316.1001(4), s. 316.1967(6), s. 318.15(3), or s.  
530 713.78(13), a license plate or revalidation sticker may not be  
531 issued for the traffic infraction detector violation until that



Amendment No. 1

532 person's name no longer appears on the list; the governmental  
533 entity has notified the department to remove the person's name  
534 from the list pursuant to s. 318.15(3), or until the person  
535 presents a receipt from the governmental entity or the clerk of  
536 court that provided the data showing that the fines outstanding  
537 have been paid. This subsection does not apply to the owner of a  
538 leased vehicle if the vehicle is registered in the name of the  
539 lessee of the vehicle. The tax collector and the clerk of the  
540 court are each entitled to receive monthly 10 percent of the  
541 civil penalties and fines recovered from such persons to  
542 reimburse them for the cost of, ~~as costs for~~ implementing and  
543 administering this subsection, ~~10 percent of the civil penalties~~  
544 ~~and fines recovered from such persons.~~ As used in this  
545 subsection, the term "civil penalties and fines" does not  
546 include a wrecker operator's lien as described in s. 713.78(13);  
547 and for civil penalties and fines assessed in s. 316.0083(1)(b)3  
548 and 318.18(15)(a)2, the term does not include funds remitted to  
549 the Department of Revenue for deposit into the General Revenue  
550 Fund. If the tax collector has private tag agents, such tag  
551 agents are entitled to receive a pro rata share of the amount  
552 paid to the tax collector, based upon the percentage of license  
553 plates and revalidation stickers issued by the tag agent  
554 compared to the total issued within the county. The authority of  
555 any private agent to issue license plates shall be revoked,  
556 after notice and a hearing as provided in chapter 120, if he or  
557 she issues any license plate or revalidation sticker contrary to

Amendment No. 1

558 | the provisions of this subsection. This section applies only to  
559 | the annual renewal in the owner's birth month of a motor vehicle  
560 | registration and does not apply to the transfer of a  
561 | registration of a motor vehicle sold by a motor vehicle dealer  
562 | licensed under this chapter, except for the transfer of  
563 | registrations which includes ~~the~~ annual renewals. This section  
564 | does not affect the issuance of the title to a motor vehicle,  
565 | notwithstanding s. 319.23(8)(b).

-----  
570 | **T I T L E A M E N D M E N T**

571 | Remove lines 10-31 and insert:

572 | Traffic Control Law; amending s. 316.0083, F.S.; clarifying  
573 | provisions relating to failure to stop at a red light where a  
574 | turn on red is permissible; revising remedies available that a  
575 | violator must pay replacing the uniform traffic citation from an  
576 | unpaid notice of violation to a registration hold on the  
577 | vehicle; removes the department's authority for red light  
578 | cameras; provides a funding requirement for counties and  
579 | municipalities; revises the annual reporting requirements for  
580 | counties and municipalities; revises the department's reporting  
581 | requirements; reduces administrative costs and county and  
582 | municipal costs relating to local hearings; amending s.  
583 | 316.0776, F.S.; requires the Department of Transportation to

Amendment No. 1

584 identify engineering countermeasure for traffic infraction  
585 detectors; requires traffic infraction detectors placement  
586 determinations be based on a traffic engineering study; amending  
587 s. 316.640, F.S.; removes the department's authority to  
588 designate traffic infraction enforcement officers; removes  
589 traffic infraction enforcement officer criminal justice  
590 standards and law enforcement training requirements; amending s.  
591 318.15, F.S.; revising clerks of court requirements when a  
592 person fails to comply with a notice of violation; amending s.  
593 318.18, F.S.; conforming penalties and local funding  
594 requirements; amending s. 320.03, F.S.; revising criteria for  
595 when a license plate or revalidation sticker may be issued;  
596 revises allocation of revalidation penalties and fines for tax  
597 collectors; amending s.  
598

Amendment No. Am 1 to 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Peters offered the following:

4  
 5 **Amendment to Amendment (039251) by Representative Artiles**  
 6 **(with title amendment)**

7 Remove lines 28-30 of the amendment and insert:  
 8 pedestrian or bicyclist;

9 2. The operator of the motor vehicle fails to yield to  
 10 another vehicle; or

11 3. The operator of the motor vehicle does not  
 12 substantially reduce the speed of the motor vehicle before  
 13 turning and the vehicle speed reported is 8 miles per hour or  
 14 more.

15  
 16 A county or municipality that installs a traffic infraction  
 17 detector at an intersection shall install a sign notifying the

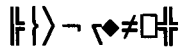
Amendment No. Am 1 to 1

18 public that the intersection is photo enforced. Such signage  
 19 must specifically include in a conspicuous manner notification  
 20 of camera enforcement of violations for turns at that  
 21 intersection. Such signage must meet the specifications for  
 22 uniform signals and devices adopted by the Department of  
 23 Transportation.

-----

**T I T L E A M E N D M E N T**

26 Remove line 572 of the amendment and insert:  
 27  
 28 Traffic Control Law; amending s. 316.0083, F.S.; revising



Amendment No. Am 2 to 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Peters offered the following:

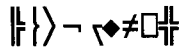
4  
 5 **Amendment to Amendment (039251) by Representative Artiles**  
 6 **(with title amendment)**

7 Remove lines 279-281 of the amendment and insert:  
 8 pedestrian or bicyclist;

9 2. The operator of the motor vehicle fails to yield to  
 10 another vehicle; or

11 3. The operator of the motor vehicle does not  
 12 substantially reduce the speed of the motor vehicle before  
 13 turning and the vehicle speed reported is 8 miles per hour or  
 14 more.

15  
 16 A county or municipality that installs a traffic infraction  
 17 detector at an intersection shall install a sign notifying the



Amendment No. Am 2 to 1

18 public that the intersection is photo enforced. Such signage  
 19 must specifically include in a conspicuous manner notification  
 20 of camera enforcement of violations for turns at that  
 21 intersection. Such signage must meet the specifications for  
 22 uniform signals and devices adopted by the Department of  
 23 Transportation.

-----

**T I T L E   A M E N D M E N T**

26           Remove line 572 of the amendment and insert:  
 27           Traffic Control Law; amending s. 316.0083, F.S.; revising  
 28

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Artiles offered the following:  
 4

**Amendment (with title amendment)**

Between lines 1376 and 1377, insert:

7 Section 13. The sum of \$5,100,000 of recurring general  
 8 revenue is transferred to trust funds in agencies that may be  
 9 negatively impacted by the provisions of this bill as follows:  
 10 \$700,000 to the Brain and Spinal Cord Injury Trust Fund within  
 11 the Department of Health; \$2,700,000 to The Emergency Medical  
 12 Services Trust Fund within the Department of Health; \$500,000 to  
 13 the State Courts Revenue Trust Fund in the State Courts System;  
 14 \$400,000 to the State Attorneys Revenue Trust Fund in the  
 15 Justice Administrative Commission; \$200,000 to the Public  
 16 Defender Revenue Trust Fund in the Justice Administrative  
 17 Commission; \$300,000 to the State Agency Law Enforcement Radio



Amendment No. 2

18 | System Trust Fund in the Department of Management Services; and,  
19 | \$300,000 to the Additional Court Cost Clearing Trust Fund in the  
20 | Department of Revenue.

21  
22  
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29

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**T I T L E   A M E N D M E N T**

Remove line 86 and insert:  
references; providing an appropriation; providing an effective  
date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7063      PCB THSS 14-04      Certificates of Destruction  
**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Ray  
**TIED BILLS:**            **IDEN./SIM. BILLS:** SB 754

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	13 Y, 0 N	Thompson	Miller
1) Transportation & Economic Development Appropriations Subcommittee		Perkins 	Davis 
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

Currently, when a vehicle is considered a "total loss," it is considered "salvage," and may be acquired by a salvage motor vehicle dealer. However, before a total loss vehicle may be acquired by a salvage motor vehicle dealer, the vehicle owner (usually the insurance company) must apply for a salvage certificate of title (Salvage Title) or a certificate of destruction (COD). A Salvage Title indicates that the vehicle is repairable and a COD indicates that the vehicle is not repairable. When applying for a Salvage Title or COD, the insurance company must provide the Department of Highway Safety and Motor Vehicles (DHSMV) with an estimate of the costs of repairing the physical and mechanical damage. If the estimated costs of repairing the vehicle are equal to or more than 80 percent of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, DHSMV is required to declare the vehicle unrebuildable and print a COD.

House Bill 7063 revises the process for applying for a Salvage Title or COD for a total loss motor vehicle. The bill removes the 80 percent threshold that requires DHSMV to declare the vehicle unrebuildable and print a COD, and replaces it with a requirement that DHSMV print a COD if a motor vehicle or mobile home:

- Is damaged, wrecked or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or
- Comes into this state under a title or other ownership that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

In either case, the owner or insurance company which pays money as compensation for total loss of a motor vehicle or mobile home would be required to obtain a COD.

The Revenue Estimating Conference met on March 7, 2014, and projected an insignificant positive fiscal impact on both general revenue and state trust funds.

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Total Loss

Currently, Florida law defines a motor vehicle (vehicle or mobile home) as a 'total loss'<sup>1</sup> when:

- an insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the vehicle owner upon the theft of the vehicle<sup>2</sup>; or
- an uninsured vehicle is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the vehicle owner of replacing the wrecked or damaged vehicle with one of like kind and quality.<sup>3</sup>

However, the vehicle owner and the owner's insurance company may reach an agreement to repair, rather than replace, the vehicle. In this case, the vehicle is not considered a 'total loss,' unless the actual cost to repair the vehicle to the insurance company exceeds 100 percent of the cost of replacing the vehicle with one of like kind and quality. If the cost to repair does in fact exceed 100 percent of the replacement cost, the vehicle owner must request that DHSMV brand the vehicle's certificate of title with the words 'Total Loss Vehicle.'<sup>4</sup>

##### Salvage Titles

From a national perspective, the purpose of a salvage motor vehicle title is to indicate that a vehicle has been severely damaged or declared a total loss at some point in its history, and to provide a traceable record for such vehicles the titles to which have been surrendered. Before disposing of or selling a total loss vehicle, the owner or insurance company is usually required to apply for some type of a salvage motor vehicle title. In such cases, the certificate of title is submitted to the respective state's titling agency, and depending on the state and level of damages, the vehicle may be designated rebuildable or unrebuildable<sup>5</sup> and, thereby receive the appropriate title designation. If the vehicle is deemed rebuildable, some states, including Florida, allow it to be repaired, inspected, and ultimately returned to the road. If the vehicle is deemed unrebuildable, the vehicle must be destroyed or dismantled.

Typically, the insurance company has its own procedure for the disposition of rebuildable or unrebuildable total loss vehicles. In Florida, many insurance companies have an agreement with a

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<sup>1</sup> s. 319.30(3)(a), F.S.

<sup>2</sup> s. 319.30(3)(a)1.a., F.S.

<sup>3</sup> s. 319.30(3)(a)1.b., F.S.

<sup>4</sup> s. 319.30(3)(a)(2), F.S.

<sup>5</sup> The American Association of Motor Vehicle Administrators, Best Practices for Title and Registration of Rebuilt and Specially Constructed Vehicles, November 2012, at page 3, defines a "non-repairable vehicle" as a motor vehicle that is damaged, destroyed, wrecked, burned or submerged in water to the extent that the only residual value of the vehicle is as a source of parts or scrap metal or identified by a jurisdiction or insurer that it is not rebuildable. Vehicles designated as non-repairable cannot be rebuilt for operation on public roads. The AAMVA defines a "rebuilt vehicle" as a motor vehicle that has been previously titled or registered, or both, that was incapable of operation or use on highways due to damage and that has been rebuilt to the original design of the vehicle by replacing major component parts with like make and model parts. Prior to being rebuilt, the vehicle may have been declared a total loss by an insurance company and branded salvage but does not extend to include unrepairable branded vehicles. On file with the House Transportation & Highway Safety Subcommittee.

motor vehicle auction company<sup>6</sup> to acquire, apply for title of, and sell, the vehicle. The auction company, in turn, charges a fee to the insurance company, for their services. Buyers at an auto auction must be licensed motor vehicle dealers,<sup>7</sup> and may include salvage motor vehicle dealers<sup>8</sup> who are defined in Florida law as, “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.” In Florida, most buyers of rebuildable vehicles are auto dealers, or exporters. Buyers of unrebuildable vehicles are primarily automobile dismantlers and recyclers.

In Florida, a rebuildable designation is called a Salvage Title,<sup>9</sup> and an unrebuildable designation is called a COD.<sup>10</sup> Before a total loss vehicle may be acquired by a salvage motor vehicle dealer, the vehicle owner or insurance company must apply for a Salvage Title or a COD. Since 1989, Florida has utilized a percentage-based threshold to determine whether a total loss vehicle receives a Salvage Title or a COD.<sup>11</sup> When applying for a Salvage Title or COD, the insurance company must provide DHSMV with an estimate of the costs of repairing the physical and mechanical damage.<sup>12</sup> If the estimated costs of repairing the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, DHSMV is required to declare the vehicle unrebuildable and print a COD.<sup>13</sup> The specific reason why that particular percentage threshold was originally established is unknown.

During the last five years, Florida has issued 171,742 Salvage Titles, compared to 822,778 CODs, or approximately 130,000 more CODs than Salvage Titles issued annually.<sup>14</sup> There is a \$2 fee for each Salvage Title, and a \$3 fee for each COD, both of which are deposited into the General Revenue Fund.<sup>15</sup>

### Rebuilt Inspections

Before a salvage motor vehicle dealer resells a salvage motor vehicle, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV.<sup>16</sup> The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced.<sup>17</sup> After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.<sup>18</sup>

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<sup>6</sup> s. 320.27(1)(c)4., F.S., defines a “motor vehicle auction” as any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

<sup>7</sup> s. 320.27(1)(c), F.S., defines “motor vehicle dealer” as person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business.

<sup>8</sup> s. 320.27(1)(c)5., F.S.

<sup>9</sup> s. 319.30(1)(t), F.S.

<sup>10</sup> s. 319.30(1)(a), F.S.

<sup>11</sup> s. 17, chapter 89-333, Laws of Florida.

<sup>12</sup> s. 319.30(3)(b), F.S.

<sup>13</sup> Id.

<sup>14</sup> Information received from the Department of Highway Safety & Motor Vehicles (9/19/2013), on file with the Transportation & Highway Safety Subcommittee.

<sup>15</sup> ss. 319.32(1), 713.78(11)(b), and 713.785(7)(b), F.S.

<sup>16</sup> s. 319.14(1)(b), F.S.

<sup>17</sup> Id.

<sup>18</sup> Id.

There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.<sup>19</sup>

### Other States

A federal law governing the salvage title process uniformly across the country does not exist. The result is considerable variation in state salvage title laws, processes, and nomenclature.<sup>20</sup> The methods used to determine whether or not a vehicle is unrebuildable also vary, but similar to total loss methods, tend to be damage or theft driven. Such methods tend to be based on "non-repairable" criteria and include a narrative definition, or a value-based criteria and include a specific damage-to-value threshold.

According to a review of other states' motor vehicle titling regulations, approximately 27 states do not provide a specific level of damage that would prevent the most heavily damaged vehicles from being rebuilt and retitled, 19 states provide some form of a narrative definition describing a level of damage, and three states, including Florida, provide a specific percentage-based threshold that requires a vehicle to be declared unrebuildable if the estimate of damages is equal to or greater than the respective percentage threshold. Florida,<sup>21</sup> Michigan,<sup>22</sup> and Virginia<sup>23</sup> each provide a specific percentage-based threshold to determine whether a salvage motor vehicle is designated as unrebuildable. Florida sets its damage threshold at 80 percent, Michigan is 91 percent, and Virginia is 90 percent. The one remaining state, Connecticut, provides a narrative definition, but provides that if a specific number of major component parts are damaged, the vehicle may not be driven.<sup>24</sup>

### **Proposed Changes**

The bill revises the process for applying for a Salvage Title or COD for a salvage motor vehicle. The bill removes the 80 percent threshold that requires DHSMV to declare the vehicle unrebuildable in order to print a COD. In doing so, the bill replaces the 80 percent threshold with a requirement that DHSMV print a COD if a motor vehicle or mobile home:

- is damaged, wrecked or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or
- comes into this state under a title or other ownership that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

In either case, the owner or insurance company which pays money as compensation for total loss of a motor vehicle or mobile home is required to obtain a COD.

Replacing a specific percentage-based threshold, with criteria related to a vehicle being non-repairable, would allow a vehicle owner or insurance company to determine whether or not a total loss vehicle is rebuildable based on the criteria. The effect of the proposed change is that a greater number of salvage motor vehicles will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road.

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<sup>19</sup> Regarding the \$20 re-inspection fee, according to DHSMV, "[t]he owner can continue to pay the fee until the vehicle passes inspection. Multiple (3 or more) inspections are exceedingly rare." Email on file with the Transportation & Highway Safety Subcommittee.

<sup>20</sup> National Conference of Commissioners on Uniform State Laws website at <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20Act> (Last viewed 1/17/14).

<sup>21</sup> s. 319.30(3)(b), F.S.

<sup>22</sup> s. 257.217C(2)(b)(i), M.V.C.

<sup>23</sup> s. 46.2-1600, V.S.C.

<sup>24</sup> s. 14-16C(2)(A), C.S., requires the insurer to stamp the word "SALVAGE" in one-inch-high letters not to exceed three inches in length on the certificate of title except that if the insurance company determines that such motor vehicle has ten or more major component parts which are damaged beyond repair and must be replaced, the insurer taking possession of such motor vehicle shall stamp the words "SALVAGE PARTS ONLY" in one-inch-high letters not to exceed three inches in length on the motor vehicle's certificate of title and shall return such certificate to such person, firm or corporation.

As a salvage motor vehicle that can ultimately be sold to repair and drive is generally valued higher than a salvage motor vehicle that must be destroyed and only used for parts, this could result in a reduction in the overall number of vehicles that are given a COD and required to be destroyed.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 319.30, F.S., relating to salvage motor vehicles.

Section 2: Provides an effective date of July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Because of a lack of data, the private sector impacts cannot be accurately quantified. Allowing a greater number of salvage motor vehicles to be issued a Salvage Title and repaired so that they may be resold as rebuilt vehicles and returned to the road, will likely have a positive fiscal impact on insurance companies, the insurance salvage automobile auction industry, auto dealers and exporters, and to individual motorists who may purchase such vehicles. Reducing the number of vehicles that are issued a COD and required to be destroyed will likely have a negative fiscal impact on the automotive recycling and parts industry.

**D. FISCAL COMMENTS:**

The bill revises the process for applying for a Salvage Title or COD. A Salvage Title indicates that the vehicle is repairable and a COD indicates that the vehicle is not repairable. There is a \$2 fee for each Salvage Title and a \$3 fee for each COD, both of which are deposited into the General Revenue Fund.

Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV. The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced. After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle. There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

The effect of the proposed change is that a greater number of salvage vehicles will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road. As a result, the amount of fees collected from the issuance of certificates of destruction may decrease, but the amount of fees collected from the issuance of salvage certificates of title may increase.

Additionally, because rebuilt vehicles must go through a rebuilt inspection process by DHSMV, the amount collected from rebuilt inspection fees may increase. As mentioned, the \$40 initial rebuilt inspection fee is deposited into the General Revenue Fund and the \$20 re-inspection fee is deposited in the Highway Safety Operating Trust Fund. The Revenue Estimating Conference met on March 7, 2014, and projected an insignificant positive fiscal impact on both the General Revenue Fund and on the Highway Safety Operating Trust Fund.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                                   A bill to be entitled  
 2           An act relating to certificates of destruction;  
 3           amending s. 319.30, F.S.; revising the requirements  
 4           for an owner or insurance company to obtain a  
 5           certificate of destruction for certain motor vehicles  
 6           or mobile homes; providing an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Paragraph (b) of subsection (3) of section  
 11   319.30, Florida Statutes, is amended to read:

12           319.30 Definitions; dismantling, destruction, change of  
 13   identity of motor vehicle or mobile home; salvage.—

14           (3)

15           (b) The owner, including persons who are self-insured, of  
 16   a any motor vehicle or mobile home that ~~which~~ is considered to  
 17   be salvage shall, within 72 hours after the motor vehicle or  
 18   mobile home becomes salvage, forward the title to the motor  
 19   vehicle or mobile home to the department for processing.  
 20   However, an insurance company that ~~which~~ pays money as  
 21   compensation for the total loss of a motor vehicle or mobile  
 22   home shall obtain the certificate of title for the motor vehicle  
 23   or mobile home, make the required notification to the National  
 24   Motor Vehicle Title Information System, and, within 72 hours  
 25   after receiving such certificate of title, ~~shall~~ forward such  
 26   title to the department for processing. The owner or insurance

27 company, as applicable ~~the case may be~~, may not dispose of a  
 28 vehicle or mobile home that is a total loss before it obtains  
 29 ~~has obtained~~ a salvage certificate of title or certificate of  
 30 destruction from the department. When applying for a salvage  
 31 certificate of title or certificate of destruction, the owner or  
 32 insurance company must provide the department with an estimate  
 33 of the costs of repairing the physical and mechanical damage  
 34 suffered by the vehicle for which a salvage certificate of title  
 35 or certificate of destruction is sought. If a motor vehicle or  
 36 mobile home is damaged, wrecked, or burned to the extent that  
 37 the only residual value of the motor vehicle or mobile home is  
 38 as a source of parts or scrap metal, or if the motor vehicle or  
 39 mobile home comes into this state under a title or other  
 40 ownership document that indicates that the motor vehicle or  
 41 mobile home is not repairable, is junked, or is for parts or  
 42 dismantling only, the owner or insurance company that pays money  
 43 as compensation for total loss of a motor vehicle or mobile home  
 44 shall obtain ~~the estimated costs of repairing the physical and~~  
 45 ~~mechanical damage to the vehicle are equal to 80 percent or more~~  
 46 ~~of the current retail cost of the vehicle, as established in any~~  
 47 ~~official used car or used mobile home guide, the department~~  
 48 ~~shall declare the vehicle unbuildable and print~~ a certificate  
 49 of destruction, which authorizes the dismantling or destruction  
 50 of the motor vehicle or mobile home ~~described therein~~. However,  
 51 if the damaged motor vehicle is equipped with custom-lowered  
 52 floors for wheelchair access or a wheelchair lift, the insurance

53 | company may, upon determining that the vehicle is repairable to  
 54 | a condition that is safe for operation on public roads, submit  
 55 | the certificate of title to the department for reissuance as a  
 56 | salvage rebuildable title and the addition of a title brand of  
 57 | "insurance-declared total loss." The certificate of destruction  
 58 | shall be reassignable a maximum of two times before dismantling  
 59 | or destruction of the vehicle is ~~shall be~~ required, and shall  
 60 | accompany the motor vehicle or mobile home for which it is  
 61 | issued, when such motor vehicle or mobile home is sold for such  
 62 | purposes, in lieu of a certificate of title, ~~and, thereafter,~~  
 63 | The department may not issue a ~~shall refuse issuance of any~~  
 64 | certificate of title for that vehicle. ~~Nothing in This~~  
 65 | subsection is not ~~shall be~~ applicable if ~~when~~ a vehicle is worth  
 66 | less than \$1,500 retail in undamaged condition in any official  
 67 | used motor vehicle guide or used mobile home guide or when a  
 68 | stolen motor vehicle or mobile home is recovered in  
 69 | substantially intact condition and is readily resalable without  
 70 | extensive repairs to or replacement of the frame or engine. A  
 71 | ~~Any~~ person who knowingly violates this paragraph or falsifies  
 72 | documentation ~~any document~~ to avoid the requirements of this  
 73 | paragraph commits a misdemeanor of the first degree, punishable  
 74 | as provided in s. 775.082 or s. 775.083.

75 | Section 2. This act shall take effect July 1, 2014.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Ray offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

7 Section 1. Present paragraphs (o) through (w) of  
 8 subsection (1) of section 319.30, Florida Statutes, are  
 9 redesignated as paragraphs (p) through (x), respectively, a new  
 10 paragraph (o) is added to that subsection, and paragraph (b) of  
 11 subsection (3) of that section is amended, to read:

12 319.30 Definitions; dismantling, destruction, change of  
13 identity of motor vehicle or mobile home; salvage.-

14 (1) As used in this section, the term:

15 (o) "Late model vehicle" means a motor vehicle that has a  
 16 manufacturer's model year of 7 years or newer.

17 (3)

Amendment No. 1

18 (b) The owner, including persons who are self-insured, of  
 19 a ~~any~~ motor vehicle or mobile home that ~~which~~ is considered to  
 20 be salvage shall, within 72 hours after the motor vehicle or  
 21 mobile home becomes salvage, forward the title to the motor  
 22 vehicle or mobile home to the department for processing.  
 23 However, an insurance company that ~~which~~ pays money as  
 24 compensation for the total loss of a motor vehicle or mobile  
 25 home shall obtain the certificate of title for the motor vehicle  
 26 or mobile home, make the required notification to the National  
 27 Motor Vehicle Title Information System, and, within 72 hours  
 28 after receiving such certificate of title, ~~shall~~ forward such  
 29 title to the department for processing. The owner or insurance  
 30 company, as applicable ~~the case may be~~, may not dispose of a  
 31 vehicle or mobile home that is a total loss before it obtains  
 32 ~~has obtained~~ a salvage certificate of title or certificate of  
 33 destruction from the department. When applying for a salvage  
 34 certificate of title or certificate of destruction, the owner or  
 35 insurance company must provide the department with an estimate  
 36 of the costs of repairing the physical and mechanical damage  
 37 suffered by the vehicle for which a salvage certificate of title  
 38 or certificate of destruction is sought. If the estimated costs  
 39 of repairing the physical and mechanical damage to the mobile  
 40 home ~~vehicle~~ are equal to 80 percent or more of the current  
 41 retail cost of the mobile home ~~vehicle~~, as established in any  
 42 official ~~used car or~~ used mobile home guide, the department  
 43 shall declare the mobile home ~~vehicle~~ unrebuildable and print a

Amendment No. 1

44 certificate of destruction, which authorizes the dismantling or  
45 destruction of the ~~motor vehicle or~~ mobile home ~~described~~  
46 ~~therein.~~ For a late model vehicle with a current retail cost of  
47 at least \$7,500 just prior to sustaining the damage that  
48 resulted in the total loss, as established in any official used  
49 car guide, if the owner or insurance company determines that the  
50 estimated costs of repairing the physical and mechanical damage  
51 to the vehicle are equal to 90 percent or more of the current  
52 retail cost of the vehicle, as established in any official used  
53 motor vehicle guide, the department shall declare the vehicle  
54 unrebuildable and print a certificate of destruction, which  
55 authorizes the dismantling or destruction of the motor vehicle.  
56 However, if the damaged motor vehicle is equipped with custom-  
57 lowered floors for wheelchair access or a wheelchair lift, the  
58 insurance company may, upon determining that the vehicle is  
59 repairable to a condition that is safe for operation on public  
60 roads, submit the certificate of title to the department for  
61 reissuance as a salvage rebuildable title and the addition of a  
62 title brand of "insurance-declared total loss." The certificate  
63 of destruction shall be reassignable a maximum of two times  
64 before dismantling or destruction of the vehicle is ~~shall be~~  
65 required, and shall accompany the motor vehicle or mobile home  
66 for which it is issued, when such motor vehicle or mobile home  
67 is sold for such purposes, in lieu of a certificate of title. ~~and,~~  
68 ~~thereafter,~~ The department may not issue a ~~shall refuse~~  
69 ~~issuance of any~~ certificate of title for that vehicle. ~~Nothing~~

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70 ~~in~~ This subsection ~~is not shall be~~ applicable ~~if when~~ a mobile  
71 home vehicle is worth less than \$1,500 retail just prior to  
72 sustaining the damage that resulted in the total loss in  
73 ~~undamaged condition~~ in any official ~~used motor vehicle guide or~~  
74 used mobile home guide or when a stolen motor vehicle or mobile  
75 home is recovered in substantially intact condition and is  
76 readily resalable without extensive repairs to or replacement of  
77 the frame or engine. If a motor vehicle has a current retail  
78 cost of less than \$7,500 just prior to sustaining the damage  
79 that resulted in the total loss, as established in any official  
80 used motor vehicle guide, or if the vehicle is not a late model  
81 vehicle, the owner or insurance company that pays money as  
82 compensation for the total loss of the motor vehicle shall  
83 obtain a certificate of destruction, if the motor vehicle is  
84 damaged, wrecked, or burned to the extent that the only residual  
85 value of the motor vehicle is as a source of parts or scrap  
86 metal, or if the motor vehicle comes into this state under a  
87 title or other ownership document that indicates that the motor  
88 vehicle is not repairable, is junked, or is for parts or  
89 dismantling only. ~~A~~ ~~Any~~ person who knowingly violates this  
90 paragraph or falsifies documentation ~~any document~~ to avoid the  
91 requirements of this paragraph commits a misdemeanor of the  
92 first degree, punishable as provided in s. 775.082 or s.  
93 775.083.

94 Section 2. This act shall take effect July 1, 2014.

Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to certificates of destruction;  
amending s. 319.30, F.S.; defining a term; revising  
requirements for the Department of Highway Safety and  
Motor Vehicles to declare certain mobile homes and  
motor vehicles unrebuildable and to issue a  
certificate of destruction; requiring the department  
to issue certificates of destruction for motor  
vehicles that are worth less than a specified amount  
and are above a certain age under certain  
circumstances; providing an effective date.