



ECONOMIC AFFAIRS COMMITTEE

MEETING PACKET

**Thursday, March 13, 2014
8:00 AM – 10:00 AM
Reed Hall (102 HOB)**

**Will Weatherford
Speaker**

**Jimmy Patronis
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Economic Affairs Committee

Start Date and Time: Thursday, March 13, 2014 08:00 am
End Date and Time: Thursday, March 13, 2014 10:00 am
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 343 Rental Car Surcharge by Transportation & Highway Safety Subcommittee, Nuñez
HB 345 Transportation by Beshears
HB 513 State Poet Laureate by Raulerson
CS/HB 537 Commercial Motor Vehicle Review Board by Transportation & Highway Safety Subcommittee, Beshears
HB 559 Military Veterans by Metz
HB 749 Florida Tourism Hall of Fame by La Rosa

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Wednesday, March 12, 2014.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Wednesday, March 12, 2014.

NOTICE FINALIZED on 03/11/2014 14:27 by Manning.Karen

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 343 Rental Car Surcharge
SPONSOR(S): Transportation & Highway Safety Subcommittee, Nuñez
TIED BILLS: IDEN./SIM. **BILLS:** SB 484

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Finance & Tax Subcommittee	18 Y, 0 N	Flieger	Langston
3) Economic Affairs Committee		Johnson <i>AS</i>	Creamer <i>jc</i>

SUMMARY ANALYSIS

Section 212.0606(1), F.S., provides that a surcharge of \$2 per day, or part of a day, is imposed upon the lease or rental of a motor vehicle for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies to the first 30 days of the term of any lease or rental and is subject to all taxes imposed by ch. 212, F.S.

The bill creates s. 212.0606(5), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge, a surcharge of 8 cents per hour of usage is imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle from an airport location is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that in FY 2014-15 the bill will have a negative insignificant impact on General Revenue (-\$0.1 million recurring), -\$0.3 million on state trust funds (-\$0.6 million recurring), and a negative insignificant impact on local government.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether the vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed.

The surcharge only applies to the first 30 days of the term of any lease or rental. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies. The surcharge is not imposed on leases or rentals to tax-exempt entities. Section 216.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80 percent to the State Transportation Trust Fund (STTF);
- 15.75 percent to the Tourism Promotional Trust Fund; and
- 4.25 percent to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Department of Transportation (DOT) district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.

Car-Sharing Services

Car-sharing is generally marketed as an alternative to conventional car rental or car ownership and exists in a number of forms.

“Traditional carsharing provides members access to a vehicle for short-term daily use. Automobiles owned or leased by a carsharing operator are distributed throughout a network; members access the vehicles with a reservation and are charged per time and often per mile....

Traditional carsharing is intended for short trips and as a supplement to public transit. Initial market entry in North America focused on the neighborhood carsharing model, characterized by a fleet of shared-use vehicles parked in designated areas throughout a neighborhood or municipality. In recent years, business models have advanced and diversified. Variations on the neighborhood model developed in North America include: business; college/university; government/institutional fleet; and public transit (carsharing provided at public transit stations or multi-modal nodes). Despite differences in target markets, these models share a similar organizational structure, capital ownership, and revenue stream.

The next generation of shared-use vehicle services, which provide access to a fleet of shared-use vehicles, incorporates new concepts, technologies, and operational methods. These models represent innovative solutions and notable advances. They include one-way carsharing and personal vehicle sharing. One-way carsharing, also known as “free-floating” carsharing, frees

users from the restriction of having to return a vehicle to the same location from which it was accessed. Instead, users leave vehicles parked at any spot within the organization's operating area, allowing for the possibility of one-way trips. The one-way model resembles more traditional forms of carsharing—except for the logistics of vehicle redistribution and the need for expanded vehicle parking.

Personal vehicle sharing ... represents a more distinct model due to differences in organizational structure, capital stock, and liability. Personal vehicle sharing involves short-term access to privately-owned vehicles, enabling a lower operating cost and a wider vehicle distribution. ..."¹

While car sharing began at the local, grassroots level, car-sharing services are now also provided by conventional rental car companies, such as Avis, Enterprise, and Hertz.²

Current Practice Relating to Surcharge

On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 in which the question presented to DOR was whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

"Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate one and access it. Each use is labeled as a "trip" and can last up to four consecutive days. A unique feature of Taxpayer's car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to 40 minutes, costing between \$7 and \$10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice."

First noting taxpayer's assertion that it is not engaged in the "traditional" rental of cars, DOR concluded that the taxpayer is clearly renting cars, is engaged in the rental of motor vehicles and, therefore, the rental car surcharge does apply. DOR further cited its rule, Fla. Admin. Code 12A-16.002(3)(b): "When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental."

Highlighting the fact that the taxpayer's members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and that members are charged for every trip within the same twenty-four hour period on a single daily invoice, DOR concluded that the rental car "surcharge is due from Taxpayer's members once a day, regardless of the number of trips taken by a member in a twenty-four hour period." Therefore, car-sharing services must pay the \$2.00 surcharge per day for each member who uses the car-sharing service that day.

It should be noted that use of car-sharing services is also subject to the state's sales and use tax.

Proposed Changes

The bill creates s. 212.0606(5), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge³ a surcharge of 8 cents per hour of usage is imposed. Any fraction of an hour is to be rounded up to the nearest whole hour for purposes of calculating the surcharge. If a member of a

¹ Shaheen, Susan, Mark Mallery, and Karly Kingsley (2012). "Personal Vehicle Sharing Services in North America," *Research in Transportation Business & Management*, Vol. 3, pp.71-81.

² Kell, John, Jan. 2, 2013, "Avis to Buy Car-Sharing Service Zipcar," *The Wall Street Journal*.

³ This surcharge is imposed pursuant to s. 212.0606(1), F.S.

car-sharing service uses the same motor vehicle for 24 consecutive hours or more, the usual surcharge of \$2 per day or any part of a day shall be imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle for a location owned, operated, or leased by of for the benefit of an airport or airport authority is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

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

B. SECTION DIRECTORY:

Section 1 Amends s. 212.0606, F.S., relating to the rental car surcharge.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that this committee substitute will have a negative insignificant cash impact on General Revenue in the first year of implementation (2014-15) and a recurring impact of -\$0.1 million to General Revenue when fully implemented. The impact to state trust funds is expected to be approximately -\$0.3 million in 2014-15 and -\$0.6 million on a recurring basis.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that this committee substitute will have a negative insignificant cash impact on local government revenues in the first year of implementation (2014-15) and on a recurring basis when fully implemented.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons using car-sharing services for less than a 24-hour period will see a reduction in the rental car surcharge that they will pay.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the revenues from discretionary sales taxes levied by local governments; however, an exemption may apply as the negative impact to local governments is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR may need to revise its rules regarding the rental car surcharge⁴ to conform to provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2015, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill from July 1, 2014, to January 1, 2015.

This analysis is written to the committee substitute.

1 A bill to be entitled
 2 An act relating to the rental car surcharge; amending
 3 s. 212.0606, F.S.; providing an alternative rental car
 4 surcharge rate for use of a motor vehicle pursuant to
 5 an agreement with a car-sharing service for less than
 6 a specified number of hours; defining the term "car-
 7 sharing service"; providing for applicability;
 8 providing an effective date.

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

11
 12 Section 1. Subsection (1) of section 212.0606, Florida
 13 Statutes, is amended, and subsection (5) is added to that
 14 section, to read:

15 212.0606 Rental car surcharge.—

16 (1) A surcharge of \$2 ~~\$2.00~~ per day or any part of a day
 17 is imposed upon the lease or rental of a motor vehicle licensed
 18 for hire and designed to carry less than nine passengers
 19 regardless of whether such motor vehicle is licensed in Florida.
 20 The surcharge applies to only the first 30 days of the term of
 21 any lease or rental. The surcharge is subject to all applicable
 22 taxes imposed by this chapter.

23 (5) Notwithstanding subsection (1), if a member of a car-
 24 sharing service uses a motor vehicle pursuant to an agreement
 25 with a car-sharing service for less than 24 hours, in lieu of
 26 the surcharge imposed under subsection (1), a surcharge of 8

27 cents per hour of usage is imposed. Any fraction of an hour
 28 shall be rounded up to the nearest whole hour for purposes of
 29 calculating the surcharge. If a member of a car-sharing service
 30 uses the same motor vehicle for 24 consecutive hours or more,
 31 the surcharge of \$2 per day or any part of a day shall be
 32 imposed pursuant to subsection (1). For purposes of this
 33 subsection, the term "car-sharing service" means a membership-
 34 based organization or business or division thereof which
 35 requires the payment of an application or membership fee and
 36 provides member access to motor vehicles:

37 (a) Only at locations that are not staffed by car-sharing
 38 service personnel employed solely for the purpose of interacting
 39 with car-sharing service members;

40 (b) Twenty-four hours per day, 7 days per week;

41 (c) Only through automated means, which may include, but
 42 are not limited to, smartphone applications or electronic
 43 membership cards;

44 (d) On hourly or shorter increments;

45 (e) Without a separate fee for refueling the motor
 46 vehicle;

47 (f) Without a separate fee for minimum financial
 48 responsibility liability insurance; and

49 (g) Owned or controlled by the car-sharing service or its
 50 affiliates.

51
 52 The lease, rental, or usage of a motor vehicle from a location

CS/HB 343

2014

53 | owned, operated, or leased by or for the benefit of an airport
54 | or airport authority is not eligible for imposition of the
55 | surcharge under this subsection in lieu of the surcharge imposed
56 | under subsection (1).

57 | Section 2. This act shall take effect January 1, 2015.



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: Economic Affairs Committee
 2 Representative Nuñez offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 212.0606, Florida Statutes, is amended
to read:

212.0606 Rental car surcharge.—

(1) Except as provided under subsection (2), a surcharge
of \$2 ~~\$2.00~~ per day or any part of a day is imposed upon the
lease or rental of a motor vehicle licensed for hire and
designed to carry less than nine passengers regardless of
whether the ~~such~~ motor vehicle is licensed in this state
~~Florida~~. The surcharge applies to only the first 30 days of the
term of a ~~any~~ lease or rental. The surcharge is subject to all
applicable taxes imposed under ~~by~~ this chapter.



Amendment No. 1

17 (2) A member of a car-sharing service who uses a motor
18 vehicle as described in subsection (1) pursuant to an agreement
19 with the car-sharing service for less than 24 hours shall pay a
20 surcharge of 50 cents per usage. A member of a car-sharing
21 service who uses the same motor vehicle for at least 24
22 consecutive hours shall pay a surcharge of \$2 per day or any
23 part of a day as provided under subsection (1).

24 (a) For purposes of this subsection, a "car-sharing
25 service" is a membership-based organization or business, or
26 division thereof, which requires the payment of an application
27 or membership fee and provides member access to motor vehicles:

28 1. Only at locations that are not staffed by car-sharing
29 service personnel employed solely for the purpose of interacting
30 with members;

31 2. Twenty-four hours per day, 7 days per week;

32 3. Only through automated means, including, but not
33 limited to, smartphone applications and electronic membership
34 cards;

35 4. On an hourly basis or for a shorter increment of time;

36 5. Without a separate fee for refueling the motor vehicle;

37 6. Without a separate fee for minimum financial
38 responsibility liability insurance; and

39 7. Owned or controlled by the car-sharing service or its
40 affiliates.

41 (b) The surcharge described in this subsection does not
42 apply to the lease, rental, or use of a motor vehicle from a



Amendment No. 1

43 location owned, operated, or leased by or for the benefit of an
44 airport or airport authority.

45 ~~(3)(2)(a)~~ Notwithstanding s. ~~the provisions of section~~
46 212.20, and less the costs of administration, 80 percent of the
47 proceeds of this surcharge shall be deposited in the State
48 Transportation Trust Fund, 15.75 percent of the proceeds of this
49 surcharge shall be deposited in the Tourism Promotional Trust
50 Fund created in s. 288.122, and 4.25 percent of the proceeds of
51 this surcharge shall be deposited in the Florida International
52 Trade and Promotion Trust Fund.

53 (a) For the purposes of this subsection, "proceeds" of the
54 surcharge means all funds collected and received by the
55 department under this section, including interest and penalties
56 on delinquent surcharges. The department shall provide the
57 Department of Transportation rental car surcharge revenue
58 information for the previous state fiscal year by September 1 of
59 each year.

60 (b) Notwithstanding any other provision of law, ~~in fiscal~~
61 ~~year 2007-2008 and each year thereafter,~~ the proceeds deposited
62 in the State Transportation Trust Fund shall be allocated on an
63 annual basis in the Department of Transportation's work program
64 to each department district, except the Turnpike District. The
65 amount allocated to ~~for~~ each district shall be based on ~~upon~~ the
66 amount of proceeds attributed to the counties within each
67 respective district.



Amendment No. 1

68 ~~(4)(3)(a)~~ Except as provided in this section, the
69 department shall administer, collect, and enforce the surcharge
70 as provided in this chapter.

71 ~~(a)(b)~~ The department shall require dealers to report
72 surcharge collections according to the county to which the
73 surcharge was attributed. For purposes of this section, the
74 surcharge shall be attributed to the county where the rental
75 agreement was entered into.

76 ~~(b)(e)~~ Dealers who collect the rental car surcharge shall
77 report to the department all surcharge revenues attributed to
78 the county where the rental agreement was entered into on a
79 timely filed return for each required reporting period. The
80 provisions of this chapter which apply to interest and penalties
81 on delinquent taxes shall apply to the surcharge. The surcharge
82 is ~~shall~~ not be included in the calculation of estimated taxes
83 pursuant to s. 212.11. The dealer's credit provided in s. 212.12
84 does ~~shall~~ not apply to any amount collected under this section.

85 ~~(5)(4)~~ The surcharge imposed by this section does not
86 apply to a motor vehicle provided at no charge to a person whose
87 motor vehicle is being repaired, adjusted, or serviced by the
88 entity providing the replacement motor vehicle.

89 Section 2. This act shall take effect January 1, 2015.

90

91

92

93

T I T L E A M E N D M E N T



Amendment No. 1

94 Remove everything before the enacting clause and insert:
95 An act relating to rental car sales and use tax surcharges;
96 amending s. 212.0606, F.S.; providing that the surcharge for car
97 sharing serviced shall be imposed on a usage basis rather than a
98 daily basis; defining the term "car-sharing service"; providing
99 an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 345 Transportation
SPONSOR(S): Beshears
TIED BILLS: IDEN./SIM. BILLS: CS/SB 218

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	11 Y, 0 N	Johnson	Miller
2) Transportation & Economic Development Appropriations Subcommittee	11 Y, 0 N	Davis	Davis
3) Economic Affairs Committee		Johnson <i>JAS</i>	Creamer <i>W</i>

SUMMARY ANALYSIS

The bill revises provisions related to certain transportation-related utility relocation expenses, outdoor advertising permit exemptions, and the tourist-oriented directional sign program. Specifically, the bill:

- Provides an additional exemption for payment to relocate certain municipally or county-owned utilities located in road and rail corridors under specified conditions.
- Eliminates unnecessary rulemaking authority relating to lighting restrictions for certain outdoor advertising signs.
- Exempts from permitting certain signs placed by tourist-oriented businesses, farm signs placed during harvest season, acknowledgement signs on publicly funded school premises, and displays on specific sports facilities.
- Provides that certain exemptions from sign permitting may not be implemented if such exemptions will adversely affect the allocation of federal funds to the Department of Transportation (DOT).
- Directs DOT to notify a sign owner that a sign must be removed if federal funds are adversely impacted.
- Authorizes DOT to remove a sign and assess costs to the sign owner under certain circumstances.
- Clarifies provisions relating to the tourist-oriented directional sign program.

The bill has an indeterminate fiscal impact on both state and local government revenues and expenditures. (See Fiscal Analysis section for further detail.)

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Utility Relocation

Current Situation

Section 337.104, F.S., addresses the use of road and rail corridor right-of-way by utilities,¹ authorizing the Department of Transportation (DOT) and local government entities² to prescribe and enforce reasonable regulations relating to the placing and maintaining of any utility lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

Section 337.403, F.S., provides that, other than the exceptions below, if an authority determines that a utility upon, under, over, or along a public road or publicly-owned rail corridor, is interfering with the safe continuous use, maintenance, improvement, extension or expansion of the road or rail corridor, the utility, upon 30 days written notice, is required to begin work to remove or relocate the utility at its own expense. The exceptions are:

- When the project is on the federal aid interstate system and federal funding is identified for at least 90 percent of the cost, DOT pays for the removal or relocation with federal funds.
- When utility work is performed as part of a transportation facility construction contract, DOT may participate in those costs in an amount limited to the difference between the official estimate of all the work in the agreement plus 10 percent of the amount awarded for the utility work in the construction contract.
- When utility work is performed in advance of a construction contract, DOT may participate in the cost of clearing and grubbing necessary for relocation.
- If the utility being removed or relocated was initially installed to serve an authority or its tenants, or both, the authority bears the cost of the utility work but is not responsible for the cost of removal or relocation of any subsequent additions to the facility for the purpose of serving others.
- If, in an agreement between the utility and an authority entered into after July 1, 2009, the utility convey, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority without the agreement expressly addressing future responsibility for cost of removal or relocation the authority bears the cost of the utility work, but nothing impairs or restricts, or may be used to interpret, the terms of any agreement entered into prior to July 1, 2009.
- If the utility is an electric facility being relocated underground to enhance vehicular, bicycle, and pedestrian safety, and if ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past five years, DOT bears the cost of the necessary utility work.
- An authority may bear the cost of utility work when the utility is not able to establish a compensable property right in the property where the utility is located if:
 - The utility was physically located on the particular property before the authority acquired rights in the property;
 - The utility demonstrates that it has a compensable property right in all adjacent properties along the alignment of the utility; and
 - The information available to the authority does not establish the relative priorities of the authority's and the utility's interest in the property.

¹ "Utility" means any electric transmission, telephone, telegraph, or other communications service lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structure. See s. 337.401(1)(a), F.S.

² Referred to in ss. 337.401-337.404, F.S., as the "authority."

Under DOT procedure 710-030-005, *Utility Work for Local Government Utilities*,³ when a government entity cannot afford utility work necessitated by a DOT project, DOT will pay for the work and the government entity will sign a promissory note to reimburse DOT. Under these circumstances, if the entity does not reimburse DOT within 10 years, DOT can take steps to write off the loss as opposed to continuing the collection efforts.

Proposed Changes

The bill creates s. 337.403(h), F.S., providing that if a municipally owned or county-owned utility is located in a rural area of critical economic concern (RACEC)⁴ and DOT determines that the utility is unable, and will not be able within the next 10 years to pay for the cost of utility work necessitated by a DOT project on the State Highway System, DOT may pay, in whole or in part, the cost of such utility work performed by DOT or its contractor.

According to DOT, this formalizes its current procedure of promissory note forgiveness for a local utility that meets certain criteria and demonstrates an inability to pay for utility work necessitated by a DOT project. DOT retains discretion to pay for work if the utility meets the prerequisites established in the bill.

According to DOT, it currently “has approximately \$12 million in promissory notes for utility relocations that under the legislation would be eligible for waivers.”⁵

Outdoor Advertising

Current Situation

Control of Outdoor Advertising

Since the passage of the Highway Beautification Act (HBA) in 1965,⁶ FHWA has established controls for outdoor advertising along Federal-Aid Primary, Interstate and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The primary features of the Highway Beautification Act include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all Interstates, Federal-Aid Primaries, and other highways that are part of the National Highway System.
- States have the discretion to remove legal nonconforming signs⁷ along highways. However, the payment of just (monetary) compensation is required for the removal of any lawfully erected billboard along the Federal-Aid Primary, Interstate and National Highway System roads.
- States and localities may enact stricter laws than stipulated in the HBA.

³ <http://www2.dot.state.fl.us/proceduraldocuments/procedures/proceduresbynumber.asp?index=7> (Last visited November 6, 2013.)

⁴ Section 288.0656(2)(d) defines “rural area of critical economic concern” as “a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.”

⁵ Department of Transportation bill analysis of SB 218. Copy on file with House Transportation and Highway Safety Subcommittee.

⁶ 23 U.S.C. 131

⁷ A “legal nonconforming sign” is a sign that was legally erected according to the applicable laws or regulations of the time, but which does not meet current laws or regulations.

- No new signs can be erected along the scenic portions of state designated scenic byways of the Interstate and Federal-Aid Primary highways, but billboards are allowed in segmented areas deemed un-scenic on those routes.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for non-compliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.⁸

Under the provisions of a 1972 agreement⁹ between the State of Florida and the U.S. Department of Transportation (USDOT) incorporating the HBA's required controls, DOT requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices." Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed. Florida has never been penalized for loss of effective control of outdoor advertising signs.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and the 1972 agreement.

On Premise Signs/Lighting Restrictions/Rulemaking Authority

Section 479.16(1), F.S., currently allows, without the need for a permit, signs erected on the premises of an establishment that consists primarily of the name of the establishment or identify the principal or accessory merchandise, services, activities, or entertainment sold, produced, manufactured, or furnished on the premises of the establishment, provided the signs comply with the lighting restrictions "under department rule adopted pursuant to s. 479.11(5), F.S."

Section 479.11(5), F.S., prohibits on-premises signs that display "intermittent lights not embodied in the sign, or rotating or flashing light within 100 feet of the outside boundary of the right of way of any highway on the State Highway System, interstate highway system, or federal-aid primary highway system or which is illuminated in such a manner so as to cause glare or the impair the vision of motorists or otherwise distract motorists so as to interfere with the motorists' ability to safely operate the vehicle."

DOT currently has no adopted rule that addresses lighting restrictions for on-premise signs and relies on the quoted statute.

Other Permit Exemptions

Section 479.16, F.S., currently identifies a number of other signs for which permits are not required, including:

- Signs on property stating only the name of the owner, lessee, or occupant of the premises and not exceeding eight square feet in area;
- Signs that are not in excess of eight square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government;
- Signs placed on benches, transit shelters, and waste receptacles; and
- Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction, one sign

⁸ 23 U.S.C. 131(b)

⁹ A copy of the 1972 agreement is available at <http://www.dot.state.fl.us/rightofway/Documents.shtm> (Last visited November 26, 2013).

not in excess of 16 square feet, denoting only the name of, and the distance and direction to, the business.

The latter provision does not apply to charter counties and may not be implemented if the federal government notifies DOT that implementation will adversely affect the allocation of federal funds to DOT.

Tourist-Oriented Directional Sign Program

Section 479.262, F.S., establishes a tourist-oriented directional (TOD) sign program for intersections on rural and conventional state, county, or municipal roads. The program is intended to provide directions to rural tourist-oriented businesses, services, and activities in rural counties identified by criteria and population in s. 288.0656, F.S., when approved and permitted by county or local government entities.

The latter section of law defines a “rural area of critical economic concern” as a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.¹⁰ “Rural community” is defined to mean a county with a population of 75,000 or fewer, and a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer.

A county or local government that issues permits for a TOD sign program is responsible for sign construction, maintenance, and program operation for roads on the State Highway System and may establish permit fees sufficient to offset associated costs. TOD signs installed on the State Highway System must comply with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) and rules established by DOT.

TOD signs may be installed on the State Highway System only after being permitted by DOT and placement of TOD signs is limited to rural conventional roads, as required in the MUTCD. TOD signs may not be placed within the right-of-way of limited access facilities; within the right-of-way of a limited access facility interchange, regardless of jurisdiction or local road classification; on conventional roads in urban areas; or at interchanges on freeways or expressways.

Proposed Changes

The bill clarifies the already existing permit exemption of signs for rural business directional signs to make the provision applicable to signs located outside an incorporated area. The bill also repeals the language that provides that the rural small business sign permit exemption does not apply in charter counties.

The bill provides the following new exemptions with the caveat that they may not be implemented or continued if the Federal Government notifies DOT that the implementation or continuation will adversely affect the allocation of federal funds to DOT:

- Signs placed by a local tourist-oriented business located within a RACEC which signs meet the following criteria:
 - Not more than eight square feet in size or more than four feet in height;
 - Located only in rural areas on a facility that does not meet the definition of a limited access facility as defined by DOT rule;
 - Located within two miles of the business location and not less than 500 feet apart;
 - Located only in two directions leading to the business;
 - Not located within the road right-of-way.

¹⁰ A list of rural areas of critical economic concern is available at: <http://www.eflorida.com/FloridasFuture.aspx?id=2108> (Last visited November 25, 2013).

Businesses placing such signs must be a minimum of four miles from any other business utilizing this exemption and such business may not participate in any other DOT directional signage program.

- Signs not in excess of 32 square feet placed temporarily during harvest season of a farm operation for a period of no more than four months at a road junction with the State Highway System denoting only the distance or direction of the farm operation.
- Acknowledgement signs erected upon publicly-funded school premises relating to a specific public school club, team or event placed no closer than 1,000 feet from another acknowledgement sign on the same side of the roadway. All sponsors on an acknowledgement sign may constitute no more than 100 square feet of the sign.¹¹
- Displays erected upon a sports facility that displays content directly related to the facility's activities or where a presence of the products or services offered on the property exists. Displays are to be mounted flush or flat to the surface of the sports facility and rely upon the building façade for structural support.¹²

The bill provides that if certain exemptions are not implemented or continued due to Federal Government notification that the allocation of federal funds to DOT will be adversely affected, DOT shall provide notice to the sign owner that the sign must be removed within 30 days. If the sign is not removed within 30 days, DOT is authorized to remove the sign and all costs associated with sign removal are to be assessed against and collected from the sign owner.

Effective Date

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

B. SECTION DIRECTORY:

- Section 1 Amends s. 337.403, F.S., relating to interference cause by relocation of utility; expenses.
- Section 2 Amends s. 479.16, F.S., relating to signs for which permits are not required.
- Section 3 Amends s. 479.262, F.S., relating to the tourist oriented directional sign program.
- Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT may incur some additional expenditures for paying for certain utility work on a DOT project on the State Highway System for municipally-owned and county-owned utilities in RACECs, but the bill does not require DOT's payment for such utility work. The fiscal impact of any future expenditures, should the case arise, is indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹¹ The bill defines "acknowledgement sign" as signs that are intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or entity.

¹² The bill defines, "sports facility" as an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a permanent installed seating capacity of 15,000 or more.

1. Revenues:

The bill expands the tourist-oriented directional sign program beyond RACEC communities provided the locals adhere to certain eligibility requirements. Current statute permits local governments to establish permit fees for TOD signs sufficient to offset the associated costs of sign construction, maintenance and program operations. To the extent additional communities participate in the TOD program, local governments could realize increased revenues from permit fees, but the amount of this revenue is indeterminate positive.

The bill also expands the list of exemptions from permitting requirements for certain signs. The placement of any additional signs falling within this expanded list equates to a decrease in revenues a local government would otherwise have obtained from these permits. This provision will have a negative indeterminate impact.

2. Expenditures:

Municipally and county-owned utilities in RACECs may see a reduction in expenditures due to DOT paying for utility work in certain circumstances.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In the event DOT bears the cost of utility work for a municipally or county-owned utility removal or relocation and such actions avoid delays of a project on the State Highway System, a positive but indeterminate fiscal impact to business and private individuals may be realized.

The bill expands the list of exemptions from permitting requirements for certain signs. To the extent a sign owner had been paying for permits for these signs in the past, this change will have a positive impact on the private sector. Such signs are also required to be removed at the owner's expense should DOT find the sign must be removed due to federal notification. The net effect of these provisions on a sign owner is indeterminate.

Revisions of the TOD sign program eliminating the restriction of the program to signs at intersections in RACECs provides greater opportunity for business participation in the program. Participants will be subject to permit fees established by local governments.

D. FISCAL COMMENTS:

Failure of the state to maintain control of its outdoor advertising could result in a 10 percent reduction in federal highway funds, which correlates to approximately \$160 million annually. To prevent noncompliance with federal law, however, the bill provides that the outdoor advertising exemptions may not be implemented or continued if the Federal Government notifies DOT that the implementation or continuation will adversely affect the allocation of federal funds to DOT. In such cases, DOT shall provide notice to the sign owner that the sign must be removed, and is further authorized to remove the sign and assess removal costs to the owner should it become necessary.

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 eliminates unnecessary rulemaking authority related to lighting restrictions for certain outdoor advertising signs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

27 | the placement of such signs to intersections on
 28 | certain rural roads; prohibiting such signs in urban
 29 | areas or at interchanges on freeways or expressways;
 30 | providing an effective date.

31 |

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

33 |

34 | Section 1. Subsection (1) of section 337.403, Florida
 35 | Statutes, is amended to read:

36 | 337.403 Interference caused by relocation of utility;
 37 | expenses.—

38 | (1) If a utility that is placed upon, under, over, or
 39 | along any public road or publicly owned rail corridor is found
 40 | by the authority to be unreasonably interfering in any way with
 41 | the convenient, safe, or continuous use, or the maintenance,
 42 | improvement, extension, or expansion, of such public road or
 43 | publicly owned rail corridor, the utility owner shall, upon 30
 44 | days' written notice to the utility or its agent by the
 45 | authority, initiate the work necessary to alleviate the
 46 | interference at its own expense except as provided in paragraphs
 47 | (a)-(h) ~~(a)-(g)~~. The work must be completed within such
 48 | reasonable time as stated in the notice or such time as agreed
 49 | to by the authority and the utility owner.

50 | (a) If the relocation of utility facilities, as referred
 51 | to in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No.
 52 | 84-627 ~~627 of the 84th Congress~~, is necessitated by the

53 construction of a project on the federal-aid interstate system,
54 including extensions thereof within urban areas, and the cost of
55 the project is eligible and approved for reimbursement by the
56 Federal Government to the extent of 90 percent or more under the
57 Federal Aid Highway Act, or any amendment thereof, then in that
58 event the utility owning or operating such facilities shall
59 perform any necessary work upon notice from the department, and
60 the state shall pay the entire expense properly attributable to
61 such work after deducting therefrom any increase in the value of
62 a new facility and any salvage value derived from an old
63 facility.

64 (b) When a joint agreement between the department and the
65 utility is executed for utility work to be accomplished as part
66 of a contract for construction of a transportation facility, the
67 department may participate in those utility work costs that
68 exceed the department's official estimate of the cost of the
69 work by more than 10 percent. The amount of such participation
70 is shall be limited to the difference between the official
71 estimate of all the work in the joint agreement plus 10 percent
72 and the amount awarded for this work in the construction
73 contract for such work. The department may not participate in
74 any utility work costs that occur as a result of changes or
75 additions during the course of the contract.

76 (c) When an agreement between the department and utility
77 is executed for utility work to be accomplished in advance of a
78 contract for construction of a transportation facility, the

79 department may participate in the cost of clearing and grubbing
 80 necessary to perform such work.

81 (d) If the utility facility was initially installed to
 82 exclusively serve the authority or its tenants, or both, the
 83 authority shall bear the costs of the utility work. However, the
 84 authority is not responsible for the cost of utility work
 85 related to any subsequent additions to that facility for the
 86 purpose of serving others.

87 (e) If, under an agreement between a utility and the
 88 authority entered into after July 1, 2009, the utility conveys,
 89 subordinates, or relinquishes a compensable property right to
 90 the authority for the purpose of accommodating the acquisition
 91 or use of the right-of-way by the authority, without the
 92 agreement expressly addressing future responsibility for the
 93 cost of necessary utility work, the authority shall bear the
 94 cost of removal or relocation. This paragraph does not impair or
 95 restrict, and may not be used to interpret, the terms of any
 96 such agreement entered into before July 1, 2009.

97 (f) If the utility is an electric facility being relocated
 98 underground in order to enhance vehicular, bicycle, and
 99 pedestrian safety and in which ownership of the electric
 100 facility to be placed underground has been transferred from a
 101 private to a public utility within the past 5 years, the
 102 department shall incur all costs of the necessary utility work.

103 (g) An authority may bear the costs of utility work
 104 required to eliminate an unreasonable interference when the

105 utility is not able to establish that it has a compensable
 106 property right in the particular property where the utility is
 107 located if:

108 1. The utility was physically located on the particular
 109 property before the authority acquired rights in the property;

110 2. The utility demonstrates that it has a compensable
 111 property right in all adjacent properties along the alignment of
 112 the utility; and

113 3. The information available to the authority does not
 114 establish the relative priorities of the authority's and the
 115 utility's interests in the particular property.

116 (h) If a municipally owned utility or county-owned utility
 117 is located in a rural area of critical economic concern, as
 118 defined in s. 288.0656(2), and the department determines that
 119 the utility is unable, and will not be able within the next 10
 120 years, to pay for the cost of utility work necessitated by a
 121 department project on the State Highway System, the department
 122 may pay, in whole or in part, the cost of such utility work
 123 performed by the department or its contractor.

124 Section 2. Section 479.16, Florida Statutes, is amended to
 125 read:

126 479.16 Signs for which permits are not required.—Signs
 127 placed on benches, transit shelters, modular news racks, street
 128 light poles, public pay telephones, and waste receptacles within
 129 the right-of-way, as provided under s. 337.408, are exempt from
 130 this chapter. The following signs are exempt from the

131 requirement that a permit ~~for a sign~~ be obtained under the
 132 ~~provisions of~~ this chapter but must ~~are required to~~ comply with
 133 ~~the provisions of~~ s. 479.11(4)-(8):

134 (1) Signs erected on the premises of an establishment,
 135 which ~~signs~~ consist primarily of the name of the establishment
 136 or ~~which~~ identify the principal or accessory merchandise,
 137 services, activities, or entertainment sold, produced,
 138 manufactured, or furnished on the premises of the establishment
 139 and which comply with the lighting restrictions imposed under
 140 ~~department rule adopted pursuant to~~ s. 479.11(5), or signs owned
 141 by a municipality or a county located on the premises of such
 142 municipality or ~~such~~ county which display information regarding
 143 government services, activities, events, or entertainment. For
 144 purposes of this section, the following types of messages shall
 145 not be considered information regarding government services,
 146 activities, events, or entertainment:

147 (a) Messages that ~~which~~ specifically reference any
 148 commercial enterprise.

149 (b) Messages that ~~which~~ reference a commercial sponsor of
 150 any event.

151 (c) Personal messages.

152 (d) Political campaign messages.

153

154 If a sign located on the premises of an establishment consists
 155 principally of brand name or trade name advertising and the
 156 merchandise or service is only incidental to the principal

157 activity, or if the owner of the establishment receives rental
 158 income from the sign, ~~then~~ the sign is not exempt under this
 159 subsection.

160 (2) Signs erected, used, or maintained on a farm by the
 161 owner or lessee of such farm and relating solely to farm
 162 produce, merchandise, service, or entertainment sold, produced,
 163 manufactured, or furnished on such farm.

164 (3) Signs posted or displayed on real property by the
 165 owner or by the authority of the owner, stating that the real
 166 property is for sale or rent. However, if the sign contains any
 167 message not pertaining to the sale or rental of the ~~that~~ real
 168 property, ~~then~~ it is not exempt under this section.

169 (4) Official notices or advertisements posted or displayed
 170 on private property by or under the direction of any public or
 171 court officer in the performance of her or his official or
 172 directed duties, or by trustees under deeds of trust or deeds of
 173 assignment or other similar instruments.

174 (5) Danger or precautionary signs relating to the premises
 175 on which they are located; forest fire warning signs erected
 176 under the authority of the Florida Forest Service of the
 177 Department of Agriculture and Consumer Services; and signs,
 178 notices, or symbols erected by the United States Government
 179 under the direction of the United States Forestry Service.

180 (6) Notices of any railroad, bridge, ferry, or other
 181 transportation or transmission company necessary for the
 182 direction or safety of the public.

183 (7) Signs, notices, or symbols for the information of
 184 aviators as to location, directions, and landings and conditions
 185 affecting safety in aviation erected or authorized by the
 186 department.

187 (8) Signs or notices measuring up to 8 square feet in area
 188 which are erected or maintained upon property and state ~~stating~~
 189 only the name of the owner, lessee, or occupant of the premises
 190 ~~and not exceeding 8 square feet in area.~~

191 (9) Historical markers erected by ~~duly constituted and~~
 192 authorized public authorities.

193 (10) Official traffic control signs and markers erected,
 194 caused to be erected, or approved by the department.

195 (11) Signs erected upon property warning the public
 196 against hunting and fishing or trespassing ~~thereon~~.

197 (12) Signs ~~not in excess~~ of up to 8 square feet ~~which that~~
 198 are owned by and relate to the facilities and activities of
 199 churches, civic organizations, fraternal organizations,
 200 charitable organizations, or units or agencies of government.

201 ~~(13) Except that signs placed on benches, transit~~
 202 ~~shelters, and waste receptacles as provided for in s. 337.408~~
 203 ~~are exempt from all provisions of this chapter.~~

204 ~~(13)-(14)~~ Signs relating exclusively to political
 205 campaigns.

206 ~~(14)-(15)~~ Signs measuring up to ~~not in excess of~~ 16 square
 207 feet placed at a road junction with the State Highway System
 208 denoting only the distance or direction of a residence or farm

209 operation, or, outside an incorporated in a rural area where a
 210 hardship is created because a small business is not visible from
 211 the road junction with the State Highway System, one sign
 212 measuring up to not in excess of 16 square feet, denoting only
 213 the name of the business and the distance and direction to the
 214 business. ~~The small-business sign provision of this subsection~~
 215 ~~does not apply to charter counties and may not be implemented if~~
 216 ~~the Federal Government notifies the department that~~
 217 ~~implementation will adversely affect the allocation of federal~~
 218 ~~funds to the department.~~

219 (15) Signs placed by a local tourist-oriented business
 220 located within a rural area of critical economic concern as
 221 defined under s. 288.0656(2) which are:

222 (a) Not more than 8 square feet in size or more than 4
 223 feet in height;

224 (b) Located only in rural areas on a facility that does
 225 not meet the definition of a limited access facility as defined
 226 by department rule;

227 (c) Located within 2 miles of the business location and at
 228 least 500 feet apart;

229 (d) Located only in two directions leading to the
 230 business; and

231 (e) Not located within the road right-of-way.

232
 233 A business placing such signs must be at least 4 miles from any
 234 other business using this exemption and may not participate in

235 | any other directional signage program by the department.

236 | (16) Signs measuring up to 32 square feet denoting only
 237 | the distance or direction of a farm operation which are erected
 238 | at a road junction with the State Highway System, but only
 239 | during the harvest season of the farm operation for a period not
 240 | to exceed 4 months.

241 | (17) Acknowledgement signs erected upon publicly funded
 242 | school premises which relate to a specific public school club,
 243 | team, or event which are placed at least 1,000 feet from any
 244 | other acknowledgement sign on the same side of the roadway. The
 245 | sponsor information on an acknowledgement sign may constitute no
 246 | more than 100 square feet of the sign. For purposes of this
 247 | subsection, the term "acknowledgement sign" means a sign that is
 248 | intended to inform the traveling public that a public school
 249 | club, team, or event has been sponsored by a person, firm, or
 250 | other entity.

251 | (18) Displays erected upon a sports facility the content
 252 | of which is directly related to the facility's activities or
 253 | where products or services offered on the sports facility
 254 | property are present. Displays must be mounted flush to the
 255 | surface of the sports facility and must rely upon the building
 256 | facade for structural support. For purposes of this subsection,
 257 | the term "sports facility" means an athletic complex, athletic
 258 | arena, or athletic stadium, including physically connected
 259 | parking facilities, which is open to the public and has a
 260 | permanent installed seating capacity of 15,000 people or more.

261
 262 The exemptions in subsections (14)-(18) may not be implemented
 263 or continued if the Federal Government notifies the department
 264 that implementation or continuation will adversely impact the
 265 allocation of federal funds to the department. If the exemptions
 266 in subsections (14)-(18) are not implemented or continued due to
 267 notification from the Federal Government that the allocation of
 268 federal funds to the department will be adversely impacted, the
 269 department shall provide notice to the sign owner that the sign
 270 must be removed within 30 days. If the sign is not removed
 271 within 30 days after receipt of the notice by the sign owner,
 272 the department may remove the sign, and the costs incurred in
 273 connection with the sign removal shall be assessed against and
 274 collected from the sign owner.

275 Section 3. Section 479.262, Florida Statutes, is amended
 276 to read:

277 479.262 Tourist-oriented directional sign program.—

278 (1) A tourist-oriented directional sign program to provide
 279 directions to rural tourist-oriented businesses, services, and
 280 activities may be established for intersections on rural and
 281 conventional state, county, or municipal roads only in rural
 282 ~~counties identified by criteria and population in s. 288.0656~~
 283 when approved and permitted by county or local government
 284 entities within their respective jurisdictional areas ~~at~~
 285 ~~intersections on rural and conventional state, county, or~~
 286 ~~municipal roads.~~ A county or local government that ~~which~~ issues

287 permits for a tourist-oriented directional sign program is ~~shall~~
 288 ~~be~~ responsible for sign construction, maintenance, and program
 289 operation in compliance with subsection (3) for roads on the
 290 state highway system and may establish permit fees sufficient to
 291 offset associated costs. A tourist-oriented directional sign may
 292 not be used on roads in urban areas or at interchanges on
 293 freeways or expressways.

294 (2) This section does not create a proprietary or
 295 compensable interest in any tourist-oriented directional sign
 296 site or location for any permittee on any rural and conventional
 297 state, county, or municipal road ~~roads~~. The department or the
 298 permitting entity may terminate permits or change locations of
 299 tourist-oriented directional sign sites as determined necessary
 300 for construction or improvement of transportation facilities or
 301 for improved traffic control or safety.

302 (3) Tourist-oriented directional signs installed on the
 303 state highway system must ~~shall~~ comply with the requirements of
 304 the federal Manual on Uniform Traffic Control Devices and rules
 305 established by the department. The department may adopt rules to
 306 establish requirements for participant qualification,
 307 construction standards, location of sign sites, and other
 308 criteria necessary to implement this program.

309 Section 4. 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: Economic Affairs Committee
2 Representative Beshears offered the following:

Amendment (with title amendment)

Between lines 33 and 34, insert:

Section 1. Subsection (4) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists. A commercial motor vehicle or trailer designed to transport unprocessed logs or pulpwood may show or display an amber light affixed to the rearmost point of the vehicle or trailer.



Amendment No. 1

18
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T I T L E A M E N D M E N T

Remove line 2 and insert:

An act relating to transportation; amending s. 316.2397, F.S.,
expanding the types of vehicles that may show or display an
amber light; amending s.



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: Economic Affairs Committee
 2 Representative Beshears offered the following:

Amendment (with title amendment)

5 Between lines 123 and 124, insert:

6 Section 1. Section 339.041, Florida Statutes, is created
7 to read:

8 339.041 Factoring of revenues from leases for wireless
9 communication facilities.-

10 (1) The Legislature finds that efforts to increase funding
11 for capital expenditures for the transportation system are
12 necessary for the protection of the public safety and general
13 welfare and for the preservation of transportation facilities in
14 this state. It is, therefore, the intent of the Legislature:

15 (a) To create a mechanism for factoring future revenues
16 received by the department from leases for wireless



Amendment No. 2

17 communication facilities on department property on a nonrecourse
18 basis;

19 (b) To fund fixed capital expenditures for the statewide
20 transportation system from proceeds generated through this
21 mechanism; and

22 (c) To maximize revenues from factoring by ensuring that
23 such revenues are exempt from income taxation under federal law
24 in order to increase funds available for capital expenditures.

25 (2) For the purposes of factoring revenues under this
26 section, department property includes real property located
27 within the department's limited access rights-of-way, property
28 located outside the current operating right-of-way limits which
29 is not needed to support current transportation facilities,
30 other property owned by the Board of Trustees of the Internal
31 Improvement Trust Fund and leased by the department, space on
32 department telecommunications facilities, and space on
33 department structures.

34 (3) The department may solicit investors willing to enter
35 into agreements to purchase the revenue stream from one or more
36 existing department leases for wireless communication facilities
37 on property owned or controlled by the department through the
38 issuance of an invitation to negotiate. Such agreements shall be
39 structured as tax-exempt financings for federal income tax
40 purposes in order to result in the largest possible payout.

41 (4) The department may not pledge the credit, the general
42 revenues, or the taxing power of the state or of any political



Amendment No. 2

43 subdivision of the state. The obligations of the department and
44 investors under the agreement do not constitute a general
45 obligation of the state or a pledge of the full faith and credit
46 or taxing power of the state. The agreement is payable from and
47 secured solely by payments received from department leases for
48 wireless communication facilities on property owned or
49 controlled by the department, and neither the state nor any of
50 its agencies has any liability beyond such payments.

51 (5) The department may make any covenant or representation
52 necessary or desirable in connection with the agreement,
53 including a commitment by the department to take whatever
54 actions are necessary on behalf of investors to enforce the
55 department's rights to payments on property leased for wireless
56 communications facilities. However, the department may not
57 guarantee that revenues actually received in a future year will
58 be those anticipated in its leases for wireless communication
59 facilities. The department may agree to use its best efforts to
60 ensure that anticipated future-year revenues are protected. Any
61 risk that actual revenues received from department leases for
62 wireless communications facilities will be lower than
63 anticipated shall be borne exclusively by investors.

64 (6) Subject to annual appropriation, the investors shall
65 collect the lease payments on a schedule and in a manner
66 established in the agreements entered into pursuant to this
67 section between the department and the investors. The agreements
68 may provide for lease payments to be made directly to investors



Amendment No. 2

69 by lessees if the lease agreements entered into by the
70 department and the lessees pursuant to s. 365.172(12)(f) allow
71 direct payment.

72 (7) Proceeds received by the department from leases for
73 wireless communication facilities shall be deposited in the
74 State Transportation Trust Fund created under s. 206.46 and used
75 for fixed capital expenditures for the statewide transportation
76 system.

81 -----
82 **T I T L E A M E N D M E N T**

83 Remove line 9 and insert:

84 under certain circumstances; creating s. 339.041, F.S.;

85 providing legislative intent; describing the types of department

86 property eligible for factoring future revenues received by the

87 department from leases for communication facilities on

88 department property; authorizing the department to enter into

89 agreements with investors to purchase the revenue streams from

90 department leases of wireless communication facilities on such

91 property pursuant to an invitation to negotiate; prohibiting the

92 department from pledging state credit; allowing the department

93 to make certain covenants; providing for the appropriation and

94 payment of moneys received from such agreements to investors;



Amendment No. 2

95 | requiring the proceeds from such leases to be used for capital
96 | expenditures; amending s. 479.16, F.S.;

97 |

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 513 State Poet Laureate
SPONSOR(S): Raulerson
TIED BILLS: IDEN./SIM. **BILLS:** SB 290

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N	Duncan	West
2) Economic Affairs Committee		Duncan	Creamer <i>sl</i>

SUMMARY ANALYSIS

The position of State Poet Laureate was created by governor's proclamation in 1928, but has not been addressed in Florida Statutes. HB 513 creates the position of State Poet Laureate and provides requirements for the selection, terms of service, and duties of the State Poet Laureate.

The bill assigns the Florida Council on Arts and Culture, housed within the Department of State (DOS), certain responsibilities relating to the nomination process and the promotion of poetry. The bill also grants DOS rulemaking authority for implementation of provisions relating to the State Poet Laureate.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of Poets Laureate

The title of poet laureate is derived from the laurels with which the ancient Greeks crowned their most celebrated poets.¹ In England, the position of Poet Laureate and Historiographer Royal was officially established by King Charles II in 1668.² In the United States, poets laureate participate in ceremonial events and seek to raise a greater appreciation of the reading and writing of poetry. The first official Poet Laureate of the United States, John Auslander, was appointed by the Librarian of Congress in 1937.³

State Poets Laureate

Currently, 44 states designate a state poet laureate or an equivalent position.⁴ However, not all states designate the position in law. Official designation of state poets laureate is by governor's act or proclamation, by legislative action, or by both governor and legislature.⁵ California became the first state to designate a poet laureate when the California legislature approved the governor's proclamation in 1919.⁶

Qualifications to become a state poet laureate vary from state to state, and are determined by the appointing body or existing legislation. Generally, nomination for and appointment to the position is based on a poet's written body of work, whose subject matter is often specific to the state, and whose quality is demonstrated through honors, awards, and other forms of recognition. Eligibility almost always requires the poet to be a current resident of the state.⁷

Duties of poets laureate involve the promotion of reading, writing, and poetry appreciation.⁸ Whether the poet laureate receives compensation or holds a term-limited or lifetime appointment also varies from state to state.⁹

Florida's Poet Laureate

In 1928, the position of Poet Laureate of the State of Florida was established by governor's proclamation.¹⁰ The position is a lifetime appointment without compensation. A total of three poets

¹ The Official Website of the British Monarchy, Official Royal Posts, Poet Laureate, The origins of the post, <http://www.royal.gov.uk/TheRoyalHousehold/OfficialRoyalposts/PoetLaureate.aspx>. (Last visited Feb. 5, 2014.).

² *Id.*

³ See Library of Congress, U.S. Poets Laureate, Frequently Asked Questions, <http://www.loc.gov/rr/program/bib/poetslaureate/faq.html>. From 1937 to 1985 the position was titled "Consultant in Poetry to the Library of Congress." The position was renamed "Poet Laureate Consultant in Poetry" in 1985 (Public Law 99-184) and codified as 2 U.S.C. § 177 (2010 Edition).

⁴ Library of Congress, U.S. State Poets Laureate, Frequently Asked Questions, <http://www.loc.gov/rr/main/poets/faq.html>, (Last visited Feb. 5, 2014.).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See Library of Congress, U.S. State Poets Laureate, Current State Poets Laureate, <http://www.loc.gov/rr/main/poets/current.html>, (Last visited Feb. 5, 2014).

laureate have been appointed since the inception of the position.¹¹ The most recent occupant, Edmund Skellings of West Melbourne, passed away on August 19, 2012.¹² Current law does not contain provisions relating to a state poet laureate.

Department of State

DOS is responsible for corporate filings and certain public records, oversees the election process, and preserves Florida's historical and cultural heritage for the benefit of future generations. The Division of Cultural Affairs (Division) is housed within DOS and is Florida's legislatively-designated state arts agency.¹³ The Division connects cultural funding opportunities and services to Florida's citizens and visitors.¹⁴

Florida Council on Arts and Culture

The Florida Council on Arts and Culture (Council)¹⁵ is a 15 member advisory body within DOS. The Council is required to:¹⁶

- advocate for arts and culture;
- advise the Secretary of State in matters pertaining to arts and cultural programs and grants administered by the Division of Cultural Affairs;
- encourage participation in, and appreciation of, arts and culture;
- encourage public interest in the state's cultural heritage and expand its cultural resources;
- encourage and assist freedom of artistic expression;
- advise the Secretary of State in matters concerning the awarding of grants for arts and culture; and
- review grant applications for the acquisition, renovation, or construction of cultural facilities and recommend a priority for the receipt of such grants as provided in s. 265.701, F.S.

Effect of Proposed Changes

The bill creates the position of State Poet Laureate within DOS and provides requirements for the selection, terms of service, and duties of the position. The bill assigns the nominations process for the State Poet Laureate to the Council. The bill also expands the duties of the Council to include the promotion of poetry and related activities.

Selection Process

The bill directs the Council to accept nominations for State Poet Laureate and recommend at least five nominees to the Secretary of State. Each nominee must be a permanent Florida resident and public literary poet with significant standing inside and outside the state. A nominee must also be willing and able to perform the duties of the State Poet Laureate. The Secretary of State must submit three nominees, from among the nominees recommended by the Council, to the Governor. The Governor appoints the State Poet Laureate. DOS is authorized to establish procedures for the selection process.

¹⁰ Library of Congress, U.S. State Poets Laureate, Current State Poets Laureate, [Florida](http://www.loc.gov/rr/main/poets/florida.html) <http://www.loc.gov/rr/main/poets/florida.html>, (Last visited Feb. 5, 2014.).

¹¹ Florida Department of State, Division of Cultural Affairs, Florida's Poet Laureate, <http://www.florida-arts.org/programs/poetlaureate/> (Last visited Feb. 5, 2014.).

¹² Mr. Skellings was appointed by Governor Graham in 1980, after a competition and selection by an anonymous national panel. See *Id.*

¹³ Department of State, Division of Cultural Affairs, Mission, <http://www.florida-arts.org/about/mission/> (Last visited Feb. 5, 2014.).

¹⁴ *Id.*

¹⁵ Section 265.285, F.S.

¹⁶ Section 265.285(2), F.S.

Terms of Service

The bill provides for the State Poet Laureate to serve a term of 4 years without compensation and requires vacancies for an expired term to be filled in the same manner as the original appointment. The bill also authorizes the designation of Florida's previous poets laureate, and poets laureate that complete their term after the effective date of this bill, as State Poet Laureate Emeritus or Emerita.

Duties

DOS is authorized to establish duties for the State Poet Laureate. Such duties may include performing readings of poetry authored by the occupant and engaging in outreach activities for the benefit of schools and communities.

The bill authorizes DOS to adopt rules to implement the provisions of the bill.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 265.285, F.S., revising the duties of Florida Council on Arts and Culture to include accepting nominations for State Poet Laureate, recommending nominees for State Poet Laureate, and promoting poetry related activities.

Section 2: Creates s. 265.2863, F.S., codifying the appointment of a State Poet Laureate; providing requirements for the selection, terms of service, and duties of the position; and providing rulemaking authority.

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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 2 provides rulemaking authority to the Department of State to implement s. 265.2863, F.S. The construction of the bill appears to necessitate the adoption of rules related to the selection process and the duties of the State Poet Laureate.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not provide a process for a State Poet Laureate to be removed from the position for reasons such as misconduct. However, this issue could be addressed by DOS during the rulemaking process.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the State Poet Laureate; amending
 3 s. 265.285, F.S.; assigning duties to the Florida
 4 Council on Arts and Culture relating to the promotion
 5 of poetry and recommendations for the appointment of
 6 the State Poet Laureate; creating s. 265.2863, F.S.;
 7 creating the honorary position of State Poet Laureate
 8 within the Department of State; establishing
 9 procedures for the acceptance of nominations, the
 10 qualifications and recommendation of nominees, and the
 11 appointment of the State Poet Laureate; providing for
 12 filling vacancies; specifying that a former poet
 13 laureate becomes a State Poet Laureate Emeritus or
 14 Emerita; providing that the State Poet Laureate, the
 15 State Poet Laureate Emeritus, and the State Poet
 16 Laureate Emerita serve without compensation;
 17 authorizing the department to adopt rules; providing
 18 an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Present paragraph (g) of subsection (2) of
 23 section 265.285, Florida Statutes, is redesignated as paragraph
 24 (h), and a new paragraph (g) is added to that subsection, to
 25 read:

26 265.285 Florida Council on Arts and Culture; membership,
 27 duties.—

28 (2) The council shall:

HB 513

2014

29 (g) Promote the reading, writing, and appreciation of
 30 poetry throughout the state and accept nominations and recommend
 31 nominees for appointment as the State Poet Laureate under s.
 32 265.2863.

33 Section 2. Section 265.2863, Florida Statutes, is created
 34 to read:

35 265.2863 State Poet Laureate.—

36 (1) The honorary position of State Poet Laureate is
 37 created within the Department of State.

38 (2) The Florida Council on Arts and Culture, in accordance
 39 with procedures adopted by the department, shall solicit and
 40 accept nominations for appointment as the State Poet Laureate.
 41 The council shall solicit nominations from a broad array of
 42 literary sources and members of the public.

43 (a) The council shall recommend at least five nominees to
 44 the Secretary of State, each of whom must be:

- 45 1. A permanent resident of this state;
- 46 2. A public literary poet who has significant standing
 47 inside and outside the state; and

48 3. Willing and physically able to perform the duties of
 49 the State Poet Laureate as prescribed by the department, which
 50 may include, but are not limited to, engaging in outreach and
 51 mentoring for the benefit of schools and communities throughout
 52 the state and performing readings of his or her own poetry, as
 53 requested.

54 (b) From among the nominees recommended by the council,
 55 the Secretary of State shall submit three nominees to the
 56 Governor, who shall appoint one nominee as the State Poet

HB 513

2014

57 Laureate.

58 (3) The State Poet Laureate shall serve a term of 4 years.

59 A vacancy shall be filled for the remainder of the unexpired
 60 term in the same manner as the original appointment.

61 (4) Each of the state's poets laureate appointed before
 62 July 1, 2014, and each State Poet Laureate appointed under this
 63 section shall be designated a State Poet Laureate Emeritus or
 64 State Poet Laureate Emerita in recognition of his or her service
 65 to the state upon the appointment of his or her successor.

66 (5) The State Poet Laureate and each State Poet Laureate
 67 Emeritus or State Poet Laureate Emerita shall serve without
 68 compensation.

69 (6) The department may adopt rules to administer this
 70 section.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 537 Commercial Motor Vehicle Review Board
SPONSOR(S): Transportation & Highway Safety Subcommittee; Beshears
TIED BILLS: IDEN./SIM. BILLS: SB 1092

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Davy	Miller
2) Economic Affairs Committee		Davy <i>DD</i>	Creamer <i>JL</i>

SUMMARY ANALYSIS

The Commercial Motor Vehicle Review Board (Board) is the state entity created in statute that functions to consider protested commercial vehicle citations. The board may review, sustain, modify, cancel, or revoke any penalty imposed on any vehicle or person under the provisions of chapter 316, F.S., relating to weights imposed on the highways by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations. Any person may, upon payment of their penalty, apply to the Board for a modification, cancellation, or revocation of a penalty for violations of certain commercial vehicle regulations. The board is part of the Florida Department of Transportation (FDOT) and has three permanent members, the Secretary of the Department of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles (DHSMV), and the Commissioner of Agriculture. Each permanent member may appoint an additional member to the board.

This bill revises the membership of the Board by adding three appointed members who have private experience in the state of Florida. The Governor will appoint two of the members from the private sector, one member from the trucking industry and one member from the road construction industry. The Commissioner of Agriculture will appoint the final member of the review board from the agriculture industry. Appointments must be made by September 1, 2014, for terms beginning October 1, 2014.

The bill provides that members must take an oath of office pledging to honestly, faithfully, and impartially perform their duties before beginning official action on the Board. The Governor may remove members of the Board for misconduct, malfeasance, misfeasance, or nonfeasance in office.

The bill provides that official action may only be taken by a quorum of the Board.

Currently all fee revenues imposed and collected for commercial motor vehicle compliance violations of size, weight, and special fuel and motor fuel tax, or safety regulations are deposited in the State Transportation Trust Fund, which is administered by FDOT. It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

The effective date of the bill is July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Currently, enforcement of commercial motor vehicle compliance is carried out by DHSMV¹ and motor vehicle weight inspections are carried out by FDOT.² Any individual or vehicle who receives a penalty under the provisions of chapter 316 relating to weights imposed on the highways by the axels and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations may, upon payment of their penalty³, apply to the Board to have their penalty reconsidered. The Board is then authorized to modify, cancel, revoke, or sustain each penalty.⁴

Specifically, the Board reviews testimony or other evidence supporting the modification, cancellation, or revocation of penalties upon receipt of their payment imposed pursuant to sections:

- 316.516, F.S., regarding size restrictions of width, height, or length;
- 316.545, F.S., regarding weight and load violations and special fuel and motor fuel tax violations;
- 316.550, F.S., regarding operating an oversize or overweight vehicle without a special permit; and
- 316.3025, F.S., regarding operating an unsafe and out of service vehicle, texting while driving a commercial vehicle, or unsafe handling of hazardous cargo.⁵

The following chart represents case volumes and outcomes for the Board during the preceding two fiscal years:

Commercial Motor Vehicle Review Board⁶				
Year	# of Citations Considered	# of Cases Granted Relief	# of Cases Full Relief	# of Cases Partial Relief
FY 2011-12	862	283	103	180
FY 2012-13	813	308	133	175

The Board currently is made up of three permanent members, the Secretary of FDOT, the Executive Director of DHSMV, and the Commissioner of DACS, or their authorized representatives. The Secretary of FDOT is the chair. Each of the permanent members of the Board may appoint an additional person to be a member of the Board.⁷ The Board meets monthly and rotates its location between Orlando, Tampa, and Tallahassee.⁸ Pursuant to s. 112.061, F.S., as state officers and employees, each member receives reimbursement for travel expenses and per diem relating to their service on the Board.

¹ Section 20.24, F.S.

² Section 20.23, F.S.

³ Florida Administrative Code 14A-1.004.

⁴ Section 316.545 (8), F.S.

⁵ Florida Administrative Code 14A-1.004.

⁶ Information received from the Florida Department of Transportation in email correspondence on file with Transportation and Highway Safety Subcommittee staff. (1/21/14)

⁷ Section 316.545 (7), F.S.

⁸ See Florida Department of Transportation, Commercial Motor Vehicle Review Board website, available at:

http://www.dot.state.fl.us/trafficoperations/traf_incident/CMVRB/CMVRB.shtm (last visited January 23, 2014).

All of the funds received for the penalties associated with commercial motor vehicle compliance are deposited in the State Transportation Trust Fund.⁹

Proposed Changes:

This bill revises the membership of the Board. Each of the three permanent members of the Board will no longer have the power to appoint an additional member. Instead, the Governor will appoint a fourth member from the trucking industry, a fifth member from the road construction industry, and the Commissioner of Agriculture will appoint a sixth member from the agriculture industry. The appointed members must be registered voters, citizens of the state of Florida, and possess business experience in the private sector.

Each appointed member will serve a two-year term on the Board. The appointments to the Board must be made no later than September 1, 2014, for terms beginning October 1, 2014. A vacancy on the Board occurring during a term of an appointed member will only be filled for the balance of the unexpired term. The governor may remove members from the board for misconduct, malfeasance, misfeasance, or nonfeasance in office. Each member is required to take and subscribe to an oath before an official authorized by law to administer oaths prior to entering upon his or her official duties. The oath declares that he or she that he or she will honestly, faithfully, and impartially perform the duties devolving upon him or her in office as a member of the review board and that he or she will not neglect any duties imposed upon him or her by ss. 316.3025, 316.550, or 316.545, F.S.

Four members of the Board will constitute a quorum, and the vote of three members including the chair, or otherwise four members, is required for any action taken by the board. A vacancy on the board cannot impair the right of a quorum of the board to exercise all of the rights and perform all of the duties of the board.

An effective date of July 1, 2014 is provided.

B. SECTION DIRECTORY:

Section 1: amends s. 316.545, F.S. to revise the membership of the board, require additional appointments of members by the Governor and the Commissioner of Agriculture, provide qualifications and terms for the appointees, and specifies board quorum requirements.

Section 2: provides for appointments to be made by September 1, 2014, for terms to begin on October 1, 2014.

Section 3: provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comment.

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 Board heard 813 cases in fiscal year 2012-13 that represented a total of \$751,184.85 in fines. Out of these 813 cases, relief was granted on 308 of the cases, or 38 percent, for a total refunded amount of \$247,390.74, or 33 percent. The total amount of citations issued and fines collected for 2012 was 37,724 citations and \$5,832,977.¹⁰ It is unknown whether this bill will result in changes to the number of citations heard by the Board or the amount of refunds granted. Changes to the amount of funds received from commercial motor vehicle compliance penalties would impact the State Transportation Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2014, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorable as a committee substitute. The amendment:

- retained the Board within FDOT instead of moving it to DACS as provided in the original bill as filed;
- changed the membership of the Board by providing for the governor to appoint a fourth member from the road construction industry and a fifth member from the trucking industry, and for the Commissioner of Agriculture to appoint a sixth member from the agriculture industry;
- specified that appointed members of the board will each serve a 2 year term;
- provided that members of the Board may be removed from office by the Governor for misconduct, malfeasance, misfeasance, or nonfeasance in office;

- required an oath of office that each member must take before entering his or her official duties; and
- provided that a quorum of four members must be present for any action taken by the board, and a vacancy in the board will not impair the right of a quorum of the Board to exercise all of the rights and perform all of the duties of the board.

This analysis is drafted to the committee substitute as passed by the Transportation & Highway Safety Subcommittee.

1 A bill to be entitled
 2 An act relating to the Commercial Motor Vehicle Review
 3 Board; amending s. 316.545, F.S.; revising membership
 4 of the board; providing for appointment of additional
 5 members by the Governor and the Commissioner of
 6 Agriculture; providing for terms of the additional
 7 members; providing qualifications for such members;
 8 providing for removal of members by the Governor under
 9 certain circumstances; providing for action by a
 10 quorum of the board; requiring that the additional
 11 appointments be made by a specified date; providing
 12 effective dates.

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

15
 16 Section 1. Effective October 1, 2014, subsection (7) of
 17 section 316.545, Florida Statutes, is amended to read:

18 316.545 Weight and load unlawful; special fuel and motor
 19 fuel tax enforcement; inspection; penalty; review.—

20 (7) There is created within the Department of
 21 Transportation the Commercial Motor Vehicle Review Board,
 22 consisting of three permanent members who shall be the Secretary
 23 of the Department of Transportation, the executive director of
 24 the Department of Highway Safety and Motor Vehicles, and the
 25 Commissioner of Agriculture, or their authorized
 26 representatives, and three additional members appointed pursuant

27 to paragraph (b), which may review any penalty imposed upon any
 28 vehicle or person under the provisions of this chapter relating
 29 to weights imposed on the highways by the axles and wheels of
 30 motor vehicles, to special fuel and motor fuel tax compliance,
 31 or to violations of safety regulations.

32 (a) The Secretary of ~~the Department of~~ Transportation or
 33 his or her authorized representative shall be the chair of the
 34 review board.

35 (b) The Governor shall appoint a fourth member from the
 36 road construction industry and a fifth member from the trucking
 37 industry, and the Commissioner of Agriculture shall appoint a
 38 sixth member from the agriculture industry. Each member
 39 appointed under this paragraph must be a registered voter and
 40 citizen of the state and must possess business experience in the
 41 private sector. Members appointed pursuant to this paragraph
 42 shall each serve a 2-year term. A vacancy occurring during the
 43 term of a member appointed under this paragraph shall be filled
 44 only for the balance of the unexpired term. Members of the board
 45 appointed under this paragraph may be removed from office by the
 46 Governor for misconduct, malfeasance, misfeasance, or
 47 nonfeasance in office ~~Each permanent member of the review board~~
 48 ~~may designate one additional person to be a member of the review~~
 49 ~~board.~~

50 (c) Each member, before entering upon his or her official
 51 duties, shall take and subscribe to an oath before an official
 52 authorized by law to administer oaths that he or she will

53 honestly, faithfully, and impartially perform the duties
 54 devolving upon him or her in office as a member of the review
 55 board and that he or she will not neglect any duties imposed
 56 upon him or her by s. 316.3025, s. 316.550, or this section ~~The~~
 57 ~~review board may execute its responsibilities by meeting as a~~
 58 ~~single group or as subgroups consisting of one authorized~~
 59 ~~representative of each permanent member.~~

60 (d) The chair of the review board is responsible for the
 61 administrative functions of the review board.

62 (e) Four members of the board shall constitute a quorum,
 63 and the vote of three members including the chair, or otherwise
 64 four members, shall be necessary for any action taken by the
 65 board. A vacancy on the board shall not impair the right of a
 66 quorum of the board to exercise all of the rights and perform
 67 all of the duties of the board.



68 ~~(f)(e)~~ The review board may hold sessions and conduct
 69 proceedings at any place within the state.

70 Section 2. The appointment of additional members to the
 71 Commercial Motor Vehicle Review Board in accordance with changes
 72 made by this act to s. 316.545, Florida Statutes, shall be made
 73 no later than September 1, 2014, for terms beginning October 1,
 74 2014.

75 Section 3. Except as otherwise expressly provided in this
 76 act, this act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 559 Military Veterans
SPONSOR(S): Metz and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 724

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	11 Y, 0 N	Dugan	Kiner
2) Transportation & Economic Development Appropriations Subcommittee	10 Y, 0 N	Perkins	Davis
3) Economic Affairs Committee		Dugan 	Creamer 

SUMMARY ANALYSIS

The bill relates to military special use license plates issued by the Florida Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill renames the Korean Conflict Veteran special use license plate as the Korean War Veteran special use license plate and redesigns that plate and the Vietnam War Veteran special use license plate by requiring that the likeness of the relevant campaign medal or badge be placed on the respective plate. The bill also revises statutory references to "Korean Conflict" and "Vietnam Era" to conform to the changes.

The bill also creates a new special use license plate for a recipient of the Combat Medical Badge and redesigns several special use license plates for military servicemembers or veterans identified in s. 320.089, F.S., by requiring that the likeness of the relevant campaign medal or badge be placed on the respective plate.

On February 21, 2014, the Revenue Estimating Impact Conference estimated this bill would have an insignificant negative fiscal impact on General Revenue and the State Transportation Trust Fund, and an insignificant positive fiscal impact on the State Homes for Veterans Trust Fund. An estimated negative fiscal impact to the DHSMV of \$52,920 may be absorbed within DHSMV resources.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Florida has the third largest population of veterans in the nation with over 1.5 million, behind only California and Texas.¹ Florida has more than 113,000 veterans from World War II, the largest number in the nation.² In addition, approximately 75 percent of Florida's veterans are wartime veterans, including more than 231,000 veterans of the Afghanistan and Iraq wars, and 498,000 Vietnam-era veterans. There are approximately 188,500 military retirees who call Florida home.³

Florida has a large military population with more than 61,000 military personnel and 12,000 Florida National Guard members.⁴ Another 25,000 civilian personnel are directly associated with the military presence in Florida.⁵

Motor Vehicle License Plates

The DHSMV administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in ch. 320, F.S. License plates are issued for a ten-year period and are replaced upon renewal at the end of the ten-year period.⁶ The license plate fee for both an original issuance and replacement is \$28.00.⁷ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement.⁸ Section 320.08, F.S., requires the payment of an annual license tax, which varies by motor vehicle type and weight. For passenger cars, the base amount may be between \$19.50 and \$44.00, a portion of which is deposited into the General Revenue Fund. For example, a standard passenger car, weighing between 2,500 and 3,499 pounds, carries an annual license tax of \$30.50, of which \$8 is deposited into the General Revenue Fund.⁹ Additional statutory fees may apply.

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

- standard license plates;
- specialty license plates;
- personalized prestige license plates;
- special use license plates.

¹ FDVA, Annual Report Fiscal Year 2012-13, Facts and Figures.

² Id.

³ Id. FDVA, Fast Facts, available at: http://floridavets.org/?page_id=50 (last viewed March 7, 2014).

⁴ Florida Defense Factbook, EFI and Haas Center, January 2013, available at: <http://www.enterpriseflorida.com/the-florida-defense-support-task-force/resources/> (last viewed March 7, 2014).

⁵ Id.

⁶ s. 320.06(1)(b), F.S.

⁷ s. 320.06(1)(b), F.S.; DHSMV, Fee Schedule, available at: <http://www.flhsmv.gov/DHSMVfees.htm> (last viewed March 7, 2014).

⁸ s. 320.06(1)(b), F.S.; DHSMV, License Plate Rate Chart, available at: www.flhsmv.gov/dmv/forms/BTR/83140.pdf (last viewed March 7, 2014).

⁹ s. 320.06(1)(b), F.S.; DHSMV, Fee Schedule, available at: <http://www.flhsmv.gov/DHSMVfees.htm> (last viewed March 7, 2014).

Special Use License Plates

Certain members of the general public may be eligible to receive a special use license plates if they are able to document their eligibility¹⁰ pursuant to various sections of ch. 320, F.S. Special use license plates primarily include military special use license plates as well as plates for the handicapped.

Currently, there are 13 military special use license plates authorized in s. 320.089, F.S., which can be issued to military servicemembers or veterans for the following types of service:¹¹

- active or retired member of the Florida National Guard;
- active or retired member of any branch of the United States Armed Forces Reserve;
- former Prisoner of War;
- survivor of Pearl Harbor;
- recipient of the Purple Heart medal;
- servicemember or veteran of Operation Desert Storm;
- servicemember or veteran of Operation Desert Shield;
- servicemember or veteran of Operation Iraqi Freedom;
- servicemember or veteran of Operation Enduring Freedom;
- recipient of the Combat Infantry Badge;
- recipient of the Combat Action Badge;
- veteran of the Vietnam War;
- veteran of the Korean Conflict.

In addition to documenting their eligibility for the military special use license plate, an eligible servicemember or veteran must pay the applicable license tax for his or her vehicle in order to receive the military special use license plate; however, unlike specialty license plates that benefit professional sports teams, universities and colleges, or other civic organizations, there is no additional fee for the plate itself.

Current law directs the first \$100,000 of general revenue generated from the issuance of these military special use license plates into the Grants and Donations Trust Fund.¹² Any additional general revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.¹³ For Fiscal Year 2012-2013, the total revenue from the military special use license plates in s. 320.089, F.S., as well as other military specialty license plates,¹⁴ was \$2,112,491.73.¹⁵

Tax Collectors maintain an adequate inventory on hand for each special use license plate. Based on current figures, the DHSMV identified the following information as it relates to military special use license plates:¹⁶

¹⁰ See DHSMV form HSMV 83030 for an example of instructions on the required proof of service and/or receipt of a campaign medal or badge, available at: <http://www.flhsmv.gov/specialtytags/miltags.html#ng> (last viewed March 7, 2014). A veteran of the U.S. Armed Forces would present Department of Defense form DD-214.

¹¹ s. 320.089, F.S.; Recipients of the special use license plates in s. 320.089, F.S. are required to pay the annual license tax in s. 320.08, F.S., except for survivors of Pearl Harbor, recipients of the Purple Heart medal, and former Prisoners of War.

¹² s. 320.089(1)(b), F.S.

¹³ Id.

¹⁴ The Florida Department of Veterans' Affairs receives the revenue generated from the sale of license plates in s. 320.089, F.S., as well as from the U.S. Marine Corps, Army, Navy, Air Force and Coast Guard Plates, U.S. Paratrooper License Plate, Support Our Troops License Plate, and Veterans of Foreign Wars License Plate.

¹⁵ FDVA, 2014 Agency Bill Analysis: HB 559.

¹⁶ Per email correspondence with DHSMV, February 11, 2014, on file with Veteran & Military Affairs Subcommittee Staff and DHSMV, 2014 Agency Bill Analysis: HB 559.

Plate	Inventory	Active Registrations
Florida National Guard	4,280	5,304
U.S. Armed Forces Reserve	4,310	2,223
EX-POW	3,917	962
Pearl Harbor	3,858	144
Purple Heart	8,840	12,782
Operation Desert Storm	2,533	62
Operation Desert Shield	2,475	1
Operation Iraqi Freedom	3,667	3,176
Operation Enduring Freedom	3,793	1,653
Combat Infantry Badge	2,613	214
Combat Action Badge	2,702	112
Vietnam War	3,168	1,762
Korean Conflict	2,720	119
Total	48,876	28,514

Combat Medical Badge

Army regulations provide for three types of combat badges: the Combat Infantryman Badge, the Combat Action Badge, and the Combat Medical Badge.¹⁷ Currently, the DHSMV offers a Combat Action Badge special use license plate and a Combat Infantry Badge special use license plate, but not a Combat Medical Badge special use license plate.

The Combat Medical Badge was created on March 1, 1945.¹⁸ Its evolution stemmed from a requirement to recognize medical aid-men who shared the same hazards and hardships of ground combat on a daily basis with the infantry soldier.¹⁹ The Combat Medical Badge was designed to provide recognition to the field medic who accompanies the infantryman into battle and shares the experiences unique to the infantry in combat.²⁰

According to the Revenue Estimating Impact Conference, and based on information provided by the U.S. Department of Defense and the Florida Department of Veterans' Affairs, there may be between 10,000 and 50,000 active or retired medics who could have potentially earned the Combat Medical Badge. However, it is unknown how many of these individuals, if eligible, would elect to receive a Combat Medical Badge special use license plate.

Effect of Proposed Changes

The bill renames the Korean Conflict Veteran special use license plate as the Korean War Veteran special use license plate and redesigns that plate and the Vietnam War Veteran special use license plate by requiring that the likeness of the relevant campaign medal or badge be placed on the respective plate. The bill also revises statutory references to "Korean Conflict" and "Vietnam Era" to conform to the changes.

The bill also amends s. 320.089, F.S., creating a special use license plate for recipients of the Combat Medical Badge. Upon payment of the license tax for the vehicle as provided in s. 320.08, F.S., and proof of being a recipient of the Combat Medical Badge, the applicant may receive a special use license plate bearing the words "Combat Medical Badge," and a likeness of the badge, followed by the license plate serial number.

¹⁷ U.S. Army Regulation 600-8-22, Section II, available at: http://armypubs.army.mil/epubs/600_Series_Collection_1.html (last viewed March 7, 2014).

¹⁸ U.S. Army Human Resources Command, Combat Medical Badge, available at: <https://www.hrc.army.mil/TAGD/Combat%20Medical%20Badge%20CMB> (last viewed March 7, 2014).

¹⁹ Id.

²⁰ Id.

The bill further requires that other military-related special use license plates that are not currently stamped with the likeness of the related campaign medal or badge be redesigned. Currently, only two of the 11 military-related special use license plates are stamped with the likeness of the related campaign medal or badge.

Upon issuance of a redesigned special use license plate, the on-hand inventory with the existing design would become obsolete and be removed from inventory.²¹ The Purple Heart and the Combat Infantry Badge currently have images related to the campaign medal or badge. Thus, these two military special use license plates would not be removed from the current inventory upon passage of this bill. The DHSMV cost to manufacture a special use license plate with a likeness of a campaign medal or badge is \$2.82, while a license plate with only black lettering is \$1.71.

As a result of the bill, the DHSMV would experience the following changes to the military special use license plate inventory:

Plate	Current Inventory	Redesigned Inventory	Cost Per Plate	Total Cost
Florida National Guard	4,280	1,500	\$ 2.82	\$ 4,230
U.S. Armed Forces Reserve	4,310	1,500	\$ 2.82	\$ 4,230
EX-POW	3,917	1,500	\$ 2.82	\$ 4,230
Pearl Harbor	3,858	1,500	\$ 2.82	\$ 4,230
Purple Heart	8,840	0	\$ 0	\$ 0
Operation Desert Storm	2,533	1,500	\$ 2.82	\$ 4,230
Operation Desert Shield	2,475	1,500	\$ 2.82	\$ 4,230
Operation Iraqi Freedom	3,667	1,500	\$ 2.82	\$ 4,230
Operation Enduring Freedom	3,793	1,500	\$ 2.82	\$ 4,230
Combat Infantry Badge	2,613	0	\$ 0	\$ 0
Combat Action Badge	2,702	1,500	\$ 2.82	\$ 4,230
Vietnam War	3,168	1,500	\$ 2.82	\$ 4,230
Korean Conflict	2,720	1,500	\$ 2.82	\$ 4,230
Combat Medical Badge	0	1,500	\$ 2.82	\$ 4,230
Total	48,876	18,000		\$ 50,760

In addition, the DHSMV will incur programming costs of \$2,160 to implement the provisions of this bill.

Effective Date

The bill is effective July 1, 2014.

B. SECTION DIRECTORY:

- Section 1: Amends s. 1.01(14), F.S., to revise references from the "Korean Conflict" and the "Vietnam Era" to the "Korean War" and the "Vietnam War", respectively.
- Section 2: Amends s. 295.125(2), F.S., to revise a reference from "Vietnam Era" to "Vietnam War".
- Section 3: Amends s. 320.089, F.S., to create a special use license plate for recipients of the Combat Medical Badge and redesigns the special use license plate for a military servicemember or veteran identified in s. 320.089, F.S., by creating a likeness of the relevant campaign medal or badge on the special use license plate.
- Section 4: Provides an effective date.

²¹ DHSMV, 2014 Agency Bill Analysis: HB 559.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The first \$100,000 of general revenue generated annually from military special use license plates is deposited into the Grants and Donations Trust Fund and any additional general revenue is deposited into the State Homes for Veterans Trust Fund. For Fiscal Year 2012-2013, the total revenue from the military special use license plates in s. 320.089, F.S., as well as other military specialty license plates, was \$2,112,491.73. The Revenue Estimating Impact Conference (REC) met on February 21, 2014, and estimated an insignificant negative fiscal impact on the General Revenue Fund and State Transportation Trust Fund, and an insignificant positive fiscal impact on the State Homes for Veterans Trust Fund.

2. Expenditures:

According to the DHSMV, the total cost to create the Combat Medical Badge license plate and redesign the 11 existing special use license plates is \$52,920, which may be absorbed within existing resources. This includes programming costs.

- The initial startup cost to create and manufacture a Combat Medical Badge license plate would be \$4,230. An initial order of 1,500 license plates would be made (1,500 x \$2.82) and distributed to tax collector offices statewide to meet public demand.
- Startup costs to place the 11 redesigned military special use license plates (1,500 of each) in inventory statewide would be \$46,530 (11 x 1,500 x \$2.82).
- Programming costs of \$2,160 are required to implement the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

In each jurisdiction, the local tax collector office serves as an agent for various state and local government agencies. When processing motor vehicle registration transactions, the tax collector retains a \$2.50 service fee, and a \$0.50 fee if the transaction is processed at a branch office. The fee is often distributed to the appropriate local governmental entity. To the extent that new Combat Medical Badge special use license plates or redesigned military special use license plates in s. 320.089, F.S., result in new registrations, local governments may see an indeterminate increase in revenue.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Upon passage and implementation of this bill, a redesigned military special use license plate currently authorized by s. 320.089, F.S., may be issued to a current Florida motor vehicle registrant, as a "renewal" license plate as opposed to a "new" license plate.²² Registration fees and taxes vary based on the type and weight of the vehicle. On average, it costs approximately \$45-50 in taxes and fees for either the renewal of a special use license plate or the first time issuance of a special use license plate in exchange for a standard license plate.²³

²² Per email correspondence with DHSMV staff, February 11, 2014, on file with Veteran & Military Affairs Subcommittee staff.

²³ Per email correspondence with DHSMV staff, February 12, 2014, on file with Veteran & Military Affairs Subcommittee staff.

In addition, there is a one-time \$225 fee for a driver who registers a vehicle in Florida for the first time. This fee does not apply to a registrant who renews his or her registration.²⁴

A special use license plate would be available to a new group of registrants who are recipients the Combat Medical Badge.

D. FISCAL COMMENTS:

None.

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:

Not Applicable.

B. RULE-MAKING AUTHORITY:

Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The DHSMV recommends the effective date of the bill be amended to January 1, 2015, to allow sufficient time to implement programming to accomplish the provisions of the bill. According to the DHSMV, it takes approximately six months to redesign an existing plate type as new sheeting has to be designed and approved for manufacture and distribution statewide.

There is one military related special use license plate that may be issued to Gold Star family members of military servicemembers who were killed in the line of duty per s. 320.0894, F.S. Further, there are seven additional military related license plates that may be issued to military servicemembers and veterans for the following types of service:

- disabled veterans per s. 320.084, F.S.;
- disabled veterans who use a wheelchair per s. 320.0842, F.S.;
- members of Paralyzed Veterans of America per s. 320.0846, F.S.;
- active duty members of the Florida National Guard per s. 320.0846, F.S.;
- active or retired United States Paratroopers per s. 320.0891, F.S.;
- recipient of the Silver Star, Distinguished Service Cross, Navy Cross, or Air Force Cross per s. 320.0892, F.S.;
- recipient of the Medal of Honor per s. 320.0893, F.S.

Currently, there is not a likeness of the relevant service on these additional plates, other than the Medal of Honor, U.S. Paratrooper, and the Gold Star Family license plates.²⁵

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²⁴ Per email correspondence with DHSMV staff, February 12, 2014, on file with Veteran & Military Affairs Subcommittee staff.

²⁵ DHSMV Military License Plates, available at: <http://www.flhsmv.gov/specialtytags/miltags.html#ng> (last viewed March 7, 2014).

1 A bill to be entitled
 2 An act relating to military veterans; amending ss.
 3 1.01 and 295.125, F.S.; revising references from the
 4 "Korean Conflict" and the "Vietnam Era" to the "Korean
 5 War" and the "Vietnam War," respectively, and from
 6 "Korean Conflict Veteran" to "Korean War Veteran";
 7 reordering and amending s. 320.089, F.S.; authorizing
 8 the issuance of a Combat Medical Badge license plate;
 9 revising references; establishing a method of proof of
 10 eligibility for certain specialty license plates;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (14) of section 1.01, Florida
 16 Statutes, is amended to read:

17 1.01 Definitions.—In construing these statutes and each
 18 and every word, phrase, or part hereof, where the context will
 19 permit:

20 (14) The term "veteran" means a person who served in the
 21 active military, naval, or air service and who was discharged or
 22 released ~~therefrom~~ under honorable conditions only or who later
 23 received an upgraded discharge under honorable conditions,
 24 notwithstanding any action by the United States Department of
 25 Veterans Affairs on individuals discharged or released with
 26 other than honorable discharges. To receive benefits as a
 27 wartime veteran, a veteran must have served in a campaign or
 28 expedition for which a campaign badge has been authorized or a

29 ~~veteran must have served~~ during one of the following periods of
 30 wartime service:

31 (a) Spanish-American War: April 21, 1898, to July 4, 1902,
 32 and including the Philippine Insurrection and the Boxer
 33 Rebellion.

34 (b) Mexican Border Period: May 9, 1916, to April 5, 1917,
 35 in the case of a veteran who during such period served in
 36 Mexico, on the borders of ~~thereof~~, or in the waters adjacent to
 37 Mexico ~~thereto~~.

38 (c) World War I: April 6, 1917, to November 11, 1918;
 39 extended to April 1, 1920, for those veterans who served in
 40 Russia; also extended through July 1, 1921, for those veterans
 41 who served after November 11, 1918, and before July 2, 1921,
 42 provided such veterans had at least 1 day of service between
 43 April 5, 1917, and November 12, 1918.

44 (d) World War II: December 7, 1941, to December 31, 1946.

45 (e) Korean War ~~Conflict~~: June 27, 1950, to January 31,
 46 1955.

47 (f) Vietnam War ~~Era~~: February 28, 1961, to May 7, 1975.

48 (g) Persian Gulf War: August 2, 1990, to January 2, 1992.

49 (h) Operation Enduring Freedom: October 7, 2001, and
 50 ending on the date thereafter prescribed by presidential
 51 proclamation or by law.

52 (i) Operation Iraqi Freedom: March 19, 2003, and ending on
 53 the date thereafter prescribed by presidential proclamation or
 54 by law.

55 Section 2. Subsection (2) of section 295.125, Florida
 56 Statutes, is amended to read:

57 295.125 Preference for admission to career training.—
 58 (2) In determining order of admission or acceptance for
 59 students, every career center or career program that ~~which~~
 60 receives state funding or support shall give preference as
 61 provided in subsection (3) to a person who served in the Armed
 62 Forces of the United States at any time during the Vietnam War
 63 ~~Era~~, as defined in s. 1.01(14), and who has been separated
 64 therefrom under honorable conditions, if such person's
 65 enrollment is directly related to his or her present employment
 66 or to his or her securing employment.

67 Section 3. Section 320.089, Florida Statutes, is reordered
 68 and amended to read:

69 320.089 Members of National Guard ~~and active United States~~
 70 ~~Armed Forces reservists; former prisoners of war;~~ survivors of
 71 Pearl Harbor; Purple Heart medal recipients; active or retired
 72 United States Armed Forces reservists ~~Operation Desert Storm~~
 73 ~~Veterans; Operation Desert Shield Veterans; Operation Iraqi~~
 74 ~~Freedom and Operation Enduring Freedom Veterans;~~ Combat Infantry
 75 Badge, Combat Medical Badge, or Combat Action Badge recipients;
 76 former prisoners of war; Korean War Veterans; Vietnam War
 77 Veterans; Operation Desert Shield Veterans; Operation Desert
 78 Storm Veterans; Operation Enduring Freedom Veterans; and
 79 Operation Iraqi Freedom ~~Korean Conflict~~ Veterans; special
 80 license plates; fee.—

81 (1)(a) Each owner or lessee of an automobile or truck for
 82 private use or recreational vehicle as specified in s.
 83 320.08(9)(c) or (d), which is not used for hire or commercial
 84 use, who is a resident of the state and an active or retired

85 member of the Florida National Guard, a survivor of the attack
 86 on Pearl Harbor, a recipient of the Purple Heart medal, an
 87 active or retired member of any branch of the United States
 88 Armed Forces Reserve, or a recipient of the Combat Infantry
 89 Badge, Combat Medical Badge, or Combat Action Badge shall, upon
 90 application to the department, accompanied by proof of active
 91 membership or retired status in the Florida National Guard,
 92 proof of membership in the Pearl Harbor Survivors Association or
 93 proof of active military duty in Pearl Harbor on December 7,
 94 1941, proof of being a Purple Heart medal recipient, proof of
 95 active or retired membership in any branch of the Armed Forces
 96 Reserve, or proof of membership in the Combat Infantrymen's
 97 Association, Inc., or other proof of being a recipient of the
 98 Combat Infantry Badge, Combat Medical Badge, or Combat Action
 99 Badge, and upon payment of the license tax for the vehicle as
 100 provided in s. 320.08, be issued a license plate as provided by
 101 s. 320.06, upon which, in lieu of the serial numbers prescribed
 102 by s. 320.06, shall be stamped the words "National Guard,"
 103 "Pearl Harbor Survivor," "Combat-wounded veteran," "U.S.
 104 Reserve," "Combat Infantry Badge," "Combat Medical Badge," or
 105 "Combat Action Badge," as appropriate, and a likeness of the
 106 related campaign medal or badge, followed by the serial number
 107 of the license plate. Additionally, the Purple Heart plate may
 108 have the words "Purple Heart" stamped on the plate and the
 109 likeness of the Purple Heart medal appearing on the plate.

110 (b) Notwithstanding any other provision of law to the
 111 contrary, beginning with fiscal year 2002-2003 and annually
 112 thereafter, the first \$100,000 in general revenue generated from

113 the sale of license plates issued under this section shall be
 114 deposited into the Grants and Donations Trust Fund, as described
 115 in s. 296.38(2), to be used for the purposes established by law
 116 for that trust fund. Any additional general revenue generated
 117 from the sale of such plates shall be deposited into the State
 118 Homes for Veterans Trust Fund and used solely to construct,
 119 operate, and maintain domiciliary and nursing homes for
 120 veterans, subject to the requirements of chapter 216.

121 (c) Notwithstanding any provisions of law to the contrary,
 122 an applicant for a Pearl Harbor Survivor license plate or a
 123 Purple Heart license plate who also qualifies for a disabled
 124 veteran's license plate under s. 320.084 shall be issued the
 125 appropriate special license plate without payment of the license
 126 tax imposed by s. 320.08.

127 (2) Each owner or lessee of an automobile or truck for
 128 private use, truck weighing not more than 7,999 pounds, or
 129 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 130 which is not used for hire or commercial use, who is a resident
 131 of the state and who is a former prisoner of war, or their
 132 unremarried surviving spouse, shall, upon application therefor
 133 to the department, be issued a license plate as provided in s.
 134 320.06, on which license plate are stamped the words "Ex-POW"
 135 followed by the serial number. Each application shall be
 136 accompanied by proof that the applicant meets the qualifications
 137 specified in paragraph (a) or paragraph (b).

138 (a) A citizen of the United States who served as a member
 139 of the Armed Forces of the United States or the armed forces of
 140 a nation allied with the United States who was held as a

141 prisoner of war at such time as the Armed Forces of the United
 142 States were engaged in combat, or their unremarried surviving
 143 spouse, may be issued the special license plate provided for in
 144 this subsection without payment of the license tax imposed by s.
 145 320.08.

146 (b) A person who was serving as a civilian with the
 147 consent of the United States Government, or a person who was a
 148 member of the Armed Forces of the United States who was not a
 149 United States citizen and was held as a prisoner of war when the
 150 Armed Forces of the United States were engaged in combat, or
 151 their unremarried surviving spouse, may be issued the special
 152 license plate provided for in this subsection upon payment of
 153 the license tax imposed by s. 320.08.

154 (3) Each owner or lessee of an automobile or truck for
 155 private use, truck weighing not more than 7,999 pounds, or
 156 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 157 which is not used for hire or commercial use, who is a resident
 158 of this state and who is the unremarried surviving spouse of a
 159 recipient of the Purple Heart medal shall, upon application
 160 therefor to the department, with the payment of the required
 161 fees, be issued a license plate as provided in s. 320.06, on
 162 which license plate are stamped the words "Purple Heart" and the
 163 likeness of the Purple Heart medal followed by the serial
 164 number. Each application shall be accompanied by proof that the
 165 applicant is the unremarried surviving spouse of a recipient of
 166 the Purple Heart medal.

167 (4)~~(6)~~ The owner or lessee of an automobile or truck for
 168 private use, a truck weighing not more than 7,999 pounds, or a

169 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 170 which automobile, truck, or recreational vehicle is not used for
 171 hire or commercial use, who is a resident of the state and a
 172 current or former member of the United States Armed Forces
 173 ~~military~~, and who was deployed and served in Korea during the
 174 Korean War as defined in s. 1.01(14), ~~United States military~~
 175 ~~deployment in Korea~~ shall, upon application to the department,
 176 accompanied by proof of active membership or former active duty
 177 status during the Korean War ~~these operations~~, and upon payment
 178 of the license tax for the vehicle as provided in s. 320.08, be
 179 issued a license plate as provided by s. 320.06 upon which, in
 180 lieu of the registration license number prescribed by s. 320.06,
 181 shall be stamped the words "Korean War Veteran," and a likeness
 182 of the Korean Service Medal, ~~"Korean Conflict Veteran,"~~ followed
 183 by the registration license number of the plate. Proof that the
 184 applicant was awarded the Korean Service Medal is sufficient to
 185 establish eligibility for the license plate.

186 (5) The owner or lessee of an automobile or truck for
 187 private use, a truck weighing not more than 7,999 pounds, or a
 188 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 189 which automobile, truck, or recreational vehicle is not used for
 190 hire or commercial use, who is a resident of the state and a
 191 current or former member of the United States military, and who
 192 was deployed and served in Vietnam during United States military
 193 deployment in Indochina shall, upon application to the
 194 department, accompanied by proof of active membership or former
 195 active duty status during these operations, and, upon payment of
 196 the license tax for the vehicle as provided in s. 320.08, be

197 issued a license plate as provided by s. 320.06 upon which, in
 198 lieu of the registration license number prescribed by s. 320.06,
 199 shall be stamped the words "Vietnam War Veteran," and a likeness
 200 of the Vietnam Service Medal, followed by the registration
 201 license number of the plate. Proof that the applicant was
 202 awarded the Vietnam Service Medal is sufficient to establish
 203 eligibility for the license plate.

204 (6)(4) The owner or lessee of an automobile or truck for
 205 private use, a truck weighing not more than 7,999 pounds, or a
 206 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 207 which automobile, truck, or recreational vehicle is not used for
 208 hire or commercial use who is a resident of the state and a
 209 current or former member of the United States military who was
 210 deployed and served in Saudi Arabia, Kuwait, or another area of
 211 the Persian Gulf during Operation Desert Shield or Operation
 212 Desert Storm or Operation Desert Shield; in Afghanistan during
 213 Operation Enduring Freedom; or in Iraq during Operation Iraqi
 214 Freedom; or in Afghanistan during Operation Enduring Freedom
 215 shall, upon application to the department, accompanied by proof
 216 of active membership or former active duty status during one of
 217 these operations, and upon payment of the license tax for the
 218 vehicle as provided in s. 320.08, be issued a license plate as
 219 provided by s. 320.06 upon which, in lieu of the registration
 220 license number prescribed by s. 320.06, shall be stamped the
 221 words "Operation Desert Shield," "Operation Desert Storm,"
 222 "Operation Enduring Freedom," or "Operation Desert Shield,"
 223 "Operation Iraqi Freedom," ~~or "Operation Enduring Freedom,"~~ as
 224 appropriate, and a likeness of the related campaign medal

HB 559

2014

225 followed by the registration license number of the plate. Proof
 226 that the applicant was awarded the Southwest Asia Service Medal,
 227 Iraq Campaign Medal, Afghanistan Campaign Medal, or Global War
 228 on Terrorism Expeditionary Medal is sufficient to establish
 229 eligibility for the appropriate license plate.

230 Section 4. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 749 Florida Tourism Hall of Fame
SPONSOR(S): La Rosa
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N	Davy	West
2) Economic Affairs Committee		Davy DRD	Creamer M

SUMMARY ANALYSIS

In 2001, the Florida Tourism Industry Marketing Corporation (VISIT Florida) established the Florida Tourism Hall of Fame to recognize persons, living or dead, whose work in the tourism industry has made significant contributions to the economic climate in Florida.

HB 749 codifies the Florida Tourism Hall of Fame in statute. VISIT Florida will continue to administer the Hall of Fame without appropriation of state funds. The Department of Management Services (DMS) must set aside an area on the Plaza Level of the Capitol Building for the Hall of Fame and consult with VISIT Florida regarding the design and theme of the area.

The bill is expected to have an indeterminate, but insignificant fiscal impact.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

VISIT Florida

VISIT Florida is a direct-support organization of Enterprise Florida, Inc. (EFI), and is a not for profit corporation. VISIT Florida is organized and operated exclusively to request, receive, hold, invest, and administer property, and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state that relate to the statewide, national, and international promotion and marketing of tourism.¹ The corporation's board of directors is composed of 31 tourism industry-related members who are appointed by EFI.²

Tourism Hall of Fame

According to VISIT Florida,³ individuals have been chosen annually since 2001 to be inducted into the Florida Tourism Hall of Fame. The honor recognizes "contemporary and historic figures whose vision, creativity and drive have had a positive and significant impact on the development of Florida as a desirable visitor destination."⁴ In 2001, eight individuals were inducted into the Florida Tourism Hall of Fame "Founders Club," including Walt Disney and Henry Flagler. Since 2001, 30 additional individuals have been inducted into the Florida Tourism Hall of Fame.

Tourism in Florida

In year 2012-2013, the Florida tourism industry made substantial contributions to the state's economy and labor market. The industry welcomed 91.5 million out-of-state and international visitors who spent \$71.8 billion. Florida tourism directly employed 1,087,700 Floridians. The tourism industry invested \$18.7 million in VISIT Florida co-op programs to promote the state as a tourism destination worldwide.⁵

Halls of Fame – Capitol Complex

Other Florida Halls of Fame displayed in the Capitol include:

- the Florida Women's Hall of Fame;⁶
- the Florida Veterans' Hall of Fame;⁷
- the Florida Artists Hall of Fame;⁸ and
- the Florida Civil Rights Hall of Fame.⁹

Effect of Proposed Changes

This bill creates s. 265.004, F.S., establishing the Florida Tourism Hall of Fame to recognize persons, living or dead, whose work in the tourism industry has made significant contributions to the economic climate in Florida. VISIT Florida will administer the Florida Tourism Hall of Fame without appropriation

¹ Section 288.1226 (2), F.S.

² Section 288.1226 (4), F.S.

³ VISIT Florida is the fictitious name for the Florida Tourism Industry Marketing Corporation. See s. 288.1226(5)(c), F.S.

⁴ VISIT Florida website, <http://visitflorida.org/awards-honorees/florida-tourism-hall-of-fame/> (last visited February 20, 2014).

⁵ VISIT Florida 2012-2013 Annual Report, pg. 24, available at <http://visitflorida.org/media/4722/yearinreview2013.pdf>.

⁶ Section 265.001, F.S.

⁷ Section 265.003, F.S.

⁸ Section 265.2865, F.S.

⁹ Section 760.065, F.S.

of state funds. DMS must set aside an area on the Plaza Level of the Capitol Building for the Florida Tourism Hall of Fame and consult with VISIT Florida regarding the design and theme of the area.

The bill requires VISIT Florida to annually accept nominations and to establish selection criteria and timeframes for induction into the Florida Tourism Hall of Fame. VISIT Florida must give selection preference to the nominees who were born in Florida or adopted Florida as their home state, and have made a significant contribution to the state's travel and tourism industry. VISIT Florida may establish a formal induction ceremony to coincide with the annual Governor's Conference on Tourism.

The bill provides that each person who is inducted into the Florida Tourism Hall of Fame will have his or her name, image, discipline or contribution, and vital information placed on a plaque displayed in a designated area of the Capitol Building.

Any person inducted into the Florida Tourism Hall of Fame administered by VISIT Florida before July 1, 2014, will remain in the Hall of Fame.

B. SECTION DIRECTORY:

Section 1: Creates s. 265.004, F.S., establishing the Florida Tourism Hall of Fame, designating location for the display of inductee plaques, and providing procedures for nomination, selection, and induction of members.

Section 2: Provides the effective date July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill is expected to have an indeterminate, but insignificant fiscal impact.

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 requires the Florida Tourism Hall of Fame to be administered by VISIT Florida without appropriation of state funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the Florida Tourism Hall of Fame;
 3 creating s. 265.004, F.S.; providing legislative
 4 intent; establishing the Florida Tourism Hall of Fame;
 5 providing for administration by the Florida Tourism
 6 Industry Marketing Corporation; designating a location
 7 for the display of inductee plaques; providing
 8 procedures for nomination, selection, and induction of
 9 members; providing that a person inducted before a
 10 certain date remains in the Hall of Fame; providing an
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 265.004, Florida Statutes, is created
 16 to read:

17 265.004 Florida Tourism Hall of Fame.-

18 (1) It is the intent of the Legislature to recognize and
 19 honor those persons, living or dead, who through their work
 20 within the tourism industry have made significant contributions
 21 to the economic climate and the well-being of the residents of
 22 this state.

23 (2) There is established the Florida Tourism Hall of Fame.

24 (a) The Florida Tourism Hall of Fame is administered by
 25 the Florida Tourism Industry Marketing Corporation without
 26 appropriation of state funds.

27 (b) The Department of Management Services shall set aside
 28 an area on the Plaza Level of the Capitol Building and shall
 29 consult with the Florida Tourism Industry Marketing Corporation
 30 regarding the design and theme of the area.

31 (c) Each person who is inducted into the Florida Tourism
 32 Hall of Fame shall have his or her name and image placed on a
 33 plaque displayed in the designated area of the Capitol Building,
 34 which plaque shall designate the member's discipline or
 35 contribution and any vital information relating to the member.

36 (3) The Florida Tourism Industry Marketing Corporation
 37 shall establish selection criteria for induction into the
 38 Florida Tourism Hall of Fame and shall annually accept
 39 nominations.

40 (a) In selecting its nominees for submission to the board
 41 of directors of the corporation, the corporation shall give
 42 preference to tourism industry leaders who were born in Florida
 43 or adopted Florida as their home state and who have made a
 44 significant contribution to the state's travel and tourism
 45 industry.

46 (b) The corporation may establish criteria and set
 47 specific timeframes for the acceptance and consideration of
 48 nominations and may establish a formal induction ceremony to
 49 coincide with the annual Governor's Conference on Tourism.

50 (c) A person inducted into the Florida Tourism Hall of
 51 Fame administered by the corporation before July 1, 2014, shall
 52 remain in the Florida Tourism Hall of Fame.

HB 749

2014

53

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