



Transportation & Highway Safety Subcommittee

MEETING PACKET

**Thursday, March 7, 2013
1:00 PM – 3:00 PM
404 HOB**

**Will Weatherford
Speaker**

**Daniel Davis
Chair**



The Florida House of Representatives

Economic Affairs Committee

Transportation & Highway Safety Subcommittee

Will Weatherford
Speaker

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Chair

Meeting Agenda

March 7, 2013

1:00 PM - 3:00 PM

404 House Office Building

- I. Call to Order & Opening Remarks by Chair Davis**
- II. Consideration of the following bill(s):**
 - HB 13 Use of Wireless Communications Devices While Driving by Rep. Holder**
 - HB 71 Low-Speed Vehicles by Rep. Combee**
 - HB 345 Northeast Florida Regional Transportation Commission by Rep. Cummings**
- III. Closing Remarks by the Chairman**
- IV. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 13 Use of Wireless Communications Devices While Driving
SPONSOR(S): Holder and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 52, SB 74

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Kiner <i>KLK</i>	Miller <i>PM</i>
2) Civil Justice Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 13 provides for secondary enforcement of a ban on texting-while-driving (includes e-mailing and instant messaging). A driver must be first pulled over for a violation of another traffic law before that driver may be cited for violating the texting-while-driving ban. Graduated penalties and exceptions are provided. A driver may still text when legally parked, although "legally parked" is not defined in the bill. The bill also provides that a driver's wireless billing records and testimony (including written statements) from those receiving messages are admissible as evidence in a proceeding to determine whether a violation has been committed.

The ban is enforceable as a secondary offense. A first-violation is a nonmoving violation and carries a \$30 fine, plus court costs. A second or subsequent violation committed within five years is a moving violation and three points will be added to the driver's driver license. In this context, the driver will also face a \$60 fine. The amount of court costs added to the base fine vary by county, but generally range from about \$78 to \$100.

If a driver causes a crash while texting, six points will be added to the driver's driver license in addition to the penalties above.

Texting-while-driving, in conjunction with any moving violation for which points are assessed, will result in two points added to the driver's driver license record if done in a school zone.

This bill may generate additional revenues for local and state governments as a result of the penalties.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

National Traffic Fatality Statistics

The National Highway Traffic Safety Administration (NHTSA) has reported that traffic fatalities fell in 2011 to their lowest level since 1949.¹ According to NHTSA figures, there were 32,367 traffic fatalities in 2011, down from 32,999 in 2010 – a nearly two percent reduction.² This historic drop in both the total number and rate of traffic fatalities continued a decades-long downward trend. Over the years, many factors have contributed to the reduction in traffic fatalities, including the following: the U.S. economic downturn – where fewer cars were on the road; technological advances that have made cars safer; greater and more consistent use of seat belts; and increased enforcement of laws aimed at curbing drunk and distracted driving.³

However, despite the improvements, distracted driving related crashes claim thousands of lives each year and leave many more injured.

Of the total number of traffic fatalities in 2011, at least 3,331 occurred as a direct result of distracted driving, up from 3,267 in 2010.⁴ According to NHTSA, the increase in distracted driving related fatalities “can be attributed in part to increased awareness and reporting.”⁵ While distracted driving related fatalities rose in 2011, distracted driving related injuries fell nearly seven percent – from 416,000 in 2010 to 387,000 in 2011.⁶

Total Fatalities	
2010	2011
32,999	32,367
1.91 percent decrease	

Distracted Driving Fatalities	
2010	2011*
3,267	3,331
1.95 percent increase	
* NHTSA attributes the increase (in part) to increased awareness and reporting.	

Distracted Driving Injuries	
2010	2011
416,000	387,000
6.97 percent decrease	

¹ See the National Highway Traffic Safety Administration’s (NHTSA) December 10, 2012 press release titled “Highway Deaths Fell to Lowest Level in More Than Six Decades, Down 26 Percent Since 2005.” The press release may be viewed on NHTSA’s website at <http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/New+NHTSA+Analysis+Shows+2011+Traffic+Fatalities+Declined+by+Nearly+Two+Percent> (Last viewed on 3/5/13). A copy of the press release is also on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

² Id.

³ Id.

⁴ Id.

⁵ Id. In 2011, NHTSA revised its method for collecting data on distracted driving related fatalities and injuries with the goal of more accurately pinpointing crashes that were actually caused by driver distraction and not some other factor. A press release from the American Association of State Highway and Transportation Officials (AASHTO) describes the revision. The AASHTO press release may be viewed on the AASHTO website at <http://www.aashtojournal.org/Pages/120911deaths.aspx> (Last viewed on 3/5/13). A copy of the press release is also on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

⁶ Id.

For the first-half of calendar year 2012, NHTSA has estimated that there have been 16,290 traffic fatalities across the nation.⁷ This early estimate represents a nearly nine percent increase over the estimated 14,950 fatalities during the same period in 2011.⁸ However, Americans drove nearly 15.6 billion more miles, an increase of about 1.1 percent.⁹ Factors contributing to the increase are unknown, but NHTSA noted that traffic fatalities have been at historic lows over the past 60 years.¹⁰

Total Traffic Fatalities	
2011 (1 st half)	2012 (1 st half)
14,950	16,290
8.96 percent increase	

Florida Traffic Fatality Statistics

Because there is no specific state prohibition on distracted driving, the Florida Department of Highway Safety and Motor Vehicles (DHSMV) is unable to determine how many fatalities are a direct result of distracted driving as this information may or may not show up on a crash report. According to DHSMV, there were 227,998 total crashes in Florida in 2011, down from 235,461 in 2010.¹¹ Mirroring trends nationally, traffic fatalities in Florida have been trending downward – despite a small tick upward during the first half of 2012. In 2011, Florida’s 2,400 traffic fatalities represented a 1.8 percent decrease from the previous year¹² and a 32 percent reduction since 2005.¹³

Florida Traffic Fatality Statistics		
	2010	2011
Total Crashes	235,461	227,998
Total Fatalities*	2,444	2,400
*1.8 percent decrease		

Distracted Driving Defined

According to Distraction.Gov, the official U.S. government website for distracted driving, ‘distracted driving’ is defined as “any activity that could divert a person’s attention away from the primary task of driving,” including, but not limited to, the following:

- texting;
- using a cell phone or smartphone;
- eating or drinking;
- talking to passengers;
- grooming;
- reading, including maps;

⁷ See NHTSA’s Crash Statistics (Form 811680), “Early Estimate of Motor Vehicle Traffic Fatalities for the First Half of 2012 (January – June). This fact sheet may be viewed at <http://www-nrd.nhtsa.dot.gov/Cats/listpublications.aspx?Id=F&ShowBy=DocType> (Last viewed on 3/5/13).

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ See DHSMV’s 2011 Florida Traffic Crash Statistics. These statistics may be viewed on the DHSMV website at <http://www.flhsmv.gov/html/safety.html> (Last viewed on 3/5/13). A copy of the report is also on file with the Florida House of Representatives’ Transportation & Highway Safety Subcommittee.

¹² Id.

¹³ Id.

- using a navigation system;
- watching a video; or
- adjusting a radio, CD player, or MP3 player.¹⁴

Dangers of Distracted Driving

As NHTSA has reported, “text messaging creates a crash risk 23 times worse than driving while not distracted.”¹⁵ This is largely because “sending or receiving a text takes a driver’s eyes from the road for an average of 4.6 seconds, the equivalent – at 55 mph – of driving the length of an entire football field.”¹⁶ These, and similar statistics, are cited by proponents of prohibitions on texting-while-driving and other laws that curb distracted driving.

Opponents, however, argue that texting-while-driving is no different than adjusting the radio or a GPS, eating or drinking, putting on makeup, or any other distraction. This leads opponents of texting-only bans to ask whether those activities should be banned as well. The rebuttal is that researchers have identified texting-while-driving as among the most dangerous of distractions because it involves “manual, visual, and cognitive distraction simultaneously.”¹⁷

Measurable Impact: Are Texting Bans Effective? Do Texting Bans Reduce Crashes?

Most research shows that texting-while-driving is dangerous and increases a driver’s crash risk. However, banning the practice may not only be ineffective, it may actually increase the crash risk if drivers respond by taking their eyes further from the road out of fear of being caught. According to Adrian Lund, president of the Highway Loss Data Institute (HLDI):

Drivers might have responded to the laws prohibiting texting by moving their phones down and out of sight when they texted, in recognition that what they were doing was illegal. This could exacerbate the risk of texting and drive crash rates up instead of down. It’s a perverse result of laws intended to reduce crash risk.¹⁸

The statement above is in response to a study conducted by HLDI, an affiliate of the Insurance Institute for Highway Safety.¹⁹ HLDI member groups include Allstate Insurance Group, Geico Group, Progressive Corporation, State Farm and many other insurers. In all, HLDI member groups account for more than 80 percent of the private passenger vehicle insurance market.²⁰ After comparing collision insurance claims in four states during the months immediately before and after texting bans took effect, HLDI researchers found that collision claims increased in all four states, with three states showing statistically significant increases.²¹ Neighboring control states “where texting laws weren’t substantially changed during the time span of the study” were used to account for “possible changes in collision claim rates unrelated to the bans – changes in the number of miles driven due to the economy,

¹⁴ See NHTSA’s specific list of distractions online at <http://www.distraction.gov/content/get-the-facts/facts-and-statistics.html> (Last viewed on 3/5/13).

¹⁵ Id. While this information may be accessed via the NHTSA website, the study itself was authored by Rebecca L. Olson, Richard J. Hanowski, Jeffrey S. Hickman, and Joseph Bocanegra, of the Virginia Tech Transportation Institute.

¹⁶ Id. While this information may be accessed via the NHTSA website, the study itself was authored by Rebecca L. Olson, Richard J. Hanowski, Jeffrey S. Hickman, and Joseph Bocanegra, of the Virginia Tech Transportation Institute.

¹⁷ Id.
¹⁸ See “Texting Bans Don’t Reduce Crashes; Effects Are Slight Crash Increases,” Highway Loss Data Institute (HLDI), September 28, 2010. The press release and study may be viewed on the HLDI website at <http://www.iihs.org/news/rss/pr092810.html> (Last viewed on 3/5/13).

¹⁹ See information on HLDI on its website at http://www.iihs.org/about_hldi.html (Last viewed on 3/5/13).

²⁰ Id.

²¹ See the full HLDI Bulletin “Texting Laws and Collision Claim Frequencies.” Volume 27, No. 11. September 2010. The Bulletin may be viewed on the HLDI website at <http://www.iihs.org/news/rss/pr092810.html> (Last viewed on 3/5/13). A copy of the Bulletin is also on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

seasonal changes in driving patterns, etc.”²² The four states included in the study, with their respective control states in parenthesis, were the following:

- California (Arizona, Nevada, Oregon) – texting ban took effect January 1, 2009.
- Louisiana (Arkansas, Mississippi, Texas) – texting ban took effect July 1, 2008.
- Minnesota (Iowa and Wisconsin) – texting ban took effect August 1, 2008.
- Washington (Idaho and Oregon) – texting ban took effect January 1, 2008.

Overall, collision claims increased in all four states, although in Washington the increase was not statistically significant. The percentage increases were the following: California (7.6 percent); Louisiana (6.7 percent); Minnesota (8.9 percent); and Washington (0.8 percent).²³

Despite the increases in collision claims, the HLDI researchers concede that “collision claims are not a perfect indicator of all crashes for which distraction is a factor”²⁴ and maintain that texting-while-driving presents a serious crash risk.

United States Secretary of Transportation Ray LaHood opined that the HLDI study was flawed, misleading, and did not address possible enforcement issues.²⁵ In related statements, Allstate, AAA, and the National Safety Council maintained that legislation must be combined with enforcement and education to be most effective.²⁶

Federal Regulations for Commercial Drivers

The Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration have issued a final rule prohibiting the use of a hand-held mobile telephone while operating a commercial motor vehicle²⁷ – a prohibition that includes texting while-driving.²⁸ The rule covers commercial motor vehicle drivers that operate in interstate commerce, and to intrastate commercial motor vehicle drivers when transporting hazardous materials.²⁹ Hands-free devices may be used. According to the FMCSA, “hands-free use of a mobile telephone is allowed using either a wired or wireless earpiece, or the speakerphone function of the mobile telephone.”³⁰ According to the final rule, the use of a hand-held mobile telephone means the following:

- using at least one hand to hold a mobile phone to make a call;
- dialing a mobile phone by pressing more than a single button; or

²² Id.

²³ Id.

²⁴ Id.

²⁵ See Secretary LaHood’s comments on the United States Department of Transportation’s website at

<http://fastlane.dot.gov/2010/09/make-no-mistake-dot-and-its-safety-partners-will-continue-fighting-against-distracted-driving.html> (Last viewed on 3/5/13).

²⁶ Id.

²⁷ 49 C.F.R. s. 383.3, defines “commercial motor vehicle” as “a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: (1) has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or (2) has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or (3) is designed to transport 16 or more passengers, including the driver; or (4) is of any size and is used in the transportation of hazardous materials as defined in this section.

²⁸ The final rule’s text may be viewed on the FMCSA’s website at http://www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/final/Mobile_phone_NFRM.aspx (Last viewed on 3/5/13).

²⁹ 49 C.F.R. s. 383.3, defines “hazardous materials” as “any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.”

³⁰ See Frequently Asked Questions on the rule on the FMCSA’s website at <http://www.fmcsa.dot.gov/about/other/faq/cellphone-ban-faqs.aspx> (Last viewed on 3/5/13).

- reaching for a mobile phone in a manner that requires a driver to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt.³¹

“Texting” means “manually entering text into, or reading text from, an electronic device.”³² This definition includes, but is not limited to, the following:

- short message services;
- e-mailing;
- instant messaging;
- a command or request to access a Web page;
- pressing more than a single button to initiate or terminate a call using a mobile telephone; or
- engaging in any other form of electronic text retrieval or entry for present or future communication.³³

“Driving” means “operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays.” However, “driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.”³⁴

Drivers that violate the final rule face civil penalties of \$500 - \$2,750, depending on the number of previous violations. Repeat offenders may be subject to permanent disqualification from operating a commercial motor vehicle.

The final rule affects employers as well. Under the rule, commercial truck and bus companies that require or allow their drivers to violate the rule will face a maximum penalty of \$11,000.

There are exceptions. Most notably, the rule does not affect federal,³⁵ state, or local government employees. Also, commercial drivers may still text if they pull the vehicle over to the side of the road where it does not impede traffic; under the rule, this would not be considered driving. Lastly, exceptions are provided for emergency communications to law enforcement.

The final rule became effective on January 3, 2012, and states have until January 2015 to comply.

Florida Law

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.³⁶ Currently, there are no prohibitions specifically aimed at texting-while-driving. However, existing laws apply more generally to careless or reckless drivers whose driving behavior may encompass many of the same activities that characterize distracted driving.

Careless driving is the failure to drive in a careful and prudent manner and have regard to all attendant circumstances so as not to endanger another’s life, limb, or property.³⁷ Reckless driving is driving with

³¹ Id.

³² Id.

³³ Id.

³⁴ See 49 C.F.R. s. 392.82(b), at <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=392.82> (Last viewed on 3/5/13).

³⁵ By Executive Order, Federal Employees are prohibited from texting-while-driving while (1) driving government-owned vehicles, or (2) when driving privately-owned vehicles while on official government business, or (3) when using electronic equipment supplied by the government while driving. The text of the Executive Order may be found online at http://www.whitehouse.gov/the_press_office/Executive-Order-Federal-Leadership-on-Reducing-Text-Messaging-while-Driving/ (Last viewed on 3/5/13).

³⁶ s. 316.0075, F.S.

³⁷ s. 316.1925, F.S.

willful or wanton disregard for the safety of persons or property.³⁸ Penalties for careless or reckless driving vary. Careless driving is a moving violation and a first violation carries a \$60 fine. A first violation for reckless driving is punishable by up to 90 days in jail, a fine between \$25 and \$500, or both.³⁹ A second or subsequent violation for reckless driving is punishable by up to six months in jail, a fine between \$50 and \$1,000, or both.⁴⁰ Court costs, which vary by county, would be added to any fine amounts imposed.

Florida law provides a point system used to evaluate the qualifications of any person to operate a motor vehicle after accumulating multiple violations of motor vehicle laws.⁴¹ Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted speed limit all require assessment of four points. Leaving the scene of a crash, and speeding resulting in a crash require assessment of six points.

DHSMV may suspend a driver's license for 30 days if the driver accumulates 12 or more points within a 12-month period,⁴² up to three months if the driver accumulates 18 points in an 18-month period,⁴³ and up to one year if the driver accumulates 24 points within a 36-month period.⁴⁴

Laws in Other States

Thirty-nine states and the District of Columbia have passed legislation banning texting-while-driving for all drivers.⁴⁵ Five states have partial bans that vary; for example, some ban texting-while-driving for learner's permit and intermediate driver license holders, while others ban texting-while-driving for school and transit bus drivers. Arizona, Montana, South Dakota, South Carolina, Florida, and Hawaii do not ban texting-while-driving at the state level, although in Hawaii texting bans may be enacted by a local government ordinance.

Effect of Proposed Changes

Prohibition on Texting-While-Driving

The bill prohibits using a 'wireless communications device'⁴⁶ while operating a motor vehicle to:

- manually type or enter multiple letters, numbers, symbols, or other characters into the device; or
- send or read data for the purpose of nonvoice interpersonal communication, which in addition to texting, includes e-mailing and instant messaging.

The bill does not prohibit talking on a cell phone while driving, and does not require use of a hands-free device. Drivers may continue to text when legally parked, although the term "legally parked" is not defined. In its agency analysis, DHSMV contends that the "legally parked" exemption would not apply to a driver that pulls onto the emergency stopping lane or shoulder of a limited access highway, as stopping or parking in such places is prohibited except in an emergency.⁴⁷

³⁸ s. 316.192, F.S.

³⁹ s. 316.192(2)(a), F.S.

⁴⁰ s. 316.192(2)(b), F.S.

⁴¹ s. 322.27(3), F.S.,

⁴² s. 322.27(3)(a), F.S.

⁴³ s. 322.27(3)(b), F.S.

⁴⁴ s. 322.27(3)(c), F.S.

⁴⁵ "Cell Phone Use and Texting While Driving Laws." This chart may be viewed on the NCSL website at <http://www.ncsl.org/issues-research/transport/cellular-phone-use-and-texting-while-driving-laws.aspx> (Last viewed on 3/5/13).

⁴⁶ The bill defines 'wireless communications device' as "any device that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15, F.S., and that allows text communications."

⁴⁷ See DHSMV's Agency Bill Analysis for House Bill 13. A copy of the bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

Exceptions

The bill makes exceptions for:

- law enforcement, fire service, or emergency medical services personnel, or any operator of an authorized emergency vehicle,⁴⁸ performing official duties;
- reporting an emergency or criminal or suspicious activity to law enforcement;
- receiving messages related to:
 - the operation or navigation of a motor vehicle;
 - safety-related information including emergency, traffic, or weather alerts;
 - data used primarily by the motor vehicle; or
 - radio broadcasts;
- using a device or system for navigation purposes; or
- conducting wireless interpersonal communication that does *not* require manual entry of multiple letters, numbers, or symbols, or reading text messages (except to activate or deactivate or initiate a feature or function).

Penalties

Enforcement is only allowed as a secondary action. A driver must be first pulled over for a violation of another traffic law before that driver may be cited for violating the texting-while-driving ban. In any proceeding to determine whether a violation of the ban has been committed, a driver's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence.

The ban is enforceable as a secondary offense. A first-violation is a nonmoving violation and carries a \$30 fine, plus court costs, which vary by county. A second or subsequent violation committed within five years is a moving violation and three points will be added to the driver's driver license. In this context, the driver will also face a \$60 fine, plus court costs. The amount of court costs added to the base fine vary by county, but generally range from about \$78 to \$100.

In addition to these penalties, any violation of the ban that causes a crash will result in six points added to the offender's driver license record. Any violation of the ban committed in conjunction with any moving violation for which points are assessed, when committed within a school safety zone, will result in two points added to the offender's driver license record.

Fiscal Impact

This bill may generate additional revenues for local and state governments as a result of the penalties.

Effective Date

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

B. SECTION DIRECTORY:

⁴⁸ As defined in s. 322.01, F.S. Section 322.01, F.S., defines 'authorized emergency vehicle' as a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized by s. 316.2397, F.S., to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

- Section 1: creates s. 316.305, F.S., as the "Florida Ban on Texting While Driving Law"; expresses legislative intent;
- Section 2: amends s. 322.27, F.S., to provide for points to be assessed against a person's driver license in certain instances;
- Section 3: provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may generate an indeterminate amount of revenue depending on the number of violations.

The state may be eligible to receive federal dollars that are available to states with laws aimed at distracted driving. See the Fiscal Comments Section below for more information.

2. Expenditures:

The bill will require modification to DHSMV's technology systems. Modification costs will be minimal and absorbed within DHSMV's existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may generate an indeterminate amount of revenue depending on the number of violations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

An individual that violates the ban will be subject to a fine, and in certain instances, will have points assessed against his or her driver license.

D. FISCAL COMMENTS:

Federal Incentives

The recently enacted federal Moving Ahead for Progress in the 21st Century Act (MAP-21) appropriates funding through grants to states that target distracted driving.⁴⁹ Florida must take a two-pronged approach to be eligible to receive federal grant funding by prohibiting and enforcing⁵⁰ the following:

- (1) texting-while-driving for all drivers; and
- (2) use of a personal wireless communications device while driving for those under 18.

Both prohibitions must be primary offenses and increased fines for repeat violations are required. In either case, there are few exceptions: (1) emergencies⁵¹ or (2) commercial drivers or school bus drivers

⁴⁹ See Public Law 112-141, sec. 31105; 23 U.S.C. 405(e).

⁵⁰ MAP-21 does not define "enforcing," however, NHTSA's Notice of Funding Availability states, "the law must not only be enacted but be in operation, allowing citations to be issued. Therefore, a law that has a future effective date or that includes a provision limiting enforcement during a 'grace period' . . . would not be deemed in effect or being enforced."

⁵¹ The permitted exceptions related to "emergencies" are the following: (1) a driver who uses a personal wireless communications device to contact emergency services; and (2) emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel.

that text within the scope of employment. DHSMV would also be required to include questions related to distracted driving on the license exam for teen drivers.

The state law's operation must also be consistent with definitions listed in the US DOT Distracted Driving Grant Program's "Notice of Funding Availability."⁵²

Proviso language in MAP-21 stipulates that each state must use at least 50 percent of the funds:

- to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;
- for traffic signs that notify drivers about the state prohibition on distracted driving; or
- for law enforcement costs related to enforcement.

The total amount available for federal FY 2013 was \$17.525 million to be divided amongst the states receiving grants, with an additional \$5 million that may be used by NHTSA to develop marketing campaigns designed to support state distracted driving laws.⁵³ The \$17.525 million total is comprised of approximately \$11.9 million for 'Distracted Driving Grants' and approximately \$5.6 million for 'First-Year Texting Ban Grants.'⁵⁴ A state that was ineligible for a 'Distracted Driving Grant' may have qualified for a 'First-Year Texting Ban Grant' in FY 2013 only if it enforced a primary texting law before July 6, 2012.

Florida missed the deadline for federal FY 2013, which was February 28, 2013. The federal FY 2014 deadline is July 1, 2013. Although funds will be awarded to states under 23 U.S.C. s. 405(e) in federal FY 2014, the total amount available in federal FY 2014 has not been announced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rule-making authority is not required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁵² See the United States Department of Transportation (USDOT) Distracted Driving Grant Program's "Notice of Funding Availability." This document was published in the Federal Register on Friday, August 24, 2012, and may be viewed on the Federal Register's website at <http://www.federalregister.gov/articles/2012/08/24/2012-20926/distracted-driving-grant-program> (Last viewed on 3/5/13).

⁵³ See the United States Department of Transportation (USDOT) Distracted Driving Grant Program's "Notice of Funding Availability." This document was published in the Federal Register on October 1, 2012, became effective on October 5, 2012, and may be viewed on the Federal Register's website at <http://www.federalregister.gov/articles/2012/08/24/2012-20926/distracted-driving-grant-program> (Last viewed on 3/5/13).

⁵⁴ Id.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the use of wireless communications
3 devices while driving; creating s. 316.305, F.S.;
4 creating the "Florida Ban on Texting While Driving
5 Law"; providing legislative intent; prohibiting the
6 operation of a motor vehicle while using a wireless
7 communications device for certain purposes; defining
8 the term "wireless communications device"; providing
9 exceptions; specifying information that is admissible
10 as evidence of a violation; providing penalties;
11 providing for enforcement as a secondary action;
12 amending s. 322.27, F.S.; providing for points to be
13 assessed against a driver license for the unlawful use
14 of a wireless communications device within a school
15 safety zone or resulting in a crash; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 316.305, Florida Statutes, is created
21 to read:

22 316.305 Wireless communications devices; prohibition.-

23 (1) This section may be cited as the "Florida Ban on
24 Texting While Driving Law."

25 (2) It is the intent of the Legislature to:

26 (a) Improve roadway safety for all vehicle operators,
27 vehicle passengers, bicyclists, pedestrians, and other road
28 users.

29 (b) Prevent crashes related to the act of text messaging
 30 while driving a motor vehicle.

31 (c) Reduce injuries, deaths, property damage, health care
 32 costs, health insurance rates, and automobile insurance rates
 33 related to motor vehicle crashes.

34 (d) Authorize law enforcement officers to stop motor
 35 vehicles and issue citations as a secondary offense to persons
 36 who are texting while driving.

37 (3) (a) A person may not operate a motor vehicle while
 38 manually typing or entering multiple letters, numbers, symbols,
 39 or other characters into a wireless communications device or
 40 while sending or reading data in such a device for the purpose
 41 of nonvoice interpersonal communication, including, but not
 42 limited to, communication methods known as texting, e-mailing,
 43 and instant messaging. As used in this section, the term
 44 "wireless communications device" means any device that is
 45 designed or intended to receive or transmit text or character-
 46 based messages, access or store data, or connect to the Internet
 47 or any communications service as defined in s. 812.15 and that
 48 allows text communications. A motor vehicle that is legally
 49 parked is not being operated and is not subject to the
 50 prohibition in this paragraph.

51 (b) Paragraph (a) does not apply to a motor vehicle
 52 operator who is:

53 1. Performing official duties as an operator of an
 54 authorized emergency vehicle as defined in s. 322.01, a law
 55 enforcement or fire service professional, or an emergency
 56 medical services professional.

57 2. Reporting an emergency or criminal or suspicious
 58 activity to law enforcement authorities.

59 3. Receiving messages that are:

60 a. Related to the operation or navigation of the motor
 61 vehicle;

62 b. Safety-related information, including emergency,
 63 traffic, or weather alerts;

64 c. Data used primarily by the motor vehicle; or

65 d. Radio broadcasts.

66 4. Using a device or system for navigation purposes.

67 5. Conducting wireless interpersonal communication that
 68 does not require manual entry of multiple letters, numbers, or
 69 symbols, except to activate, deactivate, or initiate a feature
 70 or function.

71 6. Conducting wireless interpersonal communication that
 72 does not require reading text messages, except to activate,
 73 deactivate, or initiate a feature or function.

74 (c) A user's billing records for a wireless communications
 75 device or the testimony of or written statements from
 76 appropriate authorities receiving such messages may be
 77 admissible as evidence in any proceeding to determine whether a
 78 violation of paragraph (a) has been committed.

79 (4) (a) Any person who violates paragraph (3) (a) commits a
 80 noncriminal traffic infraction, punishable as a nonmoving
 81 violation as provided in chapter 318.

82 (b) Any person who commits a second or subsequent
 83 violation of paragraph (3) (a) within 5 years after the date of a
 84 prior conviction for a violation of paragraph (3) (a) commits a

85 | noncriminal traffic infraction, punishable as a moving violation
 86 | as provided in chapter 318.

87 | (5) Enforcement of this section by state or local law
 88 | enforcement agencies must be accomplished only as a secondary
 89 | action when an operator of a motor vehicle has been detained for
 90 | a suspected violation of another provision of this chapter,
 91 | chapter 320, or chapter 322.

92 | Section 2. Paragraph (d) of subsection (3) of section
 93 | 322.27, Florida Statutes, is amended to read:

94 | 322.27 Authority of department to suspend or revoke driver
 95 | license or identification card.—

96 | (3) There is established a point system for evaluation of
 97 | convictions of violations of motor vehicle laws or ordinances,
 98 | and violations of applicable provisions of s. 403.413(6) (b) when
 99 | such violations involve the use of motor vehicles, for the
 100 | determination of the continuing qualification of any person to
 101 | operate a motor vehicle. The department is authorized to suspend
 102 | the license of any person upon showing of its records or other
 103 | good and sufficient evidence that the licensee has been
 104 | convicted of violation of motor vehicle laws or ordinances, or
 105 | applicable provisions of s. 403.413(6) (b), amounting to 12 or
 106 | more points as determined by the point system. The suspension
 107 | shall be for a period of not more than 1 year.

108 | (d) The point system shall have as its basic element a
 109 | graduated scale of points assigning relative values to
 110 | convictions of the following violations:

- 111 | 1. Reckless driving, willful and wanton—4 points.
- 112 | 2. Leaving the scene of a crash resulting in property

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113 damage of more than \$50-6 points.

114 3. Unlawful speed, or unlawful use of a wireless
 115 communications device, resulting in a crash-6 points.

116 4. Passing a stopped school bus-4 points.

117 5. Unlawful speed:

118 a. Not in excess of 15 miles per hour of lawful or posted
 119 speed-3 points.

120 b. In excess of 15 miles per hour of lawful or posted
 121 speed-4 points.

122 6. A violation of a traffic control signal device as
 123 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.

124 However, no points shall be imposed for a violation of s.
 125 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 126 stop at a traffic signal and when enforced by a traffic
 127 infraction enforcement officer. In addition, a violation of s.
 128 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 129 stop at a traffic signal and when enforced by a traffic
 130 infraction enforcement officer may not be used for purposes of
 131 setting motor vehicle insurance rates.

132 7. All other moving violations (including parking on a
 133 highway outside the limits of a municipality)-3 points. However,
 134 no points shall be imposed for a violation of s. 316.0741 or s.
 135 316.2065(11); and points shall be imposed for a violation of s.
 136 316.1001 only when imposed by the court after a hearing pursuant
 137 to s. 318.14(5).

138 8. Any moving violation covered in this paragraph ~~above~~,
 139 excluding unlawful speed and unlawful use of a wireless
 140 communications device, resulting in a crash-4 points.

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- 141 9. Any conviction under s. 403.413(6)(b)-3 points.
142 10. Any conviction under s. 316.0775(2)-4 points.
143 11. Any moving violation covered in this paragraph
144 committed in conjunction with the unlawful use of a wireless
145 communications device within a school safety zone-2 points.
146 Section 3. This act shall take effect October 1, 2013.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway
 2 Safety Subcommittee
 3 Representative Holder offered the following:

Amendment

6 Remove line 44 and insert:
 7 "wireless communications device" means any handheld device used
 8 in a handheld manner, that is

10 Remove lines 48-49 and insert:
 11 allows text communications. For the purposes of this paragraph,
 12 a motor vehicle that is stationary is not being operated and is
 13 not subject to the

15 Between lines 73 and 74, insert:
 16 7. A person operating an autonomous vehicle, as defined in s.
 17 316.003, in autonomous mode.

19 Remove lines 143-145 and insert:



Amendment No. 1

20 11. A moving violation covered in this paragraph which is
21 committed in conjunction with the unlawful use of a wireless
22 communications device within a school zone-2 points, in addition
23 to the points assigned for the moving violation.
24

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 71 Low-Speed Vehicles
SPONSOR(S): Combee and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 62

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Kiner <i>KLK</i>	Miller <i>PM</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 71 authorizes the administrative conversion of a low-speed vehicle to a golf cart. The newly converted golf cart must be verified by the Department of Highway Safety and Motor Vehicles (DHSMV) – a process that will require DHSMV to note the conversion in the vehicle record and cancel the vehicle's registration and certificate of title. There is a \$40 fee to be used to cover administrative costs associated with the verification. However, the owner will no longer have to pay registration fees and will no longer have to carry insurance on the vehicle.

The newly converted golf cart would be authorized to operate in the same manner as other golf carts – on county roads and municipal streets (driver must be at least 14 years old) and on sidewalks (not to exceed 15 mph) only when authorized by the local government in that jurisdiction. If at a location approved by the Florida Department of Transportation, the newly converted golf cart would also be able to cross a portion of the State Highway System.

Vehicle registration fees vary depending on weight and any additional add-ons, but a typical low-speed vehicle could carry total annual registration fees of \$46.15 to \$57.15, compared to a one-time verification fee of \$40 as part of the conversion.

An unknown number of vehicles will be converted under the bill's provisions, but because owners will no longer have to pay vehicle registration fees, state funds will be affected. The bill will have an indeterminate, but negative revenue impact to the General Revenue Fund and to the State Transportation Trust Fund. However, the bill will have an indeterminate, but positive fiscal impact to the Highway Safety Operating Trust Fund.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Low-speed Vehicles

A low-speed vehicle weighs less than 3,000 pounds and has a top speed of 20-25 miles per hour.¹ Under Florida law, a low-speed vehicle may be driven on roads where the speed limit does not exceed 35 miles per hour, unless the Florida Department of Transportation or the local government having jurisdiction determines it is unsafe to do so.² Because it is street-legal, a low-speed vehicle must be registered and insured, and the driver must have a valid driver license.³ Low-speed vehicles must be equipped with head and turn-signal lamps, mirrors, windshields, seat belts, and other safety features.⁴

During the 2012 regular legislative session, the Florida Legislature removed language restricting low-speed vehicles to electric power, effectively expanding the definition to include gasoline-powered vehicles.⁵

Vehicle registration fees vary depending on the vehicle's weight and any additional add-ons.⁶ A low-speed vehicle weighs less than 3,000 pounds. Under Florida law, a vehicle weighing less than 2,500 pounds carries a \$19.50 base registration fee,⁷ and a vehicle weighing between 2,500-3,499 pounds carries a \$30.50 base registration fee.⁸ In addition to the base registration fees, Florida law requires a number of surcharges and fees which are applied to each registration (see Fiscal Analysis section below for details of the amounts and disposition). The total cost to an owner to renew the registration of a low-speed vehicle ranges from \$46.15 to \$57.15 depending on the vehicle's weight.

During 2012, there were 5,818 low-speed vehicles registered in the state, of which 1,229 were originals and 4,589 were renewals.⁹ The number of unregistered low-speed vehicles is unknown.

Golf Carts

Designed and manufactured for recreational use, a golf cart's top speed is lower than that for a low-speed vehicle.¹⁰ The top speed is 20 miles per hour.¹¹ A golf cart does not have to be registered and the driver does not have to be licensed.¹²

Street-use

With exceptions, golf carts are not street-legal.¹³ The most notable exception is that local governments may authorize their use on county roads and municipal streets in certain instances – only after

¹ See 49 C.F.R., §571.3 and s. 320.01(42), F.S.

² ss. 316.2122(1),(5), and (6), F.S.

³ s. 316.2122(3)(4), F.S.

⁴ s. 316.2122(2), F.S.

⁵ s. 20, ch. 2012-174, Laws of Florida

⁶ s. 320.08, F.S.

⁷ s. 320.08(2)(b), F.S.

⁸ s. 320.08(2)(c), F.S.

⁹ See the Florida Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis* for HB 71. A copy of the bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

¹⁰ s. 320.01(22), F.S.

¹¹ *Id.*

¹² ss. 320.105 and 322.04(1)(d), F.S.

considering factors such as the speed, volume, and character of motor vehicle traffic on the road or street in question.¹⁴ Additionally, a golf cart may also cross a portion of the State Highway System under specified conditions and if approved by the Florida Department of Transportation.¹⁵

A golf cart must be equipped with a reliable steering apparatus, efficient brakes, safe tires, and other safety features, and generally may only be driven during daylight hours.¹⁶ However, a local government may authorize nighttime driving if the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.¹⁷

In every case, however, the driver of a golf cart on a public road must be at least 14 years old.¹⁸

Use on sidewalks

Local governments may also authorize golf carts to be driven on sidewalks; however, speed must be limited to 15 miles per hour.¹⁹ Before authorizing such operations, the local government must determine that golf carts, bicycles, and pedestrians may safely share the sidewalk.²⁰ The local government must require that the golf cart meets the minimum safety equipment requirements above, but may require additional equipment including horns or other warning devices.²¹ The local government must post appropriate signs or otherwise inform residents that golf cart operation is allowed on sidewalks.²²

Use within self-contained retirement communities

Although golf carts are generally not street-legal, there are some exceptions, which are noted above. Florida law also provides a carve-out for the use of golf carts within a self-contained retirement community. In this instance, a golf cart may be reasonably operated within any self-contained retirement community, unless prohibited by the Florida Department of Transportation or the local government having jurisdiction.²³ In addition, the golf cart must be equipped and operated in accordance with the safety standards in s. 316.212(5), (6), and (7), F.S., namely that the golf cart:

- be equipped with a reliable steering apparatus, efficient brakes, safe tires, and other safety features;
- be driven only during daylight hours, unless the responsible local government authorizes nighttime driving and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield; and
- be driven by a person who is at least 14 years old.

Use by law enforcement agencies and municipalities

Although golf carts are generally not street-legal, there are some exceptions, which are noted above. Florida law also provides a carve-out for the use of golf carts by law enforcement agencies and municipalities.

¹³ s. 316.212, F.S.

¹⁴ s. 316.212(1), F.S.

¹⁵ Id.

¹⁶ ss. 316.212(5) and (6), F.S.

¹⁷ s. 316.212(5), F.S.

¹⁸ s. 316.212(7), F.S.

¹⁹ s. 316.212(8)(b), F.S.

²⁰ s. 316.212(8)(b)1., F.S.

²¹ s. 316.212(8)(b)4., F.S.

²² s. 316.212(8)(b)5., F.S.

²³ s. 316.2125, F.S.

Law enforcement agencies may operate golf carts on any street, road, or highway while carrying out official duties so long as the golf cart is marked as a law enforcement vehicle and the driver and passengers wear safety gear.²⁴

Municipal employees may operate golf carts for municipal purposes on any state, county, or municipal road located within the municipality.²⁵ A golf cart operated in this context must comply with operational and safety standards required for street use (listed above) and any more restrictive ordinances enacted by the responsible local governmental entity.²⁶

Effect of Proposed Changes

House Bill 71 authorizes the administrative conversion of a low-speed vehicle to a golf cart. The owner must contact DHSMV to verify the conversion, surrender the registration license plate and the certificate of title (which are canceled by DHSMV), and must pay the one-time \$40 verification fee in lieu of ongoing annual registration costs.

The newly converted golf cart will not have to be registered or insured, and the driver will not have to be licensed. Generally, in each jurisdiction, the newly converted golf cart would be authorized to operate in the same manner as other golf carts – on county roads and municipal streets (driver must be at least 14 years old) and on sidewalks (not to exceed 15 mph) only when authorized by the local government in that jurisdiction. If at a location approved by the Florida Department of Transportation, the newly converted golf cart would also be able to cross a portion of the State Highway System. However, if the golf cart were being operated by a law enforcement officer on official duty, a municipal employee for municipal purposes, or reasonably within a self-contained retirement community, such operation would not need prior local government authorization.

An unknown number of vehicles will be converted under the bill's provisions, but because owners will no longer have to pay vehicle registration fees, state funds will be affected. The bill will have an indeterminate, but negative revenue impact to the General Revenue Fund and the State Transportation Trust Fund. However, the bill will have an indeterminate, but positive impact to the Highway Safety Operating Trust Fund from the \$40 verification fee. See Fiscal Analysis section below for details of the amounts and disposition.

The bill's effective date is July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Creates s. 319.14(10), F.S., to authorize a low-speed vehicle to be converted to a golf cart.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have an indeterminate fiscal impact on revenues. Vehicle registration fees vary depending on the vehicle's weight and any additional add-ons. A low-speed vehicle weighs less than 3,000 pounds. Under Florida law, a vehicle weighing less than 2,500 pounds carries a \$19.50 base registration fee, of which \$5 is deposited into the General Revenue Fund with the remainder

²⁴ s. 316.21265, F.S.

²⁵ s. 316.2126, F.S.

²⁶ Id.

deposited in the State Transportation Trust Fund. A vehicle weighing between 2,500-3,499 pounds carries a \$30.50 base registration fee, of which \$8 is deposited into the General Revenue Fund with the remainder deposited in the State Transportation Trust Fund.

In addition to the base registration fees, the following taxes and fees are imposed:

- \$4.00 surcharge on each annual motor vehicle registration except for mobile homes (see s. 320.0804, F.S.) of which \$2 is deposited into the State Transportation Trust Fund and \$2 is deposited into the General Revenue Fund;
- \$2.80 motor vehicle license replacement fee on each annual motor vehicle registration except for mobile homes (see s. 320.06, F.S.) to be deposited in the Highway Safety Operation Trust Fund to pay for the cost of license plate replacement required every 10 years;
- \$.10 on each motor vehicle as defined in s. 320.01, F.S., and on each moped, as defined in s. 316.003(2), F.S. (see s. 320.0801, F.S.) which is deposited into the Emergency Medical Services Trust Fund;
- \$5.50 surcharge on each annual motor vehicle registration except for mobile homes (See s. 320.08046, F.S.) of which \$1 is deposited into the Department of Juvenile Justice Grants & Donations Trust Fund and \$4.50 is deposited into the General Revenue Fund;
- \$1.00 surcharge on each annual motor vehicle registration except mobile homes (See s. 320.0802, F.S.) which is distributed into the State Agency Law Enforcement Radio System Trust Fund of the Department of Management Services;
- \$1.25 fee on every license registration (See s. 320.03, F.S.) which is deposited in the Highway Safety Operating Trust Fund;
- \$1.00 air pollution surcharge (See s. 320.03, F.S.) which is deposited in the Air Pollution Control Trust Fund in the Department of Environmental Protection;
- \$3.00 decal fee (see s. 320.04, F.S.) of which \$2 is deposited into the General Revenue Fund and \$1 is used to pay for decal equipment;
- \$5.00 service fee (See s. 320.04, F.S.) of which \$2.50 is deposited into the General Revenue Fund and \$2.50 is retained by DHSMV or the Tax Collector;
- \$1.50 materials fee (See s. 320.06, F.S.) of which \$1 is deposited into the General Revenue Fund and \$.50 is deposited into the Highway Safety Operating Trust Fund;
- \$1.50 surcharge (See s. 320.03, F.S.) which is deposited in the Transportation Disadvantaged Trust Fund.

During 2012, there were 5,818 low-speed vehicles registered in the state, of which 1,229 were originals and 4,589 were renewals.²⁷ The number of unregistered low-speed vehicles is unknown. Because the number of low-speed vehicles that will actually be converted to golf carts is unknown, the bill will have an indeterminate, but negative revenue impact on all of the funds listed above. However, the bill will also have an indeterminate, but positive impact to the Highway Safety Operating Trust Fund from the one-time \$40 verification fee from each conversion.

2. Expenditures:

The bill will have an indeterminate fiscal impact on DHSMV expenditures for processing conversions of low-speed vehicles to golf carts. The one-time \$40 verification fee for each conversion will help cover DHSMV's administrative costs.

According to DHSMV, its Information Systems Administration (ISA) will require approximately 145 hours of additional work in order to implement the provisions of this bill.²⁸ DHSMV states that these hours can be incorporated into ISA's normal workload.

²⁷ See the Florida Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis* for HB 71. A copy of the bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

²⁸ See the Florida Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis* for HB 71. A copy of the bill analysis is on file with the Florida House of Representatives, Transportation & Highway Safety Subcommittee.

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 fee. The fee is often distributed to the appropriate local governmental entity. To the extent that a fewer number of low-speed vehicle owners will be renewing their vehicle's registration, tax collectors will process fewer transactions and local governments may see an indeterminate decrease in revenue.

2. Expenditures:

The bill does not impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

While the bill requires a one-time \$40 verification fee, owners of newly converted golf carts will no longer have to pay fees associated with registering and insuring their low-speed vehicles. Vehicle registration fees vary depending on weight and any additional add-ons, but a typical low-speed vehicle could carry total annual registration fees of \$46.15 to \$57.15, compared to a one-time verification fee of \$40 as part of the conversion.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor impacts rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The potential severity of crashes between non-motorists (e.g., bicyclists and pedestrians) and golf carts may be increased due to larger vehicles using sidewalks and other facilities generally reserved for non-motorized travel. As described in the Current Situation section above, such uses must be specifically authorized by the governmental entity with jurisdiction over the sidewalk facility.

Several manufacturers' lines currently offer vehicles which are identical in outward appearance, but can be configured as either a low-speed vehicle or a golf cart. The only difference between the configurations is internal gearing which provides for a 20 mph maximum speed in the golf cart configuration and a 25 mph maximum speed for the low-speed vehicle. With no outwardly apparent difference between the vehicles, it may be difficult for law enforcement officers to ascertain whether a vehicle is required to be registered.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 71

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1 A bill to be entitled
 2 An act relating to low-speed vehicles; amending s.
 3 319.14, F.S.; authorizing the conversion of a vehicle
 4 titled or branded and registered as a low-speed
 5 vehicle to a golf cart; providing procedures;
 6 providing for a fee; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (10) is added to section 319.14,
 11 Florida Statutes, to read:

12 319.14 Sale of motor vehicles registered or used as
 13 taxicabs, police vehicles, lease vehicles, rebuilt vehicles,
 14 nonconforming vehicles, custom vehicles, or street rod vehicles;
 15 conversion of low-speed vehicles.-

16 (10) (a) A vehicle titled or branded and registered as a
 17 low-speed vehicle may be converted to a golf cart pursuant to
 18 the following:

19 1. The owner of the converted vehicle must contact the
 20 regional office of the department to verify the conversion,
 21 surrender the registration license plate and the current
 22 certificate of title, and pay the appropriate fee established
 23 under paragraph (b).

24 2. Upon verification of the conversion, the department
 25 shall note in the vehicle record that the low-speed vehicle has
 26 been converted to a golf cart and cancel the certificate of
 27 title and registration of the vehicle.

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28 (b) The department shall establish a fee of \$40 to cover
29 the cost of verification and associated administrative costs for
30 carrying out its responsibilities under this subsection.

31 Section 2. This act shall take effect July 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Combee offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 319.14, Florida Statutes, is amended to
8 read:

9 319.14 Sale of motor vehicles registered or used as
10 taxicabs, police vehicles, lease vehicles, rebuilt vehicles,
11 nonconforming vehicles, custom vehicles, or street rod vehicles;
12 conversion of low-speed vehicles.-

13 (1) (a) A person may not knowingly offer for sale, sell, or
14 exchange any vehicle that has been licensed, registered, or used
15 as a taxicab, police vehicle, or short-term-lease vehicle, or a
16 vehicle that has been repurchased by a manufacturer pursuant to
17 a settlement, determination, or decision under chapter 681,
18 until the department has stamped in a conspicuous place on the
19 certificate of title of the vehicle, or its duplicate, words



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20 stating the nature of the previous use of the vehicle or the
21 title has been stamped "Manufacturer's Buy Back" to reflect that
22 the vehicle is a nonconforming vehicle. If the certificate of
23 title or duplicate was not so stamped upon initial issuance
24 thereof or if, subsequent to initial issuance of the title, the
25 use of the vehicle is changed to a use requiring the notation
26 provided for in this section, the owner or lienholder of the
27 vehicle shall surrender the certificate of title or duplicate to
28 the department prior to offering the vehicle for sale, and the
29 department shall stamp the certificate or duplicate as required
30 herein. When a vehicle has been repurchased by a manufacturer
31 pursuant to a settlement, determination, or decision under
32 chapter 681, the title shall be stamped "Manufacturer's Buy
33 Back" to reflect that the vehicle is a nonconforming vehicle.

34 (b) A person may not knowingly offer for sale, sell, or
35 exchange a rebuilt vehicle until the department has stamped in a
36 conspicuous place on the certificate of title for the vehicle
37 words stating that the vehicle has been rebuilt or assembled
38 from parts, or is a kit car, glider kit, replica, flood vehicle,
39 custom vehicle, or street rod vehicle unless proper application
40 for a certificate of title for a vehicle that is rebuilt or
41 assembled from parts, or is a kit car, glider kit, replica,
42 flood vehicle, custom vehicle, or street rod vehicle has been
43 made to the department in accordance with this chapter and the
44 department has conducted the physical examination of the vehicle
45 to assure the identity of the vehicle and all major component
46 parts, as defined in s. 319.30(1), which have been repaired or
47 replaced. Thereafter, the department shall affix a decal to the



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48 vehicle, in the manner prescribed by the department, showing the
49 vehicle to be rebuilt.

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

51 1. "Police vehicle" means a motor vehicle owned or leased
52 by the state or a county or municipality and used in law
53 enforcement.

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

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

61 c. "Lease vehicle" includes both short-term-lease vehicles
62 and long-term-lease vehicles.

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

65 4. "Assembled from parts" means a motor vehicle or mobile
66 home assembled from parts or combined from parts of motor
67 vehicles or mobile homes, new or used. "Assembled from parts"
68 does not mean a motor vehicle defined as a "rebuilt vehicle" in
69 subparagraph 3., which has been declared a total loss pursuant
70 to s. 319.30.

71 5. "Kit car" means a motor vehicle assembled with a kit
72 supplied by a manufacturer to rebuild a wrecked or outdated
73 motor vehicle with a new body kit.

74 6. "Glider kit" means a vehicle assembled with a kit
75 supplied by a manufacturer to rebuild a wrecked or outdated



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76 | truck or truck tractor.

77 | 7. "Replica" means a complete new motor vehicle
78 | manufactured to look like an old vehicle.

79 | 8. "Flood vehicle" means a motor vehicle or mobile home
80 | that has been declared to be a total loss pursuant to s.
81 | 319.30(3)(a) resulting from damage caused by water.

82 | 9. "Nonconforming vehicle" means a motor vehicle which has
83 | been purchased by a manufacturer pursuant to a settlement,
84 | determination, or decision under chapter 681.

85 | 10. "Settlement" means an agreement entered into between a
86 | manufacturer and a consumer that occurs after a dispute is
87 | submitted to a program, or an informal dispute settlement
88 | procedure established by a manufacturer or is approved for
89 | arbitration before the New Motor Vehicle Arbitration Board as
90 | defined in s. 681.102.

91 | 11. "Custom vehicle" means a motor vehicle that:

92 | a. Is 25 years of age or older and of a model year after
93 | 1948 or was manufactured to resemble a vehicle that is 25 years
94 | of age or older and of a model year after 1948; and

95 | b. Has been altered from the manufacturer's original
96 | design or has a body constructed from nonoriginal materials.

97 |

98 | The model year and year of manufacture that the body of a custom
99 | vehicle resembles is the model year and year of manufacture
100 | listed on the certificate of title, regardless of when the
101 | vehicle was actually manufactured.

102 | 12. "Street rod" means a motor vehicle that:

103 | a. Is of a model year of 1948 or older or was manufactured



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104 after 1948 to resemble a vehicle of a model year of 1948 or
105 older; and

106 b. Has been altered from the manufacturer's original
107 design or has a body constructed from nonoriginal materials.
108

109 The model year and year of manufacture that the body of a street
110 rod resembles is the model year and year of manufacture listed
111 on the certificate of title, regardless of when the vehicle was
112 actually manufactured.

113 (2) A person may not knowingly sell, exchange, or transfer
114 a vehicle referred to in subsection (1) without, before
115 consummating the sale, exchange, or transfer, disclosing in
116 writing to the purchaser, customer, or transferee the fact that
117 the vehicle has previously been titled, registered, or used as a
118 taxicab, police vehicle, or short-term-lease vehicle, is a
119 vehicle that is rebuilt or assembled from parts, is a kit car,
120 glider kit, replica, or flood vehicle, or is a nonconforming
121 vehicle, custom vehicle, or street rod vehicle, as the case may
122 be.

123 (3) Any person who, with intent to offer for sale or
124 exchange any vehicle referred to in subsection (1), knowingly or
125 intentionally advertises, publishes, disseminates, circulates,
126 or places before the public in any communications medium,
127 whether directly or indirectly, any offer to sell or exchange
128 the vehicle shall clearly and precisely state in each such offer
129 that the vehicle has previously been titled, registered, or used
130 as a taxicab, police vehicle, or short-term-lease vehicle or
131 that the vehicle or mobile home is a vehicle that is rebuilt or



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132 assembled from parts, is a kit car, glider kit, replica, or
133 flood vehicle, or is a nonconforming vehicle, custom vehicle, or
134 street rod vehicle, as the case may be. A person who violates
135 this subsection commits a misdemeanor of the second degree,
136 punishable as provided in s. 775.082 or s. 775.083.

137 (4) If a certificate of title, including a foreign
138 certificate, is branded to reflect a condition or prior use of
139 the titled vehicle, the brand must be noted on the registration
140 certificate of the vehicle and such brand shall be carried
141 forward on all subsequent certificates of title and registration
142 certificates issued for the life of the vehicle.

143 (5) A person who knowingly sells, exchanges, or offers to
144 sell or exchange a motor vehicle or mobile home contrary to this
145 section or any officer, agent, or employee of a person who
146 knowingly authorizes, directs, aids in, or consents to the sale,
147 exchange, or offer to sell or exchange a motor vehicle or mobile
148 home contrary to this section commits a misdemeanor of the
149 second degree, punishable as provided in s. 775.082 or s.
150 775.083.

151 (6) A person who removes a rebuilt decal from a rebuilt
152 vehicle with the intent to conceal the rebuilt status of the
153 vehicle commits a felony of the third degree, punishable as
154 provided in s. 775.082, s. 775.083, or s. 775.084.

155 (7) This section applies to a mobile home, travel trailer,
156 camping trailer, truck camper, or fifth-wheel recreation trailer
157 only when the mobile home or vehicle is a rebuilt vehicle or is
158 assembled from parts.

159 (8) A person is not liable or accountable in any civil



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160 action arising out of a violation of this section if the
161 designation of the previous use or condition of the motor
162 vehicle is not noted on the certificate of title and
163 registration certificate of the vehicle which was received by,
164 or delivered to, such person, unless the person has actively
165 concealed the prior use or condition of the vehicle from the
166 purchaser.

167 (9) Subsections (1), (2), and (3) do not apply to the
168 transfer of ownership of a motor vehicle after the motor vehicle
169 has ceased to be used as a lease vehicle and the ownership has
170 been transferred to an owner for private use or to the transfer
171 of ownership of a nonconforming vehicle with 36,000 or more
172 miles on its odometer, or 34 months whichever is later and the
173 ownership has been transferred to an owner for private use. Such
174 owner, as shown on the title certificate, may request the
175 department to issue a corrected certificate of title that does
176 not contain the statement of the previous use of the vehicle as
177 a lease vehicle or condition as a nonconforming vehicle.

178 (10) (a) A vehicle titled or branded and registered as a
179 low-speed vehicle may be converted to a golf cart pursuant to
180 the following:

181 1. The owner of the converted vehicle must contact the
182 regional office of the department to verify the conversion,
183 surrender the registration license plate and the current
184 certificate of title, and pay the appropriate fee established
185 under paragraph (b).

186 2. The owner of the converted vehicle must provide an
187 affidavit to the department attesting that the vehicle has been



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188 modified to comply with the speed restrictions provided in s.
189 320.01(22) and acknowledging that the vehicle must be operated
190 in accordance with s. 316.212, s. 316.2125, s. 316.2126, or s.
191 316.21265.

192 3. Upon verification of the conversion, the department
193 shall note in the vehicle record that the low-speed vehicle has
194 been converted to a golf cart and shall cancel the certificate
195 of title and registration of the vehicle.

196 (b) The department shall establish a fee of \$40 to cover
197 the cost of verification and associated administrative costs for
198 carrying out its responsibilities under this subsection.

199 (c) The department shall issue a decal reflecting the
200 conversion of the vehicle to a golf cart, upon which is clearly
201 legible the following text: "CONVERTED VEHICLE. Max speed 20
202 mph." The decal must be displayed on the rear of the vehicle, so
203 that the decal is plainly visible.

204 Section 2. This act shall take effect July 1, 2013.

206 -----
207 **T I T L E A M E N D M E N T**

208 Remove everything before the enacting clause and insert:

209 A bill to be entitled

210 An act relating to low-speed vehicles; amending s.
211 319.14, F.S.; authorizing the conversion of a vehicle
212 titled or branded and registered as a low-speed
213 vehicle to a golf cart; providing procedures;
214 requiring an affidavit; requiring the Department of
215 Highway Safety and Motor Vehicles to issue a decal;



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216 providing specifications for the decal; providing for
217 a fee; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 345 Northeast Florida Regional Transportation Commission
SPONSOR(S): Cummings
TIED BILLS: IDEN./SIM. BILLS: SB 606

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>AS</i>	Miller <i>PM</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

In 2010, the Legislature created the Northeast Florida Regional Transportation Study Commission. The study commission was required to prepare a report detailing its findings and make specific legislative recommendations relating to regional transportation in Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties. The study commission issued its final report in December 2012. The report recommended a two-phased approach to regional transportation governance. The bill implements the recommendations of Phase I.

Major provisions of the bill:

- Creates the Northeast Florida Regional Transportation Commission.
- Provides for commission membership, powers and duties, and funding.
- Provides criteria for transportation projects of regional significance.
- Authorizes the acquisition of lands and property, but does not authorize condemnation or eminent domain.
- Exempts the commission from taxation.
- Provides for repeal of the commission unless certain conditions are met.
- Provides that the commission is exempt from the Administrative Procedures Act.

The commission will initially be funded through appropriations from each constituent county of up to 30 cents per capita per year. The estimated total annual budget of the commission is estimated to be between \$214,000 and \$215,000. See fiscal analysis for a breakdown of the estimated cost for each constituent county.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

For at least 25 years, a regional approach to transportation in Northeast Florida has been discussed.

In 1987, the First Coast Regional Transportation Study Committee was created.¹ The committee recommended that a five-county regional transportation authority with a nine member governing board be created.² No action was ever taken on these recommendations.

In 2009, the Legislature enacted HB 1213,³ requiring the Jacksonville Transportation Authority (JTA), at the direction of the Department of Transportation (DOT), to perform a Regional Transportation Authority study. That study affirmed the need for a regional approach to transportation in Northeast Florida but also recommended further study. Additionally, the 2009 Regional Transportation Authority Study Final Report found that the development of a regional transportation elements plan is needed as the basis for further action on any regional transportation initiative.⁴

In 2010, the Legislature enacted SB 2470,⁵ creating the Northeast Florida Regional Transportation Study Commission consisting of representatives from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties and the JTA.⁶ The bill required the study commission, to prepare a report detailing its findings and making recommendations regarding regional transportation. The report was required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2012. The report was required to include a regional transportation elements plan, the defining characteristics of transportation elements of regional significance, and an implementation plan for undertaking a regional transportation element plan. The report was allowed to include recommendations for the establishment of a regional transportation authority, draft legislation, and any other legislation the study commission deemed appropriate.

Recommendations from the Study

In December 2012, the Northeast Florida Regional Transportation Study Commission issued its final report.⁷ The report recommended a two-phased approach to regional transportation governance. Phase I would be a regional transportation commission and Phase II would be the establishment of a regional transportation entity and proposed funding to implement the multimodal regional transportation commission's regional transportation plan.

In the Phase I, the commission will:

- develop a multimodal regional transportation plan;
- identify and secure dedicated funding to implement the plan;

¹ Executive order 86-148

² A copy of the Findings and Recommendations of the First Coast Regional Transportation Study Committee (January 1987) is available at <http://www.northfloridartsc.com/Pages/LegislationReports.aspx> (Last visited February 8, 2013).

³ Ch. 2009-111, L.O.F.

⁴ A copy of the 2009 Regional Transportation Study Final Report is available at <http://www.northfloridartsc.com/Pages/LegislationReports.aspx> (Last visited February 8, 2013).

⁵ Ch. 2010-202, L.O.F.

⁶ The Department of Transportation's District 2 Secretary, the chair of the Northeast Florida Regional Council, and the North Florida Transportation Planning Organization served as nonvoting members of the Northeast Florida Regional Transportation Study Commission.

⁷ A copy of the Northeast Florida Regional Transportation Study Commission's final report is available at: <http://www.northfloridartsc.com/Pages/default.aspx> (Last visited February 8, 2013).

- advance strategic projects and services with an initial focus on coordinating regional transit; and
- propose an organizational framework for implementing the regional transportation plan.

In Phase II, the multimodal regional transportation plan would be implemented with dedicated funding as authorized by future legislation.

The bill implements the recommended Phase I, creating the Northeast Florida Regional Transportation Commission (commission).

Proposed Changes

Chapter 343, F.S.

The bill redesignates parts I through IV of ch. 343, F.S. as parts II through V respectively and creates a new part I of ch. 343, F.S.

Short Title

The bill creates s. 343.0001, F.S., creating the Northeast Florida Regional Transportation Commission Act as part I of ch. 343, F.S.

Definitions

The bill creates s. 343.1002, F.S., defining various terms. Notably the bill contains very broad definitions of the following terms:

Transportation facilities-all mobile and fixed assets, including real or personal property or rights therein, used in the transportation of persons or property by any means of conveyance, and all related appurtenances. This includes but is not limited to:

- highways; bridges; limited or controlled access roadways, lanes and related facilities;
- docks, wharves, vessels, jetties, piers, and marine terminals;
- vehicles, fixed guideway facilities, including freight rail, intermodal facilities, and any means of conveyance of persons or property of all types;
- passenger and other terminals;
- park and ride facilities;
- bicycle ways and related facilities;
- pedestrian-ways and pedestrian-related facilities appurtenant to other transportation facilities;
- transit-related improvements or developments adjacent to transit facilities or stations;
- bus, train, vessel, or other vehicle storage, cleaning, fueling, control, and maintenance facilities;
- and
- administrative or other office space for the commission.

Transportation services-the conveyance of persons or property or the provision of transportation facilities which allows the conveyance of persons or property, including mass transit services such as fixed-route bus, fixed-guideway vehicle service, paratransit service, flex route or demand responsive service, and the planning, designing, constructing, and operating transportation facilities.

Northeast Florida Regional Transportation Commission

The bill creates s. 343.1003, F.S., creating and establishing the Northeast Florida Regional Transportation Commission (commission). The commission covers a six-county area comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns Counties.⁸ The commission's governing board consists of nine members who are selected as follows:

- The county commissions of Baker, Clay, Nassau, Putnam, and St. Johns Counties each appoint one person, who may be an elected official of the county.

⁸ Flagler County declined to join the commission.

- The City of Jacksonville will be represented by four members, who may be elected officials of the city. Of the four members the Mayor of the City of Jacksonville appoints two members, and the Jacksonville City Council appoints two members.

To ensure continuity on the initial governing board, the initial appointees will draw lots at the governing board's first meeting to provide for two-, three- and four-year terms. An appointed member may not select or have a designee selected to serve in the absence of the member, whether the member is an elected official or otherwise. However, if an appointed member is designed by the appointing entity by title, such as a chair of a county commission or a chair of a transportation planning agency, the successor or vice-chair of the position may serve for the appointee in his or her absence. After the initial board's terms, members will be appointed for four-year terms. A member may not serve more than two consecutive terms.

The DOT secretary appoints a nonvoting advisor to the board. In addition, the board may create an advisory panel, whose membership will be determined by the board, and may establish committees by direction of the chair or upon vote of the board.

Members of the board and persons appointed to a committee or advisory panel serve without compensation but are entitled to receive reimbursement for travel expenses and per diem actually incurred in connection with commission business.⁹ Members of the board are required to file with the Commission on Ethics as their mandatory financial disclosure the Form 1 statement of financial interest.¹⁰

At its inaugural meeting, and annually thereafter, the board is required to elect a chair, vice chair, secretary, and treasurer from among its members, to serve a one-year term. No person may hold the office of chair for more than two consecutive terms. The commission's first meeting must be held no later than 60 days after its creation.

The commission may employ an executive director and an administrative assistant to the board and executive director. The commission may employ permanent or temporary staff, including consultants, as it determines necessary or convenient. Alternatively, with the approval by their respective boards or administrative chiefs, the commission may use the staff of:

- The JTA, its legal counsel, technical experts, engineers, and other administrative employees.
- The North Florida Transportation Planning Organization, for planning matters.
- The Northeast Florida Regional Council, for planning and coordination matters.
- The DOT.
- The Jacksonville Port Authority.
- The counties represented on the commission board, on an as-needed basis.

Members of the board may be removed by their appointing entity, for cause, including, but not limited to failure to attend two or more commission meetings in a 9-month period.

There is no liability on the part of, and no cause of action of any nature shall arise against, any commission member for any action taken in the performance of their duties.

⁹ The provisions for per diem and travel expenses are in s. 112.061, F.S.

¹⁰ The Form 1 statement of financial interest is provided for in s. 112.3145, F.S. Section 348.0003(4)(c), F.S. requires members of transportation authorities created pursuant to ch. 343, F.S., to file Form 6 with the Commission on Ethics, which is a more detailed financial disclosure.

Commission Powers and Duties

The bill creates s. 343.1004, F.S., providing the commission's powers and duties. The commission's express purposes are to improve mobility and expand multimodal transportation options for passengers and freight throughout the six-county Northeast Florida region. The commission shall, at a minimum:

- develop a multimodal, prioritized plan for transportation projects of regional significance; and
- research and develop an implementation plan that identifies available but not yet imposed, and potentially developable, sources of funding to execute the regional transportation plan.

In developing the regional transportation plan, the commission is to review and coordinate with the future land use, capital improvements, and traffic circulation elements of the constituent counties' local governments' comprehensive plans, the Northeast Florida Regional Council's Strategic Regional Policy Plan,¹¹ and the schedules of other units of government having a transit or transportation authority within whose jurisdiction the projects or improvements will be located. This process is intended to define and resolve potential inconsistencies between these plans and the commission's regional transportation plan.

The commission is to present the regional transportation plan and updates to the governing bodies of the constituent counties within 90 days after adoption. The commission is to update the regional transportation plan and the implementation plan not less frequently than every other year. The commission may plan, develop, construct, coordinate, and promote transportation projects of regional significance that are identified in the commission's regional transportation plan.

Subject to available funding and with the approval of the affected counties and transportation authorities, the commission may own, purchase, operate, maintain, relocate, equip, repair, and manage transit services of regional significance. This includes services such as express bus services, bus rapid transit services, light rail, commuter rail, heavy rail or other transit services, and related transit stations and park-and-ride lots, that are identified in the regional transportation plan.

The commission may facilitate efforts to secure funding commitments from federal and state sources, or from the applicable counties, for the planning, development, construction, purchase, operation and maintenance of transportation projects which are of regional significance or support intercounty mobility for persons or freight.

The commission may request funding and technical assistance from DOT and from federal and local agencies. In order to operate for its first five years, the commission is also to request annual funding from each constituent county of up to 30 cents per capita per year based on the latest census. However, the contribution of Duval County may not exceed 45 percent of the commission's budget for any fiscal year.

The commission may exercise all powers necessary, convenient, or incidental to the carrying out of its purposes, including, but not limited to, the following rights and powers to:

- Sue and be sued in all courts.
- Apply for and to accept grants from federal, state, local, or private sources.
- Partner with private sector business community and engage the public in support of regional multimodal transportation improvements.
- Adopt rules for the regulation of the affairs and the conducting of business including termination of membership in the commission for the nonpayment of county contributions.
- Advertise, market, and promote regional transit services and facilities, freight mobility plans and projects, and the activities of the commission.
- Cooperate with other governmental entities and contract with other governmental agencies.

¹¹ A copy of the Northeast Florida Regional Council's Strategic Regional Policy Plan is available at <http://www.nefrc.org/SRPP.htm> (Last visited February 11, 2013).

- Purchase directly from local, national, or international insurance companies liability insurance that the commission is contractually and legally obligated to provide, notwithstanding the requirements of s. 287.022(1), F.S.¹²
- Make contracts and execute necessary instruments.
- Form public benefit corporations with other agencies of the state or local governments.
- Require or elect not to require bid bonds and protest bonds, prequalifying bidders or proposers in various categories of work or services, and to suspend or debar consultants and contractors in accordance with commission rules.
- Do all acts and things necessary or convenient for the conduct of its business and the general welfare of the commission in order to carry out its powers.

The commission does not have the power at any time or in any manner to pledge the credit or taxing power of the state or any political subdivision or agency of the state. The commission's obligations shall not be deemed to be obligations of the state or of any political subdivision. The state and any political subdivision or agency, except the commission, shall not be liable for the payment of the principal or interest on such obligations.

Transportation Projects of Regional Significance

The bill creates s. 343.1005, F.S., providing that transportation projects of regional significance are those transportation facilities and transportation services within a regional transportation corridor identified in the Northeast Florida Regional Transportation Study Commission's December 2012 report, or subsequently identified by the commission, which:

- exhibit a significant level of travel between counties or regions;
- provide a primary connection between activity centers or municipalities;
- exhibit a significant percentage of freight conveyance;
- provide a primary connection to marine, aviation or intermodal facilities;
- provide a regional emergency evacuation route;
- support or enhance the functionality of another identified transportation project of regional significance in the corridor by providing for regional movements or removing non-regional trips from some other transportation project of regional significance; or
- have such other characteristics as the commission determines to be of regional significance.

Coordination with Other Agencies

The bill creates s. 343.1006, F.S., requiring the regional transportation plan and implementation plan to be forwarded to the North Florida Transportation Planning Organization for inclusion in its long-range transportation plans and other planning documents. To the extent feasible, the commission's planning activities, including the development and adoption of the regional transportation plan and the implementation plan shall be coordinated with the work of the North Florida Transportation Planning Organization, the Northeast Florida Regional Council, and DOT.

Acquisition of Lands and Property

The bill creates s. 343.1007, F.S., providing that the commission may acquire by gift, bequest, voluntary purchase any property or property rights necessary to carry out its mission and purposes. However, the commission may not obtain private or public property by condemnation or eminent domain.

If the commission acquires property, the commission is not subject to any liability imposed by chs. 376 or 403, F.S.¹³ for preexisting soil or groundwater contamination due solely to its ownership. This does not affect the rights or liabilities of any past or future owners of the acquired property, nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a

¹² Section 287.022(1), F.S. pertains to the purchase of insurance for all agencies by the Department of Management Services.

¹³ Chapter 376, F.S. relates to pollution discharge prevention and removal and ch. 403, F.S., relates to environmental control.

pollution source. The commission and the Department of Environmental Protection (DEP) may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the commission.

Authority to Contract

The bill creates s. 343.1008, F.S., providing that the commission may make and enter into contracts, leases, conveyances, partnerships, interlocal and other agreements with a county, municipality, district, political subdivision, agency, or instrumentality of the state and any federal agency, corporation, or individual for the purpose of carrying out its statutory authority and serving the purposes of the commission.

Exemption from taxation and assessment

The bill creates s. 343.1009, F.S., providing that effectuation of the commission's authorized purposes is for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and because the commission performs essential governmental functions, the commission is not required to pay taxes or assessments of any kind upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it.

Powers of Commission are Supplemental

The bill creates s. 343.1010, F.S., providing that the powers conferred by this part are supplemental to the existing authority of the North Florida Transportation Planning Organization, the JTA, the Northeast Florida Regional Council, the counties and the municipalities located therein, and the DOT. This does not repeal any other law, general, special, or local, but supplements other laws in the exercise of the powers provided and provides a complete method for the exercise of powers granted to the commission. The projects planned and constructed by the commission must comply with all applicable federal, state, and local laws. The transportation facilities and services of the commission may be accomplished in compliance with the provisions of the bill without regard to or necessity for compliance with the provisions, limitation, or restrictions contained in any other general, special, or local law except as specifically set forth in the bill. The bill does not repeal, rescind, or modify any other law relating to the North Florida Transportation Planning Organization, the JTA, or DOT.

Public Meetings and Hearings

The bill creates s. 343.1011, F.S. requiring the commission to meet at the times and locations as the chair determines, provided that to the extent feasible there be regular quarterly meetings.

The bill also provides that that before the adoption of the regional transportation plan or the implementation plan, the commission must conduct a properly noticed public hearing in each of the affected counties and at least one of which must be before the commission's board. At the hearings, any interested party has the opportunity to be heard and to introduce testimony. Additionally, the commission shall comply with all applicable federal and state requirements related to new or altered transportation facilities or services.

Discretionary Sales Surtax

The bill creates s. 343.1012, F.S., providing that the commission is not an "authority" for the purposes of the Charter County and Regional Transportation System Surtax.¹⁴

Repeal

The bill creates s. 343.1013, F.S., repealing this act on November 30, 2018, unless:

- the commission has adopted a regional transportation plan and the implementation plan, and at least Clay, Duval, Nassau, and St. Johns counties have adopted resolutions endorsing the plans; and

¹⁴ S. 212.055(1), F.S.
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DATE: 3/5/2013

- adequate funding sources to carry out the initial phases of such plans have been secured.

Florida Administrative Code

Currently, s. 20.52(1), F.S., defines “agency” for the purpose of the Administrative Procedures Act.¹⁵ The statute exempts expressway authorities created pursuant to ch. 348, F.S., or transportation authorities created under chs. 343 or 349, F.S., from the definition of “agency” for the purpose of the Administrative Procedures Act. The bill amends the exemption of s. 120.52(1), F.S., to include a transportation commission under chs. 343 or 349, F.S. which would provide that the Northeast Florida Regional Transportation Commission is not subject to the Administrative Procedures Act.

Effective Date

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

B. SECTION DIRECTORY:

- Section 1: Creates part I of ch. 343, F.S., creating the Northeast Florida Regional Transportation Commission.
- Section 2: Amends s. 120.52, F.S., relating to definitions as used in the Administrative Procedures Act.
- Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None.
- 2. Expenditures:

For the first five years, the commission would be funded from funds appropriated from each of the constituent counties up to 30 cents per capita per year. However, Duval County’s contribution cannot exceed 45 percent of the commission’s budget. The Northeast Florida Regional Transportation Study Commission estimated that the Northeast Florida Regional Transportation Commission’s annual budget would be between \$214,000 and \$215,000. This would result in an estimated cost of 21.1 cents per capita. The estimate county contributions are as follows:

County	Estimated Contribution
Baker	\$5,682
Clay	\$40,331
Duval	\$96,445 ¹⁶

¹⁵ Ch. 120, F.S.

¹⁶ Duval County’s contribution is based on a maximum of 45 percent of the costs.

Nassau	\$15,547
Putnam	\$15,625
St. Johns	\$40,692
Total	\$214,322

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. While the bill provides that the commission may request funding by its member counties, funding would have to be approved by each county on an annual basis.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 2 of the bill provides that the commission is exempt from the Administrative Procedures Act in ch. 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 154 through 156 provide that members of the board are to file a statement of financial interest with the Commission on Ethics as required by s. 112.3145, F.S., which is Form 1. This appears to be inconsistent with s. 348.0003(4)(c), F.S., which requires "[m]embers of each expressway authority, bridge authority, or toll authority, created pursuant to this chapter, chapter 343, or any other general law, shall comply with the applicable financial disclosure requirements of s. 8, Art. II of the State Constitution." The ch. 348, F.S., provision requires the more detailed Form 6. To clarify this issue, the financial disclosure provisions of the bill may need to be amended to notwithstanding s. 348.0003(4)(c), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 345

2013

1 A bill to be entitled
2 An act relating to the Northeast Florida Regional
3 Transportation Commission; renumbering parts I through
4 IV of chapter 343; creating part I of chapter 343,
5 F.S., titled "Northeast Florida Regional
6 Transportation Commission"; creating s. 343.1001,
7 F.S.; providing a short title; creating s. 343.1002,
8 F.S.; providing definitions; creating s. 343.1003,
9 F.S.; creating the Northeast Florida Regional
10 Transportation Commission; providing for organization
11 and membership of the governing board; authorizing the
12 board to create an advisory panel and committees;
13 requiring members to file statement of financial
14 interest pursuant to specified provisions; providing
15 for meetings and a quorum; providing for staffing;
16 providing for member removal; providing liability
17 protection for members; creating s. 343.1004, F.S.;
18 providing commission powers and duties; authorizing
19 the commission to request funds; providing for certain
20 amounts to be collected from the constituent counties
21 for a certain time period; prohibiting the commission
22 from pledging the state's credit; creating s.
23 343.1005, F.S.; providing for transportation projects
24 of regional significance; specifying characteristics
25 for such projects; creating s. 343.1006, F.S.;
26 requiring commission plans and planning activity to be
27 coordinated with other specified entities; creating s.
28 343.1007, F.S.; authorizing the commission to acquire

29 property; limiting liability for preexisting soil or
 30 groundwater contamination of acquired property;
 31 authorizing the commission and the Department of
 32 Environmental Protection to enter into interagency
 33 agreements for the performance, funding, and
 34 reimbursement of investigative and remedial acts
 35 performed for certain purposes; creating s. 343.1008,
 36 F.S.; authorizing the commission to enter into
 37 agreements with governmental and private entities for
 38 certain purposes; creating s. 343.1009, F.S.;
 39 exempting the commission from taxes or assessments;
 40 creating s. 343.1010, F.S.; providing for
 41 applicability; specifying that the powers of the
 42 commission are supplemental to other laws; creating s.
 43 343.1011, F.S.; providing for public meetings and
 44 hearings; creating s. 343.1012, F.S.; specifying that
 45 the commission is not an authority for purposes of
 46 specified provisions relating to a discretionary tax;
 47 creating s. 343.1013, F.S.; providing for future
 48 repeal; amending s. 120.52, F.S.; conforming
 49 provisions; providing an effective date.

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Parts I through IV of chapter 343, Florida
 54 Statutes, are redesignated as parts II through V, respectively,
 55 and a new part I of that chapter, consisting of sections
 56 343.1001, 343.1002, 343.1003, 343.1004, 343.1005, 343.1006,

57 | 343.1007, 343.1008, 343.1009, 343.1010, 343.1011, 343.1012, and
 58 | 343.1013, is created to read:

59 | CHAPTER 343

60 | REGIONAL TRANSPORTATION AUTHORITIES

61 | PART I

62 | NORTHEAST FLORIDA REGIONAL TRANSPORTATION COMMISSION

63 | 343.1001 Short title.—This part may be cited as the
 64 | "Northeast Florida Regional Transportation Commission Act."

65 | 343.1002 Definitions.—As used in this part, the term:

66 | (1) "Agency of the state" means the state and any
 67 | department of the state, the commission, or any corporation,
 68 | agency, or instrumentality created, designated, or established
 69 | by the state.

70 | (2) "Board" means the governing body of the commission.

71 | (3) "Commission" means the Northeast Florida Regional
 72 | Transportation Commission.

73 | (4) "Department" means the Department of Transportation.

74 | (5) "Transportation authority" means the department and
 75 | any entity created under this chapter, chapter 348, or chapter
 76 | 349.

77 | (6) "Transportation facilities" means all mobile and fixed
 78 | assets, including real or personal property or rights therein,
 79 | used in the transportation of persons or property by any means
 80 | of conveyance, and all appurtenances thereto, such as, but not
 81 | limited to: highways; bridges; limited or controlled access
 82 | roadways, lanes and related facilities; docks, wharves, vessels,
 83 | jetties, piers, and marine terminals; vehicles, fixed guideway
 84 | facilities, including freight rail, intermodal facilities, and

85 any means of conveyance of persons or property of all types;
 86 passenger and other terminals; park-and-ride facilities; bicycle
 87 ways and related facilities; pedestrian ways and pedestrian-
 88 related facilities appurtenant to other transportation
 89 facilities; transit-related improvements or developments
 90 adjacent to transit facilities or stations; bus, train, vessel,
 91 or other vehicle storage, cleaning, fueling, control, and
 92 maintenance facilities; and administrative and other office
 93 space necessary for the exercise by the commission of the powers
 94 and obligations granted under this part.

95 (7) "Transportation services" means the conveyance of
 96 persons or property or the provision of transportation
 97 facilities which allows the conveyance of persons or property,
 98 including mass transit services such as fixed-route bus, fixed-
 99 guideway vehicle service, paratransit service, flex route or
 100 demand responsive service, and the planning, designing,
 101 construction, and operation of transportation facilities.

102 343.1003 Northeast Florida Regional Transportation
 103 Commission.-

104 (1) The Northeast Florida Regional Transportation
 105 Commission, an agency of the state, is created and established
 106 as a body politic and corporate, covering the six-county area
 107 comprised of Baker, Clay, Duval, Nassau, Putnam, and St. Johns
 108 Counties.

109 (2) The nine-member governing board of the commission
 110 shall be selected and serve as follows:

111 (a) The county commissions of Baker, Clay, Nassau, Putnam,
 112 and St. Johns Counties shall each appoint one person, who may be

113 an elected official of such county. However, in order to ensure
 114 continuity on the initial governing board, the initial
 115 appointees under this paragraph shall draw lots at the first
 116 meeting of the governing board to determine which two members
 117 shall serve initial terms of 2 years, which member shall serve
 118 an initial terms of 3 years, and which two members shall serve
 119 initial terms of 4 years.

120 (b) The City of Jacksonville shall be represented by four
 121 members, who may be elected officials of the city. Of the four
 122 members, the mayor of the City of Jacksonville shall appoint two
 123 members, and the Jacksonville City Council shall appoint two
 124 members. However, in order to ensure continuity on the initial
 125 governing board, the initial appointees shall draw lots at the
 126 first meeting of the governing board to determine which member
 127 shall serve an initial term of 2 years, which two members shall
 128 serve an initial term of 3 years, and which member shall serve
 129 an initial term of 4 years.

130 (c) An appointed member may not select or have a designee
 131 selected to serve in the absence of the member, whether such
 132 member is an elected official or otherwise. However, if an
 133 appointed member is designated by the appointing entity by
 134 title, such as the chair of a county commission or the chair of
 135 a transportation or planning agency, the successor or vice chair
 136 may serve for such appointee in his or her absence.

137 (d) Except for the initial board, members shall be
 138 appointed for 4-year terms. A member may not serve more than two
 139 consecutive terms.

140 (3) The secretary of the department shall appoint a

141 nonvoting advisor to the board.

142 (4) The board may create an advisory panel, with
 143 membership to be determined by the board, and may establish
 144 committees by and at the will of the chair, or upon vote of the
 145 board.

146 (5) The members of the board shall serve without
 147 compensation but are entitled to receive reimbursement from the
 148 commission for travel expenses and per diem incurred in
 149 connection with the business of the commission as provided in s.
 150 112.061. Persons appointed to a committee or an advisory panel
 151 shall also serve without compensation but may be entitled to per
 152 diem or travel expenses incurred in connection with the business
 153 of the commission as provided in s. 112.061.

154 (6) Members of the board shall file a statement of
 155 financial interest with the Commission on Ethics as required
 156 under s. 112.3145.

157 (7) At its inaugural meeting, the board shall establish
 158 the duties and powers of its officers as set forth in subsection
 159 (8) and its initial rules of conduct and meeting procedures.

160 (8) At its inaugural meeting, and annually thereafter, the
 161 board shall elect a chair, vice chair, secretary, and treasurer
 162 from among its members, to serve for a term of 1 year. No person
 163 may hold the office of chair for more than two consecutive
 164 terms.

165 (9) The first meeting of the commission shall be held
 166 within 60 days after the creation of the commission.

167 (10) Six members of the board constitutes a quorum. The
 168 commission may meet upon the presence of a quorum. A vacancy on

169 the board does not impair the ability of a quorum to exercise
 170 all rights and perform all duties of the commission.

171 (11) The commission may employ an executive director and
 172 an administrative assistant to the board and to the executive
 173 director. The commission may employ permanent or temporary
 174 staff, including consultants, as it determines necessary or
 175 convenient, or, subject to approval by their respective boards
 176 or administrative chiefs, may use the staff of:

177 (a) The Jacksonville Transportation Authority, its legal
 178 counsel, technical experts, engineers, and other administrative
 179 employees.

180 (b) The North Florida Transportation Planning
 181 Organization, for planning matters.

182 (c) The Northeast Florida Regional Council, for planning
 183 and coordination matters.

184 (d) The department.

185 (e) The Jacksonville Port Authority.

186 (f) The counties represented on the commission board, on
 187 an as-needed basis.

188 (12) An appointing county commission, or, in the case of
 189 Duval County, upon request of the mayor or the city council
 190 president, the Jacksonville City Council, may remove a member
 191 appointed by it for cause, including, but not limited to,
 192 failure to attend two or more meetings of the commission during
 193 any 9-month period.

194 (13) No liability on the part of, and no cause of action
 195 may arise against, any member for any action taken in the
 196 performance of his or her duties under this part.

197 343.1004 Commission powers and duties.—
 198 (1) The express purposes of the commission are to improve
 199 mobility and expand multimodal transportation options for
 200 persons and freight throughout the six-county North Florida
 201 region that includes Baker, Clay, Duval, Nassau, Putnam, and St.
 202 Johns Counties. The commission shall, at a minimum:
 203 (a) Use the data contained in the Long Range
 204 Transportation Plan of the North Florida Transportation Planning
 205 Organization and other data to develop a multimodal and
 206 prioritized regional transportation plan consisting of
 207 transportation projects of regional significance; and
 208 (b) Research and develop an implementation plan that
 209 identifies available but not yet imposed, and potentially
 210 developable, sources of funding to execute the regional
 211 transportation plan. In developing the regional transportation
 212 plan, the commission shall review and coordinate with the future
 213 land use, capital improvements, and traffic circulation elements
 214 of the counties' local government comprehensive plans, the
 215 Strategic Regional Policy Plan of the Northeast Florida Regional
 216 Council, and the schedules of other units of government having
 217 transit or transportation authority within whose jurisdictions
 218 the projects or improvements will be located in order to define
 219 and resolve potential inconsistencies between such plans and the
 220 commission's regional transportation plan. The commission shall
 221 present the regional transportation plan and updates to the
 222 governing bodies of the constituent counties within 90 days
 223 after adoption. The commission shall update the regional
 224 transportation plan and the implementation plan at least every

225 | other year.

226 | (2) The commission may plan, develop, coordinate, and
 227 | promote transportation projects and transportation services of
 228 | regional significance which are identified in the commission's
 229 | regional transportation plan.

230 | (a) Subject to available funding and with the approval of
 231 | the affected counties and transportation authorities, the
 232 | commission may own, purchase, operate, maintain, relocate,
 233 | equip, repair, and manage transportation facilities and services
 234 | of regional significance identified in the regional
 235 | transportation plan.

236 | (b) To ensure coordination of its plans with those of
 237 | local governments, the commission shall consult with local
 238 | governments concerning the commission's regional transportation
 239 | plan.

240 | (c) The commission may facilitate efforts to secure
 241 | funding commitments from federal and state sources, or from the
 242 | applicable counties, for the planning, development,
 243 | construction, purchase, operation and maintenance of
 244 | transportation projects that are of regional significance or
 245 | that support intercounty mobility for persons or freight.

246 | (3) In carrying out its purposes and powers, the
 247 | commission may request funding and technical assistance from the
 248 | department and from federal and local agencies. In order to
 249 | carry out the purposes and powers of the commission for its
 250 | first 5 years, the commission shall also timely request annually
 251 | that each constituent county appropriate funds of up to 30 cents
 252 | per capita per year, based on the latest decennial census, to

253 support its budget; however, the contribution of Duval County
 254 may not exceed 45 percent of the commission's budget for any
 255 fiscal year.

256 (4) The commission may exercise all powers necessary,
 257 appurtenant, convenient, or incidental to carrying out the
 258 purposes identified in subsections (1)-(3), including, but not
 259 limited to, the power to:

260 (a) Sue and be sued, implead and be impleaded, and
 261 complain and defend in all courts in its own name.

262 (b) Adopt and use a corporate seal.

263 (c) Apply for and accept grants from federal, state,
 264 local, or private sources for the carrying out of the purposes
 265 and powers of the commission.

266 (d) Partner with private sector business community
 267 entities that may further the commission's mission and engage
 268 the public in support of regional multimodal transportation
 269 improvements.

270 (e) Adopt rules, including bylaws and sanctions, for the
 271 regulation of the affairs and the conducting of business,
 272 including termination of membership in the commission for
 273 nonpayment of county contributions required under subsection
 274 (3).

275 (f) Advertise, market, and promote regional transit
 276 services and facilities, freight mobility plans and projects,
 277 and the general activities of the commission.

278 (g) Cooperate with other governmental entities and
 279 contract with other governmental agencies, including the Federal
 280 Government, the department, counties, transit and transportation

281 authorities or agencies, municipalities, and expressway and
 282 bridge authorities.

283 (h) Purchase liability insurance directly from local,
 284 national, or international insurance companies which the
 285 commission is contractually and legally obligated to provide,
 286 notwithstanding s. 287.022(1).

287 (i) Make contracts and execute all instruments necessary
 288 or convenient for conducting its business.

289 (j) Form, alone or with one or more other agencies of the
 290 state or local governments, public benefit corporations to carry
 291 out the powers and obligations granted under this part or the
 292 powers and obligations of such other agencies or local
 293 governments.

294 (k) Require or elect not to require bid bonds and protest
 295 bonds, prequalify bidders or proposers in various categories of
 296 work or services, and suspend or debar consultants and
 297 contractors in accordance with commission rules.

298 (l) Do everything necessary or convenient for the conduct
 299 of its business and the general welfare of the commission in
 300 order to carry out the powers granted to it by this part or any
 301 other law.

302 (5) The commission may not pledge the credit or taxing
 303 power of the state or any political subdivision or agency
 304 thereof, nor may any of the commission's obligations be deemed
 305 to be obligations of the state or of any political subdivision
 306 or agency thereof, nor may the state or any political
 307 subdivision or agency thereof, except the commission, be liable
 308 for the payment of the principal of or interest on such

309 obligations.

310 343.1005 Transportation projects of regional
 311 significance.—Transportation projects of regional significance
 312 are those transportation facilities and transportation services
 313 within, in whole or in part, a regional transportation corridor
 314 identified in the report by the Northeast Florida Regional
 315 Transportation Study Commission that was presented to the
 316 Legislature on or about December 31, 2012, or subsequently
 317 identified by the commission, which:

318 (1) Exhibit a significant level of travel between counties
 319 or regions;

320 (2) Provide a primary connection between activity centers
 321 or municipalities;

322 (3) Exhibit a significant percentage of freight
 323 conveyance;

324 (4) Provide a primary connection to marine, aviation, or
 325 intermodal facilities;

326 (5) Provide a regional emergency evacuation route;

327 (6) Support or enhance the functionality of another
 328 identified transportation project of regional significance in
 329 the corridor by providing for regional movement or removing
 330 nonregional trips from other transportation projects of regional
 331 significance; or

332 (7) Have such other characteristics as the commission may
 333 determine relating to regional significance.

334 343.1006 Plan coordination with other agencies.—The
 335 regional transportation plan and implementation plan shall be
 336 forwarded to the North Florida Transportation Planning

337 Organization for inclusion in its long-range transportation plan
 338 and other planning documents as required by law. To the extent
 339 feasible, the commission's planning activities, including the
 340 development and adoption of the regional transportation plan and
 341 the implementation plan, shall be coordinated with the work of
 342 the North Florida Transportation Planning Organization, the
 343 Northeast Florida Regional Council, and the department.

344 343.1007 Acquisition of lands and property.-

345 (1) The commission may acquire by gift, bequest, or
 346 voluntary purchase any property or property rights necessary to
 347 carry out its mission and purposes under this part; however, the
 348 commission may not obtain private or public property by
 349 condemnation or eminent domain.

350 (2) If the commission acquires property pursuant to this
 351 part, the commission is not subject to any liability imposed by
 352 chapter 376 or chapter 403 for preexisting soil or groundwater
 353 contamination due solely to its ownership. This subsection does
 354 not affect the rights or liabilities of any past or future
 355 owners of the acquired property, nor does it affect the
 356 liability of any governmental entity for actions that create or
 357 exacerbate a pollution source. The commission and the Department
 358 of Environmental Protection may enter into interagency
 359 agreements for the performance, funding, and reimbursement of
 360 investigative and remedial acts necessary for acquiring property
 361 by the commission.

362 343.1008 Authority to contract.-The commission may make
 363 and enter into contracts, leases, conveyances, partnerships, or
 364 interlocal or other agreements with a county, municipality,

365 district, political subdivision, agency, or instrumentality of
 366 the state and any federal agency, corporation, or individual for
 367 the purpose of carrying out the provisions of this part and
 368 servng the purposes of the commission.

369 343.1009 Exemption from taxation and assessment.—The
 370 effectuation of the authorized purposes of the commission
 371 created under this part is for the benefit of the people of this
 372 state, for the increase of their commerce and prosperity, and
 373 for the improvement of their health and living conditions, and,
 374 because the commission performs essential governmental functions
 375 in effectuating such purposes, the commission is not required to
 376 pay any taxes or assessments on any property acquired or used by
 377 it for such purposes or on any rates, fees, rentals, receipts,
 378 income, or charges at any time received by it.

379 343.1010 Powers of commission are supplemental.—

380 (1) The powers conferred by this part are supplemental to
 381 the existing powers of the North Florida Transportation Planning
 382 Organization, the Jacksonville Transportation Authority, the
 383 Northeast Florida Regional Council, the counties and the
 384 municipalities located therein, and the department. This part
 385 does not repeal any provisions of any other law, general,
 386 special, or local, but supplements such other laws in the
 387 exercise of the powers provided under this part and provides a
 388 complete method for the exercise of the powers granted in this
 389 part. The projects of the commission must comply with all
 390 applicable federal, state, and local laws. The projects of the
 391 commission undertaken pursuant to this part may be accomplished
 392 without regard to or necessity for compliance with the

393 provisions, limitations, or restrictions contained in any other
 394 general, special, or local law except as specifically set forth
 395 in this part.

396 (2) This part does not repeal, rescind, or modify any
 397 other law relating to the North Florida Transportation Planning
 398 Organization, the Jacksonville Transportation Authority, or the
 399 department.

400 343.1011 Public meetings and hearings.-

401 (1) The commission shall hold regular public meetings at
 402 the times and locations determined by the chair but, if
 403 feasible, at least quarterly.

404 (2) Before the adoption of the regional transportation
 405 plan or the implementation plan, a public hearing shall be
 406 conducted by the commission in each of the counties affected, at
 407 least one of which must be before the board. Any interested
 408 party shall have the opportunity to be heard in person or by
 409 counsel and to introduce testimony in his or her behalf at the
 410 hearing. Reasonable notice of each public hearing must be
 411 published in a newspaper of general circulation in each county
 412 in which such hearings are required to be held, at least 7 days
 413 before the hearing. The commission shall comply with all
 414 applicable federal and state requirements related to new or
 415 altered transportation facilities or services.

416 343.1012 Discretionary sales surtax.-The commission is not
 417 an "authority" for purposes of s. 212.055(1).

418 343.1013 Repeal.-This part shall stand repealed on
 419 November 30, 2018, unless:

420 (1) The commission has adopted the regional transportation

421 plan and the implementation plan, and at least Clay, Duval,
 422 Nassau, and St. Johns Counties have adopted resolutions
 423 endorsing such plans; and

424 (2) Adequate funding sources to carry out the initial
 425 phases of such plans have been secured.

426 Section 2. Subsection (1) of section 120.52, Florida
 427 Statutes, is amended to read:

428 120.52 Definitions.—As used in this act:

429 (1) "Agency" means the following officers or governmental
 430 entities if acting pursuant to powers other than those derived
 431 from the constitution:

432 (a) The Governor; each state officer and state department,
 433 and each departmental unit described in s. 20.04; the Board of
 434 Governors of the State University System; the Commission on
 435 Ethics; the Fish and Wildlife Conservation Commission; a
 436 regional water supply authority; a regional planning agency; a
 437 multicounty special district, but only if ~~when~~ a majority of its
 438 governing board is comprised of nonelected persons; educational
 439 units; and each entity described in chapters 163, 373, 380, and
 440 582 and s. 186.504.

441 (b) Each officer and governmental entity in the state
 442 having statewide jurisdiction or jurisdiction in more than one
 443 county.

444 (c) Each officer and governmental entity in the state
 445 having jurisdiction in one county or less than one county, to
 446 the extent they are expressly made subject to this chapter act
 447 by general or special law or existing judicial decisions.

448

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449 This definition does not include a ~~any~~ municipality or legal
 450 entity created solely by a municipality; a ~~any~~ legal entity or
 451 agency created in whole or in part pursuant to part II of
 452 chapter 361; a ~~any~~ metropolitan planning organization created
 453 pursuant to s. 339.175; a ~~any~~ separate legal or administrative
 454 entity created pursuant to s. 339.175 of which a metropolitan
 455 planning organization is a member; an expressway authority
 456 pursuant to chapter 348 or any transportation authority or
 457 commission under chapter 343 or chapter 349; or a ~~any~~ legal or
 458 administrative entity created by an interlocal agreement
 459 pursuant to s. 163.01(7), unless any party to such agreement is
 460 otherwise an agency as defined in this subsection.

461 Section 3. This act shall take effect July 1, 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Highway
2 Safety Subcommittee
3 Representative Cummings offered the following:

Amendment

Remove line 154 and insert:

7 (6) Notwithstanding s. 348.0003(4)(c), members of the
8 board shall file a statement of