



Transportation & Highway Safety Subcommittee

MEETING PACKET

**Tuesday, February 18, 2014
1:00 PM – 3:00 PM
Sumner Hall (404 HOB)**

**Will Weatherford
Speaker**

**Daniel Davis
Chair**



The Florida House of Representatives

Economic Affairs Committee

Transportation & Highway Safety Subcommittee

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Chair

Meeting Agenda **February 18, 2014** **1:00 PM - 3:00 PM** **Sumner Hall (404 HOB)**

- I. Call to Order & Opening Remarks by Chair Davis**
- II. Consideration of the following bill(s):**
 - HB 311 Orlando-Orange County Expressway Authority by Rep. Nelson**
 - HB 537 Commercial Motor Vehicle Review Board by Rep. Beshears**
 - PCS for HB 183 Drivers Leaving the Scene of a Crash**
- III. Consideration of the following proposed committee bill(s):**
 - PCB THSS 14-04 Certificates of Destruction**
- IV. Closing Remarks and Adjournment by the Chairman**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 311 Orlando-Orange County Expressway Authority

SPONSOR(S): Nelson

TIED BILLS: IDEN./SIM. BILLS: CS/SB 230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		Johnson <i>JS</i>	Miller <i>P.M.</i>
2) Local & Federal Affairs Committee			
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

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

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

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Orlando Orange County Expressway Authority

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

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

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

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

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

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

Osceola County Expressway Authority

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

¹ Part III of ch. 348, F.S., consists of ss. 348.751 through 348.765, F.S.

² S. 348.754(2)(n), F.S.

³ S. 348.753(2), F.S.

⁴ Ch. 2012-128, L.O.F.

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

⁶ Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

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

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

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

Seminole County and Lake County

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

Proposed Changes

Short Title (Section 1)

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

Definitions (Section 2)

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

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

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

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

⁷ Part I of ch. 348, F.S.

⁸ S. 348.0004, F.S.

⁹ S. 348.9952, F.S.

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

¹¹ Ch. 2011-64, L.O.F.

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

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

Central Florida Expressway Authority (Section 3)

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

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

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

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

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

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

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

Purposes and Powers (Section 4)

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

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

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

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

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

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

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

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

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

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

Conforming Changes (Sections 5 through 11)

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

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

¹² Section 338.165, F.S., relates to the continuation of tolls.

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

Lease-Purchase Agreements (Section 12)

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

Conforming Changes (Sections 13 through 18)

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

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

Wekiva River Basin Commission (Section 19)

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

Transfer of the Osceola County Expressway System (Section 20)

The bill provides that effective upon the completion of the Poinciana Parkway,¹⁴ a limited-access facility of approximately nine miles in Osceola County between the intersection of County Road 54 and U.S. 17/U.S. 92 and the intersection of Rhododendron and Cypress Parkway, described in OCX's May 8, 2012, master plan,¹⁵ all powers, governance, and control of the Osceola County Expressway System¹⁶ is transferred to CFX, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX are transferred to CFX. The effective date of the transfer shall be extended until completion of construction of such portions of the Southport Connector Expressway, the Northeast Connector Expressway, such portions of the Poinciana Parkway to connect to State Road 429, and the Osceola Parkway Connection, as each is described in OCX's May 8, 2012, Master Plan, which are included in any design contract executed by OCX before July 1, 2020. Since it is based on contingencies, there is not a date certain when OCX will be transferred to CFX. Part V of Ch. 348, F.S.,¹⁷ is repealed on the same date that the OCX is transferred to CFX.

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

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

¹⁴ Information on the Poinciana Parkway is available at: http://www.osceolaxway.com/ocx/297-21261-21262/poinciana_parkway_project.cfm (Last visited November 14, 2013).

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

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

¹⁷ Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

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

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

Effective Date (Section 21)

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

B. SECTION DIRECTORY:

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

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There is a possible indeterminate negative impact to DOT as the bill extends the maximum term of the lease-purchase agreement from the longer of 40 years and bonds outstanding to the longer of 99 years and bonds outstanding. The bill provides that existing lease-purchase agreement may not be amended to expand or increase DOT's obligations that are determined necessary to permit the refunding bonds issued before July 1, 2013. The current long-term debt is over \$211 million.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On lines 41 and 42 the title states "title in fee simple to the system," which is inconsistent with the language on lines 813 and 814, which refers to "title in fee simple absolute."

Lines 67 and 84 contain the word "chapter," which needs to be changed to "part" since the definitions only apply part III of ch. 348, F.S.

On line 208, the word "the" should be before "Florida."

On lines 321 through 323, the bill provides that "the authority is a party to a lease purchase agreement between the department and the authority, dated December 23, 1985. . ." The bill defines "authority" as the Central Florida Expressway Authority; however the lease-purchase agreement was between DOT and OOCEA.

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

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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

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

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

57

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

59

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

105 Transportation pursuant to this part.

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

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

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

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

131 ~~expressways.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

271 348.754 Purposes and powers.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

354
 355 Notwithstanding s. 338.165 and except as otherwise prohibited by
 356 this part, to the extent revenues of the expressway system
 357 exceed amounts required to comply with any covenants made with
 358 the holders of bonds issued pursuant to this part, revenues may
 359 be used for purposes enumerated in subsection (6), provided the
 360 expenditures are consistent with the metropolitan planning
 361 organization's adopted long-range plan.

362 (g) To borrow money; to make and issue negotiable notes,
 363 bonds, refunding bonds, and other evidences of indebtedness or
 364 obligations, either in temporary or definitive form, ~~hereinafter~~

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

390 | 1. The authority shall reimburse Orange County for any

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

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

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

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

416 | (j) ~~To have~~ The power of eminent domain, including the

417 procedural powers granted under ~~both~~ chapters 73 and 74.

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

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

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

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

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

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

459 ~~(4)(5)~~ The authority has ~~shall have~~ no power, other than
 460 by consent of an affected ~~Orange~~ county or ~~any affected~~ city, to
 461 enter into any agreement that ~~which~~ would legally prohibit the
 462 construction of a any road by the respective county or city
 463 ~~Orange County or by any city within Orange County.~~

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

467 ~~(6)(a)~~ The authority may, within the right-of-way of the
 468 expressway system, finance or refinance the planning, design,

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

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

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

495 ~~other small business program as may be hereinafter enacted by~~
 496 ~~the Orlando-Orange County Expressway Authority.~~

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

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

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

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

512
 513 ~~The decision of the authority's executive director or deputy~~
 514 ~~executive director to waive the payment and performance bond~~
 515 ~~shall be based upon his or her investigation and conclusion that~~
 516 ~~there exists sufficient competition so that the authority~~
 517 ~~receives a fair price and does not undertake any unusual risk~~
 518 ~~with respect to such project.~~

519 ~~(d) For any contract for which a payment and performance~~
 520 ~~bond has been waived pursuant to the authority set forth in this~~

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

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

545 ~~(f) The authority shall conduct bond eligibility training~~
 546 ~~for businesses qualifying for bond waiver under this subsection~~

547 ~~to encourage and promote bond eligibility for such businesses.~~

548 ~~(g) The authority shall prepare a biennial report on the~~

549 ~~activities undertaken pursuant to this subsection to be~~

550 ~~submitted to the Orange County legislative delegation. The~~

551 ~~initial report shall be due December 31, 2010.~~

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

554 348.7543 Improvements, bond financing authority for.—

555 Pursuant to s. 11(f), Art. VII of the State Constitution, the

556 Legislature ~~hereby~~ approves for bond financing by the Central

557 Florida Orlando-Orange County Expressway Authority improvements

558 to toll collection facilities, interchanges to the legislatively

559 approved expressway system, and any other facility appurtenant,

560 necessary, or incidental to the approved system. Subject to

561 terms and conditions of applicable revenue bond resolutions and

562 covenants, such costs may be financed in whole or in part by

563 revenue bonds issued pursuant to s. 348.755(1)(a) or (b),

564 whether currently issued or issued in the future, or by a

565 combination of such bonds.

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

568 348.7544 Northwest Beltway Part A, construction

569 authorized; financing.—Notwithstanding s. 338.2275, the Central

570 Florida Orlando-Orange County Expressway Authority may ~~is hereby~~

571 ~~authorized to~~ construct, finance, operate, own, and maintain

572 that portion of the Western Beltway known as the Northwest

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

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

583 348.7545 Western Beltway Part C, construction authorized;
 584 financing.—Notwithstanding s. 338.2275, the Central Florida
 585 ~~Orlando-Orange County Expressway Authority~~ may ~~is authorized to~~
 586 exercise its condemnation powers over, construct, finance,
 587 operate, own, and maintain that portion of the Western Beltway
 588 known as the Western Beltway Part C, extending from Florida's
 589 Turnpike near Ocoee in Orange County southerly through Orange
 590 and Osceola Counties to an interchange with I-4 near the
 591 Osceola-Polk County line, as part of the authority's 20-year
 592 capital projects plan. This project may be financed with any
 593 funds available to the authority for such purpose or revenue
 594 bonds issued by the Division of Bond Finance of the State Board
 595 of Administration on behalf of the authority pursuant to s. 11,
 596 Art. VII of the State Constitution and the State Bond Act, ss.
 597 215.57-215.83. This project may be refinanced with bonds issued
 598 by the authority pursuant to s. 348.755(1)(d).

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

601 348.7546 Wekiva Parkway, construction authorized;
 602 financing.-

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

621 (2) Notwithstanding any other provision of law ~~to the~~
 622 ~~contrary~~, in order to ensure that funds are available to the
 623 department for its portion of the Wekiva Parkway, beginning July
 624 1, 2012, the authority shall repay the expenditures by the

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

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

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

646 348.7547 Maitland Boulevard Extension and Northwest
 647 Beltway Part A Realignment construction authorized; financing.-
 648 Notwithstanding s. 338.2275, the Central Florida Orlando-Orange
 649 County Expressway Authority may ~~is hereby authorized to~~ exercise
 650 its condemnation powers over, construct, finance, operate, own,

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

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

671 348.755 Bonds of the authority.—

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

676 (a) The pledging of ~~all or~~ any part of the revenues,

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

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

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

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

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

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

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

702 (h) Any other or additional agreements with the holders of

703 the bonds which the authority may deem desirable and proper.

704 (3) The authority may employ fiscal agents as provided by

705 this part or the State Board of Administration of Florida may,

706 upon request of the authority, act as fiscal agent for the

707 authority in the issuance of any bonds that ~~which~~ may be issued

708 pursuant to this part, and the State Board of Administration

709 may, upon request of the authority, take over the management,

710 control, administration, custody, and payment of any ~~or all~~ debt

711 services or funds or assets now or hereafter available for any

712 bonds issued pursuant to this part. The authority may enter into

713 any deeds of trust, indentures or other agreements with its

714 fiscal agent, or with any bank or trust company within or

715 without the state, as security for such bonds, and may, under

716 such agreements, sign and pledge ~~all or~~ any of the revenues,

717 rates, fees, rentals or other charges or receipts of the

718 authority, including ~~all or~~ any portion of the Orange County

719 gasoline tax funds received by the authority pursuant to the

720 terms of any lease-purchase agreement between the authority and

721 the department, ~~thereunder~~. Such deed of trust, indenture, or

722 other agreement may contain such provisions as are customary in

723 such instruments, ~~or,~~ as the authority may authorize, including,

724 ~~but~~ without limitation, provisions as to:

725 (a) The completion, improvement, operation, extension,

726 maintenance, repair, and lease of, or lease-purchase agreement

727 relating to, the Central Florida ~~Orlando-Orange County~~

728 Expressway System, and the duties of the authority and others,

729 including the department, with reference thereto.

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

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

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

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

738 348.756 Remedies of the bondholders.—

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

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

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

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

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

802 348.757 Lease-purchase agreement.—

803 (1) ~~In order to effectuate the purposes of this part and~~
 804 ~~as authorized by this part,~~ The authority may enter into a
 805 lease-purchase agreement with the department relating to and
 806 covering the former Orlando-Orange County Expressway System.

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807 (2) The ~~Such~~ lease-purchase agreement must ~~shall~~ provide
 808 for the leasing of the former Orlando-Orange County Expressway
 809 System~~7~~ by the authority~~7~~ as lessor~~7~~ to the department~~7~~ as
 810 lessee, must ~~shall~~ prescribe the term of such lease and the
 811 rentals to be paid, ~~thereunder~~ and must ~~shall~~ provide that upon
 812 the completion of the faithful performance ~~thereunder~~ and the
 813 termination of the ~~such~~ lease-purchase agreement, title in fee
 814 simple absolute to the former Orlando-Orange County Expressway
 815 System as then constituted shall be transferred in accordance
 816 with law by the authority~~7~~ to the state and the authority shall
 817 deliver to the department such deeds and conveyances as shall be
 818 necessary or convenient to vest title in fee simple absolute in
 819 the state.

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

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

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

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

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

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

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

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

899 348.758 Appointment of department as ~~may be appointed~~
 900 agent of authority for construction.—The department may be
 901 appointed by the ~~said~~ authority as its agent for the purpose of
 902 constructing improvements and extensions to the Central Florida
 903 ~~Orlando-Orange County~~ Expressway System and for its ~~the~~
 904 completion ~~thereof~~. In such event, the authority shall provide
 905 the department with complete copies of all documents,
 906 agreements, resolutions, contracts, and instruments relating
 907 thereto; ~~and~~ shall request the department to do such
 908 construction work, including the planning, surveying, and actual
 909 construction of the completion, extensions, and improvements to
 910 the Central Florida ~~Orlando-Orange County~~ Expressway System; and

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

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

920 348.759 Acquisition of lands and property.—

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

937 junkyards and scrap metal processing facilities. The authority
 938 ~~may shall also have the power to~~ condemn any material and
 939 property necessary for such purposes.

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

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

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

958 348.760 Cooperation with other units, boards, agencies,
 959 and individuals. ~~A Express authority and power is hereby given~~
 960 ~~and granted any~~ county, municipality, drainage district, road
 961 and bridge district, school district or any other political
 962 subdivision, board, commission, or individual in, or of, the

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

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

977 348.761 Covenant of the state.—The state pledges ~~does~~
 978 ~~hereby pledge~~ to, and agrees, with any person, firm, or
 979 corporation, or federal or state agency subscribing to, or
 980 acquiring the bonds to be issued by the authority for the
 981 purposes of this part that the state will not limit or alter the
 982 rights that are ~~hereby~~ vested in the authority and the
 983 department until all issued bonds and interest ~~at any time~~
 984 ~~issued, together with the interest thereon,~~ are fully paid and
 985 discharged insofar as the pledge ~~same~~ affects the rights of the
 986 holders of bonds issued pursuant to this part ~~hereunder~~. The
 987 state does further pledge to, and agree, with the United States
 988 that in the event any federal agency constructs or contributes

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

1007 Section 17. Section 348.765, Florida Statutes, is amended
 1008 to read:

1009 348.765 This part complete and additional authority.-

1010 (1) The powers conferred by this part are ~~shall be~~ in
 1011 addition and supplemental to the existing powers of the said
 1012 board and the department, and this part may ~~shall~~ not be
 1013 construed as repealing any of the provisions, of any other law,
 1014 general, special, or local, but to supersede such other laws in

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

1030 (2) This part does ~~shall not be deemed to~~ repeal, rescind,
 1031 or modify any other law ~~or laws~~ relating to the ~~said~~ State Board
 1032 of Administration, the ~~said~~ Department of Transportation, or the
 1033 Division of Bond Finance of the State Board of Administration,
 1034 but supersedes any ~~shall be deemed to and shall supersede such~~
 1035 ~~other law that is or laws as~~ are inconsistent with the
 1036 ~~provisions of~~ this part, including, but not limited to, s.
 1037 215.821.

1038 Section 18. Subsections (6) and (7) of section 369.317,
 1039 Florida Statutes, are amended to read:

1040 369.317 Wekiva Parkway.—

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

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

1087 | (a) Acquisition of the land described in this section is
 1088 | required to provide right-of-way for the Wekiva Parkway, a
 1089 | limited access roadway linking State Road 429 to Interstate 4,
 1090 | an essential component in meeting regional transportation needs
 1091 | to provide regional connectivity, improve safety, accommodate
 1092 | projected population and economic growth, and satisfy critical

1093 transportation requirements caused by increased traffic volume
 1094 growth and travel demands.

1095 (b) Acquisition of the lands described in this section is
 1096 also required to protect the surface water and groundwater
 1097 resources of Lake, Orange, and Seminole Counties, otherwise
 1098 known as the Wekiva Study Area, including recharge within the
 1099 springshed that provides for the Wekiva River system. Protection
 1100 of this area is crucial to the long-term ~~long term~~ viability of
 1101 the Wekiva River and springs and the central Florida region's
 1102 water supply. Acquisition of the lands described in this section
 1103 is also necessary to alleviate pressure from growth and
 1104 development affecting the surface and groundwater resources
 1105 within the recharge area.

1106 (c) Lands acquired pursuant to this section that are
 1107 needed for transportation facilities for the Wekiva Parkway
 1108 shall be determined not necessary for conservation purposes
 1109 pursuant to ss. 253.034(6) and 373.089(5) and shall be
 1110 transferred to or retained by the Central Florida ~~Orlando-Orange~~
 1111 ~~County~~ Expressway Authority or the Department of Transportation
 1112 upon reimbursement of the full purchase price and acquisition
 1113 costs.

1114 (7) The Department of Transportation, the Department of
 1115 Environmental Protection, the St. Johns River Water Management
 1116 District, the Central Florida ~~Orlando-Orange County~~ Expressway
 1117 Authority, and other land acquisition entities shall cooperate
 1118 and establish funding responsibilities and partnerships by

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

1128 Section 19. Subsection (1) of section 369.324, Florida
 1129 Statutes, is amended to read:

1130 369.324 Wekiva River Basin Commission.—

1131 (1) The Wekiva River Basin Commission is created to
 1132 monitor and ensure the implementation of the recommendations of
 1133 the Wekiva River Basin Coordinating Committee for the Wekiva
 1134 Study Area. The East Central Florida Regional Planning Council
 1135 shall provide staff support to the commission with funding
 1136 assistance from the Department of Economic Opportunity. The
 1137 commission shall be comprised of a total of 18 ~~19~~ members
 1138 appointed by the Governor, 9 of whom shall be voting members and
 1139 9 of whom ~~10~~ shall be ad hoc nonvoting members.

1140 (a) The voting members shall include:

1141 1. ~~(a)~~ One member of each of the Boards of County
 1142 Commissioners for Lake, Orange, and Seminole Counties.

1143 2. ~~(b)~~ One municipal elected official to serve as a
 1144 representative of the municipalities located within the Wekiva

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1145 Study Area of Lake County.

1146 3.~~(e)~~ One municipal elected official to serve as a
 1147 representative of the municipalities located within the Wekiva
 1148 Study Area of Orange County.

1149 4.~~(d)~~ One municipal elected official to serve as a
 1150 representative of the municipalities located within the Wekiva
 1151 Study Area of Seminole County.

1152 5.~~(e)~~ One citizen representing an environmental or
 1153 conservation organization, one citizen representing a local
 1154 property owner, a land developer, or an agricultural entity, and
 1155 one at-large citizen who shall serve as chair of the council.

1156 (b)~~(f)~~ The ad hoc nonvoting members shall include one
 1157 representative from each of the following entities:

- 1158 1. St. Johns River Management District.
- 1159 2. Department of Economic Opportunity.
- 1160 3. Department of Environmental Protection.
- 1161 4. Department of Health.
- 1162 5. Department of Agriculture and Consumer Services.
- 1163 6. Fish and Wildlife Conservation Commission.
- 1164 7. Department of Transportation.
- 1165 8. MetroPlan Orlando.
- 1166 9. Central Florida ~~Orlando-Orange County~~ Expressway
 1167 Authority.
- 1168 10. ~~Seminole County Expressway Authority.~~

1169 Section 20. (1) Effective upon the completion of
 1170 construction of the Poinciana Parkway, a limited access facility

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

1195 (2) The Central Florida Expressway Authority shall
 1196 reimburse any and all obligations of any other governmental

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

1204 (a) Otherwise by law;

1205 (b) By the terms of any resolution authorizing the
 1206 issuance of bonds by the authority, the Orlando-Orange County
 1207 Expressway Authority, or the Osceola County Expressway
 1208 Authority;

1209 (c) By the terms of any resolution under which bonds are
 1210 issued by Osceola County for the purpose of constructing
 1211 improvements to the Osceola County Expressway System; and

1212 (d) By the terms of the memorandum of understanding
 1213 between the Orlando-Orange County Expressway Authority and the
 1214 Department of Transportation as ratified by the board of the
 1215 Orlando-Orange County Expressway Authority on February 22, 2012.

1216 Section 21. This act shall take effect July 1, 2015.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

6 Remove line 67 and insert:

7 348.752 Definitions.—As used in this part, the term The

9 Remove line 84 and insert:

10 part.

12 Remove line 208 and insert:

13 of the Florida Turnpike Enterprise shall serve as a nonvoting

15 Remove line 322 and insert:

16 purchase agreement between the department and the Orlando-Orange
 17 County Expressway Authority



Amendment No. 1

18
19
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23
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25

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

Remove line 42 and insert:

in fee simple to the former system will be retained by the

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 537 Commercial Motor Vehicle Review Board
SPONSOR(S): Beshears
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee		DKD Davy	Miller P.M.
2) Business & Professional Regulation Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

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

Currently all fee revenues imposed and collected for commercial motor vehicle compliance violations of size, weight, and special fuel and motor fuel tax, or safety regulations are deposited in the State Transportation Trust Fund, which is administered by FDOT.

This bill transfers the Board from FDOT to the Department of Agriculture and Consumer Services (DACS) via a type two transfer.

This bill revises the membership of the board by removing the Secretary of the Department of Transportation and the Executive Director of the Department of Highway Safety and Motor Vehicles from the Board. The bill provides for the Commissioner of Agriculture to be the chair of the Board. The bill adds the Executive Director of the Florida Department of Law Enforcement (FDLE) and three members appointed by the Governor to membership on the Board. The Governor's appointees must have private sector experience, with one from each of the following industries: agriculture, trucking, and road construction.

The bill authorizes each appointed member to receive per diem and travel expenses. As a result, an indeterminate negative fiscal impact will be incurred as a result of increased expenditures.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Currently, enforcement of commercial motor vehicle compliance is carried out by DHSMV¹ and motor vehicle weight inspections are carried out by FDOT.² Any individual or vehicle who receives a penalty under the provisions of chapter 316 relating to weights imposed on the highways by the axels and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations may, upon payment of their penalty, apply to the Board to have their penalty reconsidered. The Board is then authorized to modify, cancel, revoke, or sustain each penalty.³

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

- 316.516, F.S., regarding size restrictions of width, height, or length.
- 316.545, F.S., regarding weight and load violations and special fuel and motor fuel tax violations.
- 316.550, F.S., regarding operating an oversize or overweight vehicle without a special permit.
- 316.3025, F.S., regarding operating an unsafe and out of service vehicle, texting while driving a commercial vehicle, or unsafe handling of hazardous cargo.⁴

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

Commercial Motor Vehicle Review Board⁵				
Year	# of Citations Considered	# of Cases Granted Relief	# of Cases Full Relief	# of Cases Partial Relief
FY 2011-12	862	283	103	180
FY 2012-13	813	308	133	175

The Board currently is made up of three permanent members, the Secretary of FDOT, the Executive Director of DHSMV, and the Commissioner of DACS, or their authorized representatives. The Secretary of FDOT is the chair. Each of the permanent members of the Board may appoint an additional person to be a member of the Board.⁶ The Board meets monthly and rotates its location between Orlando, Tampa, and Tallahassee.⁷ Pursuant to s. 112.061, F.S., as state officers and employees, each member receives reimbursement for travel expenses and per diem relating to their service on the Board.

¹ Section 20.24, F.S.

² Section 20.23, F.S.

³ Section 316.545 (7), F.S.

⁴ Florida Administrative Code 14A-1.004.

⁵ Information received from the Florida Department of Transportation in email correspondence on file with Transportation and Highway Safety Subcommittee staff. (1/21/14)

⁶ Section 316.545 (7), F.S.

⁷ See Florida Department of Transportation, Commercial Motor Vehicle Review Board website, available at: http://www.dot.state.fl.us/trafficoperations/traf_incident/CMVRB/CMVRB.shtm (last visited January 23, 2014).

All of the funds received for the penalties associated with commercial motor vehicle compliance are deposited in the State Transportation Trust Fund.⁸

Proposed Changes:

This bill transfers the Board from FDOT to DACS effective October 1, 2014, by way of a type two transfer.⁹ The Board will consist of two permanent members: the Commissioner of DACS, who will chair the Board, and the Executive Director of FDLE or their authorized designees.

Each permanent member of the Board will no longer have the power to appoint an additional member. Instead, the Governor will appoint three members to serve four-year terms on the Board. The appointments by the Governor to the Board must be made no later than September 1, 2014, for terms beginning October 1, 2014. Appointed members will consist of one representative from each of the agriculture, trucking, and road construction industries. Members of the board will serve without compensation. However, the bill authorizes each appointed member of the newly constituted board within DACS to receive per diem and travel expenses.

While all the responsibilities, property, and personnel of the board will transfer to DACS, the fee and penalty revenues will continue to be deposited into the State Transportation Trust Fund. FDOT and DHSMV, as the entities which issue citations reviewed by the Board, are required to provide all assistance, information, and documents requested to fulfill the board's duties and responsibilities.

B. SECTION DIRECTORY:

Section 1: provides for a type two transfer of the Commercial Motor Vehicle Review Board from the Department of Transportation to the Department of Agriculture and Consumer Services.

Section 2: amends section 316.545, F.S. to revise the membership of the board, require additional appointments of members by the Governor, provide qualifications for the appointees, and providing a certain date by which appointments must occur.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comment.

2. Expenditures:

The bill authorizes each member to receive per diem and travel expenses. The Board consists of five members who meet monthly, rotating between Tallahassee, Orlando, and Tampa. The bill does not authorize Board members to be compensated, but appointed members will be entitled to per diem and travel reimbursement. Therefore, some additional expenses will be incurred. However, it is difficult to estimate costs until more information is available regarding the appointed board members, number of meetings and meeting locations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁸ Section 316.545 (6), F.S.

⁹ Section 20.06 (2), F.S., provides that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function of an agency or department. Any agency or department or a program, activity, or function transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, transferred to the agency or department to which it is transferred.

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill transfers the Board from FDOT to DACS by way of a type two transfer. Section 20.06 (2)(c), F.S., provides that the administrative rules of any agency or department involved in a type two transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law. Rule 14A-1.004, F.A.C. as adopted by FDOT relates to the Board and would remain in effect until changed through the rulemaking process as provided in chapter 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the Commercial Motor Vehicle Review
 3 Board; transferring the board from the Department of
 4 Transportation to the Department of Agriculture and
 5 Consumer Services; amending s. 316.545, F.S.; revising
 6 membership of the board; requiring appointment of
 7 additional members; providing qualifications for such
 8 members; directing the Governor to make appointments
 9 to the board by a certain date; providing effective
 10 dates.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Effective October 1, 2014, the powers, duties,
 15 functions, records, personnel, property, pending issues,
 16 existing contracts, administrative authority, pending review
 17 proceedings, administrative rules, and unexpended balances of
 18 appropriations, allocations, and other funds of the Commercial
 19 Motor Vehicle Review Board within the Department of
 20 Transportation are transferred by a type two transfer, as
 21 defined in s. 20.06(2), Florida Statutes, to the Department of
 22 Agriculture and Consumer Services.

23 Section 2. Effective October 1, 2014, subsection (7) of
 24 section 316.545, Florida Statutes, is amended to read:

25 316.545 Weight and load unlawful; special fuel and motor
 26 fuel tax enforcement; inspection; penalty; review.-

27 (7) There is created within the Department of Agriculture
 28 and Consumer Services ~~Department of Transportation~~ the
 29 Commercial Motor Vehicle Review Board, consisting of two ~~three~~
 30 permanent members who shall be the ~~Secretary of the Department~~
 31 ~~of Transportation, the executive director of the Department of~~
 32 ~~Highway Safety and Motor Vehicles, and the~~ Commissioner of
 33 Agriculture and the executive director of the Department of Law
 34 Enforcement, or their authorized representatives, and three
 35 members appointed by the Governor. The board ~~which~~ may review
 36 any penalty imposed upon any vehicle or person under the
 37 provisions of this chapter relating to weights imposed on the
 38 highways by the axles and wheels of motor vehicles, to special
 39 fuel and motor fuel tax compliance, or to violations of safety
 40 regulations. The Department of Highway Safety and Motor Vehicles
 41 and the Department of Transportation shall provide the board
 42 with such assistance, information, and documents as requested by
 43 the board to enable the board to fulfill its duties and
 44 responsibilities.

45 (a) The Commissioner of Agriculture ~~Secretary of the~~
 46 ~~Department of Transportation~~ or his or her authorized
 47 representative shall be the chair of the review board.

48 (b) Members of the board appointed by the Governor shall
 49 each serve a 4-year term. Each appointed member must be a
 50 registered voter and a citizen of the state and must possess
 51 business experience in the private sector. There must be one
 52 appointed member each from the agriculture industry, the

53 trucking industry, and the road construction industry ~~Each~~
 54 ~~permanent member of the review board may designate one~~
 55 ~~additional person to be a member of the review board.~~

56 (c) Members of the board shall serve without compensation;
 57 however, appointed members are entitled to per diem and travel
 58 expenses pursuant to s. 112.061 ~~The review board may execute its~~
 59 ~~responsibilities by meeting as a single group or as subgroups~~
 60 ~~consisting of one authorized representative of each permanent~~
 61 ~~member.~~

62 (d) The chair of the review board is responsible for the
 63 administrative functions of the review board.

64 (e) The review board may hold sessions and conduct
 65 proceedings at any place within the state.

66 Section 3. The appointments by the Governor to the
 67 Commercial Motor Vehicle Review Board, in accordance with the
 68 changes made by this act to s. 316.545, Florida Statutes, shall
 69 be made no later than September 1, 2014, for terms beginning
 70 October 1, 2014.

71 Section 4. Except as otherwise expressly provided in this
 72 act, this act shall take effect July 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Remove lines 14-72 and insert:

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

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.-

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



Amendment No. 1

18 to paragraph (b) of this subsection, which may review any
19 penalty imposed upon any vehicle or person under the provisions
20 of this chapter relating to weights imposed on the highways by
21 the axles and wheels of motor vehicles, to special fuel and
22 motor fuel tax compliance, or to violations of safety
23 regulations.

24 (a) The secretary of the Department of Transportation or
25 his or her authorized representative shall be the chair of the
26 review board.

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

42 (c) Each member, before entering upon his or her official
43 duties, shall take and subscribe to an oath before an official



Amendment No. 1

44 authorized by law to administer oaths that he or she will
45 honestly, faithfully, and impartially perform the duties
46 devolving upon him or her in office as a member of the review
47 board and that he or she will not neglect any duties imposed
48 upon him or her by this act. ~~The review board may execute its~~
49 ~~responsibilities by meeting as a single group or as subgroups~~
50 ~~consisting of one authorized representative of each permanent~~
51 ~~member.~~

52 (d) The chair of the review board is responsible for the
53 administrative functions of the review board.

54 (e) Four members of the board shall constitute a quorum,
55 and the vote of three members including the chair, or otherwise
56 four members, shall be necessary for any action taken by the
57 board. No vacancy in the board shall impair the right of a
58 quorum of the board to exercise all of the rights and perform
59 all of the duties of the board.

60 (f)-(e) The review board may hold sessions and conduct
61 proceedings at any place within the state.

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

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

69



Amendment No. 1

70 -----

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

72 Remove lines 2-10 and insert:
73 An act relating to the Commercial Motor Vehicle Review
74 Board; amending s. 361.545, F.S.; revising membership
75 of the board; requiring appointment of additional
76 members; providing terms of such members; providing
77 for action by a quorum of members; providing an
78 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 183 Drivers Leaving the Scene of a Crash
SPONSOR(S): Transportation & Highway Safety Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee		Thompson <i>JHT</i>	Miller <i>P.M.</i>

SUMMARY ANALYSIS

Section 316.027, F.S., requires that the driver of any vehicle involved in a crash that results in death or injury of any person immediately stop the vehicle, remain at the scene until the driver provides specified information, and render aid to the injured person. A violation is a third degree felony if the crash results in injury; first degree felony, ranked in Level 7 of the offense severity ranking chart, when the crash results in death; and if a person is driving under the influence (DUI) when they leave the scene of a crash that results in death, the result is a mandatory minimum term of imprisonment of 2 years.

The bill creates the "Aaron Cohen Life Protection Act," and addresses a potential incentive that exists in current law for drivers to leave the scene of a crash. The bill creates mandatory minimum prison sentences for such drivers, and increases the penalties for leaving the scene of crashes involving DUI and death. The bill in part:

- Creates three levels for the offense of leaving the scene of a crash, each with different punishments;
- Maintains current law that leaving the scene of a crash resulting in injury to a person other than "serious bodily injury" will be punished as a third degree felony;
- Punishes drivers who leave the scene of a crash resulting in serious bodily injury with a second degree felony, rather than a third degree felony;
- Imposes a mandatory minimum term of imprisonment of four years for a driver convicted of leaving the scene of a crash resulting in the death of a person;
- Increases the mandatory minimum term of imprisonment from two to four years for a person convicted of leaving the scene of a crash resulting in the death of a person while driving under the influence (DUI);
- Imposes a minimum driver license revocation period of at least three years and driver education requirements for leaving the scene of a crash;
- Ranks Offense Severity Ranking Chart offenses for leaving the scene of a crash one level higher if the victim of the offense was a "vulnerable road user," as defined in the bill;
- Authorizes a defendant to move to depart from the mandatory minimum term of imprisonment for leaving the scene of a crash resulting in death, unless the violation was committed while the defendant was DUI; authorizing the state to object; and authorizing a court to grant the motion, the basis for which must be stated in open court, upon a finding that the mandatory minimum would constitute or result in an injustice.

The Criminal Justice Impact Conference (CJIC) met on January 30, 2014 and found that the bill's proposed changes involving serious bodily injury may result in additional prison admissions and longer sentences for some offenders currently being sentenced to prison, but the lack of data results in an indeterminate impact. The bill may have an indeterminate negative fiscal impact on the Department of Highway Safety and Motor Vehicles (DHSMV). See Fiscal Impact on State Government.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

On February 15, 2012, at approximately 5:40 A.M., Aaron Cohen and Enda Walsh were cycling in the bike lane eastbound across the Rickenbacker Causeway in Miami-Dade County when they were both struck from behind by a 2010 Honda Civic. According to an independent witness, the vehicle fled the scene. The driver later surrendered himself to Miami Police Traffic Homicide detectives accompanied by his attorney and admitted to being the driver of the vehicle at the time of the crash. Aaron Cohen expired on February 16, 2012 at approximately 1:00 P.M., from injuries sustained in the crash.¹

According to reports, the driver turned himself in 17 hours later.² Police found evidence that the driver, who was on probation for cocaine charges,³ had been drinking but could not test him because of the time lag.⁴ On February 1, 2013, the driver was sentenced to 364 days in jail⁵ and released to two years of probation after serving 264 days.⁶ According to Florida Uniform Traffic Citation Statistics, there were 15,642 leaving the scene of an accident violations during calendar year 2012.⁷

Crashes Involving Injury or Death

Section 316.027, F.S., requires that the driver of any vehicle involved in a crash that results in death or injury of any person must immediately stop the vehicle and remain at the scene until the driver has complied with section 316.062, F.S. That statute requires the driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property driven or attended by any person to:

- Give his or her name, address, and vehicle registration number;
- Provide a driver's license, upon request and if available, to any person injured in the crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash;
- Provide a driver's license, upon request, to any police officer at the scene or who is investigating the crash;
- Render to any injured person reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or

¹ Information received from the Department of Highway Safety and Motor Vehicles, Florida Long Form Traffic Crash Report number 83005647, on file with the Transportation and Highway Safety Subcommittee.

² See additional information on the Aaron Cohen incident from the Miami Herald news article, at <http://www.miamiherald.com/2014/02/04/3913086/attorney-general-pam-bondi-legislators.html>, (Last viewed 2/5/14).

³ According to the Florida Department of Corrections Offender Network, the driver's criminal history record lists a cocaine-possession charge offense date of 05/13/2011. On file with the Transportation and Highway Safety Subcommittee.

⁴ According to the American Prosecutors Research Institute (APRI), a non-profit research, training and technical assistance affiliate of the National District Attorneys Association, APRI Special Topics Series (2003), alcohol is eliminated from the body at an average rate of about one standard drink per hour. However, there are other factors that affect intoxication (food consumption, gender, medications, illness). Retrograde extrapolation is the process of estimating an alcohol concentration at an earlier time from a measurement taken at a later time; however, a delay between the time of the crash and the test can hinder an accurate determination. On file with the Transportation and Highway Safety Subcommittee.

⁵ Miami-Dade Clerk of the Courts Criminal Sentence Document, Docket Image Book/Page: 028479/03416, case number F12-003845, *The State Of Florida VS. Michele Traverso*, on file with the Transportation and Highway Safety Subcommittee. Miami-Dade court documents can be viewed at <https://www2.miami-dadeclerk.com/CJIS/CaseSearch.aspx>.

⁶ According to the Florida Department of Corrections Offender Network, at <http://www.dc.state.fl.us/InmateInfo/InmateInfoMenu.aspx> the driver's criminal history record provides a sentence date of 01/16/2013 for the offense of leaving the scene of a crash with death, a supervision (probation) begin date of 10/06/13, and a scheduled termination date of 10/08/15. On file with the Transportation and Highway Safety Subcommittee.

⁷ See the Department of Highway Safety and Motor Vehicles website, Statistics, Studies, and Publications at <http://www.flhsmv.gov/html/safety.html>, (Last viewed 2/6/14).

surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person; and

- Having stopped and remained at the scene to provide the required information, if none of the persons identified are able to receive the information, report the crash to the nearest police authority and submit the required information.

All violations of section 316.027, F.S., require that the driver violating the statute make restitution to the victim unless the court finds clear and compelling reasons not to order restitution. Restitution is required to be made a condition of probation.⁸ DHSMV is required to revoke the driver license of a person who violates section 316.027, F.S.⁹

Injury

A driver who violates section 316.027, F.S., in a crash involving injury, commits a third degree felony.¹⁰ A third degree felony is punishable by up to five years in prison and a fine of up to \$5,000.¹¹ The violation does not include a mandatory minimum prison sentence. Proof that the driver caused or contributed to causing injury to a person is not required for a conviction.¹²

Death

A driver who violates section 316.027, F.S., in a crash involving death, commits a first degree felony.¹³ A first degree felony is punishable by up to 30 years in prison and a fine of up to \$10,000.¹⁴ Again, proof that the driver caused or contributed to causing the death of a person is not required for a conviction, and current law reflects no mandatory minimum sentence for these violations. However, this violation includes the following mandatory incarcerative actions:

- a hold in custody of a person arrested for:
 - failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of leaving the scene of an accident,¹⁵
 - crashes involving damage to vehicle or property,¹⁶
 - racing on highways,¹⁷
 - driving under the influence,¹⁸ or
 - a felony violation of driving while license suspended, revoked, canceled, or disqualified;¹⁹ and
- a minimum mandatory prison sentence of two years if the person commits the violation while DUI in violation of s. 316.193, F.S.²⁰

Minimum Mandatory Prison Sentences

In cases involving DUI and leaving the scene of a crash resulting in death, current minimum prison sentences may have unintentional consequences. Currently, a driver convicted of DUI manslaughter is required to serve a mandatory minimum prison sentence of four years.²¹ However, as stated above, a driver who is DUI and leaves the scene of a crash involving death is only required to receive a minimum prison sentence of two years.

⁸ s. 316.027(1)(c), F.S.

⁹ s. 316.027(2), F.S.

¹⁰ s. 316.027(1)(a), F.S.

¹¹ ss. 775.082, 775.083, and 775.084, F.S.

¹² See Lawrence v. State, 801 So.2d 293, 295 (Fla. 2d DCA 2001) and Kelly v. State, 987 So.2d 1237, 1239 (Fla. 2d DCA 2008).

¹³ s. 316.027(1)(b), F.S.

¹⁴ ss. 775.082, 775.083, and 775.084, F.S.

¹⁵ s. 316.027, F.S.

¹⁶ s. 316.061, F.S.

¹⁷ s. 316.191, F.S.

¹⁸ s. 316.193, F.S.

¹⁹ s. 322.34, F.S.

²⁰ s. 316.027(1)(b), F.S.

²¹ s. 316.193(3), F.S., flush left.

In addition, current law may provide an unintentional incentive for a driver who is DUI to leave the scene of a crash. Both mandatory minimum prison sentences (two years for DUI driver leaving the scene involving death, and four years for DUI manslaughter) are contingent upon whether or not the driver is charged with DUI. From an adjudicatory standpoint, removing the element of DUI in such cases would likely remove the possibility of a mandatory minimum prison sentence. Consequently, DUI drivers may be incentivized to leave the scene of a crash, especially those with crashes involving death.

Further, a court is required to sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum of 3 years in prison.²² If successful in fleeing or eluding, a DUI charge is again avoided, and the mandatory minimum prison sentence for fleeing and eluding is one year less than the mandatory minimum of four years for DUI manslaughter.

Driver Improvement Courses

Section 322.0261(2), F.S., provides that in addition to any other applicable penalties, DHSMV must require operators convicted of, or who have plead nolo contendere to the following traffic offenses to attend a department-approved driver improvement course in order to maintain his or her driving privileges:

- a crash involving death or bodily injury requiring transport to a medical facility;²³ or
- a second crash by the same operator within the previous 2-year period involving property damage in an apparent amount of at least \$500.²⁴

If the operator fails to complete the course within 90 days after receiving notice from DHSMV, then DHSMV is required to cancel the operator's driver's license until the course is successfully completed. Currently, the course curriculum does not address the rights of vulnerable road users.

Driver License/Periods of Suspension or Revocation

Section 322.28, F.S., provides for certain driver license suspension and revocation periods and, unless otherwise provided, limits the authority of DHSMV to suspend or revoke a driver's license to one year. Consequently, the revocation period for violations of leaving the scene of a crash resulting in injury or death (in the absence of DUI), is one year.

Section 322.28(4), F.S., currently requires a court to revoke for a minimum of three years the driver license of a person convicted of DUI involving serious bodily injury, vehicular manslaughter, or vehicular homicide. Section 322.28(2)(d), F.S., requires the court to permanently revoke the driver license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193, F.S.

Thus, under current law, in cases involving DUI and leaving the scene of a crash resulting in death, revocation of the driver license is permanent.²⁵ A person driving DUI may view an attempt to leave the scene as advantageous because, if successful, a DUI charge is avoided. The period of license revocation in such event would be not less than one year nor more than five,²⁶ as opposed to permanent.

²² s. 316.1935, F.S.

²³ s. 322.0261(1)(a), F.S.

²⁴ s. 322.0261(1)(b), F.S.

²⁵ s. 322.28(2)(d), F.S.

²⁶ 316.1935(5), F.S.

Criminal Punishment Code, Offense Severity Ranking Chart

The Criminal Punishment Code (Code) is Florida's sentencing policy for noncapital felonies.²⁷ Section 921.0022, F.S., the Offense Severity Ranking Chart (chart) of the Criminal Punishment Code, is used to compute sentence scores for felony offenders. The chart has 10 offense levels, ranked from 1 to 10, 1 being the least severe. Each offense is assigned to a level according to the severity of the offense. A violation of section 316.027, F.S., in a case involving death is a level 7 offense on the chart.²⁸

The Code allows the court to impose a departure below the lowest permissible sentence based upon circumstances or factors that reasonably justify the mitigation of the sentence.²⁹ If a "mitigating factor"³⁰ is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). However, a mandatory minimum term is not subject to these mitigating factors.³¹ Mandatory minimum terms impact Code sentencing. If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.³² With few exceptions that are authorized in statute, the sentencing court must impose the mandatory minimum term and there is no judicial discretion.³³

Proposed Changes

The bill creates the "Aaron Cohen Life Protection Act," and addresses a potential incentive that exists in current law for drivers to leave the scene of a crash. The bill creates mandatory minimum prison sentences for such drivers where none currently exist, and with respect to cases involving DUI and death, increases the penalties for leaving the scene. The bill also increases penalties for leaving the scene of a crash that involves a "vulnerable road user."

The bill defines "serious bodily injury" as an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.³⁴

The bill defines a vulnerable road user as a:

- pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- person riding an animal; or
- person lawfully operating the following on a public right-of-way, crosswalk, or shoulder of the roadway:
 - farm tractor or similar vehicle designed primarily for farm use;

²⁷ ss. 921.002 - 921.0027, F.S.

²⁸ s. 921.0022(3)(g), F.S.

²⁹ s. 921.002(3), F.S.

³⁰ See s. 921.0026(2), F.S., for a full listing of mitigating factors.

³¹ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

³² Rule 3.704(26) ("The Criminal Punishment Code"), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing 'floor' for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. See *Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner's release prior to serving a minimum of 85% of the sentence).

³³ For examples of statutory exceptions see s. 958.04, F.S. [cited in *Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012)], and s. 893.135(4), F.S.

³⁴ The definition is the same as used in the driving under the influence statute. See s. 316.1933(1)(b), F.S.

- skateboard, roller skates, in-line skates;
- horse-drawn carriage;
- electric personal assistive mobility device; or
- wheelchair.

The bill creates three levels for the offense of leaving the scene of a crash, each with different punishments. The first level involves crashes where there is an injury other than serious bodily injury. Leaving the scene of a crash resulting in injury to a person continues to be punished as a third degree felony.

The bill creates a second level of the offense of leaving the scene of a crash where there is serious bodily injury. Leaving the scene of a crash resulting in serious bodily injury to a person is punished as a second degree felony, as opposed to the current third degree. The bill provides that such a violation is a level 6 offense on the offense severity ranking chart of the Criminal Punishment Code. The bill also requires the court to order anyone leaving the scene of a crash involving serious bodily injury to make restitution to the victim for any damage or loss unless the court finds clear and compelling reasons not to order the restitution.

The bill amends the third level of the offense of leaving the scene of a crash that results in death. Leaving the scene of a crash resulting in the death of a person continues to be punished as a first degree felony, but a mandatory minimum term of imprisonment of four years is imposed. Also, if the violation occurs while the driver is DUI, the current mandatory minimum sentence is increased from two years to four years, which is the same minimum mandatory as DUI manslaughter.

The bill allows a defendant to move to depart from the four-year mandatory minimum sentence for leaving the scene of a crash with a death, unless the defendant was driving DUI at the time of the violation; authorizes the state to object to the departure; allows the court to depart only if it finds that a factor, consideration, or circumstance clearly demonstrates that imposing the mandatory minimum term would constitute or result in an injustice; and requires the court to state the basis for granting a departure in open court.

The bill requires a driver in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to:

- be subject to a 3 year mandatory driver license revocation;
- participate in a victim's impact panel³⁵ session in a judicial circuit if one exists; or
- participate in a driver education course relating to the rights of vulnerable road users relative to vehicles on the roadway.

The bill amends s. 322.0261(2), F.S., to require DHSMV to include in its approved driver improvement course curriculum instruction specifically addressing the rights of vulnerable road users relative to vehicles on the roadway.

The bill revises the Offense Severity Ranking Chart for the offense of leaving the scene of a crash that involves a vulnerable road user. The bill ranks offenses for leaving the scene of a crash one level higher than specified in the chart if the victim of the offense was a "vulnerable road user," resulting in higher total sentence points and a higher lowest permissible sentence (if no serious injury occurs, a Level 5 offense becomes a Level 6 offense; if there is serious injury, a Level 6 offense becomes a Level 7 offense; and if death occurs, a Level 7 offense becomes a Level 8 offense).

³⁵ A victim impact panel is a meeting where offenders meet with victims to learn the impact of the offenses related to driving. There are victim impact panels in at least 33 counties. The DUI Victim Impact Panel Program is an awareness program for offenders convicted of misdemeanor driving under the influence of alcohol or other drugs. For more information see:

<http://www.madd.org/local-offices/fl/victim-impact-panels-1.html#sthash.AXfOk7pY.dpuf> (Last viewed Dec. 10, 2013).

The bill amends s. 322.28(4), F.S., to require:

- a court to revoke the driver license of a person convicted of leaving the scene of a crash for a minimum of three years; and
- DHSMV to revoke the driver license for the same period in the event the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter.

The bill reenacts s. 322.34(6), F.S., relating to driving while a driver license is suspended, revoked, canceled, or disqualified, to incorporate the amendment to s. 322.28, F.S., and makes a technical change.

The bill also makes technical and conforming changes to s. 316.027, F.S.

B. SECTION DIRECTORY:

- Section 1. Gives the act the popular name the "Aaron Cohen Life Protection Act."
- Section 2. Amends s. 316.027, F.S., relating to crashes involving death or personal injuries.
- Section 3. Amends s. 316.0261, F.S., relating to driver improvement course curriculum.
- Section 4. Amends s. 322.28, F.S., relating to period of suspension or revocation.
- Section 5. Reenacts s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.
- Section 6. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 7. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV expects the bill to require approximately 30 non-recurring system programming hours, the cost of which will be absorbed within existing resources.³⁶

The bill requires a driver in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to participate in either a victim's impact panel session or a driver education course relating to the rights of vulnerable road users. The bill does not specify penalties for not completing these requirements or whether the court or an agency will administer the requirements, therefore the fiscal impact is indeterminate.³⁷

³⁶ See the DHSMV 2014 Agency Legislative Bill Analysis for HB 183, page 4. On file with the Transportation and Highway Safety Subcommittee.

³⁷ Id.

The Criminal Justice Impact Conference (CJIC) met on January 30, 2014 and found that the bill's impact upon prison beds is also indeterminate. The Office of Economic and Demographic Research (EDR) stated that the proposed changes to s. 316.027, F.S., will increase both the felony degree and the offense severity level for leaving the scene of an accident involving serious bodily injury, but the percentage of cases that currently involve serious bodily injury is indeterminate. According to EDR, incarceration rates and average sentence lengths for the current and proposed offenses related to leaving the scene of an accident involving serious bodily injury are as follows:

- incarceration rate for all 3rd degree, level 5 offenses - 22.8%;
- average sentence length for all 3rd degree, level 5 offenses - 33.0 months;
- incarceration rate for all 2nd degree, level 6 offenses - 48.2%; and
- average sentence length for all 2nd degree, level 6 offenses - 57.8 months.

EDR states that the differences in these two measures suggest that the proposed changes involving serious bodily injury may result in additional prison admissions and in longer sentences for some offenders currently being sentenced to prison, but the lack of data to estimate these changes results in an indeterminate impact.

In addition, offenders currently sentenced for leaving the scene of an accident involving death, will be subject to a 4-year mandatory minimum sentence under the bill. However, EDR said it is not possible to determine the percentage of current offenders who receive the 2-year mandatory minimum sentence for leaving the scene while DUI. The current average sentence length for all of the offenders in this offense is 91.9 months. Nearly 75% of these sentences are 48 months or longer suggesting that the impact from the bill will be limited, but the lack of data to estimate these changes also results in an indeterminate impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Except for offenders convicted of leaving the scene on an accident, there is no direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The bill requires a driver in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to participate in either a victim's impact panel session or a driver education course relating to the rights of vulnerable road users. The bill does not specify penalties for not completing these requirements or whether the court or an agency will administer the requirements. Also, there is a difference between a driver "education" course and a driver "improvement" course. Driver education courses are used to educate first-time drivers about general traffic laws. Driver improvement courses are intended for drivers with certain types of traffic offenses.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to drivers leaving the scene of a
3 crash; creating the "Aaron Cohen Life Protection Act";
4 amending s. 316.027, F.S.; redefining the term
5 "serious bodily injury" and defining the term
6 "vulnerable road user"; requiring the driver of a
7 vehicle involved in a crash that results in serious
8 bodily injury to a person to immediately stop the
9 vehicle and remain at the scene of the crash;
10 providing that a person commits a felony of the second
11 degree if he or she fails to stop the vehicle and
12 remain at the scene of the crash until specified
13 requirements are fulfilled; requiring the court to
14 impose a mandatory minimum term of imprisonment under
15 certain circumstances; requiring the revocation of the
16 driver's driver license; requiring the driver to
17 participate in specified programs; providing for
18 ranking of an offense committed if the victim of the
19 offense was a vulnerable road user; authorizing the
20 defendant to move to depart from the mandatory minimum
21 term of imprisonment under certain circumstances;
22 providing requirements and procedures for such
23 departure; amending s. 322.0261, F.S.; requiring the
24 Department of Highway Safety and Motor Vehicles to
25 include in the curriculum of a certain driver
26 improvement course instruction addressing the rights

27 of vulnerable road users; amending s. 322.28, F.S.;
 28 requiring the court to revoke for at least 3 years the
 29 driver license of a person convicted of leaving the
 30 scene of a crash involving injury, serious bodily
 31 injury, or death; reenacting and amending s.
 32 322.34(6), F.S., relating to driving while a driver
 33 license is suspended, revoked, canceled, or
 34 disqualified, to incorporate the amendment to s.
 35 322.28, F.S., in a reference thereto; amending s.
 36 921.0022, F.S.; revising the offense severity ranking
 37 chart; conforming a cross-reference; providing an
 38 effective date.

39

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

41

42 Section 1. This act may be cited as the "Aaron Cohen Life
 43 Protection Act."

44 Section 2. Section 316.027, Florida Statutes, is amended
 45 to read:

46 316.027 Crash involving death or personal injuries.-

47 (1) As used in this section, the term:

48 (a) "Serious bodily injury" means an injury to a person,
 49 including the driver, which consists of a physical condition
 50 that creates a substantial risk of death, serious personal
 51 disfigurement, or protracted loss or impairment of the function
 52 of a bodily member or organ.

53 (b) "Vulnerable road user" means:
 54 1. A pedestrian, including a person actually engaged in
 55 work upon a highway, or in work upon utility facilities along a
 56 highway, or engaged in the provision of emergency services
 57 within the right-of-way;
 58 2. A person operating a bicycle, motorcycle, scooter, or
 59 moped lawfully on the roadway;
 60 3. A person riding an animal; or
 61 4. A person lawfully operating on a public right-of-way,
 62 crosswalk, or shoulder of the roadway:
 63 a. A farm tractor or similar vehicle designed primarily
 64 for farm use;
 65 b. A skateboard, roller skates, or in-line skates;
 66 c. A horse-drawn carriage;
 67 d. An electric personal assistive mobility device; or
 68 e. A wheelchair.
 69 (2)(1)(a) The driver of a any vehicle involved in a crash
 70 occurring on public or private property which ~~that~~ results in
 71 injury to a of any person other than serious bodily injury shall
 72 ~~must~~ immediately stop the vehicle at the scene of the crash, or
 73 as close thereto as possible, and shall ~~must~~ remain at the scene
 74 of the crash until he or she has fulfilled the requirements of
 75 s. 316.062. A ~~Any~~ person who willfully violates this paragraph
 76 commits a felony of the third degree, punishable as provided in
 77 s. 775.082, s. 775.083, or s. 775.084.
 78 (b) The driver of a vehicle involved in a crash occurring

79 on public or private property which results in serious bodily
 80 injury to a person shall immediately stop the vehicle at the
 81 scene of the crash, or as close thereto as possible, and shall
 82 remain at the scene of the crash until he or she has fulfilled
 83 the requirements of s. 316.062. A person who willfully violates
 84 this paragraph commits a felony of the second degree, punishable
 85 as provided in s. 775.082, s. 775.083, or s. 775.084.

86 (c)~~(b)~~ The driver of a ~~any~~ vehicle involved in a crash
 87 occurring on public or private property which ~~that~~ results in
 88 the death of a ~~any~~ person shall ~~must~~ immediately stop the
 89 vehicle at the scene of the crash, or as close thereto as
 90 possible, and shall ~~must~~ remain at the scene of the crash until
 91 he or she has fulfilled the requirements of s. 316.062. A person
 92 who is arrested for a violation of this paragraph and who has
 93 previously been convicted of a violation of this section, s.
 94 316.061, s. 316.191, or s. 316.193, or a felony violation of s.
 95 322.34, shall be held in custody until brought before the court
 96 for admittance to bail in accordance with chapter 903. A ~~Any~~
 97 person who willfully violates this paragraph commits a felony of
 98 the first degree, punishable as provided in s. 775.082, s.
 99 775.083, or s. 775.084, and shall be sentenced to a mandatory
 100 minimum term of imprisonment of 4 years. A ~~Any~~ person who
 101 willfully commits such a violation while driving under the
 102 influence as set forth in s. 316.193(1) shall be sentenced to a
 103 mandatory minimum term of imprisonment of 4 ~~2~~ years.

104 (d)~~(e)~~ Notwithstanding s. 775.089(1)(a), if the driver of

105 a vehicle violates paragraph (a), ~~or~~ paragraph (b), or paragraph
 106 (c), the court shall order the driver to make restitution to the
 107 victim for any damage or loss unless the court finds clear and
 108 compelling reasons not to order the restitution. Restitution may
 109 be monetary or nonmonetary restitution. The court shall make the
 110 payment of restitution a condition of probation in accordance
 111 with s. 948.03. An order requiring the defendant to make
 112 restitution to a victim does not remove or diminish the
 113 requirement that the court order payment to the Crimes
 114 Compensation Trust Fund under chapter 960. Payment of an award
 115 by the Crimes Compensation Trust Fund creates an order of
 116 restitution to the Crimes Compensation Trust Fund unless
 117 specifically waived in accordance with s. 775.089(1)(b).

118 (e) A driver who violates paragraph (a), paragraph (b), or
 119 paragraph (c) shall:

120 1. Have his or her driver license revoked for at least 3
 121 years as provided in s. 322.28(4);

122 2. Participate in a victim's impact panel session in a
 123 judicial circuit if such a panel exists; or

124 3. Participate in a driver education course relating to
 125 the rights of vulnerable road users relative to vehicles on the
 126 roadway.

127 (f) For purposes of sentencing under chapter 921 and
 128 determining incentive gain-time eligibility under chapter 944,
 129 an offense listed in this subsection is ranked one level above
 130 the ranking specified in s. 921.0022 or s. 921.0023 for the

131 | offense committed if the victim of the offense was a vulnerable
 132 | road user.

133 | (g) The defendant may move to depart from the mandatory
 134 | minimum term of imprisonment prescribed in paragraph (c) unless
 135 | the violation was committed while the defendant was driving
 136 | under the influence. The state may object to this departure. The
 137 | court may grant the motion only if it finds that a factor,
 138 | consideration, or circumstance clearly demonstrates that
 139 | imposing a mandatory minimum term of imprisonment would
 140 | constitute or result in an injustice. The court shall state in
 141 | open court the basis for granting the motion.

142 | ~~(2) The department shall revoke the driver's license of~~
 143 | ~~the person so convicted.~~

144 | (3) The stops shall ~~Every stop must~~ be made without
 145 | unnecessarily obstructing traffic ~~more than is necessary~~, and,
 146 | if a damaged vehicle is obstructing traffic, the driver of the
 147 | vehicle shall ~~must~~ make every reasonable effort to move the
 148 | vehicle or have it moved so as not to obstruct the regular flow
 149 | of traffic. A ~~Any~~ person who fails to comply with this
 150 | subsection shall be cited for a nonmoving violation, punishable
 151 | as provided in chapter 318.

152 | (4) In addition to any other civil, criminal, or
 153 | administrative penalty imposed, a person whose commission of a
 154 | noncriminal traffic infraction or a ~~any~~ violation of this
 155 | chapter or s. 1006.66 causes or results in the death of another
 156 | person may, ~~in addition to any other civil, criminal, or~~

157 | ~~administrative penalty imposed~~, be required by the court to
 158 | serve 120 community service hours in a trauma center or hospital
 159 | that regularly receives victims of vehicle accidents, under the
 160 | supervision of a registered nurse, an emergency room physician,
 161 | or an emergency medical technician pursuant to a voluntary
 162 | community service program operated by the trauma center or
 163 | hospital.

164 | (5) This section does not apply to crashes occurring
 165 | during a motorsports event, as defined in s. 549.10(1), or at a
 166 | closed-course motorsport facility, as defined in s. 549.09(1).

167 | Section 3. Subsection (2) of section 322.0261, Florida
 168 | Statutes, is amended to read:

169 | 322.0261 Driver improvement course; requirement to
 170 | maintain driving privileges; failure to complete; department
 171 | approval of course.—

172 | (2) With respect to an operator convicted of, or who
 173 | pleaded nolo contendere to, a traffic offense giving rise to a
 174 | crash identified in paragraph (1)(a) or paragraph (1)(b), the
 175 | department shall require that the operator, in addition to other
 176 | applicable penalties, attend a department-approved driver
 177 | improvement course in order to maintain his or her driving
 178 | privileges. The department shall include in the course
 179 | curriculum instruction specifically addressing the rights of
 180 | vulnerable road users as defined in s. 316.027 relative to
 181 | vehicles on the roadway. If the operator fails to complete the
 182 | course within 90 days after receiving notice from the

183 department, the operator's driver ~~driver's~~ license shall be
 184 canceled by the department until the course is successfully
 185 completed.

186 Section 4. Subsection (4) of section 322.28, Florida
 187 Statutes, is amended to read:

188 322.28 Period of suspension or revocation.—

189 (4) (a) Upon a conviction for a violation of s.
 190 316.193(3)(c)2., involving serious bodily injury, a conviction
 191 of manslaughter resulting from the operation of a motor vehicle,
 192 or a conviction of vehicular homicide, the court shall revoke
 193 the driver license of the person convicted for a minimum period
 194 of 3 years. If a conviction under s. 316.193(3)(c)2., involving
 195 serious bodily injury, is also a subsequent conviction as
 196 described under paragraph (2)(a), the court shall revoke the
 197 driver license or driving privilege of the person convicted for
 198 the period applicable as provided in paragraph (2)(a) or
 199 paragraph (2)(d).

200 (b) Upon a conviction for a violation of s. 316.027(2)(a),
 201 s. 316.027(2)(b), or s. 316.027(2)(c) involving injury, serious
 202 bodily injury, or death, the court shall revoke the driver
 203 license of the person convicted for a minimum period of 3 years.

204 (c) ~~(b)~~ If the period of revocation was not specified by
 205 the court at the time of imposing sentence or within 30 days
 206 thereafter, the department shall revoke the driver license for
 207 the minimum period applicable under paragraph (a) or paragraph
 208 (b) or, for a subsequent conviction, for the minimum period

209 applicable under paragraph (2)(a) or paragraph (2)(d).

210 Section 5. For the purpose of incorporating the amendment
 211 made by this act to section 322.28, Florida Statutes, in a
 212 reference thereto, subsection (6) of section 322.34, Florida
 213 Statutes, is reenacted and amended to read:

214 322.34 Driving while license suspended, revoked, canceled,
 215 or disqualified.—

216 (6) Any person who operates a motor vehicle:

217 (a) Without having a driver's license as required under s.
 218 322.03; or

219 (b) While his or her driver's license or driving privilege
 220 is canceled, suspended, or revoked pursuant to s. 316.655, s.
 221 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

222
 223 and who by careless or negligent operation of the motor vehicle
 224 causes the death of or serious bodily injury to another human
 225 being commits ~~is guilty of~~ a felony of the third degree,
 226 punishable as provided in s. 775.082 or s. 775.083.

227 Section 6. Paragraphs (e) through (g) of subsection (3) of
 228 section 921.0022, Florida Statutes, are amended to read:

229 921.0022 Criminal Punishment Code; offense severity
 230 ranking chart.—

231 (3) OFFENSE SEVERITY RANKING CHART

232 (e) LEVEL 5

233

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	Florida Statute	Felony Degree	Description
234	316.027 <u>(2) (a)</u> (1) (a)	3rd	Accidents involving personal injuries <u>other than serious bodily injury</u> , failure to stop; leaving scene.
235	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
236	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
237	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
238	379.367 (4)	3rd	Willful molestation of a

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commercial harvester's
spiny lobster trap, line,
or buoy.

239

379.3671
(2)(c)3.

3rd Willful molestation,
possession, or removal of a
commercial harvester's trap
contents or trap gear by
another harvester.

240

381.0041(11)(b)

3rd Donate blood,
plasma, or organs
knowing HIV
positive.

241

440.10(1)(g)

2nd Failure to obtain workers'
compensation coverage.

242

440.105(5)

2nd Unlawful solicitation for
the purpose of making
workers' compensation
claims.

243

440.381(2)

2nd Submission of false,
misleading, or incomplete

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information with the purpose
of avoiding or reducing
workers' compensation
premiums.

244

624.401(4)(b)2.

2nd Transacting insurance
without a certificate
or authority; premium
collected \$20,000 or
more but less than
\$100,000.

245

626.902(1)(c)

2nd Representing an
unauthorized insurer;
repeat offender.

246

790.01(2)

3rd Carrying a concealed
firearm.

247

790.162

2nd Threat to throw or discharge
destructive device.

248

790.163(1)

2nd False report of deadly
explosive or weapon of mass
destruction.

249

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250	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
251	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
252	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years <u>of age</u> .
253	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years <u>of age</u> or older.
254	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than

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			\$50,000.
255	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
256	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
257	812.131(2)(b)	3rd	Robbery by sudden snatching.
258	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
259	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
260	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
261	817.2341(1),	3rd	Filing false financial

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262	(2) (a) & (3) (a)		statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
263	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
264	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly

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2014

person or disabled adult.

265

827.071(4)

2nd

Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

266

827.071(5)

3rd

Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

267

839.13(2)(b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

268

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

269

847.0135(5)(b)

2nd

Lewd or lascivious

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			exhibition using computer; offender 18 years or older.
270	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
271	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
272	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
273	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 <u>years of</u> <u>age</u> to join a criminal gang.
274	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or

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2014

(2)(c)4. drugs).

275

893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

276

893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

277

893.13(1)(e)2.

2nd

Sell, manufacture, or

deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

278

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

279

893.13(4)(b)

2nd

Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,

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(2) (c) 8., (2) (c) 9., (3), or
(4) drugs).

280

893.1351(1)

3rd

Ownership, lease, or rental
for trafficking in or
manufacturing of controlled
substance.

281

282

283

(f) LEVEL 6

284

Florida

Felony

Statute

Degree

Description

285

316.027(2)(b)

2nd

Leaving the scene of a
crash involving serious
bodily injury.

286

316.193(2)(b)

3rd

Felony DUI, 4th or
subsequent conviction.

287

499.0051(3)

2nd

Knowing forgery of
pedigree papers.

288

499.0051(4)

2nd

Knowing purchase or

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289			receipt of prescription drug from unauthorized person.
	499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
290			
	775.0875(1)	3rd	Taking firearm from law enforcement officer.
291			
	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
292			
	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
293			
	784.041	3rd	Felony battery; domestic battery by strangulation.
294			
	784.048(3)	3rd	Aggravated stalking; credible threat.
295			

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296	784.048 (5)	3rd	Aggravated stalking of person under 16.
297	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
298	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
299	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
300	784.081 (2)	2nd	Aggravated assault on specified official or employee.
301	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
	784.083 (2)	2nd	Aggravated assault on

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2014

302	787.02(2)	3rd	code inspector. False imprisonment; restraining with purpose other than those in s. 787.01.
303	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
304	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
305	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
306	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or

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ORIGINAL

2014

vehicles.

307

794.011(8)(a)

3rd

Solicitation of minor to participate in sexual activity by custodial adult.

308

794.05(1)

2nd

Unlawful sexual activity with specified minor.

309

800.04(5)(d)

3rd

Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.

310

800.04(6)(b)

2nd

Lewd or lascivious conduct; offender 18 years of age or older.

311

806.031(2)

2nd

Arson resulting in great bodily harm to firefighter or any other person.

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312	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
313	810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
314	812.014(2)(b)1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
315	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
316	812.015(9)(a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
317	812.015(9)(b)	2nd	Retail theft; property stolen \$3,000 or more;

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318	812.13 (2) (c)	2nd	<p>coordination of others.</p> <p>Robbery, no firearm or other weapon (strong-arm robbery).</p>
319	817.4821 (5)	2nd	<p>Possess cloning paraphernalia with intent to create cloned cellular telephones.</p>
320	825.102 (1)	3rd	<p>Abuse of an elderly person or disabled adult.</p>
321	825.102 (3) (c)	3rd	<p>Neglect of an elderly person or disabled adult.</p>
322	825.1025 (3)	3rd	<p>Lewd or lascivious molestation of an elderly person or disabled adult.</p>
323	825.103 (2) (c)	3rd	<p>Exploiting an elderly</p>

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2014

person or disabled adult
and property is valued
at less than \$20,000.

324

827.03(2)(c)

3rd

Abuse of a child.

325

827.03(2)(d)

3rd

Neglect of a child.

326

827.071(2) & (3)

2nd

Use or induce a child in
a sexual performance, or
promote or direct such
performance.

327

836.05

2nd

Threats; extortion.

328

836.10

2nd

Written threats to kill
or do bodily injury.

329

843.12

3rd

Aids or assists person
to escape.

330

847.011

3rd

Distributing, offering
to distribute, or
possessing with intent
to distribute obscene

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2014

331	847.012	3rd	materials depicting minors.
332	847.0135 (2)	3rd	Knowingly using a minor in the production of materials harmful to minors.
333	914.23	2nd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
334	944.35 (3) (a) 2.	3rd	Retaliation against a witness, victim, or informant, with bodily injury.
			Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision,

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2014

335			resulting in great bodily harm.
336	944.40	2nd	Escapes.
337	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
338	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
339	951.22 (1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
340			
341	(g) LEVEL 7		
342			
343	Florida Statute	Felony Degree	Description

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2014

344	316.027 <u>(2) (c) (1) (b)</u>	1st	Accident involving death, failure to stop; leaving scene.
345	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
346	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
347	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.

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348	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
349	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
350	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
351	456.065(2)	3rd	Practicing a health care profession without a license.
352	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
353	458.327(1)	3rd	Practicing medicine without a license.

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354	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
355	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
356	461.012 (1)	3rd	Practicing podiatric medicine without a license.
357	462.17	3rd	Practicing naturopathy without a license.
358	463.015 (1)	3rd	Practicing optometry without a license.
359	464.016 (1)	3rd	Practicing nursing without a license.
360	465.015 (2)	3rd	Practicing pharmacy without a license.
361	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.

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362	467.201	3rd	Practicing midwifery without a license.
363	468.366	3rd	Delivering respiratory care services without a license.
364	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
365	483.901(9)	3rd	Practicing medical physics without a license.
366	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
367	484.053	3rd	Dispensing hearing aids without a license.
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained

exceeded \$50,000 and
there were five or more
victims.

368

560.123(8)(b)1.

3rd Failure to report
currency or payment
instruments exceeding
\$300 but less than
\$20,000 by a money
services business.

369

560.125(5)(a)

3rd Money services business by
unauthorized person,
currency or payment
instruments exceeding \$300
but less than \$20,000.

370

655.50(10)(b)1.

3rd Failure to report
financial transactions
exceeding \$300 but less
than \$20,000 by
financial institution.

371

775.21(10)(a)

3rd Sexual predator; failure to
register; failure to renew

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2014

driver's license or
 identification card; other
 registration violations.

372

775.21(10)(b)

3rd Sexual predator working
 where children regularly
 congregate.

373

775.21(10)(g)

3rd Failure to report or
 providing false
 information about a
 sexual predator; harbor
 or conceal a sexual
 predator.

374

782.051(3)

2nd Attempted felony murder of
 a person by a person other
 than the perpetrator or the
 perpetrator of an attempted
 felony.

375

782.07(1)

2nd Killing of a human being by the
 act, procurement, or culpable
 negligence of another
 (manslaughter).

376

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377	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
378	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
379	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
380	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
381	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or

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2014

court order.

382

784.048(7)

3rd

Aggravated stalking;
violation of court order.

383

784.07(2)(d)

1st

Aggravated battery on law
enforcement officer.

384

784.074(1)(a)

1st

Aggravated battery on
sexually violent
predators facility
staff.

385

784.08(2)(a)

1st

Aggravated battery on a
person 65 years of age
or older.

386

784.081(1)

1st

Aggravated battery on
specified official or
employee.

387

784.082(1)

1st

Aggravated battery by
detained person on visitor
or other detainee.

388

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2014

389	784.083 (1)	1st	Aggravated battery on code inspector.
390	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
391	787.06 (3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
392	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
393	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
394	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.

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395	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
396	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
397	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
398	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in

custodial authority to a
victim younger than 18 years
of age.

399

796.03

2nd

Procuring any person under 16
years of age for prostitution.

400

800.04 (5) (c) 1.

2nd

Lewd or lascivious
molestation; victim less
than 12 years of age;
offender less than 18
years of age.

401

800.04 (5) (c) 2.

2nd

Lewd or lascivious
molestation; victim 12
years of age or older but
less than 16 years of
age; offender 18 years of
age or older.

402

806.01 (2)

2nd

Maliciously damage structure
by fire or explosive.

403

810.02 (3) (a)

2nd

Burglary of occupied
dwelling; unarmed; no

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2014

404			assault or battery.
405	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
406	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
407	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
408	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000,

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2014

409	812.014 (2) (b) 3 .	2nd	grand theft in 2nd degree.
410	812.014 (2) (b) 4 .	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
411	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
412	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
413	812.131 (2) (a)	2nd	Robbery by sudden

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2014

414			snatching.
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
415			
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
416			
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
417			
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
418			
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
419			
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false

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2014

statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

420

817.535(2)(a)

3rd Filing false lien or other unauthorized document.

421

825.102(3)(b)

2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

422

825.103(2)(b)

2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

423

827.03(2)(b)

2nd Neglect of a child causing great bodily harm,

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2014

424			disability, or disfigurement.
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
425			
	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
426			
	838.015	2nd	Bribery.
427			
	838.016	2nd	Unlawful compensation or reward for official behavior.
428			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
429			
	838.22	2nd	Bid tampering.
430			
	843.0855(2)	3rd	Impersonation of a public officer or employee.
431			
	843.0855(3)	3rd	Unlawful simulation of

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2014

legal process.

432

843.0855 (4)

3rd

Intimidation of a public officer or employee.

433

847.0135 (3)

3rd

Solicitation of a child, via a computer service, to commit an unlawful sex act.

434

847.0135 (4)

2nd

Traveling to meet a minor to commit an unlawful sex act.

435

872.06

2nd

Abuse of a dead human body.

436

874.05 (2) (b)

1st

Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

437

874.10

1st, PBL

Knowingly initiates, organizes, plans, finances, directs, manages, or supervises

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438

893.13(1)(c)1.

1st

criminal gang-related activity.

Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

439

893.13(1)(e)1.

1st

Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a

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specified business site.

440

893.13 (4) (a)

1st

Deliver to minor cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).

441

893.135 (1) (a) 1.

1st

Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

442

893.135
(1) (b) 1.a.

1st

Trafficking in cocaine, more than 28 grams, less than 200 grams.

443

893.135
(1) (c) 1.a.

1st

Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

444

893.135 (1) (d) 1.

1st

Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

445

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446	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
447	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
448	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
449	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
450	893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
	893.135	1st	Trafficking in Phenethylamines,

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451	(1) (k) 2.a.		10 grams or more, less than 200 grams.
452	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
453	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
454	896.104(4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
455	943.0435(4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.

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456	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
457	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
458	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
459	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
460	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.

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461	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
462	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
463	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
464	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor

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or conceal a sexual
offender.

465

985.4815(13)

3rd

Sexual offender; failure to
report and reregister;
failure to respond to
address verification.

466

467

Section 7. This act shall take effect July 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment

6 Remove lines 119-126 and insert:
7 paragraph (c) shall have his or her driver license revoked for
8 at least 3 years as provided in s. 322.28(4).

9 1. A person convicted of violating paragraph (a), paragraph
10 (b), or paragraph (c) shall, before the driving privilege may be
11 reinstated, present to the department proof of completion of a
12 victim's impact panel session in a judicial circuit if such a
13 panel exists, or if such a panel does not exist, a department-
14 approved driver improvement course relating to the rights of
15 vulnerable road users relative to vehicles on the roadway as
16 provided in s. 322.0261(2).



Amendment No. 1

17 2. Only after satisfying the 3 year revocation period as
18 provided in s. 322.28(4), and the successful completion of
19 either a victim's impact panel session or a department-approved
20 driver improvement course relating to the rights of vulnerable
21 road users relative to vehicles on the roadway as provided in s.
22 322.0261(2), may the department reinstate the offender's driving
23 privilege.

24 3. For purposes of this paragraph, before the driving
25 privilege may be reinstated the department shall verify that the
26 offender participated in and successfully completed a victim's
27 impact panel session or a department-approved driver improvement
28 course.

29

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB THSS 14-04 Certificates of Destruction
SPONSOR(S): Transportation & Highway Safety Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:** SB 754

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee		Thompson <i>JAT</i>	Miller <i>P.M.</i>

SUMMARY ANALYSIS

Currently, when a vehicle is considered a "total loss," it is considered "salvage," and may be acquired by a salvage motor vehicle dealer. However, before a total loss vehicle may be acquired by a salvage motor vehicle dealer, the vehicle owner (usually the insurance company) must apply for a salvage certificate of title (Salvage Title) or a certificate of destruction (COD). When applying for a Salvage Title or COD, the insurance company must provide the Department of Highway Safety and Motor Vehicles (DHSMV) with an estimate of the costs of repairing the physical and mechanical damage. If the estimated costs of repairing the vehicle are equal to or more than 80 percent of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, DHSMV is required to declare the vehicle unrebuildable and print a COD.

The PCB revises the process for applying for a Salvage Title or COD for a total loss motor vehicle. The PCB removes the 80 percent threshold that requires DHSMV to declare the vehicle unrebuildable and print a COD. In doing so, the PCB replaces the 80 percent threshold with a requirement that DHSMV print a COD if a motor vehicle or mobile home:

- Is damaged, wrecked or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or
- Comes into this state under a title or other ownership that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

In either case, the owner or insurance company which pays money as compensation for total loss of a motor vehicle or mobile home would be required to obtain a COD.

A Salvage Title indicates that the vehicle is repairable and a COD indicates that the vehicle is not repairable. There is a \$2 fee for each Salvage Title, which is deposited into the General Revenue Fund, and a \$3 fee for each COD, which is also deposited into the General Revenue Fund.

Before a salvage motor vehicle dealer resells a repaired salvage motor vehicle, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV. There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

Currently, there are approximately 130,000 more CODs than Salvage Titles issued annually. To the extent that a greater number of salvage vehicles will be able to be repaired and resold as rebuilt vehicles, the PCB will have a positive fiscal impact on insurance companies, the insurance auto auction industry and other entities involved in the sale of Salvage Title vehicles; a negative fiscal impact on the automotive recycling and parts industry and other entities involved in the sale of parts from COD vehicles; and a positive fiscal impact on the General Revenue Fund and the Highway Safety Operating Trust Fund. See Fiscal Analysis for additional information.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Total Loss

Currently, Florida law defines a motor vehicle (vehicle or mobile home) as a 'total loss'¹ when:

- an insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the vehicle owner upon the theft of the vehicle²; or
- an uninsured vehicle is wrecked or damaged and the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the vehicle owner of replacing the wrecked or damaged vehicle with one of like kind and quality.³

However, the vehicle owner and the owner's insurance company may reach an agreement to repair, rather than replace, the vehicle. In this case, the vehicle is not considered a 'total loss,' unless the actual cost to repair the vehicle to the insurance company exceeds 100 percent of the cost of replacing the vehicle with one of like kind and quality. If the cost to repair does in fact exceed 100 percent of the replacement cost, the vehicle owner must request that DHSMV brand the vehicle's certificate of title with the words 'Total Loss Vehicle.'⁴

Salvage Titles

From a national perspective, the purpose of a salvage motor vehicle title is to indicate that a vehicle has been severely damaged or declared a total loss at some point in its history, and to provide a traceable record for such vehicles the titles to which have been surrendered. Before disposing of or selling a total loss vehicle, the owner or insurance company is usually required to apply for some type of a salvage motor vehicle title. In such cases, the certificate of title is submitted to the respective state's titling agency, and depending on the state and level of damages, the vehicle may be designated rebuildable or unrebuildable⁵ and, thereby receive the appropriate title designation. If the vehicle is deemed rebuildable, some states, including Florida, allow it to be repaired, inspected, and ultimately returned to the road. If the vehicle is deemed unrebuildable, the vehicle must be destroyed or dismantled.

Typically, the insurance company has its own procedure for the disposition of rebuildable or unrebuildable total loss vehicles. In Florida, many insurance companies have an agreement with a

¹ s. 319.30(3)(a), F.S.

² s. 319.30(3)(a)1.a., F.S.

³ s. 319.30(3)(a)1.b., F.S.

⁴ s. 319.30(3)(a)(2), F.S.

⁵ The American Association of Motor Vehicle Administrators, Best Practices for Title and Registration of Rebuilt and Specially Constructed Vehicles, November 2012, at page 3, defines a "non-repairable vehicle" as a motor vehicle that is damaged, destroyed, wrecked, burned or submerged in water to the extent that the only residual value of the vehicle is as a source of parts or scrap metal or identified by a jurisdiction or insurer that it is not rebuildable. Vehicles designated as non-repairable cannot be rebuilt for operation on public roads. The AAMVA defines a "rebuilt vehicle" as a motor vehicle that has been previously titled or registered, or both, that was incapable of operation or use on highways due to damage and that has been rebuilt to the original design of the vehicle by replacing major component parts with like make and model parts. Prior to being rebuilt, the vehicle may have been declared a total loss by an insurance company and branded salvage but does not extend to include unrepairable branded vehicles. On file with the House Transportation & Highway Safety Subcommittee.

motor vehicle auction company⁶ to acquire, apply for title of, and sell, the vehicle. The auction company, in turn, charges a fee to the insurance company, for their services. Buyers at an auto auction must be licensed motor vehicle dealers,⁷ and may include salvage motor vehicle dealers⁸ who are defined in Florida law as, “any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.” In Florida, most buyers of rebuildable vehicles are auto dealers, or exporters. Buyers of unrebuildable vehicles are primarily automobile dismantlers and recyclers.

In Florida, a rebuildable designation is called a Salvage Title,⁹ and an unrebuildable designation is called a COD.¹⁰ Before a total loss vehicle may be acquired by a salvage motor vehicle dealer, the vehicle owner or insurance company must apply for a Salvage Title or a COD. Since 1989, Florida has utilized a percentage-based threshold to determine whether a total loss vehicle receives a Salvage Title or a COD.¹¹ When applying for a Salvage Title or COD, the insurance company must provide DHSMV with an estimate of the costs of repairing the physical and mechanical damage.¹² If the estimated costs of repairing the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, DHSMV is required to declare the vehicle unrebuildable and print a COD.¹³ The specific reason why that particular percentage threshold was originally established is unknown.

During the last five years, Florida has issued 171,742 Salvage Titles, compared to 822,778 CODs, or approximately 130,000 more CODs than Salvage Titles issued annually.¹⁴ There is a \$2 fee for each Salvage Title, and a \$3 fee for each COD, both of which are deposited into the General Revenue Fund.¹⁵

Rebuilt Inspections

Before a salvage motor vehicle dealer resells a salvage motor vehicle, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV.¹⁶ The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced.¹⁷ After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.¹⁸

⁶ s. 320.27(1)(c)4., F.S., defines a “motor vehicle auction” as any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

⁷ s. 320.27(1)(c), F.S., defines “motor vehicle dealer” as person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business.

⁸ s. 320.27(1)(c)5., F.S.

⁹ s. 319.30(1)(t), F.S.

¹⁰ s. 319.30(1)(a), F.S.

¹¹ s. 17, chapter 89-333, Laws of Florida.

¹² s. 319.30(3)(b), F.S.

¹³ Id.

¹⁴ Information received from the Department of Highway Safety & Motor Vehicles (9/19/2013), on file with the Transportation & Highway Safety Subcommittee.

¹⁵ ss. 319.32(1), 713.78(1)(b), and 713.785(7)(b), F.S.

¹⁶ s. 319.14(1)(b), F.S.

¹⁷ Id.

¹⁸ Id.

There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.¹⁹

Other States

A federal law governing the salvage title process uniformly across the country does not exist. The result is considerable variation in state salvage title laws, processes, and nomenclature.²⁰ The methods used to determine whether or not a vehicle is unrebuildable also vary, but similar to total loss methods, tend to be damage or theft driven. Such methods tend to be based on “non-repairable” criteria and include a narrative definition, or a value-based criteria and include a specific damage-to-value threshold.

Approximately 28 states do not provide a specific level of damage that would prevent the most heavily damaged vehicles from being rebuilt and retitled, 18 states provide some form of a narrative definition describing a level of damage, and four states, including Florida, provide a percentage-based threshold that requires a vehicle to be declared unrebuildable if the estimate of damages is equal to or greater than the respective percentage threshold.²¹ Florida,²² Michigan,²³ Virginia,²⁴ and Wisconsin²⁵ each provide a specific percentage-based threshold to determine whether a salvage motor vehicle is designated as unrebuildable. Florida sets its damage threshold at 80 percent, Michigan is 91 percent, Virginia is 90 percent, and Wisconsin sets its threshold at 100 percent.

Proposed Changes

The PCB revises the process for applying for a Salvage Title or COD for a salvage motor vehicle. The PCB removes the 80 percent threshold that requires DHSMV to declare the vehicle unrebuildable in order to print a COD. In doing so, the PCB replaces the 80 percent threshold with a requirement that DHSMV print a COD if a motor vehicle or mobile home:

- is damaged, wrecked or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or
- comes into this state under a title or other ownership that indicates that the vehicle is non-repairable, junked, or for parts or dismantling only.

In either case, the owner or insurance company which pays money as compensation for total loss of a motor vehicle or mobile home is required to obtain a COD.

Replacing a specific percentage-based threshold, with criteria related to a vehicle being non-repairable, would allow a vehicle owner or insurance company to determine whether or not a total loss vehicle is rebuildable based on the criteria. The effect of the proposed change is that a greater number of salvage motor vehicles will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road.

As a salvage motor vehicle that can ultimately be sold to repair and drive is generally valued higher than a salvage motor vehicle that must be destroyed and only used for parts, this could result in a reduction in the overall number of vehicles that are given a COD and required to be destroyed.

¹⁹ Regarding the \$20 re-inspection fee, according to DHSMV, “[t]he owner can continue to pay the fee until the vehicle passes inspection. Multiple (3 or more) inspections are exceedingly rare.” Email on file with the Transportation & Highway Safety Subcommittee.

²⁰ National Conference of Commissioners on Uniform State Laws website at <http://www.uniformlaws.org/ActSummary.aspx?title=Certificate%20of%20Title%20Act> (Last viewed 1/17/14).

²¹ OPPAGA research, State Laws, Total Loss Threshold and Non-Repairable Vehicles, on file with Transportation & Highway Safety Subcommittee.

²² s. 319.30(3)(b), F.S.

²³ s. 257.217C(2)(b)(i), M.V.C.

²⁴ s. 46.2-1600, V.S.C.

²⁵ ch. 340.01(25j), W.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 319.30, F.S., relating to salvage motor vehicles.

Section 2: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because of a lack of data, the private sector impacts cannot be accurately quantified. Allowing a greater number of salvage motor vehicles to be issued a Salvage Title and repaired so that they may be resold as rebuilt vehicles and returned to the road, will likely have a positive fiscal impact on insurance companies, the insurance salvage automobile auction industry, auto dealers and exporters, and to individual motorists who may purchase such vehicles. Reducing the number of vehicles that are issued a COD and required to be destroyed will likely have a negative fiscal impact on the automotive recycling and parts industry.

D. FISCAL COMMENTS:

The PCB revises the process for applying for a Salvage Title or COD. A Salvage Title indicates that the vehicle is repairable and a COD indicates that the vehicle is not repairable. There is a \$2 fee for each Salvage Title and a \$3 fee for each COD, both of which are deposited into the General Revenue Fund.

Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt inspection conducted by DHSMV. The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced. After the rebuilt inspection, DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle. There is a \$40 fee for the initial rebuilt inspection, which is deposited into the General Revenue Fund. If a subsequent inspection is required, there is a \$20 fee, which is deposited into the Highway Safety Operating Trust Fund.

The effect of the proposed change is that a greater number of salvage vehicles will be able to be repaired to the extent that they may be resold as rebuilt vehicles and returned to the road. As a result of the proposed change, the amount of fees collected from the issuance of certificates of destruction (\$3) may decrease, but the amount of fees collected from the issuance of salvage certificates of title (\$2) may increase.

Additionally, because rebuilt vehicles must go through a rebuilt inspection process by DHSMV, the amount collected from rebuilt inspection fees may increase. As mentioned, the \$40 initial rebuilt inspection fee is deposited into the General Revenue Fund and the \$20 re-inspection fee is deposited in the Highway Safety Operating Trust Fund. Because the number of additional vehicles that will undergo a rebuilt inspection, or a subsequent re-inspection, is unknown, the impact to these funds is indeterminate but likely positive.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to certificates of destruction;
 3 amending s. 319.30, F.S.; revising the requirements
 4 for an owner or insurance company to obtain a
 5 certificate of destruction for certain motor vehicles
 6 or mobile homes; providing an effective date.

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

9
 10 Section 1. Paragraph (b) of subsection (3) of section
 11 319.30, Florida Statutes, is amended to read:

12 319.30 Definitions; dismantling, destruction, change of
 13 identity of motor vehicle or mobile home; salvage.-

14 (3)

15 (b) The owner, including persons who are self-insured, of
 16 a any motor vehicle or mobile home that ~~which~~ is considered to
 17 be salvage shall, within 72 hours after the motor vehicle or
 18 mobile home becomes salvage, forward the title to the motor
 19 vehicle or mobile home to the department for processing.
 20 However, an insurance company that ~~which~~ pays money as
 21 compensation for the total loss of a motor vehicle or mobile
 22 home shall obtain the certificate of title for the motor vehicle
 23 or mobile home, make the required notification to the National
 24 Motor Vehicle Title Information System, and, within 72 hours
 25 after receiving such certificate of title, ~~shall~~ forward such
 26 title to the department for processing. The owner or insurance

27 company, as applicable ~~the case may be~~, may not dispose of a
 28 vehicle or mobile home that is a total loss before it obtains
 29 ~~has obtained~~ a salvage certificate of title or certificate of
 30 destruction from the department. When applying for a salvage
 31 certificate of title or certificate of destruction, the owner or
 32 insurance company must provide the department with an estimate
 33 of the costs of repairing the physical and mechanical damage
 34 suffered by the vehicle for which a salvage certificate of title
 35 or certificate of destruction is sought. If a motor vehicle or
 36 mobile home is damaged, wrecked, or burned to the extent that
 37 the only residual value of the motor vehicle or mobile home is
 38 as a source of parts or scrap metal, or if the motor vehicle or
 39 mobile home comes into this state under a title or other
 40 ownership document that indicates that the motor vehicle or
 41 mobile home is not repairable, is junked, or is for parts or
 42 dismantling only, the owner or insurance company that pays money
 43 as compensation for total loss of a motor vehicle or mobile home
 44 shall obtain ~~the estimated costs of repairing the physical and~~
 45 ~~mechanical damage to the vehicle are equal to 80 percent or more~~
 46 ~~of the current retail cost of the vehicle, as established in any~~
 47 ~~official used car or used mobile home guide, the department~~
 48 ~~shall declare the vehicle unbuildable and print~~ a certificate
 49 of destruction, which authorizes the dismantling or destruction
 50 of the motor vehicle or mobile home ~~described therein~~. However,
 51 if the damaged motor vehicle is equipped with custom-lowered
 52 floors for wheelchair access or a wheelchair lift, the insurance

53 company may, upon determining that the vehicle is repairable to
 54 a condition that is safe for operation on public roads, submit
 55 the certificate of title to the department for reissuance as a
 56 salvage rebuildable title and the addition of a title brand of
 57 "insurance-declared total loss." The certificate of destruction
 58 shall be reassignable a maximum of two times before dismantling
 59 or destruction of the vehicle is ~~shall be~~ required, and shall
 60 accompany the motor vehicle or mobile home for which it is
 61 issued, when such motor vehicle or mobile home is sold for such
 62 purposes, in lieu of a certificate of title. ~~and, thereafter,~~
 63 The department may not issue a ~~shall refuse issuance of any~~
 64 certificate of title for that vehicle. ~~Nothing in~~ This
 65 subsection is not ~~shall be~~ applicable if ~~when~~ a vehicle is worth
 66 less than \$1,500 retail in undamaged condition in any official
 67 used motor vehicle guide or used mobile home guide or when a
 68 stolen motor vehicle or mobile home is recovered in
 69 substantially intact condition and is readily resalable without
 70 extensive repairs to or replacement of the frame or engine. A
 71 ~~Any~~ person who knowingly violates this paragraph or falsifies
 72 documentation ~~any document~~ to avoid the requirements of this
 73 paragraph commits a misdemeanor of the first degree, punishable
 74 as provided in s. 775.082 or s. 775.083.

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

