



Committee:

# **TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS**

Senator Fasano, Chair  
Senator Hill, Vice Chair

## **Meeting Packet**

Monday, April 19, 2010

10:30—11:30 a.m.

Verle A. Pope Committee Room, 309 The Capitol

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**TRANSPORTATION AND ECONOMIC DEVELOPMENT**  
**APPROPRIATIONS**  
**Senator Fasano, Chair**  
**Senator Hill, Vice Chair**

**MEETING DATE:** Monday, April 19, 2010  
**TIME:** 10:30—11:30 a.m.  
**PLACE:** Verle A. Pope Committee Room, 309 The Capitol

**MEMBERS:** Senator Fasano, Chair; Senator Hill, Vice Chair; Senators Diaz de la Portilla, Dockery, Gardiner, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 448</b> Transportation / Detert (Identical CS/H 41, Compare H 323, H 893, S 168, S 244, CS/S 324, S 326, S 328, S 374, CS/S 522, S 592, S 934, S 2514)	Wireless Communications Device/Driving [CPSC]  TR 03/24/2010 Fav/CS CU 04/07/2010 CU 04/14/2010 Favorable TA 04/19/2010	
2	<b>CS/SB 900</b> Ethics and Elections / Thrasher (Similar H 1019, Compare CS/CS/H 131, CS/CS/H 869, CS/S 1672, S 1682)	Elections [GPSC]  EE 02/17/2010 Fav/CS TA 04/19/2010	
3	<b>CS/CS/SB 924</b> Criminal Justice / Transportation / Wise (Compare H 1573)  (If Received)	Driver's Licenses [CPSC]  TR 03/24/2010 Fav/CS CJ 04/13/2010 Fav/CS TA 04/19/2010 If received	
4	<b>SB 978</b> Fasano (Compare CS/H 289)	License Plates/Fraternal Order of Police [CPSC]  TR 04/07/2010 Favorable CJ 04/13/2010 Favorable TA 04/19/2010 RC	
5	<b>CS/SB 1472</b> Commerce / Detert (Similar CS/CS/H 983, Compare H 1347, CS/S 1752)	Research Commercialization Matching Grant Program [CPSC]  CM 03/24/2010 Fav/CS TA 04/19/2010 WPSC	
6	<b>CS/SB 1604</b> Transportation / Smith (Similar CS/H 795, Compare CS/H 971, CS/CS/S 2400)	Violation of Traffic Laws/Penalties [CPSC]  TR 03/24/2010 Fav/CS CA 04/07/2010 Favorable JU 04/13/2010 Favorable TA 04/19/2010	

**COMMITTEE MEETING EXPANDED AGENDA**Transportation and Economic Development Appropriations  
Monday, April 19, 2010, 10:30 —11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>CS/SB 1720</b> Commerce / Smith (Identical CS/H 1551)  (If Received)	Black Business Investment Board, Inc. [CPSC]  CM 04/07/2010 Fav/CS GO 04/14/2010 Favorable TA 04/19/2010 If received	
8	<b>CS/SB 1842</b> Transportation / Bennett (Identical CS/H 1331, Compare CS/CS/S 482)  (If Received)	Transportation Projects [CPSC]  TR 04/07/2010 Fav/CS CA 04/14/2010 Fav/CS TA 04/19/2010 If received	
9	<b>CS/SB 2400</b> Transportation / Gardiner (Compare CS/H 795, CS/H 971, CS/S 1604)  (If Received)	Motor Vehicles [CPSC]  TR 03/17/2010 Fav/CS CJ 04/07/2010 Favorable FT 04/13/2010 Fav/CS TA 04/19/2010 If received	
10	<b>CS/SB 2500</b> Commerce / Altman (Compare CS/H 969, CS/CS/H 1389, CS/H 1391, H 7201, CS/S 1752, CS/CS/S 1776, Link CS/S 2476)	Space and Aerospace Infrastructure [CPSC]  CM 03/24/2010 Fav/CS TA 04/19/2010 WPSC	

Update on Regional Workforce Boards

**The meeting materials for bills on the agenda are in the following order behind each tab:**

*If a Proposed Committee Substitute is being offered, materials precede the original bill in this order (a separate tab may be used for combined PCS and materials):*

- o Bill Analysis for the PCS*
- o Filed amendments to the PCS*
- o Proposed Committee Substitute*
- o Miscellaneous information*

- Bill Analysis**
- Filed amendments to the bill**
- Bill**
- Amendments from previous committees**
- Miscellaneous information**



In addition to these penalties, any violation of the ban which results in a crash will result in 6 points added to the offender’s driver’s license record.

This bill may generate additional revenues for local and state governments as a result of the penalties for using wireless communications devices for texting purposes while operating a motor vehicle.

The bill has an effective date of October 1, 2010.

This bill creates s. 316.305, F.S., and substantially amends s. 322.27, F.S.

**II. Present Situation:**

*Laws in other states*

Public concern over distracted driving has resulted in a number of jurisdictions making it illegal to use hand-held cellular telephones for talking and/or texting while driving. In November 2001, New York became the first state to implement a ban on hand-held cellular telephone use for drivers. The District of Columbia passed a ban in 2004. Connecticut's ban took effect in 2005. Nineteen states and the District of Columbia have passed a ban on text-while-driving for all drivers. The National Conference of State Legislators has the following chart detailing each state’s cellular telephone use laws.<sup>1</sup>

<b>States</b>	<b>Hand-held ban</b>	<b>All cell phone ban</b>	<b>Texting ban</b>	<b>Enforcement</b>
<b>Alabama</b>	No	No	No	Not applicable
<b>Alaska</b>	No	No	All drivers	Primary
<b>Arizona</b>	No	School bus drivers	No	Primary
<b>Arkansas</b>	No	School bus drivers, drivers younger than 18	School bus drivers, all drivers	Primary for texting by all drivers and cell phone use by school bus drivers; secondary for cell phone use by young drivers
<b>California</b>	All drivers	School and transit bus drivers and drivers younger than 18	All drivers	Primary
<b>Colorado</b>	No	Drivers younger than 18	All drivers	Primary
<b>Connecticut</b>	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary
<b>Delaware</b>	No	School bus drivers and learner's permit and intermediate license holders	Learner's permit and intermediate license holders	Primary
<b>District of Columbia</b>	All drivers	School bus drivers and learner's permit holders	All drivers	Primary
<b>Florida</b>	No	No	No	Not applicable
<b>Georgia</b>	No	School bus drivers	No	Primary
<b>Hawaii</b>	No	No	No	Not applicable

<sup>1</sup> “Cell Phone Use and Texting While Driving Laws,” updated November 12, 2009. Available online at, [www.NCSL.org](http://www.NCSL.org), Document No. 17057.

<b>Idaho</b>	No	No	No	Not applicable
<b>Illinois</b>	Drivers in construction and school speed zones	Learner's permit holders younger than 19, drivers younger than 19, and school bus drivers	All drivers	Primary
<b>Indiana</b>	No	Drivers under the age of 18.	Drivers under the age of 18.	Primary
<b>Iowa</b>	No	No	No	Not applicable
<b>Kansas</b>	No	Learner's permit and intermediate license holders	Learner's permit and intermediate license holders	Primary
<b>Kentucky</b>	No	School bus drivers	No	Primary
<b>Louisiana</b>	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Secondary, primary for school bus drivers
<b>Maine**</b>	No	Learner's permit and intermediate license holders	Learner's permit and intermediate license holders	Primary
<b>Maryland</b>	No	Learner's permit and intermediate license holders	All drivers	Primary for texting
<b>Massachusetts</b>	Local option	School bus drivers	No	Primary
<b>Michigan</b>	Local option	No	No	Not applicable
<b>Minnesota</b>	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary
<b>Mississippi</b>	No	No	Learner's permit holders and intermediate license holders	Primary
<b>Missouri</b>	No	No	Drivers 21 years of age or younger	Primary
<b>Montana</b>	No	No	No	Not applicable
<b>Nebraska</b>	No	Learner's permit and intermediate license holders younger than 18	Learner's permit and intermediate license holders younger than 18	Not applicable
<b>Nevada</b>	No	No	No	Not applicable
<b>New Hampshire</b>	No	No	All drivers	Primary
<b>New Jersey</b>	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
<b>New Mexico</b>	Local option	No	No	Not applicable
<b>New York</b>	All drivers	No	All drivers	Secondary
<b>North Carolina</b>	No	Drivers younger than 18 and school bus drivers	All drivers	Primary
<b>North Dakota</b>	No	No	No	Not applicable
<b>Ohio</b>	Local option	No	No	Not applicable
<b>Oklahoma</b>	No	No	No	Not applicable

<b>Oregon</b>	All drivers	Drivers younger than 18	All drivers	Primary
<b>Pennsylvania</b>	Local option	No	No	Not applicable
<b>Rhode Island</b>	No	School bus drivers and drivers younger than 18	All drivers	Primary
<b>South Carolina</b>	No	No	No	Not applicable
<b>South Dakota</b>	No	No	No	Not applicable
<b>Tennessee</b>	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
<b>Texas</b>	Drivers in school crossing zones	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary
<b>Utah</b>	See footnote*	No	All drivers	Primary for texting; secondary for talking on hand-held phone
<b>Vermont</b>	No	No	No	Not applicable
<b>Virginia</b>	No	Drivers younger than 18 and school bus drivers	All drivers	Secondary; primary for school bus drivers
<b>Washington</b>	All drivers	No	All drivers	Secondary
<b>West Virginia</b>	No	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Drivers younger than 18 who hold either a learner's permit or an intermediate license	Primary
<b>Wisconsin</b>	No	No	No	Not applicable
<b>Wyoming</b>	No	No	No	Not applicable

While the content of state bans differs, studies have confirmed the effectiveness of bans at reducing phone use while driving.<sup>2</sup> Bans in Connecticut, New York, and The District of Columbia have reduced driver's cellular telephone usage between 41 and 70 percent.<sup>3</sup> The researchers obtained those numbers by going out to street corners and exit ramps to observe how many people had cellular telephones up to their ears before the bans compared with after the bans. However, a new study by The Insurance Institute for Highway Safety provides discouraging information about collision claims in states with cellular telephone bans.<sup>4</sup> According to the study, there seems to be no indication that these laws have decreased the accident rate.<sup>5</sup>

<sup>2</sup> McCartt, A.T. and Geary, L.L. 2004. *Longer term effects of New York State's law on drivers' handheld cell phone use.* Injury Prevention 10:11-15; McCartt, A.T. and Hellinga, L.A. 2007. *Longer term effects of Washington, DC, law on drivers' hand-held cell phone use.* Traffic Injury Prevention 8:199-204; McCartt, A.T.; Hellinga, L.A.; Strouse, L.M.; and Farmer, C.M. 2009. *Long-term effects of hand-held cellphone laws on driver hand-held cellphone use.* Traffic Injury Prevention, in press.

<sup>3</sup> *Id.*

<sup>4</sup> Highway Loss Data Institute, *Hand-Held Cellphone Laws and Collision Claim Frequencies.* Highway Loss Data Institute Bulletin, Vol. 26, No. 17, (Dec. 2009).

<sup>5</sup> "Insurance collision loss experience does not indicate a decrease in crash risk when hand-held cellphone laws are enacted." *Id.* at 5.

*Federal Sample Law:*

USDOT has recently issued a “Sample Law” to prohibit texting while driving.<sup>6</sup> Recognizing states have had some difficulty drafting language prohibiting dangerous behaviors, but allowing certain minimal uses of technology, USDOT requested the participation of several national groups to draft language satisfactory to all. Contributors to the Sample Law include: Advocates for Highway and Auto Safety, Alliance of Automobile Manufacturers, American Association of Motor Vehicle Administrators, American Association of State Highway and Transportation Officials, AAA, Centers for Disease Control and Prevention, CTIA- The Wireless Association, Governors Highway Safety Association, ITS America, International Association of Chiefs of Police, National Conference of State Legislatures, National Safety Council, The National Traffic Law Center of the National District Attorneys Association, and Safe Kids USA.

*Florida Law*

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.<sup>7</sup> There are currently no prohibitions related to texting or talking while driving. However, existing laws may apply more generally to distracted operators of motor vehicles. Operators of motor vehicles are in violation of existing statutes when driving carelessly or recklessly.

Careless driving is the failure to drive the same as other operators of motor vehicles, in a careful and prudent manner, having regard to all attendant circumstances, so as not to endanger the life, limb, or property of any person.<sup>8</sup> Any person who violates the restriction against careless driving shall be cited for a moving violation.<sup>9</sup>

Reckless driving involves willful or wanton disregard for the safety of persons or property. Upon a first conviction, reckless driving is punishable by some combination of imprisonment,<sup>10</sup> and at least a \$25 fine.<sup>11</sup> A second or subsequent conviction requires a fine of at least \$50,<sup>12</sup> but may also result in imprisonment for not more than 6 months. Additionally, reckless driving that causes damage to the property or person of another commits a misdemeanor of the first degree.<sup>13</sup> Reckless driving that causes serious bodily injury<sup>14</sup> to another commits a felony of the third degree.<sup>15</sup>

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<sup>6</sup> “SAMPLE LAW TO PROHIBIT TEXTING WHILE DRIVING,” USDOT Secretary Roy LaHood, February 2010.

Secretary LaHood’s letter and the text of the Sample Law are available online at:

[http://www.nhtsa.gov/staticfiles/DOT/NHTSA/Rulemaking/Texting\\_Law\\_021910.pdf](http://www.nhtsa.gov/staticfiles/DOT/NHTSA/Rulemaking/Texting_Law_021910.pdf)

<sup>7</sup> s. 316.0075, F.S.

<sup>8</sup> s. 316.1925, F.S.

<sup>9</sup> Punishable as provided in ch. 318, F.S.

<sup>10</sup> For a period of not more than 90 days. s. 316.192(2)(a), F.S.

<sup>11</sup> Not less than \$25 nor more than \$500. s. 316.192(2)(a), F.S.

<sup>12</sup> But no more than \$1,000. s. 316.192(2)(b), F.S.

<sup>13</sup> Punishable as provided in ss. 775.082-.083, F.S.

<sup>14</sup> The term “serious bodily injury” means an injury to another person, 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 any bodily member or organ. s. 316.192(3)(c)(2), F.S.

<sup>15</sup> Punishable as provided in ss. 775.082-.084, F.S.

While prohibitions exist against vehicle operators wearing headsets, headphones, or other listening devices, there are exceptions.<sup>16</sup> A driver is permitted to use a headset in conjunction with a cellular telephone that only provides sound through one ear and allows surrounding sounds to be heard with the other ear.<sup>17</sup> The Department of Highway Safety and Motor Vehicles (DHSMV) is granted further rulemaking authority to detail the standards and specifications of radio equipment permitted by statute.<sup>18</sup> DHSMV inspects and reviews all such devices submitted to it and publishes a list by name and type of approved equipment.

Section 322.27(3), F.S., provides a point system used to evaluate the qualification of any person to operate a motor vehicle after accumulating multiple violations of motor vehicle laws. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to s. 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points.

DHSMV may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,<sup>19</sup> up to three months if the driver accumulates 18 points in 18 months,<sup>20</sup> and up to one year if the driver accumulates 24 points within 36 months.<sup>21</sup>

### III. Effect of Proposed Changes:

The bill draws heavily on the Sample Law developed by USDOT, particularly with regard to the express legislative intent and the prohibition itself. The penalties are modified somewhat to provide a graduated approach and to integrate with existing Florida Statutes.

#### *Specific Intent*

The bill prohibits any driver from operating a motor vehicle while using a wireless communication device. The bill's specific intention is to

- Improve roadway safety for motor vehicle operators, passengers, bicyclists, pedestrians and all other road users;
- Prevent crashes related to the act of text messaging;
- Reduce injuries, death, property damage, health care costs, health insurance, and automobile insurance rates related to motor vehicle crashes; and
- Authorize law enforcement officers to issue citations for text messaging as a secondary offense.

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<sup>16</sup> s. 316.304, F.S.

<sup>17</sup> s. 316.304(2)(d), F.S.

<sup>18</sup> s. 316.304(3), F.S.

<sup>19</sup> Section 322.27(3)(a), F.S.

<sup>20</sup> Section 322.27(3)(b), F.S.

<sup>21</sup> Section 322.27(3)(c), F.S.

### *Prohibition on Texting While Driving*

To achieve these goals, the bill prohibits the operation of a motor vehicle “while manually typing or entering multiple letters, numbers, symbols, or other text in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication.”

The bill defines the term “wireless communication device” as any device designed or intended to receive or transmit written messages, access or store data, or connect electronically to the Internet or any other communications service<sup>22</sup> and which allows text communications. The bill also specifies that for purposes of the prohibition on texting, a person is not operating a vehicle when legally parked. Violations are enforceable as secondary violations.

### *Exceptions*

The bill makes exceptions for:

- Law enforcement, fire service, or emergency medical services personnel, or any operator of an authorized emergency vehicle as defined in s. 322.01, F.S.,<sup>23</sup> performing official duties;
- Reporting an emergency, or criminal or suspicious activity;
- Receiving messages related to:
  - The operation or navigation of a motor vehicle;
  - Safety-related information including emergency, traffic, or weather alerts;
  - Data used primarily by the motor vehicle; or
  - Radio broadcasts;
- Using a device or system for navigation purposes; or
- Conducting wireless interpersonal communication that does *not* require manual entry of multiple letters, numbers, or symbols, or reading text messages (except to activate or deactivate a feature or function).

<sup>22</sup> “Communications service” itself is defined by reference to s. 812.15, F.S. In that statute, the term “communications service” means:

any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

<sup>23</sup> Section 322.01(4), F.S., defines an “authorized emergency vehicle” as:

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

*Penalties*

A penalty for a first violation of the prohibition is a non-moving violation, punishable as provided in ch. 318, F.S. Without a specified alternative amount, non-moving violations result in a \$30 fine, plus court costs which vary by jurisdiction. The total fine, plus court costs and fees, could range from \$78 to \$129.

If a person commits a second violation of the prohibition within 5 years of the first violation, the penalty is increased to a moving violation. Chapter 318, F.S., provides a \$60 fine plus court costs, resulting in a total fine and costs of \$128 to \$179, depending on jurisdiction.

With regard to the “repeat offense” portion of the penalty, it is worth noting s. 318.14(9), F.S., which permits a person to avoid a conviction for most traffic violations by attending a basic driver improvement course.<sup>24</sup> A violator may only make this election once in a 12-month period, and not more than 5 times in a 10 year period. In the event a person is stopped by a law enforcement officer, receives a traffic citation for a primary offense, and receives a citation for texting while driving as a secondary offense, it is conceivable the person could elect to use the driver improvement course to avoid a “conviction” for texting while driving (either on a first or subsequent violation of the texting ban). On the other hand, many primary offenses add points to a driver’s license so the driver would presumably elect to apply the driver improvement course to the primary citation and avoid the more immediate point penalty. A driver with frequent traffic offenses is not likely to encounter this scenario, as he or she has likely exhausted the available driver improvement course election available under s. 318.14(9), F.S.

The bill provides DHSMV will assign 6 points to the driver’s license of any driver whose use of a wireless communications device results in a crash (regardless of whether the offense is a first or subsequent offense). This is identical to the number of points that would apply to a driver’s license when the operator caused a crash as a result of unlawful speed.

The bill has an effective date of October 1, 2010.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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<sup>24</sup> The election is not available for speeding offenses, vehicle registration requirements, and driver’s license requirements, nor is the election available for holders of commercial driver’s licenses.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

An individual violating the prohibition would be subject to a civil penalty of \$78 to \$179, depending on the jurisdiction's court costs, and whether the violation is a first offense or a second or subsequent offense.

**C. Government Sector Impact:**

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of secondary violations issued by law enforcement officials, and the frequency with which violators commit subsequent violations, incurring large penalties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 3, 2010:**

Amendment 974140 deleted everything after the enacting clause. The language inserted is identical to HB 41 prohibiting texting while operating a motor vehicle.

**B. Amendments:**

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 900

INTRODUCER: Ethics and Elections Committee and Senator Thrasher

SUBJECT: Elections

DATE: April 14, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kruse	Rubinas	EE	<b>Fav/CS</b>
2.	Belcher <i>MB</i>	Noble <i>BN</i>	TA	<b>Pre-meeting</b>
3.			RC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill is an elections measure that contains numerous changes to the Florida Election Code, most of which were recommended by the Division of Elections (division) within the Department of State (department). Some of the major provisions include:

- Providing that chapters 97-105, F.S., preempt any other election law within the state unless specified otherwise in federal or state law.
- Revising the definition of “overseas voter” and defining “absent uniformed services voter.”
- Providing an opportunity for a voter challenged on the basis of address to update his or her address information in order to vote a regular ballot in the precinct.
- Increasing the penalty for a frivolous voter challenge to a third degree felony.
- Extending the 2012 paper ballot requirement for disabled voters to 2016.
- Requiring supervisors to use actual ballots when testing tabulating equipment prior to an election.
- Requiring supervisors to post notice of the testing of tabulating equipment on his or her website.
- Revising absentee ballot procedures.

- Revising the procedures and requirements for co-locating polling place precincts.
- Requiring the supervisor to post notice of a change in polling place on his or her website.
- Providing that Election Canvassing Commission members shall serve ex officio and providing a time certain for the commission to meet after elections.
- Requiring the supervisor to post notice on his or her website of where and when the county canvassing board will meet to canvass absentee and provisional ballots.
- Providing that the Secretary of State must order recounts in federal, state, and multicounty races, while recounts in all other races must be ordered by the local board responsible for certifying the election in those races.
- Providing that the Secretary of State must order manual recounts of the overvotes and undervotes in federal, state, and multicounty races, while manual recounts of the overvotes and undervotes in all other races must be ordered by the local board responsible for certifying the election in those races.
- Requiring political committees to report all changes in information within 10 days of the change.
- Clarifying the authority of the division to dissolve political committees for failing to file certain information or meet certain requirements.
- Providing for numerous changes to statutory provisions regarding committees of continuous existence.
- Revising notice requirements for incomplete campaign finance reports filed by political committees and candidates.
- Requiring political committees participating in certain county or municipal elections to file campaign finance reports at the same time and with the same local filing officer as county or municipal candidates.
- Revising notice requirements for late-filing fines for campaign finance reports.
- Requiring campaign finance reports to include transaction information from each credit card purchase.
- Providing that a candidate may obtain reimbursement for a loan made to his or her campaign if there are sufficient funds in the campaign account to cover the reimbursement and all other obligations.
- Shortening the candidate disclaimers that are circulated prior to an election.
- Clarifying that a nonpartisan candidate must omit any reference to party affiliation in his or her political advertisements.

The bill requires no additional expenditure of state funds. Current law requires statewide transition from touch screens for disability voting equipment to a system using a marksense ballot by 2012. According to the Florida State Association of Supervisors of Elections, the current estimated cost to counties is between \$35-\$45 million. This includes estimates from two counties to replace their entire voting system if their current vendor does not produce disability equipment using a marksense ballot. The bill (Sections 5 and 6) delays the implementation and therefore the cost to 2016.

Except as provided, the bill takes effect on January 1, 2011.

This bill creates s. 97.0115, F.S., and substantially amends the following sections of the Florida Statutes: 97.021, 98.0981, 101.111, 101.56075, 101.5612, 101.62, 101.694, 101.6952, 101.71,

102.012, 102.111, 102.112, 102.141, 102.166, 106.03, 106.04, 106.07, 106.0705, 106.11, 106.143, 106.29, and 379.352.

## II. Present Situation:

### Preemption

Currently, Florida has no statute that expressly preempts election law to the state.<sup>1</sup>

### Definition of Overseas Voter

Currently, an overseas voter is defined as:

- anyone who is an active service member of the uniformed services and a permanent resident of Florida temporarily residing outside the United States; or
- a United States citizen or merchant marine who is a permanent resident of Florida temporarily residing outside the United States.<sup>2</sup>

### Voter Challenges

Any elector or poll watcher may challenge the right of a voter to vote on election day. The challenger must file a completed oath with the clerk or inspector. Prior to election day, any elector or poll watcher may challenge a voter if the challenge is made no earlier than 30 days prior to the election. The challenger must file a completed copy of the oath required for making such a challenge with the supervisor's office. The challenged voter must be given a copy of the completed oath registering the challenge, and may vote a provisional ballot. Electors or poll watchers who file challenges shall not be held liable for any good faith action; however, if the challenge is determined to be frivolous, the elector or poll watcher commits a first degree misdemeanor.<sup>3</sup>

### Voting Machines for the Disabled

Currently, the law provides that in 2012, persons with disabilities must vote on a voter interface device that uses a paper ballot.<sup>4</sup>

### Testing Tabulating Equipment

Tabulating equipment tests must use preprinted ballots and ballot-on-demand ballots if those ballots will be used in the election.<sup>5</sup> However, there is no requirement that supervisors use the actual ballots printed for the election when testing tabulating equipment.

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<sup>1</sup> In *Browning v. Sarasota Alliance for Fair Elections, Inc.*, 968 So. 2d 637, 641-642 (Fla. 2<sup>nd</sup> DCA 2007) Appellees sponsored an amendment that required a certain type of voting system to be used in the county, mandatory audit provisions for the county, and specific certification procedures. The amendment was approved by the county electors in the 2006 general election. The Appellants argued that the amendment conflicted with the Florida Election Code or was preempted by the Florida Election Code. *Id.* The court found that the Florida Election Code does not contain any language regarding express preemption. *Id.* at 645. However, the court determined that implied preemption precluded the amendment from taking effect. *Id.* at 653. The Florida Supreme Court found that while portions of the amendment conflicted with state election law, it held that the Florida Election Code does not preempt the area of election law. *Sarasota Alliance for Fair Elections v. Browning*, No. SC07-2074, op. at 2 (Fla. Feb. 11, 2010).

<sup>2</sup> §97.011(22), F.S.

<sup>3</sup> § 101.111, F.S.

<sup>4</sup> § 101.56075, F.S.

<sup>5</sup> § 101.5612(5), F.S.

**Absentee Ballots**

Currently, a voter, a member of a voter's immediate family, or a voter's guardian may request an absentee ballot from the supervisor. The request may be in person, in writing, or made by telephone. The person making the request must disclose certain information including the name, date of birth and address of the voter, along with the requester's name, date of birth, address, driver's license number, his or her relationship to the voter, and if the request is in writing, his or her signature. A request for an absentee ballot is automatically good for all elections occurring during the next two generally scheduled election cycles unless the voter specifically designates the elections for which he or she would like to receive an absentee ballot. The automatic request is cancelled when first-class mail is sent to the voter and returned to the supervisor as undeliverable.<sup>6</sup>

For each absentee ballot request, the supervisor of elections must record certain information and make the information available in electronic format. The information includes the date the request was made, the date the ballot was delivered to the voter, his or her post office address, or the voter's designee, and any other information the supervisor deems necessary. The information must be updated daily, provided to the division contemporaneously, and made available by noon each day. The information is considered confidential and only the following persons and entities may access the information:

- The voter requesting a ballot;
- A canvassing board;
- An election official;
- A political party or its official;
- A candidate that is opposed in an upcoming election; or
- A registered political committee, or committee of continuous existence (hereinafter, "CCE").<sup>7</sup>

The deadline for mailing absentee ballots to overseas voters is 35 days before the primary and 45 days before the general election.<sup>8</sup> If the Elections Canvassing Commission is unable to certify the results of an election for state office in time for supervisors to mail absentee ballots within these time frames, the department has rule making authority to provide for a ballot to be sent to absent overseas voters.<sup>9</sup>

**Co-located Precincts**

If a supervisor determines that a polling place in a precinct is unavailable or inadequate, the supervisor must move the polling place to another location within the precinct, or if another location is not available, to another contiguous precinct. If the relocation of the polling place results in two polling places in one building, the polling places must be established and maintained separately from each other.<sup>10</sup>

**Election Canvassing Commission**

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<sup>6</sup> § 101.62(1), F.S.

<sup>7</sup> § 101.62(3), F.S.

<sup>8</sup> § 101.62(4)(a), F.S.

<sup>9</sup> § 101.62(5), F.S.

<sup>10</sup> § 101.71, F.S.

The State Elections Canvassing Commission is comprised of the Governor and two other Cabinet officers selected by the Governor. In the event this composition cannot be achieved (due to scheduling or other unforeseen reasons), the members of the commission may agree on another elected official to fill any vacancies.<sup>11</sup>

The Commission performs two principally ministerial tasks:<sup>12</sup>

- It orders machine and manual recounts in federal, state, and multi-county elections, when required by law,<sup>13</sup> and,
- It certifies the final results of such elections as soon as the official results are compiled from the counties (7 days following a primary election (Tuesday); 12 days following a general election (Sunday)).<sup>14</sup>

### **Manual Recounts**

Current law provides for the manual recount of overvotes and undervotes if the second set of unofficial returns indicates that a candidate or ballot measure was defeated by one quarter of a percent or less of the votes cast. The board responsible for certifying the results is tasked with ordering a manual recount. However, an exception exists to the manual recount provision: If the number of overvotes, undervotes and provisional ballots in a candidate race or for a ballot measure is fewer than the number of votes needed to change the outcome of the election, a manual recount does not have to be ordered.<sup>15</sup>

### **Political Committee Registration**

A political committee must report to the division or supervisor of elections, depending on which agency is the political committee's filing officer, if there have been any changes to any information reported in the committee's statement of organization. The political committee must report within 10 days of a change.

The Division of Elections has rulemaking authority with regard to how a committee may be dissolved and its registration canceled. The rules must provide for notice, adequate opportunity to respond, and an appeal to the Florida Elections Commission.<sup>16</sup>

### **Committees of Continuous Existence**

Committees of Continuous Existence must file an annual report with the division in January. CCEs must also file regular reports at the same times and under the same conditions established for candidate reports. Reports must contain specific information including the transaction information from each credit card statement. Any late report or failure to file a report shall subject the CCE to fines. The fine is fifty dollars per day for the first three days. After three days, the fine goes up to 500 dollars per day not to exceed 25 percent of the total expenditures or receipts, whichever is greater, for the period covered by the late report. The collected fines must be deposited into the General Revenue Fund. Notice of a late report must be provided to the

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<sup>11</sup> § 102.111(1), F.S.

<sup>12</sup> For local elections, the county (or other local) canvassing board performs these duties. §§ 102.141(7), 102.166(1), F.S.

<sup>13</sup> §§ 102.141(7), 102.166(1), F.S.

<sup>14</sup> §§ 102.111(1), 102.112, F.S.

<sup>15</sup> § 102.166, F.S.

<sup>16</sup> § 106.03, F.S.

committee's treasurer. If a CCE fails to meet the criteria for a CCE, then the division must revoke its certification until the CCE meets the criteria again.<sup>17</sup>

### **Candidate Loans**

A loan to a campaign is considered a contribution and subject to contribution limits. However, a loan provided by a candidate to his or her own campaign is not subject to contribution limits.<sup>18</sup> Prior to the disposition of surplus funds, a candidate may be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.<sup>19</sup>

### **Political Advertisements Circulated Prior to Election**

Currently, a political advertisement that is paid for by a candidate and is circulated prior to the election must state "Political advertisement paid for and approved by" followed by the name of the candidate, his or her party affiliation, and the office sought.<sup>20</sup>

### **Military and Overseas Voter Empowerment Act**

The Military and Overseas Voter Empowerment (MOVE) Act was signed into law on October 28, 2009, as part of the National Defense Authorization Act for Fiscal Year 2010.<sup>21</sup> The Act made sweeping changes to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).<sup>22</sup> A few of the more significant changes affecting states are listed below:

- MOVE requires absent uniformed service voters and overseas voters to be able to request electronically voter registration applications, absentee ballot applications, and blank absentee ballots for all federal elections, including primary and special elections.
- MOVE requires states to allow these voters to individually designate his or her preference for receiving an application and ballot, either by mail or electronically and requires states to send the requested application and blank ballot by the method designated. If a voter does not designate a preference, a state must transfer the requested information by a delivery method allowed by state law.
- MOVE provides that if a request for a ballot is received 45 days before an election, the ballot must be transmitted to the voter 45 days before an election. If a request is received less than 45 days before an election, the ballot must be transmitted as set forth in state law, but in a manner that expedites the transmission process.
- MOVE requires states to develop a free access system which would allow an absent uniformed services voter or overseas voter to determine whether his or her ballot has been received by the appropriate State election official.
- MOVE repeals the requirement applicable to absent uniformed services voters and overseas voters of "one absentee ballot application is good for all federal elections through the next two regularly scheduled general elections for federal office." This repealed requirement is currently found in s. 101.694, F.S.<sup>23</sup>

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<sup>17</sup> § 106.04, F.S.

<sup>18</sup> §§ 106.011(3), 106.08(1)(b)1., F.S.

<sup>19</sup> § 106.141(2), F.S.

<sup>20</sup> § 106.143, F.S.

<sup>21</sup> Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, 2009.

<sup>22</sup> Uniformed and Overseas Citizens Absentee Voting Act, Pub. L. No. 99-410, 42 U.S.C. § 1973 (2008).

<sup>23</sup> See *infra*, note 21.

### III. Effect of Proposed Changes:

The following is a section by section analysis of CS for SB 900:

**Section 1** creates s. 97.0115, F.S., which gives chapters 97-105 of the Florida Statutes precedence over national, state, county, and district elections, unless otherwise specifically provided by state or federal law. This language specifically requires that municipal elections be conducted in accordance with s. 100.3605, F.S. This section also explicitly prohibits a local law, charter, or regulation from conflicting with any law set forth in chapters 97-105, F.S.<sup>24</sup>

**Section 2** defines absent uniformed services voter and overseas voter. An absent uniformed services voter is a uniformed service member or his or her spouse, who by reason of active duty, is absent from the place where he or she is qualified to vote. This definition also includes a merchant marine or his or her spouse, who, because of service in the Merchant Marine, is absent from the place where he or she is qualified to vote.

An overseas voter is defined as either an absent uniformed service voter who is absent on election day from the U.S. because of active duty or a person residing outside the U.S. who is qualified to vote or who would be qualified to vote, but for such residence, in the last place the person lived before leaving the U.S.

Section 2 takes effect upon becoming law.

**Section 3** conforms a cross-reference. This section takes effect upon becoming law.

**Section 4** removes the requirement that a challenger state his or her party affiliation and specific city of residence in the challenger oath. The city of residence requirement is redundant because a challenger must give his or her residential address in the oath.

Section 4 also provides that if the basis for a challenge is that the voter's legal residence is not in the particular precinct, the voter must be given an opportunity to execute a change of legal residence so that he or she can vote a regular ballot in the proper precinct.

Section 4 also raises the frivolous challenge penalty from a first degree misdemeanor to a third degree felony.

**Section 5** removes the requirement that by 2012, the disabled vote on machines using a paper ballot.

**Section 6** requires that by 2016, the disabled vote on machines using a paper ballot. This section takes effect July 1, 2016.

**Section 7** requires that optical scan tests utilize actual ballots rather than test ballots. If ballot-on-demand technology will be used, the supervisor must use the same paper stock that will be used in the election in order to test the ballot-on-demand technology. This section also requires that

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<sup>24</sup> See *infra*, note 1.

notice of the test be posted on the supervisor's website. This section takes effect upon becoming law.

**Section 8** makes numerous changes to the absentee ballot process. Most of these changes are a response to the Military and Overseas Voter Empowerment Act (MOVE Act) recently passed by Congress and signed into law by the President of the United States as part of the National Defense Authorization Act for Fiscal Year 2010. The changes include:

- Shortening the time in which an absentee ballot request is valid. Currently, a request for an absentee ballot is valid for all elections through the next two general elections. This language would make a request valid for all elections through the *next general election*.
- Removing the requirements of a requester's driver's license number and signature for someone who requests an absentee ballot.
- Requiring a supervisor, upon receipt of a request for an absentee ballot, to notify the absentee voter of the free access system available to an absentee voter so he or she can determine the status of his or her absentee ballot. While the MOVE Act mandates the establishment of a free access system, the federal requirement only applies to absent uniformed service voters and overseas voters. This new language would establish the system for all absentee voters.
- Requiring certain absentee ballot information — the date the ballot was requested, the date the ballot was mailed or delivered, the date the ballot was received, and any other information deemed necessary by the supervisor — to be made available beginning on the date on which the first absentee ballots are mailed for the election.
- Requiring supervisors to send an absentee ballot 45 days before *each election* to each absent uniformed services voter and overseas voter who has requested such ballot. The ballot must be sent by forwardable mail, email, or fax machine transmission. The absent uniformed services voter or overseas voter may designate a preferred method of transmission; however, if no designation is made, the ballot will be mailed.
- Revising language with regard to the Election Canvassing Commission certifying the results of the election. Currently, if the ECC is unable to certify the election in time for supervisors to meet the ballot deadline of 45 days prior to an election, the department has rule making authority to provide a ballot to send to absent uniformed services voters and overseas voters. The proposed language removes the ECC from this specific provision by providing that if the *department* is unable to *certify candidates* for an election to meet the 45-day deadline for ballots, then the department has rule making authority to provide a ballot to send to absent uniformed services voters and overseas voters.

This section takes effect upon becoming law.

**Section 9** Since the federal MOVE Act repealed the "one absentee ballot request is sufficient for all elections through the next two regularly scheduled general elections" requirement for persons using the federal postcard application to request an absentee ballot, this change removes that language from the law. This section takes effect upon becoming law.

**Section 10** requires that if an absentee ballot request from an overseas voter includes an email address, the supervisor must: record that email address in the voter's ballot record, confirm via email that the request was received along with an estimated date that the ballot will be sent to the voter, and notify the voter via email when the voted ballot is received by the supervisor. This section takes effect upon becoming law.

**Section 11** requires a supervisor to provide adequate resources to handle voters of two precincts when those precincts are located in one building. This section removes the requirement that the two precincts be maintained separately from each other. This section also provides that the supervisor must publish notice on his or her website when a polling place is moved. This section takes effect upon becoming law.

**Section 12** allows the supervisor to appoint only one election board for two precincts that share the same building and voting place. The supervisor must provide a sufficient number of poll workers to process voters in both precincts. This section takes effect upon becoming law.

**Section 13** provides that the members of the Election Canvassing Commission serve ex officio or by virtue of the offices held. This section also sets a time certain for commission members to meet after each election: 9 a.m. on the 9<sup>th</sup> day after a primary election and 9 a.m. on the 14<sup>th</sup> day after a general election. This section takes effect upon becoming law.

**Section 14** conforms a cross-reference. This section takes effect upon becoming law.

**Section 15** provides that notice of the place and time that the county canvassing board will meet to canvass absentee and provisional ballots must be provided on the supervisor's website. This section removes the requirement that the returns be on file in the county court judge's office. This section removes the ability of the Election Canvassing Commission to order recounts in federal, state, and multicounty races and places that responsibility with the Secretary of State. Recounts in all other races must be ordered by the local board responsible for certifying the election in those races. This section takes effect upon becoming law.

**Section 16** provides that the Secretary of State shall order all manual recounts of the overvotes and undervotes for federal, state, and multicounty races. The local board responsible for certifying the election is responsible for ordering manual recounts of the overvotes and undervotes in all other races. This section adds an exception to the manual recount requirement by allowing a candidate for which a recount would be conducted to request in writing that it not be conducted. This section takes effect upon becoming law.

**Section 17** requires political committees to report all changes in information previously submitted to the Division of Elections or supervisor of elections within 10 days of the change, not just changes to information previously submitted on a statement of organization. This section also clarifies the authority of the division to dissolve political committees deemed "inactive" that fail to:

- File any campaign finance report or information required by Chapter 106; or,
- Meet the statutory criteria defining a political committee.

**Section 18** makes a number of changes to the Committees of Continuous Existence (CCEs) statute, the more significant of which include:

- Clarifying that CCEs participating in special elections and special primary elections must file campaign finance reports on the same schedule as candidates and other committees.
- Requiring CCEs participating in certain county or municipal elections to file campaign finance reports at the same time and with the same local filing officer as county or municipal

candidates to provide for timelier reporting in local races. Fines for late-filed reports are designated to the general revenue fund of the political subdivision at issue.

- Requiring campaign finance reports to include transaction information from each credit card *purchase*, instead of from each credit card *statement* received during the reporting period.
- Mirroring the political committee change in the previous section, this section requires any change in information previously submitted to the division to be reported within 10 days of the change.
- Similar to the political committee change in the previous section, this section expands the authority of the division to revoke a CCE's certification if it fails to:
  - File any campaign finance report or information required by Chapter 106; or,
  - Meet the statutory criteria defining a CCE.
- Increasing the automatic, late-filing fines for CCEs failing to file the requisite campaign finance reports immediately preceding a primary or general election to \$500 per day not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period. This puts the fine on par with late-filing political committees, but is an increase from the current CCE fine of \$50 per day for the first 3 days, \$500 per day thereafter not to exceed 25% of the total receipts or expenditures, whichever is greater, for the period.
- Easing notice requirements for late-filing fines by providing that written notice that a report is late and fines forthcoming may be delivered to the *registered agent* of the CCE, and notice of the amount of the fine is sufficient upon proof of delivery to the mailing or street address on file with the division or local filing officer.

**Section 19** makes a number of changes related to campaign finance reports filed by political committees and candidates, including:

- Similar to the CCE change in the previous section, with respect to *incomplete* campaign finance reports, easing notice requirements by:
  - Allowing the campaign treasurer to be notified by certified mail or other common carrier with proof-of-delivery service, as opposed to registered mail.
  - Providing that notice is sufficient upon proof of delivery to the mailing address or street address of the campaign treasurer or registered agent on record with the Division or local filing officer.
- Similar to the CCE change in the previous section, requiring political committees participating in certain county or municipal elections to file campaign finance reports at the same time and with the same local filing officer as county or municipal candidates to provide for timelier reporting in local races.
- Similar to the CCE change in the previous section, requiring campaign finance reports to include transaction information from each credit card *purchase*, instead of a copy of each credit card *statement* received during the reporting period. This change conforms better to the format of electronic reporting.
- Similar to the CCE change in the previous section, eases notice requirements by providing that notice of the amount of late filing fines for campaign finance reports may be provided to the registered agent of the political committee, and that notice is sufficient upon proof of delivery to the mailing or street address on record with the division or local filing officer.

**Section 20** conforms a cross-reference.

**Section 21** prohibits a reimbursement to a candidate who loans money to his or her campaign unless there are sufficient funds in the campaign account to repay the loan and satisfy the campaign's other financial obligations.

**Section 22** shortens candidate disclaimers that are circulated prior to an election and clarifies that nonpartisan candidates must omit any reference to party affiliation in their ads.

**Section 23** provides that notice of the amount of a fine for the late-filing of campaign finance reports by a political party is deemed sufficient upon proof of delivery to the mailing or street address on record with the filing officer.

**Section 24** conforms a cross-reference. This section takes effect upon becoming law.

Except as provided, the bill takes effect on January 1, 2011.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increasing fines for CCEs that fail to timely file the report immediately preceding an election will result in additional costs of \$450 per day for each day late.

C. Government Sector Impact:

The Department of State has allocated up to \$525,000 from current year federal (Help America Vote Act grant) funds to be distributed to the counties to implement the MOVE Act provisions, specifically the free access system for absentee ballot tracking. These funds are distributed to local governments.

Local Government Impact:

**Voting Equipment**

Current law requires statewide transition from touch screens for disability voting equipment to a system using a marksense ballot by 2012. According to the Florida State Association of Supervisors of Elections, the current estimated cost is between \$35 - \$45 million. This includes estimates from two counties to replace their entire voting system if their current vendor does not produce disability equipment using a marksense ballot. The bill (Sections 5 and 6) delays the implementation and therefore the cost to 2016.

#### **Absentee Ballots**

Because many people move their residences without notifying the supervisor of elections, the decrease on the number of years for absentee ballot requests from 4 to 2 years may cause less returned mail, thereby decreasing postage costs.

The supervisors of elections will incur some costs relating to notifying voters of the free access system. Costs will vary depending on whether the county has a web-based request system that could display the information to the voter or whether the county must use a different means of notifying the voter. The Department of State is providing up to \$525,000 from current year HAVA funds to be distributed to the counties to implement this provision.

Some minimal additional costs may be incurred by the supervisor of elections notifying overseas voters by e-mail of the status of their absentee ballots. This will depend on the number of overseas voters and whether the county sets up an automatic e-mail response.

#### **Polling Places**

The supervisors of elections should see a decrease in costs associated with collocated precincts since they will no longer be required to have separate voting equipment for each precinct.

### **VI. Technical Deficiencies:**

None.

### **VII. Related Issues:**

None.

### **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

#### **CS by Ethics and Elections Committee on February 17, 2010:**

Committee Substitute for Senate Bill 900 is an elections measure that contains numerous changes to the Florida Election Code, most of which were recommended by the Division of Elections. Some of the major differences from the original bill include:

- Providing that chapters 97-105, F.S., preempt any other election law within the state unless specified otherwise in federal or state law.
- Revising the definition of “overseas voter” and defining “absent uniformed services voter.”
- Providing an opportunity for a challenged voter challenged on the basis of address to update his or her address information in order to vote a regular ballot in the precinct.
- Increasing the penalty for a frivolous voter challenge to a third degree felony.
- Revising the 2012 paper ballot requirement for disabled voters to 2016.
- Requiring supervisors to use actual ballots when testing tabulating equipment prior to an election.
- Requiring supervisors to post notice of the testing of tabulating equipment on his or her website.
- Revising absentee ballot procedures.
- Revising the procedures and requirements for co-locating polling place precincts.
- Requiring the supervisor to post notice of a change in polling place on his or her website.
- Providing that Election Canvassing Commission members shall serve ex officio and providing a time certain for the commission to meet after elections.
- Requiring the supervisor to post notice on his or her website of where and when the county canvassing board will meet to canvass absentee and provisional ballots.
- Providing that the Secretary of State must order recounts in federal, state, and multicounty races, while recounts in all other races must be ordered by the local board responsible for certifying the election in those races.
- Providing that the Secretary of State must order manual recounts of the overvotes and undervotes in federal, state, and multicounty races, while manual recounts of the overvotes and undervotes in all other races must be ordered by the local board responsible for certifying the election in those races.
- Requiring political committees to reports all changes in information within 10 days of the change.
- Clarifying the authority of the division to dissolve political committees for failing to file certain information or meet certain requirements.
- Providing for numerous changes to statutory provisions regarding committees of continuous existence.
- Revising notice requirements for incomplete campaign finance reports filed by political committees and candidates.
- Requiring political committees participating in certain county or municipal elections to file campaign finance reports at the same time and with the same local filing officer as county or municipal candidates.
- Revising notice requirements for late-filing fines for campaign finance reports.
- Requiring campaign finance reports to include transaction information from each credit card purchase.
- Providing that a candidate may obtain reimbursement for a loan made to his or her campaign if there are sufficient funds in the campaign account to cover the reimbursement and all other obligations.
- Shortening the candidate disclaimers that are circulated prior to an election.

- Clarifying that a nonpartisan candidate must omit any reference to party affiliation in his or her political advertisements.

Except as provided, the bill takes effect on January 1, 2011.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development  
Appropriations (Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (2) through (43) of section 97.021,  
Florida Statutes, are renumbered as subsections (3) through  
(44), respectively, a new subsection (2) is added to that  
section, and present subsection (22) of that section is amended,  
to read:

97.021 Definitions.—For the purposes of this code, except  
where the context clearly indicates otherwise, the term:

(2) "Absent uniformed services voter" means:



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13        (a) A member of a uniformed service on active duty who, by  
14 reason of such active duty, is absent from the place of  
15 residence where the member is otherwise qualified to vote;

16        (b) A member of the Merchant Marine who, by reason of  
17 service in the Merchant Marine, is absent from the place of  
18 residence where the member is otherwise qualified to vote; or

19        (c) A spouse or dependent of a member referred to in  
20 paragraph (a) or paragraph (b) who, by reason of the active duty  
21 or service of the member, is absent from the place of residence  
22 where the spouse or dependent is otherwise qualified to vote.

23        (23) ~~(22)~~ "Overseas voter" means:

24        (a) An absent uniformed services voter who, by reason of  
25 active duty or service, is absent from the United States on the  
26 date of the election involved ~~Members of the uniformed services~~  
27 ~~while in the active service who are permanent residents of the~~  
28 ~~state and are temporarily residing outside the territorial~~  
29 ~~limits of the United States and the District of Columbia;~~

30        (b) A person who resides outside the United States and is  
31 qualified to vote in the last place in which the person was  
32 domiciled before leaving the United States ~~Members of the~~  
33 ~~Merchant Marine of the United States who are permanent residents~~  
34 ~~of the state and are temporarily residing outside the~~  
35 ~~territorial limits of the United States and the District of~~  
36 ~~Columbia; or and~~

37        (c) A person who resides outside the United States and, but  
38 for such residence, would be qualified to vote in the last place  
39 in which the person was domiciled before leaving the United  
40 States ~~Other citizens of the United States who are permanent~~  
41 ~~residents of the state and are temporarily residing outside the~~



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42 ~~territorial limits of the United States and the District of~~  
43 ~~Columbia,~~

44  
45 ~~who are qualified and registered to vote as provided by law.~~

46 Section 2. Subsection (3) of section 98.0981, Florida  
47 Statutes, is amended to read:

48 98.0981 Reports; voting history; statewide voter  
49 registration system information; precinct-level election  
50 results; book closing statistics.--

51 (3) PRECINCT-LEVEL BOOK CLOSING STATISTICS.--After the date  
52 of book closing but before the date of an election as defined in  
53 s. 97.021(11) ~~s. 97.021(10)~~ to fill a national, state, county,  
54 or district office, or to vote on a proposed constitutional  
55 amendment, the department shall compile the following precinct-  
56 level statistical data for each county:

57 (a) Precinct numbers.

58 (b) Total number of active registered voters by party for  
59 each precinct.

60 Section 3. Subsection (3) of section 101.56075, Florida  
61 Statutes, is amended to read:

62 101.56075 Voting methods.--

63 (3) By 2016 ~~2012~~, persons with disabilities shall vote on a  
64 voter interface device that meets the voter accessibility  
65 requirements for individuals with disabilities under s. 301 of  
66 the federal Help America Vote Act of 2002 and s. 101.56062 which  
67 are consistent with subsection (1) of this section.

68 Section 4. Paragraph (c) is added to subsection (1) of  
69 section 101.62, Florida Statutes, and subsections (4) and (5) of  
70 that section are amended, to read:



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71 101.62 Request for absentee ballots.-

72 (1)

73 (c) Upon receiving a request for an absentee ballot from an  
74 absent uniformed services voter or overseas voter, the  
75 supervisor of elections shall notify the voter of the free  
76 access system that has been designated by the department for  
77 determining the status of his or her absentee ballot.

78 (4) (a) No later than 45 days before each election, the  
79 supervisor of elections shall send an absentee ballot as  
80 provided in subparagraph (b)2. to each absent uniformed services  
81 voter and to each overseas voter who has requested an absentee  
82 ballot. ~~To each absent qualified elector overseas who has~~  
83 ~~requested an absentee ballot, the supervisor of elections shall~~  
84 ~~mail an absentee ballot not less than 35 days before the primary~~  
85 ~~election and not less than 45 days before the general election.~~

86 (b) The supervisor shall provide an absentee ballot to each  
87 elector by whom a request for that ballot has been made by one  
88 of the following means:

89 1. By nonforwardable, return-if-undeliverable mail to the  
90 elector's current mailing address on file with the supervisor,  
91 unless the elector specifies in the request that:

92 a. The elector is absent from the county and does not plan  
93 to return before the day of the election;

94 b. The elector is temporarily unable to occupy the  
95 residence because of hurricane, tornado, flood, fire, or other  
96 emergency or natural disaster; or

97 c. The elector is in a hospital, assisted living facility,  
98 nursing home, short-term medical or rehabilitation facility, or  
99 correctional facility,



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in which case the supervisor shall mail the ballot by nonforwardable, return-if-undeliverable mail to any other address the elector specifies in the request.

2. By forwardable mail, e-mail, or facsimile machine transmission to absent uniformed services voters and overseas voters who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act. The absent uniformed services voter or overseas voter may designate in the absentee ballot request the preferred method of transmission. If the voter does not designate the method of transmission, the absentee ballot shall be mailed.

3. By personal delivery before 7 p.m. on election day to the elector, upon presentation of the identification required in s. 101.043.

4. By delivery to a designee on election day or up to 5 days prior to the day of an election. Any elector may designate in writing a person to pick up the ballot for the elector; however, the person designated may not pick up more than two absentee ballots per election, other than the designee's own ballot, except that additional ballots may be picked up for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent, or sibling of the designee or of the designee's spouse. The designee shall provide to the supervisor the written authorization by the elector and a picture identification of the designee and must complete an affidavit. The designee shall state in the affidavit that the designee is authorized by the elector to pick up that ballot and shall



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129 indicate if the elector is a member of the designee's immediate  
130 family and, if so, the relationship. The department shall  
131 prescribe the form of the affidavit. If the supervisor is  
132 satisfied that the designee is authorized to pick up the ballot  
133 and that the signature of the elector on the written  
134 authorization matches the signature of the elector on file, the  
135 supervisor shall give the ballot to that designee for delivery  
136 to the elector.

137 (5) In the event that the department Elections Canvassing  
138 ~~Commission~~ is unable to certify candidates for the results of an  
139 ~~election for a state office~~ in time to comply with paragraph  
140 (4) (a) subsection (4), the Department of State is authorized to  
141 prescribe rules for a ballot to be sent to absent uniformed  
142 services voters and electors overseas voters.

143 Section 5. Subsection (1) of section 101.694, Florida  
144 Statutes, is amended to read:

145 101.694 Mailing of ballots upon receipt of federal postcard  
146 application.--

147 (1) Upon receipt of a federal postcard application for an  
148 absentee ballot executed by a person whose registration is in  
149 order or whose application is sufficient to register or update  
150 the registration of that person, the supervisor shall send the  
151 ballot in accordance with s. 101.62(4) mail to the applicant a  
152 ~~ballot, if the ballots are available for mailing. The federal~~  
153 ~~postcard application request for an absentee ballot shall be~~  
154 ~~effective for all elections through the next two regularly~~  
155 ~~scheduled general elections.~~

156 Section 6. Effective July 1, 2010, section 101.6952,  
157 Florida Statutes, is amended to read:



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158           101.6952 Absentee ballots for absent uniformed services and  
159 overseas voters.--

160           (1) If an absent uniformed services voter's or an overseas  
161 voter's request for an absentee ballot includes an e-mail  
162 address, the supervisor of elections shall:

163           (a) Record the voter's e-mail address in the absentee  
164 ballot record;

165           (b) Confirm by e-mail that the absentee ballot request was  
166 received and include in that e-mail the estimated date the  
167 absentee ballot will be sent to the voter; and

168           (c) Notify the voter by e-mail when the voted absentee  
169 ballot is received by the supervisor of elections ~~inform the~~  
170 ~~voter of the names of candidates who will be on the ballots via~~  
171 ~~electronic transmission. The supervisor of elections shall e-~~  
172 ~~mail to the voter the list of candidates for the primary and~~  
173 ~~general election not later than 30 days before each election.~~

174           (2) For absentee ballots received from absent uniformed  
175 services voters or overseas voters, there is a presumption that  
176 the envelope was mailed on the date stated on the outside of the  
177 return envelope, regardless of the absence of a postmark on the  
178 mailed envelope or the existence of a postmark date that is  
179 later than the date of the election.

180           Section 7. Subsection (11) of section 379.352, Florida  
181 Statutes, is amended to read:

182           379.352 Recreational licenses, permits, and authorization  
183 numbers to take wild animal life, freshwater aquatic life, and  
184 marine life; issuance; costs; reporting.--

185           (11) When acting in its official capacity pursuant to this  
186 section, neither the commission nor a subagent is deemed a



187 third-party registration organization, as defined in s.  
188 97.021(37) ~~s. 97.021(36)~~, or a voter registration agency, as  
189 defined in s. 97.021(41) ~~s. 97.021(40)~~, and is not authorized to  
190 solicit, accept, or collect voter registration applications or  
191 provide voter registration services.

192 Section 8. Except as otherwise expressly provided in this  
193 act, this act shall take effect upon becoming a law.

194  
195 ===== T I T L E A M E N D M E N T =====

196 And the title is amended as follows:

197 Delete everything before the enacting clause  
198 and insert:

199 A bill to be entitled  
200 An act relating to voting; amending s. 97.021, F.S.;  
201 defining the term "absent uniformed services voter";  
202 revising the definition of the term "overseas voter";  
203 amending s. 98.0981, F.S., relating to statewide voter  
204 information; conforming a cross-reference; amending s.  
205 101.56075, F.S.; extending the deadline by which  
206 persons with disabilities will be required to vote on  
207 voter interface devices that meet certain  
208 requirements; amending s. 101.62, F.S.; requiring the  
209 supervisor of elections to notify the absent uniformed  
210 services voter and overseas voter of the free access  
211 system for determining absentee ballot status;  
212 providing a timeframe for an absentee ballot to be  
213 sent to each absent uniformed services voter and  
214 overseas voter; providing acceptable formats for  
215 requesting an absentee ballot; modifying circumstances



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216 under which the Department of State is authorized to  
217 prescribe rules for a ballot to be sent to absent  
218 uniformed services voters and overseas voters;  
219 amending s. 101.694, F.S.; conforming timeframes for  
220 sending an absentee ballot upon receipt of a federal  
221 postcard application to those prescribed in s. 101.62,  
222 F.S.; deleting the requirement for a federal postcard  
223 application request to be effective through two  
224 regularly scheduled general elections pursuant to  
225 changes in federal law; amending s. 101.6952, F.S.;  
226 revising responsibilities of the supervisor of  
227 elections when an absent uniformed services voter's or  
228 overseas voter's request for an absentee ballot  
229 includes an e-mail address; requiring the supervisor  
230 to record the e-mail address in the absentee ballot  
231 record and, via e-mail, confirm that the request was  
232 received, inform the voter of the estimated date the  
233 absentee ballot will be sent, and notify the voter  
234 when the voted absentee ballot is received; amending  
235 s. 379.352, F.S., relating to recreational licenses  
236 and permits; conforming cross-references; providing an  
237 effective date.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

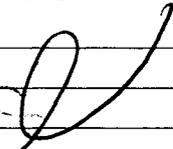
**BILL:** CS/CS/SB 924

**INTRODUCER:** Criminal Justice Committee; Transportation Committee; and Senator Wise

**SUBJECT:** DUI/Permanent Revocation/Ignitiion Interlock Device

**DATE:** April 14, 2010

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichen 	Meyer	TR	Fav/CS
2.	Duggar	Cannon	CJ	Fav/CS
3.	Carey	Noble 	TA	Pre-meeting
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes  
 B. AMENDMENTS.....  Technical amendments were recommended  
 Amendments were recommended  
 Significant amendments were recommended

**I. Summary:**

This bill allows a person whose driver's license has been revoked because of four or more DUI convictions to become eligible to petition the Department of Highway Safety and Motor Vehicles (DHSMV) for reinstatement of his or her driving privilege after waiting 10 years from the conviction or completion of incarceration, whichever occurs later. The petitioner must meet the following criteria:

- Has not been arrested for a drug-related offense for at least five years prior to the hearing;
- Has not driven with a suspended or revoked license for at least five years prior to the hearing;
- Has been drug-free for at least five years prior to the hearing; and
- Has completed a licensed DUI program.

If the DHSMV reinstates the petitioner's license, the following conditions apply:

- Petitioner's license must be restricted for employment purposes for at least one year;
- Petitioner must be supervised by a DUI program for the revocation time period;
- Petitioner must assume all reasonable costs of supervision;

- Petitioner must forfeit the license if he or she is subsequently convicted of an offense requiring mandatory revocation; and
- Petitioner must have an ignition interlock device (IID) installed on his or her vehicle for no less than five years.

This bill substantially amends the following sections of the Florida Statutes: 322.271 and 322.2715.

Based on an estimated 30,000 individuals whose driver's licenses have been permanently revoked because of having four DUI convictions eventually becoming eligible to have driving privileges restored, an indeterminate positive fiscal impact is expected in the General Revenue Fund. The Revenue Estimating Impact Conference has not review this bill.

## II. Present Situation:

Generally, the Department of Highway Safety and Motor Vehicles (DHSMV) revokes the driver's license of persons convicted of driving under the influence (DUI) for various periods. The length of time of the revocation depends on the number of convictions the person has had, and the relative frequency of the conviction. For example, DHSMV revokes the license of a person convicted of DUI twice within five years for a period of not less than five years, after which the driver may have driving privileges restored. However, upon a fourth conviction of DUI, a person's driving privileges are permanently revoked and that person may not be issued a driver's license again.

### Driving Under the Influence (DUI)

The offense of DUI<sup>1</sup> is committed if a person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent the person's normal faculties are impaired;
- The person has a BAL of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a BAL of 0.08 or more grams of alcohol per 210 liters of breath.

The DUI offense is punishable as follows:<sup>2</sup>

- For a first conviction, by a fine of not less than \$250 or more than \$500 and by imprisonment for not more than 6 months.
- For a second conviction, by a fine of not less than \$500 or more than \$1000 and by imprisonment for not more than 9 months. (If the second conviction was for an offense committed within 5 years of the date of a prior conviction, the court must order imprisonment for not less than 10 days.<sup>3</sup>)

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<sup>1</sup>s. 316.193(1), F.S.

<sup>2</sup>s. 316.193(2), F.S.

<sup>3</sup>s. 316.193(6)(b), F.S.

- For a third conviction that is not within 10 years of a prior conviction, by a fine of not less than \$1000 or more than \$2500 and by imprisonment for not more than 12 months.<sup>4</sup>
- For a third conviction occurring within 10 years of a prior conviction, it is a third degree felony, punishable by no less than 30 days in jail<sup>5</sup> and up to five years in prison and a fine of up to \$1000.<sup>6</sup>
- For a fourth conviction, regardless of when it occurs, it is a third degree felony, punishable by up to five years in prison and a fine of not less than \$1000 or more than \$5000.<sup>7</sup> (If the fourth or subsequent conviction was for an offense that occurred within 10 years after the date of a prior conviction, the court must order imprisonment for not less than 30 days.<sup>8</sup>)

At the judge's discretion, a defendant may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced in a residential alcoholism treatment program or a residential drug abuse treatment program.<sup>9</sup> Current law also requires a judge to order, as a condition of probation, the impoundment or immobilization of vehicles for various periods of time based on the number of DUI convictions.

#### **Period of Suspension or Revocation**

Section 322.28, F.S., provides for the revocation of driving privileges and prescribes the following periods of revocation for DUI violations:

- First conviction: not less than 180 days nor more than one year;<sup>10</sup>
- Second conviction within 5 years of first: not less than five years;<sup>11</sup> and
- Third conviction within 10 years of first: not less than 10 years.<sup>12</sup>

Once the revocation period is over, and upon successful reexamination, a person may have his or her driving privileges restored and a new driver's license may be issued by DHSMV. However, upon a fourth conviction, regardless of the relative frequency, the person's driving privileges are permanently revoked and DHSMV may not issue a driver's license to that person again.<sup>13</sup> Permanent revocation also applies to any person convicted of DUI manslaughter.

#### **Ignition Interlock Devices (IID)**

As defined in Rule 15A-9.003, F.A.C., an IID is a "breath alcohol analyzer connected to a motor vehicle's ignition. In order to start the motor vehicle engine, a convicted person must blow a deep lung breath sample into the analyzer, which measures the breath alcohol concentration. If the breath alcohol concentration exceeds the fail point on the IID, the motor vehicle engine will not start." An IID currently disables a vehicle if the driver's BAL is 0.05 percent or higher or as otherwise specified by the court.

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<sup>4</sup>s. 316.193(2)(b)2, F.S.

<sup>5</sup>s. 316.193(6)(c), F.S.

<sup>6</sup>s. 316.193(2)(b)1, F.S.

<sup>7</sup>s. 316.193(2)(b)3., F.S.

<sup>8</sup>s. 316.193(6)(c), F.S.

<sup>9</sup>s. 316.193(6)(k), F.S.

<sup>10</sup>s. 322.28(2)(a)1., F.S.

<sup>11</sup>s. 322.28(2)(a)2., F.S.

<sup>12</sup>s. 322.28(2)(a)3., F.S.

<sup>13</sup>s. 322.28(2)(e), F.S.

An IID is not required for a first time DUI offender, unless the offender's conviction is based upon a BAL of 0.15 or higher, or because the offender is DUI with a minor in the vehicle.<sup>14</sup> Repeat DUI offenders must install an IID in their vehicle for different time periods depending upon the number of convictions (one year for the second conviction and at least two years for a third conviction).<sup>15</sup>

### III. Effect of Proposed Changes:

This bill allows a person whose driver's license has been revoked because of four or more DUI convictions to become eligible to petition the DHSMV for reinstatement of his or her driving privilege after waiting 10 years from the conviction or completion of incarceration, whichever occurs later. The petitioner must meet the following criteria:

- Has not been arrested for a drug-related offense for at least five years prior to the hearing;
- Has not driven with a suspended or revoked license for at least five years prior to the hearing;
- Has been drug-free for at least five years prior to the hearing; and
- Has completed a licensed DUI program.

If the DHSMV reinstates the petitioner's license, the following conditions apply:

- Petitioner's license must be restricted for employment purposes for at least one year;
- Petitioner must be supervised by a DUI program for the revocation time period, including reporting to the program for supervision and education at least four times a year;
- Petitioner must assume all reasonable costs of supervision;
- Petitioner must forfeit the license if he or she is subsequently convicted of an offense requiring mandatory revocation; and
- Petitioner must have an ignition interlock device (IID) installed on his or her vehicle for no less than five years.

The bill also requires the DHSMV to adopt rules regulating the services provided by the DUI programs under this section.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>14</sup> s. 316.193(4), F.S. requires placement of an IID for at least six months for a first conviction and at least two years for a second conviction.

<sup>15</sup> s. 316.193(2), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An estimated 30,000 individuals whose driver's licenses have been permanently revoked because of having four DUI convictions could eventually become eligible to have driving privileges restored.

C. Government Sector Impact:

The DHSMV will likely experience an increased demand at driver's license examination offices which may require additional resources to maintain current performance levels.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on April 13, 2010:**

- Allows a person who has a revoked driver's license because of four or more DUI convictions (rather than three or more under the bill) to become eligible to petition the DHSMV for reinstatement of his or her driving privilege after waiting 10 years from the conviction or completion of incarceration, whichever occurs later;
- Provides in more detail the required supervision;
- Requires the DHSMV to hold a hearing determining the petitioner's qualifications for license reinstatement;
- Requires the petitioner's license, if it is reinstated, to be restricted to employment purposes for at least one year;
- Specifies that the petitioner must assume reasonable supervision costs;
- Provides that if the petitioner is subsequently convicted of an offense requiring mandatory revocation, he or she will lose the reinstated license; and
- Requires the DHSMV to adopt rules regulating DUI programs under the bill.

**CS by Transportation on March 24, 2010:**

## New provisions:

- remove the requirement for a court to permanently revoke the driver's license of persons with four DUI convictions;
- allow a person with three or more DUI convictions to obtain a driver's license provided:
  - at least five years have passed since the most recent DUI violation;
  - the applicant has not been convicted of driving with a suspended or revoked license; and
  - the applicant has completed a driver improvement course and DUI program within the last six months.

A person issued a license under these provisions must have an IID installed and monitored for no less than five years.

## The CS deleted provisions which would have:

- required an ignition interlock device (IID) be used for a specified period after a first conviction of driving under the influence (DUI) of alcohol;
- revised the period for which an IID is required if the offender's blood alcohol or breath-alcohol level is 0.15 percent or higher, or if a minor was in the vehicle;
- required a court to order a person convicted of DUI not to operate a motor vehicle for a specified period unless that vehicle is equipped with a functioning IID;
- set forth the standard to be used by the court in determining whether a person is able to pay for the device;
- required a person who uses a vehicle equipped with an IID to obtain a restricted driver's license;
- authorized a court to extend the time an offender must use an IID if the offender requests or solicits any other person to blow into an IID in place of the offender;
- increased the length of time of a driver's license suspension for a second or subsequent refusal to submit to a breath, urine, or blood test;
- increased the fee imposed for installing the device from \$12 to \$15; and
- authorized a person convicted of DUI to petition the court for approval of a restricted driver's license under certain circumstances and with specified conditions.

**B. Amendments:**

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

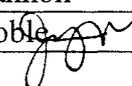
Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: SB 978

INTRODUCER: Senator Fasano

SUBJECT: License Plates/Fraternal Order of Police

DATE: April 14, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McManus	Meyer	TR	<b>Favorable</b>
2.	Erickson	Cannon	CJ	<b>Favorable</b>
3.	Carey 	Noble 	TA	<b>Pre-meeting</b>
4.				
5.				
6.				

**I. Summary:**

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a license plate titled "Fraternal Order of Police." The plate would be available to a license applicant who is a member in good standing of the Florida State Lodge of the Fraternal Order of Police (lodge) or a member of a lodge member's family.

There is a \$25 annual use fee for the plate, which is distributed to the lodge. The lodge retains all proceeds until startup costs to develop and establish the plate have been recovered. Thereafter, proceeds are distributed to the Florida State Lodge Memorial Foundation of the Fraternal Order of Police and used as follows:

- A maximum of 25 percent of proceeds may be used to promote and market the plate, administer the plate program, and pay administrative costs directly associated with the state Fraternal Order of Police Law Enforcement Memorial.
- Remaining fees are to be used by the foundation to fund projects, programs, or events related to the memorial or to fund improvements, maintenance, or other support for the memorial.

The "Fraternal Order of Police" license plate has met the statutory application requirements for a new specialty license plate and falls within the exception from the moratorium on new specialty license plates created by the 2008 Legislature, as the organization submitted its materials before May 2, 2008.

This bill substantially amends sections 320.08056 and 320.08058 of the Florida Statutes.

## II. Present Situation:

### Specialty License Plates

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the state university system.

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides an organization seeking authorization to establish a specialty license plate must submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate conforming to the specifications set by the DHSMV.
- The results of a scientific sample survey of Florida motor vehicle owners that indicates at least 30,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased costs. The Auditor General is required to validate the methodology, results, and any evaluation by the DHSMV of the scientific sample survey prior to the submission of the specialty license plate for approval by the Legislature.
- An application fee, not to exceed \$60,000, to defray the DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized.
- A marketing strategy outlining both the short and long term marketing plans and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenue from the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. If a specialty license plate is approved by law, the organization must submit a proposed art design for the specialty plate to the DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, the application fee is refunded to the requesting organization.

In 2008, the Legislature passed SB 1992, which included a moratorium on the issuance of specialty plates by the DHSMV. The moratorium is effective from July 1, 2008 to July 1, 2011, but contains an exception "for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008" or "which was included in a bill filed during the 2008 Legislative Session."<sup>1</sup> There were 12 organizations which met the moratorium exceptions; however, only one organization's specialty license plate was enacted during the 2009 Session.<sup>2</sup>

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<sup>1</sup> Section 45 of ch. 2008-176, L.O.F.

<sup>2</sup> Organizations that have met the moratorium exceptions, but have not been legislatively authorized include: Coalition for Renewable Energy Solutions – "Go Green," East Coast Surfing Hall of Fame and Museum – "Let's Go Surfing," Florida

Section 320.08056, F.S., provides that the DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by the DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters "A" through "Z", or a combination thereof.

The DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate's pro rata (proportionate) share of the DHSMV's costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

In an effort to manage the number of specialty license plates and to eliminate those less popular the Legislature during the 2004 Session enacted SB 2020 which provides that the DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates in use falls below 1,000 plates for at least 12 consecutive months. The DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists, if the organization has stopped providing services authorized to be funded, or if the organization requests it. To date, only four plates have ever been discontinued for lack of sales. These plates are the Girl Scouts plate, the Orlando Predators plate, and the Tampa Bay Storm plate, and the Corrections Foundation plate.

Annual use fees, or any interest earned from those fees, may be used by the authorized organization for public or private purposes; however, the annual fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from the DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. DHSMV can examine all records pertaining to the use of specialty license plate revenues.

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Horse Park – "Discover Florida's Horses," Fraternal Order of Police – "Fraternal Order of Police," Guy Harvey Ocean Foundation – "Catch Me Release Me," Surfing Evolution and Preservation – "Endless Summer," St. Johns River Alliance – "St. Johns River," Florida Biodiversity Foundation – "Save Wild Florida," Sons of Confederate Veterans – "Confederate Heritage," Toomey Foundation for the Natural Sciences – "Preserving the Past," and Toomey Foundation for the Natural Sciences – "Trinity." The University of Miami - Center for Autism and Related Disabilities – "Autism Awareness" specialty license plate was created during the 2009 Session (see 2009-71, L.O.F.).

There are currently 113 specialty license plates authorized by the Legislature. Sales of specialty license plates generated over \$37 million in annual use fee revenues during the 2009 Fiscal Year (July 2008-June 2009).

### **Florida State Lodge of the Fraternal Order of Police**

The Florida State Lodge of the Fraternal Order of Police (lodge) is part of a national organization of sworn law enforcement officers. The organization is committed to improving the working conditions of law enforcement officers and the safety of those they serve through education, legislation, information, community involvement, and employee representation. The mission of the organization includes: promoting and fostering the impartial enforcement of law and order; improving the individual proficiency of its members in the performance of their duties; encouraging social, charitable, educational activities among all law enforcement officers; and to advocating and striving for uniform application of the Civil Service and merit system for all law enforcement officers.

The lodge has also erected a memorial, in Tallahassee, Florida, which contains the names of every law enforcement officer killed in the line of duty in Florida along with federal officers assigned to Florida who lost their lives in the line of duty.

The DHSMV states: “‘The Fraternal Order of Police’ sponsoring organization met the necessary requirements established by s. 320.08053, Florida Statutes, submitted its letter of intent prior to May 2, 2008, met the moratorium requirements, and is therefore grandfathered in. The survey was approved by the University of West Florida and validated by the Auditor General’s Office.”<sup>3</sup>

### **III. Effect of Proposed Changes:**

The bill authorizes the DHSMV to develop a Fraternal Order of Police license plate titled “Fraternal Order of Police.” The department may only issue the plate to an applicant who submits a notarized letter from the Florida State Lodge of the Fraternal Order of Police stating the applicant is a member of the lodge in good standing or a member of a lodge member’s family.

Eligible drivers can purchase this specialty plate upon payment of the appropriate license taxes and fees and a \$25 annual use fee. The lodge retains all proceeds until startup costs to develop and establish the plate have been recovered. Thereafter, proceeds are distributed to the Florida State Lodge Memorial Foundation of the Fraternal Order of Police and used as follows:

- A maximum of 25 percent of proceeds may be used to promote and market the plate, administer the plate program, and pay administrative costs directly associated with the state Fraternal Order of Police Law Enforcement Memorial.
- Remaining fees are to be used by the foundation to fund projects, programs, or events related to the memorial or to fund improvements, maintenance, or other support for the memorial.

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<sup>3</sup> Analysis of SB 978, Florida Department of Highway Safety and Motor Vehicles, dated November 24, 2009 (on file with the Senate Committee on Criminal Justice). Further cited as “DMSMV analysis.”

The bill takes effect July 1, 2010.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Eligible persons who want to purchase a "Fraternal Order of Police" plate can do so for an additional charge of \$25 (plus \$5 processing fee) beyond the normal fees associated with buying a license plate.

The Florida State Lodge of the Fraternal Order of Police has paid the \$60,000 application fee, which will be refunded if the plate is not approved by the Legislature.

C. Government Sector Impact:

The DHSMV is responsible for developing and distributing the "Fraternal Order of Police" license plate. The cost of this effort is approximately \$60,000. This impact will be offset by the \$60,000 application fee that the organization has already paid. Revenue generated from the sale of this plate is based on public interest and cannot be predicted.<sup>4</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill restricts the purchase of the Fraternal Order of Police license plate, allowing sales only to those that submit a notarized letter from the Florida State Lodge of Fraternal Order of Police stating that the applicant is a member of the lodge in good standing or a member of a lodge

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<sup>4</sup> DMSMV analysis.

member's family. This restriction may limit the sale of the license plate, and thus, potential proceeds, and may prevent other interested, but ineligible, parties from purchasing the plate.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 1472

INTRODUCER: Commerce Committee and Senator Detert

SUBJECT: Florida Research Commercialization Matching Grant Program

DATE: April 14, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	<b>Fav/CS</b>
2.	Noble <i>[Signature]</i>	Noble <i>[Signature]</i>	TA	<b>Pre-meeting</b>
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The federal government, through two research grant programs, provides funds for early-stage companies to further their research into potentially marketable technologies, when venture capital and other private investments are difficult to secure.

The bill creates the Florida Research Commercialization Matching Grant Program (grant program) to assist small or startup companies that take advantage of federal and state partnerships to accelerate their growth and market penetration. Program applicants must meet several criteria, such as having attracted funding from non-government sources.

It also directs the Florida Institute for the Commercialization of Public Research (institute) to develop program policy, establish criteria for the grant awards, approve the awards, and review the grant program's progress and results. To be eligible for the grant program, a business must meet a number of requirements, including receipt of a Phase 1 federal research grant.

It further specifies the maximum grant amount at \$250,000. The legislation does not include a state appropriation for the grant program. The grant program is repealed July 1, 2013, unless reviewed and reenacted by the Legislature prior to that date.

The bill creates s. 288.9552, F.S.

## II. Present Situation:

### Federal research grants for small businesses

The federal government has for many years recognized the benefits of early capitalization for new businesses. The U.S. Small Business Administration Office of Technology administers the Small Business Innovation Research Program (SBIR)<sup>1</sup> and the Small Business Technology Transfer Program (STTR)<sup>2</sup> to encourage small businesses to explore their technology potential and provide the incentive to profit from its commercialization.<sup>3</sup>

The SBIR and the STTR target the entrepreneurial sector because that is where most innovation and innovators thrive. However, the risk and expense of conducting serious research and development efforts are often beyond the means of many small businesses. By reserving a specific percentage of federal research and development funds for small business, these programs protect the small business and enable it to compete on the same level as larger businesses. SBIR and STTR help finance the startup and development stages, and encourage the commercialization of the technology, product, or service, which, in turn, stimulates the U.S. economy. The only substantial difference between the programs is that the SBIR rewards for-profit businesses only, while nonprofit research institutions may qualify for a STTR grant.

Small businesses must meet certain eligibility criteria to participate in the SBIR and STTR program. The business must be American-owned and independently operated; must have a principal researcher employed by the business; and must not have more than 500 employees. Each year, the SBIR requires 11 federal departments and agencies,<sup>4</sup> and the STTR requires five,<sup>5</sup> to reserve a portion of their research and development funds for award to small businesses. These agencies designate research and development topics and accept proposals.

The programs consist of three phases. Following submission of proposals, agencies make SBIR and STTR awards based on small business qualification, degree of innovation, technical merit, and future market potential. Small businesses that receive awards then begin a three-phase program:

- Phase I is the startup phase. Awards of up to \$100,000 for approximately 6 months, to support exploration of the technical merit or feasibility of an idea or technology.

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<sup>1</sup> The SBIR program was created by the Small Business Innovation Development Act of 1982 (P.L. 97-219), and has been reauthorized several times.

<sup>2</sup> The STTR program was created by Title II of the Small Business Research and Development Enhancement Act of 1992 (P.L. 102-564), and has been reauthorized several times.

<sup>3</sup> U.S. Small Business Administration website at: <http://www.sba.gov/aboutsba/sbaprograms/sbir/index.html>. programs have been funded by Congress through Continuing Resolutions (CR) since 2009, so this is likely one reason total awards have declined from \$2 billion in 2008 to \$173.3 million in 2009. The latest CR expires April 30, 2010. Substantive legislation related to extending the programs until 2023 (H.R. 2965/S.1233) is being considered by Congress.

<sup>4</sup> U.S. Departments of: Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, and the National Science Foundation.

<sup>5</sup> U.S. Departments of: Defense, Energy, Health and Human Services, the National Aeronautics and Space Administration; and the National Science Foundation.

- Phase II awards of up to \$750,000, for as many as 2 years, to expand Phase I results. During this time, the research and development work is performed and the developer evaluates the commercialization potential. Only Phase I award winners are considered for Phase II.
- Phase III is the period during which Phase II innovation moves from the laboratory into the marketplace. No SBIR funds support this phase. The small business must find funding in the private sector or other non-SBIR/STTR federal agency funding.

One recent report evaluating the successes of businesses that received SBIR or STTR grants indicated that 31 percent of SBIR recipients engaged in health-related research later received patents for their discoveries.<sup>6</sup>

In 2009, Florida companies received a total of 135 Phase I and/or Phase II SBIR or STTR awards totaling nearly \$36.4 million.<sup>7</sup> Of that amount, 107 awards totaling nearly \$29.1 million were made by the U.S. Department of Defense.

Florida's totals are down over the previous 2 years, when Florida-based companies were awarded 171 SBIR or STTR grants in 2007 and 177 grants in 2008.<sup>8</sup>

California, Massachusetts, and Virginia finished 1-2-3 in both grant categories in 2009, when a total of \$1.3 billion in SBIR and STTR grants was awarded.<sup>9</sup>

Florida has no comparable state grant program. However, Enterprise Florida, Inc. (EFI), a public-private entity that serves as the state's business-recruitment entity, has implemented the "Phase 0" Program to assist eligible companies in developing their SBIR/STTR applications.<sup>10</sup>

Created in September 2006, the Phase 0 program is a partnership between EFI and technology incubators, University Technology Transfer Offices, economic development organizations, and Small Business Development Centers. Eligible applicants can receive a maximum of \$3,000, in two installments, as assistance. These funds can be used for such expenses as consulting fees supporting technology development, commercialization strategies or proposal review; legal or accounting fees; services of a professional for writing, word processing, and editorial review of the federal application; and travel expenses incurred to visit the federal agency or laboratory potentially sponsoring the technology.

In FY 2008-2009, EFI awarded 12 grants totaling nearly \$28,900; since its inception, EFI has awarded 37 grants totaling more than \$69,000.<sup>11</sup> Five of those companies have gone on to

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<sup>6</sup> "National Survey to Evaluate the NIH SBIR Program." National Institutes of Health Office of Intramural Research. Published January 23, 2009. Available online at: [http://ftp.grants.nih.gov/grants/funding/sbir\\_2008surveyreport.pdf](http://ftp.grants.nih.gov/grants/funding/sbir_2008surveyreport.pdf). Last visited February 12, 2010.

<sup>7</sup> 2009 Florida awardees at [http://web.sba.gov/tech-net/public/dsp\\_awardlist.cfm?RequestTimeout=600](http://web.sba.gov/tech-net/public/dsp_awardlist.cfm?RequestTimeout=600). State-by-state search engine at [http://web.sba.gov/tech-net/public/dsp\\_search.cfm](http://web.sba.gov/tech-net/public/dsp_search.cfm). Last visited February 12, 2010.

<sup>8</sup> Ibid.

<sup>9</sup> Fifty-state chart available at [http://web.sba.gov/tech-net/public/dsp\\_awardlist.cfm?RequestTimeout=600](http://web.sba.gov/tech-net/public/dsp_awardlist.cfm?RequestTimeout=600). Last visited March 25, 2010.

<sup>10</sup> More information available at <http://www.eflorida.com/ContentSubpage.aspx?id=872>. Last visited February 14, 2010.

<sup>11</sup> Email received from Peyton Woodard of Enterprise Florida, Inc., to Commerce Committee staff, received March 2, 2010.

receive Phase 1 federal SBIR/STTR grants, and 5 others are awaiting word. It is too early in the process to determine if these companies will successfully commercialize their inventions.

EFI created the Phase 0 program to help improve the success rate of Florida-based companies in winning SBIR/STTR grants; in 2006, Florida ranked 45th in the nation in this category.

Also, the state in recent years has created several programs emphasizing the commercialization of new technologies and products, and nurturing emerging companies as they move into the marketplace. Florida's initiatives include the Centers of Excellence established with state universities, the Florida Opportunity Fund, and Florida University Commercialization Grants.

The Florida Institute for the Commercialization of Public Research (institute)<sup>12</sup>

Created in 2007 with passage of the Florida Capital Formation Act,<sup>13</sup> the not-for-profit institute operates as a clearinghouse for university and other public-funded research that is seeking investors to help finance for market a product or service.

Pursuant to s. 288.9628, F.S., the institute provides mentoring for young companies, develops marketing information and plans, and uses its resources and industry contacts to attract capital investment into the companies. The institute's other duties are to:

- Maintain a centralized location to showcase companies and their technologies and products;
- Develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for assistance;
- Facilitate meetings between prospective investors and eligible organizations in the institute;
- Develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies; and
- Find sources of "gap funding" for young companies, to bridge the gulf between research and development of a conceptual product to its marketability.

The institute is prohibited from developing or accruing any ownership, royalty, or other such rights over, or interest in, companies or products in the institute and shall maintain the secrecy of proprietary information. It also may not charge for services rendered to state universities and affiliated organizations, community colleges, or state agencies.

Conceived as a collaborative effort of the technology transfer offices of Florida's state universities, the institute is physically located at the Florida Atlantic University Research & Development Park. The institute receives operational support from The Enterprise Development Corp. of South Florida, and has received operating funds from the Legislature in the past.

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<sup>12</sup> Institute website at <http://www.florida-institute.com>.

<sup>13</sup> CS/CS/HB 83 (ch. 2007-189, L.O.F.).

### III. Effect of Proposed Changes:

**Section 1** creates s. 288.9552, F.S., the Florida Research Commercialization Matching Grant Program (grant program). The grant program's goals are to:

- Increase the amount of SBIR and STTR research funds received by Florida companies;
- Accelerate the entry of new technology-based products into the market;
- Create technology-based jobs for Floridians;
- Provide leveraged resources to grant applicants to attract more investment;
- Speed the commercialization of promising technologies;
- Encourage the establishment and growth of high-quality technology firms in Florida; and
- Accelerate venture-capital deal flow and enhance the state's investment infrastructure.

This section directs the institute to develop the grant program's policy goals and criteria; establish criteria for the grant awards, approve the awards; and review the program's progress and results. The advisory committee members will serve without compensation.

The institute must review and determine grant awards within 45 days of receiving applications. Also, beginning December 1, 2010, and every year thereafter, the institute will submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of the grant program's activities.

No more than 5 percent of any legislative appropriation to fund the grants may be used to pay the administrative costs associated with the program.

Grant applicants must meet all of the following criteria:

- Be a business entity that is registered with the Department of State.
- Must have its primary office and a majority of its employees domiciled in Florida, and conduct its principle research activities in Florida.
- Be a small company<sup>14</sup> for which a state matching grant is necessary for project development and implementation.
- Must have received a Phase I SBIR or STTR grant and an invitation to apply for a federal Phase II award. Applicants who have already received a Phase II award may apply for a state grant, but they must identify the end date of the federal award and provide justification of how the state grant will enhance, and not supplant, the federal funds.
- Utilize all sources of federal, local, and private resources for the project to the maximum extent possible. No more than 25 percent of project funding may come from the new Florida program, and private sector investments should offset the total costs of the project.
- For projects receiving Florida grants, conduct project research in Florida.

The institute's duties as program administrator will include, but not be limited to:

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<sup>14</sup> CS/SB 1472 does not define "small company." Unless otherwise specified, the SBA definition of "small business" would apply. SBA has established two widely used size standards: no more than 500 employees for most manufacturing and mining industries, and \$7 million in average annual receipts for most nonmanufacturing industries. While there are many exceptions, these are the primary size standards by industry. See:

[http://www.sba.gov/idc/groups/public/documents/sba\\_homepage/serv\\_sstd\\_tablepdf.pdf](http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf)

- Establishing and coordinating the grant review, approval, and contracting activities;
- Administering the grant-selection process, such as issuing open-call requests for applications and processing grant applications;
- Serving as grant contract manager;
- Reporting on the program's progress and results; and
- Establishing a mechanism by which information about companies receiving the grants is disseminated to angel, seed, or venture capital investors.

The maximum, one-time award amount is set at \$250,000.

**Section 2** provides that the bill shall take effect upon becoming law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact on eligible young companies is indeterminate, but likely positive. Companies that have received federal funding through the SBIR or STTR will be eligible for grants through this state program.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Commerce Committee on March 25, 2010:**

- Requires the Institute for the Commercialization of Public Research, rather than Enterprise Florida, Inc., to review and award grants to eligible businesses, and to submit an annual report on the program's activities to the Governor and the Legislature.
- Reduces from 10 percent to 5 percent the amount of any legislative appropriation for the grant program that may be used to cover the institute's administrative expenses.
- Removes the requirement that the Office of Program Policy Analysis and Government Accountability conduct a study on the grant program prior to the 2013 legislative session. This provision is, however, in CS/SB 1752.
- Removes provision creating state appropriations in the amount of \$4 million each in FY 10-11, FY 11-12, and FY 12-13.
- Sunsets the program July 1, 2013, unless it is reviewed and reenacted by the Legislature.

- B. **Amendments:**

None.



This bill substantially amends the following sections of the Florida Statutes 318.14, 318.15, 322.331, and 322.34.

## II. Present Situation:

### Clerk of Court Payment Plans

The Florida Statutes currently provide for situations where partial payments to the clerk of courts are permitted:

The clerk of the circuit court shall accept partial payments for court-related fees, service charges, costs, and fines in accordance with the terms of an established payment plan. An individual seeking to defer payment of fees, service charges, costs, or fines imposed by operation of law or order of the court under any provision of general law shall apply to the clerk for enrollment in a payment plan. The clerk shall enter into a payment plan with an individual who the court determines is indigent for costs. A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if the amount does not exceed 2 percent of the person's annual net income, as defined in s. 27.52(1) divided by 12. The court may review the reasonableness of the payment plan.<sup>1</sup>

An order of distribution of funds received via partial payment plans is established as follows:

- the portion of revenues to be remitted to the state for deposit into the General Revenue Fund;
- the portion of revenues required to be retained by the clerk of court or deposited into the Clerk of Court Trust Fund;
- the portion of revenues payable to state trust funds, allocated on a pro rata basis among the various authorized funds if the total collection amount is insufficient to fully fund all such funds; and
- the portion of revenues payable to counties, municipalities, or other local entities, allocated on a pro rata basis among the various authorized recipients if the total collection amount is insufficient to fully fund all recipients.<sup>2</sup>

The clerks are authorized to impose a per-month service charge,<sup>3</sup> or a one-time administrative processing service charge at the inception of the payment plan.<sup>4</sup>

### Disposition of Traffic Infractions

Section 318.14(4), F.S., provides that any person charged with a noncriminal infraction, who does not elect to appear, must pay the civil penalty and delinquent fee, if applicable, either by

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<sup>1</sup> Section 28.246(4), F.S.

<sup>2</sup> Section 28.246(5)(a)-(d), F.S.

<sup>3</sup> Section 28.24(26)(b), F.S.

<sup>4</sup> Section 28.24(26)(c), F.S.

mail or in person, within 30 days after the date of issuance of the citation. Section 318.14(10)(a), F.S., provides that any person cited for a listed offense, in lieu of payment of the fine or court appearance, may elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of court or authorized operator of a traffic violations bureau. In such case, adjudication shall be withheld; however, no election shall be made if the person has made an election in the past 12 months, and no person may make more than three elections. Presently, a withhold of adjudication for a noncriminal traffic infraction<sup>5</sup> is not a “conviction.”<sup>6</sup> However, a withhold for criminal traffic offenses is considered a “conviction.”<sup>7</sup> An infraction is defined as “a noncriminal violation that may require community service hours under s. 316.027(4), but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel.”<sup>8</sup>

Section 318.14, F.S., does not expressly permit traffic offenders to use the payment plan mechanism authorized in s. 28.246, F.S., and there appears to be an inconsistency between county traffic courts as to whether the payment plan mechanism is available for noncriminal traffic fines owed pursuant to s. 318.14, F.S.

Section 318.15, F.S., currently provides if a traffic offender fails to timely pay a traffic fine, fails to appear at a subsequent hearing, or fails to attend a driver improvement school when required, the person shall have his or her driver’s license administratively suspended by the Department of Highway Safety and Motor Vehicles (DHSMV).<sup>9</sup> After a license is suspended under this section, the offender must comply with all traffic-related obligations and penalties imposed before re-applying to the court for license re-instatement.

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver’s license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

Section 322.245(5), F.S., provides requirements nearly identical to s. 318.15, F.S., regarding license suspension for failure to pay any previous fines outstanding by an offender for noncriminal traffic violations.

According to DHSMV, these license suspensions create a “snowball” effect for repeat offenders unable to fully pay a noncriminal traffic fine. A driver who is unable to pay (in full) a traffic fine,

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<sup>5</sup> Section 318.14(1), F.S.

<sup>6</sup> Section 318.14(11), F.S.

<sup>7</sup> *Raulerson v. State*, 763 So. 2d 285, 290-291 (Fla. 2000).

<sup>8</sup> Section 318.13(3), F.S.

<sup>9</sup> Section 318.15, F.S., provides that the clerk of court must notify DHSMV of the failure within 10 days, and DHSMV must suspend the license on the 20th day following the order to suspend.

but needs to operate his or her vehicle in order to remain employed, may be subsequently cited for driving with a suspended license, thereby incurring an additional fine.

If a third violation occurs within 5 years, the offender has his or her license administratively suspended. Section 322.264(1)(d), F.S., determines that anyone driving on a suspended license three or more times in a 5-year period is a “habitual traffic offender,” and is automatically subject to a 5-year license suspension.

Because convictions are dated from the date the citation is paid, drivers who are unable to make full payment for a noncriminal traffic citation face an open-ended period of time, not an actual 5-year period, during which they run the risk of receiving additional citations and being labeled a habitual traffic offender. The DHSMV states that “[t]his process continues to put these drivers further behind and they are unable to ‘dig out’ from under the mountain of debt that arises.”<sup>10</sup>

A traffic court may withhold adjudication on a traffic offense of driving with a suspended license (s. 322.34, F.S.), but pursuant to the Supreme Court’s opinion in *Raulerson v. State*, 763 So.2d 285 (Fla. 2000), a withhold of adjudication is considered a conviction for purposes of the habitual traffic offender statute in ch. 322, F.S.<sup>11</sup>

As mentioned above, s. 28.246, F.S., authorizes clerks to implement payment plans for offenders deemed “indigent for costs.” If a person fails to make payments as required by s. 28.246, F.S., the clerk of courts is authorized to pursue the collection, including attorney’s fees and costs, by referring the account to any member of the Florida Bar or a collection agent registered in good standing pursuant to ch. 559, F.S. These attorneys and collection agencies are entitled to collect up to an additional 40 percent of the amount owed at the time the account was referred.

### III. Effect of Proposed Changes:

**Section 1** amends s. 318.14, F.S., to expressly clarify noncriminal traffic infraction fines may be paid using the clerk’s payment plan system implemented in s. 28.246, F.S., including the current requirement the offender be found “indigent for costs.”

The bill includes the following additional offenses to the list in s. 318.14(10)(a), F.S., for which an offender can provide proof of compliance:

- Operating a motor vehicle with a license suspended for failure to pay any other financial obligations pursuant to s. 322.245, F.S., other than those (criminal fines) specified in s. 322.245(1), F.S.
- Operating a motor vehicle with a license suspended for failure to pay child support pursuant to s. 322.245, F.S., or s. 61.13016, F.S.
- Operating a motor vehicle with a license suspended for failing to attend school.<sup>12</sup>

<sup>10</sup> Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: HB 971* (on file with the Senate Committee on Transportation).

<sup>11</sup> *Raulerson*, 763 So. 2d at 294-295. The *Raulerson* court noted pursuant to s. 318.14(11), F.S., withholding adjudication for violations of s. 318.14, F.S., “shall not constitute convictions.” *Id.* at 294.

<sup>12</sup> Section 322.091, F.S., generally requires minors to be enrolled in public or nonpublic school, or be enrolled in a home education program, in order to maintain a driver’s license.

**Section 2** amends s. 318.15, F.S., to confirm that a person's failure to enter into or comply with the terms of a penalty payment plan with the clerk shall result in the person's driver's license being suspended by the Department of Highway Safety and Motor Vehicles (DHSMV).

**Section 3** amends s. 322.331, F.S., to provide that if a driver, labeled a habitual traffic offender (HTO), is able to resolve fines through the process provided for ss. 318.14 or 322.34, F.S., he or she may have HTO status removed. (This option is not available for criminal charges and driving-related infractions.)

**Section 4** amends s. 322.34, F.S., to provide a person who does not hold a commercial driver license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled and the underlying suspension, revocation, or cancellation is non-driving related may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau. This section is further amended to allow adjudication to be withheld; however, a person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections. If adjudication is withheld, such action is not considered a conviction.

The DHSMV has identified these additional categories as offenses that generally relate to financial concerns, not the driver's actual ability to operate a motor vehicle. By granting these fiscally challenged offenders an opportunity to provide "proof of compliance," it is possible offenders currently driving on suspended licenses will attempt to stop the "snowball" effect by getting their overdue fines paid, re-registering their motor vehicles, and acquiring proper insurance.

The bill provides an effective date of July 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and counties under the provisions of s. 18, Art. VII of the State Constitution..

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

While not necessarily a measurable or “direct” impact, if the ultimate result of the bill is a decrease in the number of drivers who operate motor vehicles on a suspended license (and by definition, also without insurance), the public at large may see a positive economic impact.

**C. Government Sector Impact:**

The following was provided by Department of Highway Safety and Motor Vehicles (DHSMV or Department):<sup>13</sup>

- This bill may have a negative fiscal impact on the DHSMV and state funds. Currently any person who fails to pay civil penalties resulting from traffic citations within the 30-day period must pay an additional late payment penalty of \$16, of which \$6.50 is deposited in the General Revenue Fund, and \$9.50 is deposited in the Highway Safety Operating Trust Fund. The DHSMV expects to collect \$19.8 million in late payment penalties in Fiscal Year 2010-11, of which \$8 million will be deposited in the General Revenue Fund and \$11.8 million in the Highway Safety Operating Trust Fund. Entrance into a payment plan to pay civil penalties resulting from traffic citations may reduce the number of civil penalties paid late and the subsequent late payment penalty revenues collected. The revenue impact as a result of entry into a payment plan is unknown.
- The Department currently includes adjudication withheld by a judge for driving with knowledge that the license is suspended, in the process of determining habitual traffic offender revocations. The fee to reinstate a habitual traffic offender (HTO) revocation is \$75, of which \$35 is deposited into the General Revenue Fund and \$40 in the Highway Safety Operating Trust Fund. If such a determination by the judge of adjudication withheld for driving while license is suspended is no longer considered a conviction, the result may be a decrease in the number of HTO revocations and the subsequent reinstatement fees. The actual impact on revenues cannot be determined.

The Revenue Estimating Impact Conference met on March 19, 2010, and estimates CS/HB 795, which is similar to this bill (with an effective date of October 1, 2010) estimates a \$6.3 million revenue loss in FY 10-11. The impact to state funds is estimated to be \$3.3 million and \$3 million to local governments in FY 10-11 and an indeterminate positive or negative impact thereafter.

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<sup>13</sup> Department of Highway Safety and Motor Vehicles, *Bill Analysis: HB 795, Amendment 1* (on file with the Senate Committee on Judiciary).

In the event a large number of traffic offenders choose to pay fines via a payment plan, the clerks of court may see an additional workload. However, the requirement of s. 28.246, F.S., that the court find offenders “indigent” may limit the number of offenders permitted to pay via payment plan.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 24, 2010:**

- Clarifies non-criminal traffic infraction fines may be paid using the clerk’s existing payment plan process created by s. 28.246, F.S.
- Expands the number of categories of drivers to a list of offenses for which a driver may provide “proof of compliance” to a clerk of court’s office and have adjudication withheld for the offense.
- Provides if a driver labeled a Habitual Traffic Offender (HTO) is able to resolve fines through the “proof of compliance” process, he or she may have HTO status removed.

**B. Amendments:**

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 1720

INTRODUCER: Commerce Committee and Senator Smith

SUBJECT: The Black Business Investment Board

DATE: April 15, 2010                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	<b>Fav/CS</b>
2.	McKay	Wilson	GO	<b>Favorable</b>
3.	Noble <i>[Signature]</i>	Noble <i>[Signature]</i>	TA	<b>Pre-meeting</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill transfers most of the Florida Black Business Investment Board's (FBBIB) responsibilities relating to the administration of the Black Business Loan Program to the Governor's Office of Tourism, Trade, and Economic Development (OTTED), reduces the grant eligibility requirements of the existing recipients (currently the eight regional Black Business Investment Corporations, or BBICs, and the Florida Black Business Support Corporation, doing business as Access Florida), reduces the time-frame for certifying and distributing the annual grants, and increases the portion of the grants which may be used for technical support and administration.

The bill also authorizes the FBBIB to elect a chair and vice-chair, and authorizes the board to remove the chair by two-thirds vote of the board. Current law authorizes the Governor to appoint the chair, who serves at the pleasure of the Governor. In addition, the number of board appointments by the Governor is reduced from five to four, and the designation of the chair of the Florida Development Finance Corporation as a board member is deleted. Instead, the FBBIB is authorized to select two at-large members. The vice-chair of Enterprise Florida, Inc., is retained, but as an ex-officio, non-voting member.

The bill amends ss. 288.707, 288.709, 288.7091, 288.7102, 288.71025, 288.712, and 288.714, Florida Statutes.

## II. Present Situation:

### Creation of the FBBIB<sup>1</sup>

In the early 1980s, the Florida Legislature enacted a number of laws to encourage state agencies to contract with minority-owned businesses for goods and services.<sup>2</sup>

In March 1984, then-Governor Graham created the Governor's Advisory Council on Minority Enterprise Development to advise the Governor on matters affecting minority business enterprises and minority economic development.<sup>3</sup> The council's report identified "several impediments to black business development in Florida: limited access to capital, limited access to technical assistance, and limited access to business opportunities." One recommendation of the council was that the state create a program to develop black-owned enterprises, providing both capital and management support. Specifically, the council recommended that capital be provided to an authority governed by a board with substantial commercial or financial expertise, and that the authority should invest in "financial consortiums of regulated financial institutions designed to aid minority enterprises..."<sup>4</sup>

In response to the council's report, the Legislature, in 1985, enacted the Florida Small and Minority Business Assistance Act.<sup>5</sup> A 12-member FBBIB was created to promote the creation and growth of black business enterprises. Among the FBBIB's duties were to facilitate procurement opportunities for minority businesses and allocate capitalization funds appropriated by the Legislature to regional black business investment corporations (BBICs).<sup>6</sup> Later, a statewide investment corporation was created to receive state capitalization loans that would assist black businesses in areas not served by the BBICs.<sup>7</sup>

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<sup>1</sup> The background information for this analysis is taken primarily from six sources: the Office of Program Policy Analysis & Government Accountability Report 09-41 (Stronger Reporting Needed for the Black Business Loan Program); Report 08-65 (Black Business Investment Act Is Being Implemented, But Progress Was Slow in Distributing Loan Program Funding); and Report 07-05 (Legislature Should Consider Options for the Role of the Florida Black Business Investment Board); all available at <http://www.oppaga.state.fl.us/ReportMain.aspx>; Senate Committee on Commerce and Consumer Services Report Number 2006-105 (Review of the Florida Black Business Investment Board and Black Business Investment Corporations), available at [http://www.flsenate.gov/data/Publications/2006/Senate/reports/interim\\_reports/pdf/2006-105cmlong.pdf](http://www.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-105cmlong.pdf); and a Senate analysis of the 2007 legislation, available at <http://www.flsenate.gov/data/session/2007/Senate/bills/analysis/pdf/2007s2860.ta.pdf>; and the FBBIB webpage, <http://www.fbbib.com/history.html>.

<sup>2</sup> Chapters 82-196, 83-3, and 83-333, L.O.F.

<sup>3</sup> Executive Order 84-58.

<sup>4</sup> *Initial Report of the Governor's Advisory Council on Minority Enterprise Development* (Draft), pages 33-34. Published December 1984.

<sup>5</sup> Ch. 85-104, L.O.F., which became Part IV, ch. 288, F.S., and reenacted by s. 28, ch. 94-322, L.O.F.

<sup>6</sup> Currently, the eight regional BBICs are: BACFC, Inc. (Miami); BBIF of Central Florida (Orlando); East Central Florida BBIC (Daytona Beach); First Coast BBIC (Jacksonville); Metro-Broward EDC (Ft. Lauderdale); NW Florida BBIC (Tallahassee); Palm Beach County BBIC (Riviera Beach); and Tampa Bay BBIC (Tampa).

<sup>7</sup> Now incorporated as the Florida Black Business Support Corporation doing business as Access Florida.

During the period from fiscal year (FY) 85-86 through FY 05-06, the FBBIB allocated approximately \$10 million in state capitalization funds to the BBICs to provide loans and loan guarantees to black business owners.

In a 2007 report, the Office of Program Policy Analysis & Government Accountability (OPPAGA) concluded that the corporation and the BBICs appeared to have developed and implemented reasonable control processes for providing loans and loan guarantees to black-owned businesses. However, OPPAGA also found that there had been considerable friction between the FBBIB and the BBICs. For example:

- From FY 02-03 through FY 04-05, the FBBIB did not release appropriated capitalization funds to the BBICs. According to OPPAGA's research, the FBBIB explained that it withheld the funds because the BBICs had not reported required performance information. However, some BBIC presidents asserted they had provided the contractually required performance information during this period.
- The FBBIB and the BBICs disagreed over the FBBIB's decision to provide funding to black-owned businesses through the corporation, which is a subsidiary of the FBBIB. Some BBIC presidents expressed concern that the FBBIB's decision to withhold state funding from them in 2002 through 2005 could have been due to the board's desire to retain funds for the corporation, which they viewed as a competing entity. (In January 2007, the statewide support corporation began operating as an independent organization with its own board of directors and staff.)

### **Florida Black Business Investment Act**

In 2007, the Legislature passed the Florida Black Business Investment Act, which recreated the FBBIB as a not-for-profit public-private partnership to evaluate the needs of black business enterprises and aid in their development.<sup>8</sup>

The act directed the FBBIB to assist in the development and expansion of black business enterprises by:

- Creating partnerships and leveraging state, local, and private funds to aid in the development and expansion of black business enterprises; and
- Serving as a clearinghouse for information and sources of technical assistance for black business enterprises.

The Florida Black Business Investment Act specified that the FBBIB's primary mission is to assist in the development and expansion of black business enterprises. To accomplish this mission, the FBBIB has been establishing partnerships with the Department of Management Services and several other public and private entities, and seeking funds to implement a surety bond premium finance program.<sup>9</sup>

The act also established the Black Business Loan Program within OTTED to provide grants to eligible recipients, who in turn would provide loans and loan guarantees to, and invest in,

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<sup>8</sup> Chapter 2007-157, Laws of Florida.

<sup>9</sup> The surety bond program is currently inactive due to a lack of funds, according to a conversation with Paula Duncan, FBBIB interim president, on April 1, 2010.

qualified black business enterprises that cannot otherwise obtain capital through conventional lending institutions. The FBBIB was directed to advise OTTED in implementing the program, and was required to receive the grant applications and make recommendations for certification of grant recipients.

For FY 09-10, the FBBIB was allocated \$350,000 for operations and administration, and OTTED was allocated \$48,000 for the administration of the Black Business Loan Program.

Since 2007, \$7.477 million has been appropriated to the Black Business Loan Program for grants to eligible recipients: the eight regional Black Business Investment Corporations, or BBICs, and the Florida Black Business Support Corporation, doing business as Access Florida.

### **Composition of the FBBIB Board of Directors**

The board currently consists of the following 13 members:<sup>10</sup>

- Five members appointed by the Governor who will serve terms of 4 years each;
- One member appointed by the President of the Senate to a 2-year term;
- One member appointed by the Speaker of the House of Representatives, to serve a 2-year term;
- The vice chair of Enterprise Florida, Inc. (EFI),<sup>11</sup> or his or her designee;
- The chair of the Florida Development Finance Corporation (FDFC); and<sup>12</sup>
- Four presidents of participating black business investment corporations who will be appointed by the Executive Director of OTTED upon the recommendation of the Florida Consortium of Black Business Investment Corporations, Inc., to serve for terms of 3 years each. Each is eligible for reappointment to one additional term of 3 years.

The Governor appoints a member of the board as chair of the board, who serves at the pleasure of the Governor, and the full board annually elects one of its members as vice chair.

### **III. Effect of Proposed Changes:**

The bill transfers most of the FBBIB's current responsibilities relating to the administration of the Black Business Loan Program to OTTED, reduces the eligibility requirements of the existing recipients for annual grants from the program, reduces the time-frame for certifying and distributing the annual grants, and increases the portion of the grants which may be used for technical support and administration. The bill also revises the composition and voting status of membership of the FBBIB.

**Section 1** amends s. 288.707, F.S., to make technical and clarifying changes to the general responsibilities of the FBBIB, and makes changes to the composition of the board of directors. Specifically, this section:

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<sup>10</sup> There currently are only eight board members, according to a list provided April 1, 2010, by the FBBIB's Paula Duncan.

<sup>11</sup> EFI is a public-private entity under contract with OTTED to manage the state's business-recruitment activities. Its enabling statutes are in part VII of ch. 288, F.S.

<sup>12</sup> The FDFC creates a process for EFI and local governments to enter into agreements to issue revenue bonds for projects of significant economic importance regionally and statewide. The FDFC's enabling statutes are in part IX of ch. 288, F.S.

- Directs the FBBIB to assist, rather than advise, OTTED in creating the loan program’s long-range plan;
- Adds federal agencies and national organizations to the existing group of state and local governments and private enterprises with whom the FBBIB should create partnerships;
- Changes the composition of the 13-member board [See Table 1]; and
- Authorizes the FBBIB to elect a chair and vice-chair, and remove the chair by two-thirds vote of the board. Current law authorizes the Governor to appoint the chair, who serves as a member of the board and serves at the pleasure of the Governor.

**Table 1. Comparison of Current FBBIB Board of Directors and CS/SB 1720**

Current Law (s. 288.707, F.S.)	CS/SB 1720
Governor appoints 5 members to 4-year terms	Governor appoints 4 members to 4-year terms
President of the Senate and Speaker of the House Representatives each appoints 1 member to a 2- year term	Unchanged
EFI’s vice chair or designee	Retained, but as an ex officio, non-voting member
Chairperson of the FDFC	Removed from the board
4 presidents of participating BBICs appointed by OTTED’s executive director, as recommended by the Florida Consortium of Black Business Investment Corporations, Inc. These persons serve 3-year terms, with eligibility for one additional term each.	Unchanged
Not applicable	Two at-large members selected by the board who are nationally known for their achievements in finance, small business development, or economic development
<b>Total Members: 13</b>	<b>Total Members: 13</b>

**Section 2** amends s. 288.709, F.S., to specify that assets not acquired with state funds must be returned to the donor who provided the asset or funding for the asset, upon dissolution of the FBBIB. This is intended to reflect other changes in the bill to broaden the FBBIB’s ability to partner with the federal government and national organizations.

**Section 3** amends s. 288.7091, F.S., to allow the FBBIB to leverage federal funds it may receive for the purposes of providing financial assistance to black businesses. It also replaces the names of specific government agencies and universities with whom it must collaborate with the more general descriptive terms of “agencies of the federal, state, and local governments, private entities, nonprofit organizations, and national organizations.”

**Section 4** amends s. 288.7102, F.S., to transfer certain responsibilities related to the Black Business Loan Program from the FBBIB to OTTED, and reduces the time-frame for certifying and distributing the annual grants. Specifically, the bill:

- Deletes the FBBIB's responsibility to receive applications for the loan program and recommend to OTTED which ones should be certified;
- Requires applications be submitted by June 1, rather than July 1;
- Directs OTTED to process all applications and certifications on or before July 1, rather than by September 30, if submitted by June 1;
- Directs OTTED to distribute the state funds for the loan program to all certified BBICs on or before July 31, rather than September 30; and
- Deletes the FBBIB's responsibility to adopt policies and procedures to implement the loan program.

The bill also reduces the eligibility requirements of the "existing recipients" (who are the eight regional Black Business Investment Corporations, or BBICs, and the Florida Black Business Support Corporation, doing business as Access Florida) for annual grants from the Black Business Loan Program. Current law requires recipients to:

- Be a corporation registered in the state;
- Demonstrate that its board of directors includes citizens of the state experienced in the development of black business enterprises;
- Demonstrate that the recipient has a business plan that allows the recipient to operate in a manner consistent with the Florida Black Business Investment Act [ss. 288.707-288.714, F.S.] and the rules of the OTTED;
- Demonstrate that the recipient has the technical skills to analyze and evaluate applications by black business enterprises for loans, loan guarantees, or investments;
- Demonstrate that the recipient has established viable partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks;
- Demonstrate that the recipient can provide a private match equal to 20 percent of the amount of funds provided by OTTED; and
- Agree to maintain the recipient's books and records relating to funds received by OTTED according to generally accepted accounting principles and in accordance with the requirements of the Florida Single Audit Act [s. 215.97(7), F.S.] and to make those books and records available to OTTED for inspection upon reasonable notice.

All of these conditions will be required of a "new recipient" of the Black Business Investment Corporations grant.

In lieu of these eligibility requirements, "existing recipients" will be required to comply with the first and last of these conditions, and "[a]nnually submit to the office a financial audit performed by an independent certified public account for the most recently completed fiscal year, which audit does not reveal any material weaknesses or instances of material noncompliance."

Subsection (8)(c) is also amended to increase the portion of Black Business Loan Program grants which may be used for technical support from 7 to 9 percent, and administration from 10 to 12 percent.

**Section 5** amends s. 288.71025, F.S., to allow OTTED, rather than the FBBIB, to bring civil actions against persons who unlawfully identify themselves as black business investment corporations for the purpose of participating in the state's funding program.

**Section 6** amends s. 288.712, F.S., to remove the requirement that the FBBIB provide assistance to the Office of Supplier Diversity within the Department of Management Services, as needed, to certify new black business enterprises and to train appropriate department staff. In addition, an obsolete reporting requirement is deleted.

**Section 7** amends s. 288.714, F.S., to require OTTED, rather than the FBBIC, to prepare quarterly and annual reports that include a detailed summary of Black Business Loan Program grants recipients performance of the duties required by program.

It also creates a new annual report to be prepared by the FBBIC, for the Governor and the Legislature, which incorporates information currently required. It also changes the due dates of the annual reports, from May 1 to August 31 of each year.

**Section 8** specifies that this act takes effect upon becoming law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Indeterminate, but likely minimal.

The CS amends s. 288.7102(8)(c), F.S., to increase the portion of Black Business Loan Program grants which may be used for technical support from 7 to 9 percent, and administration from 10 to 12 percent.

To the extent that grant recipients use these funds for the authorized expenditures, less capital will be available for loans or loan guarantees to qualified black businesses.

Conversely, more resources will be available to provide technical support and fund administrative costs.

**C. Government Sector Impact:**

Most of the FBBIB's current responsibilities relating to the administration of the Black Business Loan Program are transferred to OTTED. While the bill does not address any additional funding for OTTED, at this time the proposed general appropriations bills for FY 10-11 include funding for OTTED to manage the black business loan program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The phrase "nationally known" on line 115 of the bill lends itself to any number of interpretations.

In December 2009, OPPAGA issued a report related to the Black Business Loan Program, entitled "Report 09-41: Stronger Reporting Needed for the Black Business Loan Program."<sup>13</sup> The report concluded that:

- The 2007 Legislature passed the Florida Black Business Investment Act, ch. 2007-157, L.O.F., which recreated the Florida Black Business Investment Board as a public-private partnership to evaluate the needs of black business enterprises and aid in their development. The act also established the Black Business Loan Program within the Governor's Office of Tourism, Trade, and Economic Development (OTTED).
- Stronger reporting is needed for the loan program. Black business investment corporations did not use consistent methods to develop performance information reported to OTTED and were not required to report on the extent to which key program goals were being achieved. Further, outdated provisions in the act resulted in duplicative performance reporting by black business investment corporations.
- To address these issues, OTTED should work with the investment corporations to ensure they are reporting reliable information for critical performance measures in their reports and require them to report on their achievement of key program goals. In addition, the Legislature should consider amending the statutes to direct the investment corporations to submit their performance reports to the office rather than the Black Business Investment Board.

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<sup>13</sup> Report available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0941rpt.pdf>.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce Committee on April 7, 2010:**

The CS differs from the bill as filed in the following ways:

- Reduces the eligibility requirements of the existing recipients (currently the eight regional Black Business Investment Corporations, or BBICs, and the Florida Black Business Support Corporation, doing business as Access Florida) for annual grants from the Black Business Loan Program;
- Increases the portion of the grants which may be used for technical support and administration;
- Authorizes the FBBIB to elect a chair and authorizes the board to remove the chair by two-thirds vote of the board – current law (and the bill as filed) authorizes the Governor to appoint the chair, who serves as a member of the board and serves at the pleasure of the Governor.
- Reduces the board appointments by the Governor from five to four;
- Removes the designation of the chair of the Florida Development Finance Corporation as a board member; and
- Authorizes the FBBIB to select two at-large members.

**B. Amendments:**

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/CS/SB 1842

INTRODUCER: Community Affairs; Transportation Committee and Senator Bennett

SUBJECT: Public Roadways

DATE: April 15, 2010 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	<b>Fav/Cs</b>
2.	Howes	Yeatman	CA	<b>Fav/CS</b>
3.	Carey <i>[Signature]</i>	Noble <i>[Signature]</i>	TA	<b>Pre-meeting</b>
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill requires the Florida Department of Transportation (FDOT, department) to notify affected local governments of proposed changes to state highways when the project:

- divides a state highway;
- erects a barrier median which would modify vehicle turning movements; or
- have the effect of closing or modifying existing access to adjacent property.

The notification must occur at least 180 days before the design of the project is finalized. The bill also allows the local government to present alternatives which would relieve the impacts to the business properties. The bill also requires FDOT to hold at least one public hearing in the jurisdiction where the project is located and receive public input.

This bill creates s. 335.199 of the Florida Statutes.

**II. Present Situation:**

Access management addresses the location, design, and operation of medians and median openings, driveways, interchanges, and street connections on public roadways. The core goal of

access management is the elimination or limitation of traffic points along a roadway by limiting the number of driveways and median openings and restricting certain movements at some median openings. Access management's inherent reduction in traffic conflict points increases safety and improves traffic flow. The Florida Department of Transportation (FDOT) uses access management standards, guidelines, and designs created from national standards and research.

### **Florida's Access Management Act**

Sections 335.18 through 335.188, F.S. create the "State Highway System Access Management Act." The act establishes the Legislature's finding that access management regulations are necessary "to protect the public health, safety, and welfare, to preserve the functional integrity of the State Highway System, and to promote the safe and efficient movement of people or goods within the state."

Section 335.181(2), F.S., gives property owners whose property abuts the State Highway System the right to reasonable access, but not unregulated access to the property. The paragraph also provides for FDOT to restrict the operational characteristics of access connections. These access rights are "subject to reasonable regulation to ensure the public's right and interest in a safe and efficient highway system."

Access to all roads on the State Highway System is limited or controlled. FDOT has implemented access management guidelines and standards by rule to provide guidance on access management issues. The guidelines address the location, design, and operation of driveways, median openings, interchanges, and street connections. The goal of these guidelines is to properly balance access and mobility in the design of state roadways.

Rule 14-97, F.A.C., establishes seven classifications for state highways and the criteria and procedures for assigning these classifications to specific roads.<sup>1</sup> Essentially, the classifications allow for consistent application of access management standards by identifying the functional purpose of the road on a scale with high-speed through-traffic on one end, and lower speed local traffic with numerous interactions with adjacent land use on the other end.

For example, Access Class 1 consists of limited access facilities, *i.e.*, roadways which do not provide direct property connections but provide for high speed and high volume traffic movements serving interstate, interregional, and intercity, and, to a lesser degree, intracity, travel needs. Interstate highways and Florida's Turnpike are typical of this class. Interchange spacing standards for Access Class 1 are shown in Table 1 below. Access Classes 2 through 7 consist of controlled access facilities. Intersection spacing, median type, median opening, and connection (driveway) spacing is shown in Table 2 below. Generally the roadways serving areas without existing extensive development are classified in the upper portion of the range (Access Class 2, 3, and 4). Those roadways serving areas with existing moderate to extensive development are generally classified in the lower portion of the range (Access Class 5, 6, and 7). The access management standards for each access class are further determined by the posted speed limit, as shown in Table 2 below. Medians and median openings are regulated through the requirement for a restrictive median in certain classes. For those classes, spacings between median openings are regulated.

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<sup>1</sup> <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=14-97>.

Access Class	Segment Location	Applicable Interchange Spacing Standard
1	Area Type 1 – CBD & CBD Fringe for Cities in Urbanized Areas	1 Mile
	Area Type 2 – Existing Urbanized Areas Other Than Area Type 1	2 Miles
	Area Type 3 – Transitioning Urbanized Areas and Urban Areas Other Than Area Type 1 OR 2	3 Miles
	Area Type 4 – Rural Areas	6 Miles

Access Class	Median	Median Opening Spacing Standard (feet)		Signal Spacing Standard (feet)	Connection Spacing Standard (feet)	
		Full	Directional		> 45 MPH	≤ 45 MPH
2	Restrictive	2,640	1,320	2,640	1,320	660
3	Restrictive	2,640	1,320	2,640	660	440
4	Non-restrictive			2,640	660	440
5	Restrictive	2,640 when > 45 MPH 1,320 when ≤ 45 MPH			2,640 when > 45 MPH 1,320 when ≤ 45 MPH	
6	Non-restrictive			1,320	440	245
7	Both Types	660	330	1,320	125	125

**Medians**

Restrictive medians and well designed median openings are the most effective means of reducing traffic conflict points primarily through the elimination of left-turning traffic movements.<sup>2</sup> Properly implemented median management will result in improvements to traffic operations, minimize adverse environmental impacts, and increase highway safety. As traffic flow is improved, delay is reduced as are vehicle emissions. In addition, roadway capacity and fuel economy are increased, and most importantly, crashes are less numerous and/or less severe.

**Public Involvement in Transportation Planning**

Section 339.155(6), F.S., provides for public participation in FDOT’s planning process. It provides that in developing major transportation improvements such as increasing capacity or providing new access to a limited or controlled access facility or constructing a facility in a new location, FDOT is required to hold one or more public hearings, including a hearing prior to the selection and commitment to a specific design. The hearing is to be conducted to provide an opportunity for effective participation by interested parties. At least 20 days prior to a hearing related to a transportation project’s design features, FDOT is required to notify property owners of record within 300 feet of the centerline of the proposed facility and those whom FDOT determines will be substantially affected environmentally, economically, socially, or safetywise.

<sup>2</sup> FDOT Median Handbook, <http://www.dot.state.fl.us/planning/systems/sm/accman/pdfs/mhb06b.pdf>.

**III. Effect of Proposed Changes:**

**Section 1** creates s. 335.199, F.S., to require FDOT to notify all affected property owners, municipalities, and counties of proposed changes to state highways, when the project:

- divides a state highway;
- erects a barrier median which would modify vehicle turning movements; or
- have the effect of closing or modifying existing access to adjacent property.

The written notification must be given at least 180 days before the design of the project is finalized and must provide a written explanation regarding the need for the project and indicate that all affected parties will be given an opportunity to provide comments to the department regarding the potential impacts of the project. The notification must also be given to the chief elected official of the municipality or county, depending on whether the project is within or outside of municipal boundaries.

The bill also requires FDOT to consult with the local government on its final design proposal if the department intends to divide a state highway, erect median barriers, or close or modify existing access to abutting commercial business properties. The local government may also present alternatives which would relieve the impacts to the business properties. The bill also requires FDOT to hold at least one public hearing in the jurisdiction where the project is located and receive public input on the potential economic impact of the project on the local business community. The department must review and consider the comments and any alternatives presented by a local government in preparing the final design of the project.

**Section 2** provides an effective date of July 1, 2010.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The expanded notification process may result in the department incurring marginal expenses which can be accommodated within existing resources. The need for additional appropriation is not anticipated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on April 14, 2010:**

The committee substitute requires FDOT to provide notice to all property owners affected by any FDOT project that modifies access to the roadway. Additionally, FDOT's notice must provide a written explanation regarding the need for the project and indicate that all affected parties will be given an opportunity to provide comments to the FDOT regarding the potential impacts of the project. The bill also requires FDOT to consult with the local government on its final design proposal if the department intends to divide a state highway, erect median barriers, or close or modify existing access to abutting commercial business properties. The local government may also present alternatives which would relieve the impacts to the business properties. The bill also requires FDOT to hold at least one public hearing in the jurisdiction where the project is located and receive public input.

**CS by Transportation on April 7, 2010:**

The committee substitute incorporates a delete everything amendment.

**B. Amendments:**

None.



- Clarifies that the department is authorized to suspend the driver's license of a person convicted of operating a motor vehicle without insurance even in the event the court fails to issue the order;
- Creates unique license plate numbers for legislative plates;
- Allows a disabled veteran's plate to be renewed biennially;
- Provides an enhanced penalty for exceeding the speed limit in a designated school crossing;
- Requires lienholders repossessing vehicles in Florida to apply to a Florida tax collector's office or to the department for a certificate of repossession or certificate of title;
- Prohibits the possession of a vehicle that imitates the Florida Highway Patrol;
- Clarifies that Florida Highway Patrol officers have the same arrest or other authority provided for law enforcement officers generally by ch. 901, F.S., and that they have statewide jurisdiction;
- Removes the road signs re-exam requirement that certain drivers must pass at the time of license renewal;
- Allows a licensed physician at a federally established veterans hospital to administer the Florida vision exam;
- Deletes the requirement that law enforcement officers must submit the crash report along with all other documentation when an administrative suspension for driving with an unlawful blood alcohol level is reviewed; however, the submission of the crash report is permitted;
- Allows the court to withhold adjudication on a charge of driving while a license is suspended, revoked or cancelled if the underlying suspension is non-driving related; and
- Specifies additional circumstances under which the department may deny, suspend or revoke the license or certificate of a commercial driving school.

The bill has no revenue impact.

This bill substantially amends ss. 316.003, 316.066, 316.0741, 316.159, 316.193, 316.2085, 316.2952, 316.29545, 316.605, 316.646, 318.14, 318.18, 319.28, 319.30, 320.071, 320.08, 320.0807, 320.084, 321.03, 321.05, 322.01, 322.121, 322.18, 322.2615, 322.34, 322.61, and 488.06 of the Florida Statutes.

## II. Present Situation:

### Tri-Vehicles

Current Florida law provides for the legal operation on public roads of motorcycles, automobiles, and trucks, as well as several different types of non-traditional vehicles. These include: golf carts<sup>1</sup>, all-terrain vehicles<sup>2</sup>, utility vehicles<sup>3</sup>, and low speed vehicles.<sup>4</sup> However, no provision is made for "tri-vehicles," which are 3-wheeled, enclosed-cabin vehicles. Tri-vehicles do not fit within the current definitions of an automobile or a motorcycle

Currently, s. 316.003, F. S., does not define a tri-vehicle.

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<sup>1</sup> Section 212.212, F.S.

<sup>2</sup> Section 316.2123, F.S. See also, s. 316.2074, F.S.

<sup>3</sup> Sections 316.2126, 316.21265, and 316.2127, F.S.

<sup>4</sup> Section 316.2122, F.S.

Section 320.01(27), F.S., defines a motorcycle to mean a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor, a moped, or a vehicle in which the operator is enclosed by a cabin. Based on this definition, a tri-vehicle is not a motorcycle.

Section 316.0741, F.S., defines a “hybrid vehicle” to mean a motor vehicle that:

- Draws propulsion energy from onboard sources of stored energy which are both an internal combustion or heat engine using combustible fuel and a rechargeable energy-storage system; and
- In the case of a passenger automobile or light truck, has received a certificate of conformity under the Clean Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the equivalent qualifying California standards for a low-emission vehicle.

In addition, s. 316.0741, F.S., authorizes the following vehicles to use a high-occupancy-vehicle lane (HOV lane) without regard to occupancy:

- Inherently low-emission vehicles certified and labeled in accordance with federal regulations; and
- Hybrid vehicles upon the state’s receipt of written notice authorizing such use.

Section 316.0741, F.S., requires all hybrid and other low-emission and energy-efficient vehicles that do not meet the minimum occupancy requirement and are driven in an HOV lane to comply with federally mandated minimum fuel economy standards.

The department is required by statute to issue decals for the use of HOV lanes by such vehicles. The department may charge a fee for a decal, not to exceed the costs of designing, producing, and distributing each decal, or \$5, whichever is less. The proceeds from sale of the decals shall be deposited in the Highway Safety Operating Trust Fund (HSOTF.) Rulemaking authority with regard to s. 316.0741, F.S., relating to HOV lanes currently rests with the department.

Section 320.08, F.S., provides for an annual license tax levied on the operation of motor vehicles, mopeds, motorized bicycles, and mobile homes that are collected by the department at the time of registration or renewal of a registration. These fees vary by vehicle type and weight class. Revenues derived from the annual license tax are distributed as provided in s. 320.20, F.S.

### **Commercial Motor Vehicle Operators’ Responsibilities at Railroad Crossings**

Section 316.159(1), F.S., specifies the driver of any motor vehicle carrying passengers for hire, excluding taxicabs, any school bus carrying any school child, or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet, from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided, and shall not proceed until he or she can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle so that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks. Section 316.159(2), F.S.,

provides no stop need be made at any such crossing where a police officer, a traffic control signal, or a sign directs traffic to proceed. However, any school bus carrying any school child shall be required to stop unless directed to proceed by a police officer.

### **Federal Motor Carrier Safety Administration Regulations – Disqualifications**

Section 322.61, F.S., establishes criteria for disqualifying a commercial driver licensee from operating a commercial motor vehicle if the violations were committed in a commercial motor vehicle. The criteria consist of specified violations that, if made within certain timeframes, result in a temporary disqualification to operate a commercial motor vehicle. These violations and specifications mirror requirements provided by the FMCSA regulations, which the states are required to implement. Failure to comply can result in consequences ranging from loss of federal funds to decertification of the state to issue commercial driver's licenses.

Out-of-service orders are issued to commercial motor vehicle operators for significant safety violations. Section 322.061, F.S., penalizes commercial operators who continue to drive while under an out-of-service order. Currently, the law provides for disqualification of a commercial motor vehicle operator for not less than 90 days nor more than 1 year if he or she is convicted of committing a first violation of an out-of-service order while driving a commercial motor vehicle. A second violation of an out-of-service order occurring during any 10-year period results in at least a one year and not more than 5 years disqualification.

### **Crash Reports**

Section 316.066, F.S., requires a law enforcement officer to file a written report for a motor vehicle crash if the crash:

- Resulted in death or personal injury;
- Resulted in damage to a vehicle or other property; or
- Rendered the vehicle inoperative and required a wrecker to remove it from traffic.<sup>5</sup>

Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning parties involved in a crash are confidential and exempt for a period of 60 days after the date the report is filed.<sup>6</sup> Such reports are immediately available to:

- The party involved in the crash and his or her legal representative, licensed insurance agent, insurer, or person under contract with such insurer to provide claims or underwriting information;
- Prosecutorial authorities;
- Victim services programs;
- Radio and television stations licensed by the Federal Communications Commission;
- Newspapers qualified to publish legal notices;
- Free newspapers of general circulation; and
- Any local, state, or federal agency.

### **Impoundment and Immobilization**

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<sup>5</sup> Section 316.066(3)(a), F.S.

<sup>6</sup> Section 316.066(5), F.S.

Section 316.193, F.S., provides specific definitions of “immobilization,” “immobilization agency,” “impoundment,” and “person” and requires a court’s notice of impoundment or immobilization to include the name and telephone numbers of all immobilization agencies that meet specified criteria. All costs and fees for the impoundment or immobilization are to be paid directly to the person immobilizing or impounding the vehicle.

The section further establishes professional criteria for businesses immobilizing vehicles pursuant to s. 316.193, F.S. In judicial circuits where personnel of the court or Sheriff’s office are not responsible for immobilizing vehicles under s. 316.193, F.S., the private entities and/or individuals responsible for these duties are required to:

- Have a class “R” license issued pursuant to part IV of chapter 493;
- Have at least three years of verifiable experience in immobilizing vehicles;
- Maintain, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court’s order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- The person performing the immobilization must not have been convicted of any felony or of any DUI or boating-under-the-influence charge.

A violation of these standards is a misdemeanor offense, punishable as provided in s. 775.082 or 775.083, F.S. Section 316.193(13), F.S., grants standing to bring a civil action for violations of these standards to any person aggrieved by a person’s violation of the standards. The action may include injunctive relief, damages, reasonable attorney’s fees and costs, as well as any other remedy in law or equity. Furthermore, if in such an action, it is proven a person violated the specified criteria for persons who immobilize vehicles then that proof conclusively establishes clear legal right to injunctive relief, that irreparable harm will be caused if an injunction is not issued, no adequate remedy at law exists, and that public policy favors issuance of injunctive relief.

### **Motorcycles/Mopeds**

Section 316.2085, F.S., provides for the proper operation of a motorcycle – including a requirement that the license tag of a motorcycle must be “permanently affixed to the vehicle,” and incapable of being adjusted or “flipped up.” The section also provides a prohibition regarding the visibility or legibility of a tag specifying that “[n]o device for or method of concealing or obscuring the legibility of the license tag of a motorcycle shall be installed or used” by a rider.

Section 316.605, F.S., provides vehicle license plates must be affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.

Section 320.08(1)(d), F.S., provides for the annual license taxes of \$13.50 for the operation of an ancient or antique motorcycle which is collected by the department upon registration or a renewal of a registration.

### **Windshield Restrictions, Sunscreening**

Section 316.2952(2), F.S., provides that no devices, sunscreen materials, products, or other coverings may be attached to a windshield except:

- A certificate or paper required to be displayed by law,

- Sunscreening material in a strip at the top of the windshield, if the material is in compliance with federal standards, or
- A device issued by a governmental entity for the purpose of electronic toll payments,

Sections 316.2953 – 316.2956, F.S., generally restrict motor vehicle operators from applying window tint beyond a certain level of opacity. A medical exclusion currently exists in s. 316.29545, F.S., for persons with Lupus, and for law enforcement vehicles that are used for undercover or canine operations.

**Financial Responsibility**

Section 316.646, F.S., requires law enforcement officers to verify proof of insurance and to verify the driver carries the right type of coverage based on the violations the person may have committed. Violation of this provision is a nonmoving traffic violation. If the violator provides the necessary proof before the court date, the fine and court appearance may be waived. Failure to furnish proof may result in suspension of the registration and driver’s license of the person. The department currently takes action only when the violator is unable to provide proof of liability to the court and the court orders the department to suspend the driving privilege of the offender. According to the department, a conviction alone does not automatically generate the suspension.

**Signatures on Citations**

Section 318.14(2), F.S., provides that, except for a toll violation, a person cited for an infraction under s. 318.14, F.S., must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing and must indicate the applicable civil penalty established in s. 318.14, F.S.

Section 318.14(3), F.S., provides any person who willfully refuses to accept and sign a summons is guilty of a second degree misdemeanor.

**Speeding in a Designated School Crossing**

Section 318.18(3), F.S., provides the following fines for moving violations involving unlawful speed:

<b>For speed exceeding the limit by:</b>	<b>Fine</b>
1-5 mph	Warning
6-9 mph	\$25
10-14 mph	\$100
15-19 mph	\$150
20-29 mph	\$175
30 mph and above	\$250

In addition, s. 318.18(c), F.S., provides that a person cited for exceeding the speed limit by up to 5 mph in a legally posted school zone will be fined \$50. A person exceeding the speed limit in a school zone must pay a fine double the amounts listed above.

**Certificates of Repossession/Title**

Section 319.28, F.S., allows a lienholder who has repossessed a vehicle to apply to the tax collector's office or to the department for a certificate of repossession or to the department for a certificate of title.

**Apportioned Motor Vehicle Renewals**

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

**License Plates for Elected Officials**

Currently, s. 320.0807, F.S., regarding special license plates for Governor and federal and state legislators, provides that upon application by any member of the House of Representatives of Congress, a United States Senator, member of the state House of Representatives, a state senator, or the Governor, and payment of personalized prestige license plates fees, DHSMV is authorized to issue a license plate stamped "Member of Congress," "State Legislator," "State Senator," or for the Governor, "Florida 1" and "Florida 2." Pursuant to s. 320.0807(2), F.S., one license plate provided to a legislator shall have the legislator's appropriate district number. If additional plates are requested, they will have numbers assigned by DHSMV. In addition, s. 320.0807, F.S., authorizes upon application and payment of the fees the issuance of legislative license plates to any current or former Senate President and any current or former House Speaker. These special license plates must be stamped in bold letters "Senate President" or "House Speaker" followed by the number assigned by DHSMV or chosen by the applicant if it is not already in use.

**Biennially Registration Renewal of Disabled Veteran Plates**

During the 2007 Session, the Legislature passed HB 275<sup>7</sup>, which provided for an optional extended (biennial) motor vehicle registration period for motorcycles, passenger cars, trucks, mobile homes, and vessels; however, conforming sections to include the Disabled Veteran plates were inadvertently omitted.

Section 320.084, F.S., provides one free motor vehicle license number plate shall be issued by the department for use on any motor vehicle owned or leased by any disabled veteran who has been a resident of this state continuously for the preceding 5 years or has established a domicile in this state, and who has been honorably discharged from the United States Armed Forces, upon application, accompanied by specified proof. With the issuance of each new permanent "DV" numerical motor vehicle license plate, the department shall initially issue, without cost to the applicant, a validation sticker reflecting the owner's birth month and a serially numbered validation sticker reflecting the year of expiration. The initial sticker reflecting the year of expiration may not exceed 15 months and may be renewed annually.

**Florida Highway Patrol (FHP)**

Chapter 321, F.S., outlines the duties and responsibilities of the Florida Highway Patrol (FHP), which are primarily traffic-related. Specifically, s. 321.03, F.S., provides it is unlawful for any person or persons in the state to color or cause to be colored any motor vehicle or motorcycle the same or similar color as the color or colors so prescribed for FHP. Any person who violates this

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<sup>7</sup> Chapter 2007-242, L.O.F.

section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 321.05, F.S., establishes the duties, functions, and powers of FHP officer.

### **Driver License Renewal Examinations**

Section 322.121, F.S., provides it is the intent of the Legislature that all licensed drivers in Florida be reexamined upon renewal of their licenses. With only a small percentage categorized as problem drivers, the Legislature intends renewals be processed expeditiously by examinations of the licensee's eyesight and hearing only. Applicant's for a renewal drivers license with no convictions on his or her driving record for the preceding 3 years, or no revocations, disqualifications, or suspensions over the preceding 7 years are only subject to an eyesight and hearing examination. All other licensees must be tested, in addition to the eyesight and hearing examinations, with respect to their ability to read and understand highway signs, regulation, warning, and directing traffic.

### **Vision Tests**

Section 322.18(5)(a)2., F.S., requires driver's license applicants over the age of 80 to submit to vision tests administered by a physician or optometrist licensed by the State of Florida. Doctors at federal hospitals must be licensed by a U.S. state, but are not necessarily licensed by the state in which the federal hospital is located.

### **Hearings**

Section 322.2615(2), F.S., requires a law enforcement officer to forward to the department, within 5 days after issuing the notice of suspension, the driver's license; an affidavit stating the officer's grounds for belief the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances; the results of any breath or blood test or an affidavit stating a breath, blood, or urine test was requested by a law enforcement officer or correctional officer and the person refused to submit; the officer's description of the person's field sobriety test, if any; the notice of suspension; and a copy of the crash report, if any. The failure of the officer to submit materials within the 5-day period specified in this subsection does not affect the department's ability to consider any evidence submitted at or prior to the hearing. The officer may also submit a copy of a videotape of the field sobriety test or the attempt to administer such test. Materials submitted to the department by a law enforcement agency or correctional agency shall be considered self-authenticating and must be in the record for consideration by the hearing officer.

Notwithstanding s. 316.066(7), the crash report must be considered by the hearing officer.

### **Withhold of Adjudication**

Sections 318.14(9) and (10) F.S., provide conditions for the court to withhold adjudication for certain violations and upon such action it shall not be considered a conviction. Currently, s. 318.14(10), F.S., provides a person may elect to have adjudication withheld by the court upon proof of compliance to the court for certain tag, license, or insurance violations. This option is available to the person once every 12 months and shall not be allowed more than a total of three times. Presently, a withhold of adjudication for a non-criminal traffic infraction<sup>8</sup> is not a

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<sup>8</sup> s. 318.14(1), F.S.

“conviction.”<sup>9</sup> However, a withhold for criminal traffic offenses is considered a “conviction.”<sup>10</sup> An infraction is defined as “a non-criminal violation that may require community service hours under s. 316.027(4), F.S., but is not punishable by incarceration and for which there is not right to a trial by jury or a right to court-appointed counsel.”

Section 322.34(2), F.S., provides criminal penalties for knowingly driving with a suspended, revoked, or canceled license. Any person whose driver’s license or driving privilege has been suspended, revoked, or canceled (except a habitual traffic offender) who drives with knowledge of such suspension, revocation, or cancellation, commits a second degree misdemeanor on the first conviction (up to 30 days in jail and a \$500 fine); a first degree misdemeanor on the second conviction (up to 60 days in jail and a \$1,000 fine); and a third degree felony on the third or subsequent conviction (up to five years in prison and a \$5,000 fine). (Subsection (1) of this section provides it is a moving violation if a person does not have knowledge of the suspension and drives with a suspended, revoked, or canceled license.)

A habitual traffic offender who drives with a suspended, revoked, or canceled license commits a third degree felony under s. 322.34(5), F.S. One way to become a habitual traffic offender is to drive with a suspended or revoked license three times within five years under s. 322.264(1)(d), F.S. Prior to 2008, there was no distinction under either of these statutes regarding what underlying violation was committed to qualify a person for driving with a suspended license conviction. For instance, underlying violations can be for failing to pay child support, failing to pay court fines or fees, or failing to comply with a court order. However, during the 2008 Session, the Legislature passed CS/SB 1988 which subjects a person convicted of knowingly driving while his or her license is suspended, revoked, or canceled for underlying violations as enumerated below, to a second degree misdemeanor penalty for the first conviction and a first degree misdemeanor penalty for the second or subsequent conviction.

Specifically, s. 322.34 (10), F.S., provides the underlying enumerated violations (allowing a driver to be subject to a first degree misdemeanor penalty rather than the third degree felony penalty for a third or subsequent conviction) are as follows:

- Failing to pay child support under s. 322.245 or s. 61.13016, F.S.;
- Failing to pay any other financial obligation under s. 322.245, F.S., (other than those specified criminal offenses in s. 322.245(1), F.S.);
- Failing to comply with a required civil penalty (paying traffic tickets and fees) under s. 318.15, F.S.;
- Failing to maintain required vehicular financial responsibility under ch. 324, F.S.;
- Failing to comply with attendance or other requirements for minors under s. 322.091, F.S.; or
- Having been designated a habitual traffic offender under s. 322.264(1)(d), F.S., (driving with a suspended license three times in five years) as a result of license suspensions for any of the underlying violations listed above.

The first degree misdemeanor penalty is only available to drivers who do not have a prior forcible felony conviction.

<sup>9</sup> s. 318.14(11), F.S.

<sup>10</sup> *Raulerson v. State*, 763 So.2d 285, 290-291 (Fla. 2000).

### **Commercial Driving Schools**

Chapter 488, F.S., requires all commercial driving schools (except truck driving schools) and their instructors to obtain a license from DHSMV in order to operate in Florida. The chapter contains license and application requirements, requires the school and agents of the school to obtain identification cards from DHSMV; and provides for revocation or suspension of a school or instructor's license for violations of the chapter. Violations are considered first degree misdemeanors.

### **III. Effect of Proposed Changes:**

The following discussion represents a section-by-section analysis of the bill:

**Section 1** amends s. 316.003, F.S., to define a "tri-vehicle" to mean an enclosed three-wheeled passenger vehicle designed to operate with three wheels in contact with the ground; has a minimum unladen weight of 900 pounds; has a single, completely enclosed occupant compartment; is produced by its manufacturer in a minimum quantity of 300 in any calendar year; is capable of a speed greater than 60 m.p.h. on level ground; and is equipped with:

- Seats certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, "Seating systems," as described in 49 C.F.R. s. 571.207.
- A steering wheel used to maneuver the vehicle.
- A propulsion unit located forward or aft of the enclosed occupant compartment.
- A seat belt for each vehicle occupant which is certified to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, "Seat belt assemblies," as described in 49 C.F.R. s. 571.209.
- A windshield and appropriate windshield wiper and washer system certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, "Glazing materials," as described in 49 C.F.R. s. 571.205 and Federal Motor Vehicle Safety Standard No. 104, "Windshield wiping and washing systems," as described in 49 C.F.R. s. 571.104.
- A vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, "Rollover crush resistance," as described in 49 C.F.R. s. 571.216.

**Section 2** amends s. 316.066, F.S., to authorize copies of certain crash reports held by an agency to be provided to law enforcement agencies and county traffic operations .

**Section 3** amends s. 316.0741, F.S., to classify a "tri-vehicle" as an ILEV. The department issues HOV decals based upon the Federal EPA certifying a vehicle to be a hybrid vehicle or an ILEV. If tri-vehicles are federally certified as an ILEV, then the department would issue a HOV decal.

**Section 4** amends s. 316.159, F.S., to require the driver of a commercial motor vehicle to slow down and check that the tracks are clear of an approaching train before crossing at grade any track or tracks of a railroad. In addition, a violation of this provision is punishable as a noncriminal moving violation. These changes are required by the FMCSA in order for Florida to remain compliant with federal law.

**Section 5** amends s. 316.193, F.S., to delete the provisions requiring all companies providing towing and impounding services for the court system, as it relates to drivers convicted of offenses requiring impoundment or immobilization, to hold a Class R license. However, any immobilization agency engaged in the business of immobilizing vehicles must provide to the clerk of the court an affidavit attesting that the agency:

- Has verifiable experience in immobilizing vehicles;
- Maintains, for at least three years, accurate and complete records of all payments for the immobilization, copies of all documents pertaining to the court's order of impoundment or immobilization, and any other documents relevant to each immobilization; and
- Employs and assigns persons to immobilize vehicles that meet the following requirements:
  - Not have been adjudicated incapacitated under s. 744.331, F.S., or a similar statute in another state, unless his or her capacity has been judicially restored; involuntarily placed in a treatment facility for the mentally ill under ch. 394, F.S., or a similar law in any other state, unless his or her competency has been judicially restored; or diagnosed as having an incapacitating mental illness unless a psychologist or psychiatrist licensed in this state certifies that he or she does not currently suffer from the mental illness.
  - Not be a chronic and habitual user of alcoholic beverages to the extent that his or her normal faculties are impaired; not have been committed under ch. 397, F.S., former ch. 396, F.S., or a similar law in any other state; not have been found to be a habitual offender under s. 856.011(3), F.S., or a similar law in any other state; or not have had any convictions under s. 316.193, F.S., or a similar law in any other state within 2 years of the affidavit.
  - Not have been committed for controlled substance abuse or have been found guilty of a crime under ch. 893, F.S., or a similar law in any other state, relating to controlled substances in any other state.
  - Not have been found guilty of or entered a plea of guilty or nolo contendere to, regardless of adjudication, or been convicted of a felony, unless his or her civil rights have been restored.
  - Be a citizen or legal resident alien of the United States or have been granted authorization to seek employment in this country by the United States Bureau of Citizenship and Immigration Services.

The immobilization agency must conduct a state criminal history check through the Florida Department of Law Enforcement to ensure the person hired to immobilize vehicles meets certain requirements.

Section 316.193(13)(c), F.S., is repealed.

Section 316.193(14)(b), F.S., amends the definition of "immobilization agency" to include and mean any person who meets all of the conditions of subsection (13).

**Section 6** amends s. 316.2085, F.S., to allow the license tag of a motorcycle or moped to be affixed and displayed parallel to the ground in a manner that the numbers and letters read from left to right. However, a license tag for a motorcycle or moped may be affixed and displayed perpendicularly to the ground in a manner that the numbers and letters read from top to bottom,

if the registered owner of the motorcycle or moped maintains a prepaid toll account in good standing and an affixed transponder.

**Section 7** amends s. 316.2952, F.S., to add an additional category of devices that may lawfully be attached to a windshield. The bill permits a global positioning system (GPS) device or similar satellite receiver device using the GPS system for the purpose of obtaining navigation or routing information while the motor vehicle is being operated.

**Section 8** amends s. 316.29545, F.S., to expand the medical exception. DHSMV is directed to consult with its Medical Advisory Board,<sup>11</sup> to establish exceptions for persons with certain autoimmune disorders. The bill also exempts vehicles owned or leased by private investigative agencies licensed under Ch. 493, Florida Statutes.

**Section 9** amends s. 316.605, F.S., provides an exception for motorcycles and mopeds to the requirement that vehicle license plates must be affixed and displayed in such a manner that the letters and numerals shall be read from left to right parallel to the ground.

**Section 10** amends s. 316.646, F.S., to require the court to notify the department of all convictions for failure to maintain insurance as required by law. The department is authorized to suspend the driver licenses of all persons convicted of operating a motor vehicle without insurance even in the event the court fails to issue the order. The DHSMV is charged with enforcement of the financial responsibility laws in Florida and according to the department, this provision provides the department with additional tools to ensure compliance with current laws.

**Section 11** amends s. 318.14(1), F.S., to correct a statutory reference.

Section 318.14(2), F.S., is amended. The current requirement that all citations be submitted to the clerk of court with a signature is modified to only require the signature in those cases in which a mandatory court appearance is prescribed in law. Specifically, s. 318.14(2), F.S., is amended to provide that a person cited for a violation requiring a mandatory hearing listed in s. 318.19, F.S., or any other criminal traffic violation listed in ch. 316, F.S., must sign and accept a citation requiring him or her to appear. For all other infractions, the officer must certify by electronic, electronic facsimile, or written signature the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

The bill amends s. 318.14(3), F.S., to provide any person who refuses to accept and sign a summons to appear commits a misdemeanor of the second degree.

This bill amends s. 318.14(10), F.S., to provide any person who does not hold a commercial driver's license and who is cited for operating a motor vehicle with a license suspended for failure to pay child support or failure to pay any other financial obligation or operating a motor vehicle with a license which has been suspended for non attendance of school may elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official, or authorized operator of a traffic violations bureau.

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<sup>11</sup> Created in s. 322.125, F.S.

**Section 12** amends s. 318.18, F.S., to provide a person exceeding the speed limit in a designated school crossing must pay a fine double the amounts established for unlawful speed ranging from \$50 to \$500.

**Section 13** amends s. 319.28, F.S., to require lienholders repossessing vehicles in Florida to apply to a Florida tax collector's office or to the department for a certificate of repossession or certificate of title.

**Section 14** amends s. 319.30, F.S., to define "independent entity" to mean a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, towing company, or a repair facility.

Section 319.30(9), F.S., is created to establish notice requirements for vehicles in the possession of an independent entity that have been released to the owner by the insurance company. The insurance company is required to provide a release statement on a form prescribed by the department authorizing the independent entity to release the vehicle to the owner. The independent entity in possession of a motor vehicle is required to send notice via certified mail to the owner of the vehicle that the vehicle has been released. The notice must inform the owner that he or she has 30 days to pick up the vehicle from the independent entity. Thereafter, the independent entity may apply for a certificate of destruction or certificate of title for unclaimed vehicles after 30 days.

**Section 15** amends s. 320.071, F.S., to correct and conform the advanced registration renewal period for apportioned motor vehicles from five months to three months to be consistent with the advanced registration renewals of other vehicles.

**Section 16** amends s. 320.08, F.S., to include tri-vehicles among the types of vehicles upon which annual license taxes are levied. Section 320.08(1)(d), F.S., is amended to reduce the annual license tax of an ancient or antique motorcycle from \$13.50 to \$8.50.

**Section 17** amends s. 320.0807, F.S., to create unique license plate numbers for legislative plates. Specifically, a Member of Congress license plate will be stamped with the letters "MC," a State Legislator license plate for a House of Representatives member will be stamped with the letters "HR," and the State Senator license plate will be stamped with the letters "SN." Any of these designations may have any other configuration chosen by the member, which is not already in use.

According to the department, this will eliminate the need for the use of acronyms as part of the license plate number as is currently the practice with these plate configurations.<sup>12</sup> This change will facilitate the ongoing movement in Florida to open road tolling.<sup>13</sup> Without this change open road tolling would not be practical or implementable while continuing the use of acronyms as part of the plate numbering system.<sup>14</sup>

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<sup>12</sup> *Department of Highway Safety and Motor Vehicles Agency Bill Analysis, PCS-SB 2400* (on file with the Transportation Committee).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

**Section 18** amends s. 320.084, F.S., to extend the registration expiration date from a maximum of 15 months to a maximum of 27 months and allow for a biennial registration renewal or annual renewal, which is a customer service convenience. Biennial renewals became available in 2008; however, conforming sections to include the Disabled Veteran plates were inadvertently omitted. This change would conform this plate type with that of all others.

**Section 19** amends s. 321.03, F.S., to provide unless specifically authorized by the Florida Highway Patrol, it is unlawful for a person in the state to possess or color or cause to be colored any motor vehicle or motorcycle the same or similar color as the color given for the Florida Highway Patrol.

**Section 20** amends s. 321.05, F.S., to clarify FHP officers have the same arrest or other authority provided for law enforcement officer generally in ch. 901, F.S., and have statewide jurisdiction. Each officer also has arrest authority as provided for state law enforcement officers in s. 901.15, F.S. A FHP officer is authorized to serve all processes of the court in the same manner as all other state law enforcement agencies.<sup>15</sup>

**Section 21** amends s. 322.01, F.S., to modify the definition of “motorcycle” as it relates to driver licenses, to exclude tri-vehicles. The exclusion clarifies motorcycle requirements (motorcycle endorsements and testing) would not apply to tri-vehicles.

Section 322.01(46), F.S., is created to provide a definition for a “tri-vehicle.”

**Section 22** amends s. 322.121, F.S., to remove the road signs re-exam requirement that certain drivers must pass at the time of license renewal. According to the department, currently, over 95 percent of all drivers required to take the road signs exam at the time of renewal pass the exam on the first attempt.<sup>16</sup>

**Section 23** amends s. 322.18(5), F.S., to allow a licensed physician at a federally established veterans hospital to administer the Florida vision exam for purposes of renewing a driver’s license.

**Section 24** amends s. 322.2615, F.S., to delete the requirement that law enforcement officers must submit the crash report along with all other documentation when an administrative suspension for driving with an unlawful blood alcohol level is reviewed. Instead, the CS permits the crash report as an optional document for submission, but does not require the crash report to uphold a driver license suspension.

**Section 25** amends s. 322.34, F.S., to provide a person who does not hold a commercial driver license and who is cited for an offense of knowingly driving while his or her license is suspended, revoked, or canceled and the underlying suspension, revocation, or cancellation is non-driving related may, in lieu of payment of fine or court appearance, elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court, designated official or

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

authorized operator of a traffic violations bureau. This section is further amended to allow adjudication to be withheld; however, a person may not make an election if an election has been made in the 12 months preceding an election, and a person may not make more than three elections. If adjudication is withheld, such action is not considered a conviction.

The significance of not classifying withholds on infractions as convictions means that the offender will not accumulate the predicate convictions to qualify under the habitual traffic offender statute, s. 322.264(2), F.S.<sup>17</sup>

**Section 26** amends s. 322.61, F.S., to mirror the FMCSA regulations. Specifically, the bill lengthens disqualification periods for violations of out-of-service orders to a minimum of 180 days for the first violation and a minimum of 2 years for the second violation. These changes are required by the FMCSA in order for Florida to remain compliant with federal law.

**Section 27** amends s. 488.06, F.S., to specify additional circumstances under which the department may deny, suspend, or revoke a license or certificate of a commercial driving school. Specifically, the DHSMV may deny, suspend, or revoke a license or certificate of a commercial driving school if an instructor, agent, or employee of the commercial driving school has:

- Been convicted of, pled no contest to, or had adjudication withheld for any felony offense or misdemeanor offense, as shown by a criminal background check, the cost of which must be borne by the applicant, instructor, agent, or employee;
- Committed of any fraud or willful misrepresentation in applying for or obtaining a license; or
- Solicited business on any premises, including parking areas, used by the department or a tax collector for the purpose of licensing drivers.

**Section 28** provides this act shall take effect September 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>17</sup> Requires fifteen "convictions" for moving traffic offenses to qualify as a habitual traffic offender.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that Section 16 of CS/SB 2400 has a negative cash impact on the General Revenue Fund of \$1 million in 2010-11 and a negative annualized impact on the Fund of \$1.3 million. The impact of remainder of the remainder of the bill is indeterminate.

The provisions contained in Section 16 of CS/SB 2400 were removed on being heard by the Finance and Tax Committee. Since the bill no longer includes the provisions found to cause a negative revenue impact, the bill has no revenue impact.

**B. Private Sector Impact:**

A person exceeding the speed limit in a designated school crossing must pay a fine double the amounts established for unlawful speed ranging from \$50 to \$500.

A person eligible for a permanent "DV" numerical motor vehicle license plate may opt to renew his or her registration biennially.

**C. Government Sector Impact:**

According to the department, the bill will require some modifications to the driver license and motor vehicle systems, which will be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on April 13, 2010:**

- Authorizes law enforcement agencies and county traffic operations to access certain crash reports held by an agency within the 60 day exemption period.
- Modifies requirements for agencies and persons performing impoundment services.
- Allows GPS devices to be attached to a motor vehicle's windshield.
- Exempts additional vehicles from suncreening prohibitions.
- Allows motorcycle license plates to be affixed and displayed perpendicularly relative to the ground if the registered owner of the motorcycle maintains a prepaid toll account in good standing and an affixed transponder.

- Authorizes “service” of a citation for infractions not requiring a mandatory hearing by delivery of the citation to the violator rather than requiring the signature of the violator.
- Requires a lienholder who repossesses a motor vehicle in Florida to apply for a certificate of repossession or certificate of title in Florida.
- Defines the term “independent entity,” establishes notice requirements for vehicles in the possession of an independent entity, and allows the independent entity to apply for a certificate of destruction or certificate of title for vehicles unclaimed after 30 days.
- Reduces the annual license tax of an antique motorcycle from \$13.50 to \$8.50.
- Revises the unique numbering system for specialty license plates for state legislators to specify the State Senator license plate will be stamped with the letters “SN.”
- Removes the provisions providing that a person issued a driver’s license using proof of nonimmigrant classifications under specified provisions is not eligible to renew that license.

**CS by Transportation on March 17, 2010:**

Deleted the following provisions that:

- Corrected statutory cross-references that would have changed as a result of the bill.
- Removed references to “traffic record centers,” and replaced the term with “investigating law enforcement agency.”
- Allowed a person to be cited for “aggressive careless” driving to provide law enforcement a mechanism to issue a single citation to a driver who has committed more than one violation. (Penalties include: moving violation, \$120 fine, 4 points, court appearance, and traffic school).
- Clarified the definition of conviction, as it relates to fleeing or attempting to elude a law enforcement officer, and included the “adjudication withheld” in the definition.
- Clarified a person under 16 may not operate a motorcycle or moped;
- Conformed Florida Statutes to the International Registration Plan as it relates to the term “apportionable vehicle.”
- Moved current language found in s. 320.0863, F.S., to s. 319.14, F.S., to conform the titling process of unique license plates for custom and street rod vehicles.
- Moved certain motor vehicles to a birth date registration vs. a December registration. (Currently, heavy trucks having a net weight between 5,000-8,000 pounds have a December renewal period for vehicle registrations.)
- Allowed the department to sanction a motor vehicle dealer for failure to obtain an off-premises permit and for submitting a dishonored check to the department.
- Required a mobile home dealer to have certain indicia of ownership for mobile homes consistent with that of motor vehicles.
- Required notification to the department when a mobile home or recreational vehicle manufacturer fails to maintain the required surety bond during the license period and authorized the department to take action.
- Deleted the certification of instructors of the traffic law and substance abuse education program.

- Increased the penalty for driving school employees to a third degree felony and required the court to impose at least 10 days jail for anyone convicted of driver license fraud.
- Authorized the department to cancel, suspend or revoke an identification card obtained by fraud.
- Clarified revocation authority when two DUI convictions occur on the same day resulting from separate offenses.

Included the following provisions that:

- Regulate “tri-vehicles” by defining the term, classify a tri-vehicle as an inherently low-emission vehicle (ILEV), modify the definition of “motorcycle” as it relates to driver licenses, to exclude tri-vehicles, and include tri-vehicles among the types of vehicles upon which annual license taxes are levied.
- Specify additional circumstances under which DHSMV may suspend or revoke a license or certificate of a driving school.
- Provide for certain persons cited for specified offenses to provide proof of compliance to a designated official.
- Provide alternative citation disposition procedures for the offense of operating a motor vehicle with a license that has been suspended for failure to pay certain financial obligations or failure to comply with specified education requirements.
- Provide a person issued a driver’s license using proof of nonimmigrant classification under specified provisions is not eligible to renew that license.
- Specify additional circumstances under which DHSMV may suspend or revoke a license or certificate of a driving school.

In addition, the effective date of the CS changes from October 1, 2010 to September 1, 2010.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development  
Appropriations (Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Before line 128  
insert:

Section 1. Subsection (9) of section 261.03, Florida  
Statutes, is amended to read:

261.03 Definitions.—As used in this chapter, the term:  
(9) "ROV" means any motorized recreational off-highway  
vehicle 64 ~~60~~ inches or less in width, having a dry weight of  
2,000 ~~1,500~~ pounds or less, designed to travel on four or more  
nonhighway tires, having nonstraddle seating and a steering  
wheel, and manufactured for recreational use by one or more



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13 persons. The term "ROV" does not include a golf cart as defined  
14 in ss. 320.01(22) and 316.003(68) or a low-speed vehicle as  
15 defined in s. 320.01(42).

16 Section 2. Subsection (9) of section 317.0003, Florida  
17 Statutes, is amended to read:

18 317.0003 Definitions.—As used in this chapter, the term:

19 (9) "ROV" means any motorized recreational off-highway  
20 vehicle 64 ~~60~~ inches or less in width, having a dry weight of  
21 2,000 ~~1,500~~ pounds or less, designed to travel on four or more  
22 nonhighway tires, having nonstraddle seating and a steering  
23 wheel, and manufactured for recreational use by one or more  
24 persons. The term "ROV" does not include a golf cart as defined  
25 in ss. 320.01(22) and 316.003(68) or a low-speed vehicle as  
26 defined in s. 320.01(42).

27 Section 3. Subsections (5) and (20) of section 316.2065,  
28 Florida Statutes, are amended to read:

29 316.2065 Bicycle regulations.—

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

36 1. When overtaking and passing another bicycle or vehicle  
37 proceeding in the same direction.

38 2. When preparing for a left turn at an intersection or  
39 into a private road or driveway.

40 3. When reasonably necessary to avoid any condition,  
41 including, but not limited to, a fixed or moving object, parked



42 or moving vehicle, bicycle, pedestrian, animal, surface hazard,  
43 or substandard-width lane, that makes it unsafe to continue  
44 along the right-hand curb or edge. For the purposes of this  
45 subsection, a "substandard-width lane" is a lane that is too  
46 narrow for a bicycle and another vehicle to travel safely side  
47 by side within the lane.

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

51 (20) Except as otherwise provided in this section, a  
52 violation of this section is a noncriminal traffic infraction,  
53 punishable as a pedestrian violation as provided in chapter 318.  
54 A law enforcement officer may issue traffic citations for a  
55 violation of subsection (3) or subsection (16) only if the  
56 violation occurs on a bicycle path or road, as defined in s.  
57 334.03. However, a law enforcement officer ~~they~~ may not issue  
58 citations to persons on private property, except any part  
59 thereof which is open to the use of the public for purposes of  
60 vehicular traffic.

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete line 2

65 and insert:

66 An act relating to motor vehicles; amending ss. 261.03 and  
67 317.0003, F.S.; redefining the term "ROV" to include vehicles of  
68 an increased width and weight; amending s. 316.2065, F.S.;  
69 requiring bicycles to be ridden in the lane marked for bicycle  
70 use except under specified circumstances; providing penalties;



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71 amending s.



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LEGISLATIVE ACTION

Senate

House

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The Committee on Transportation and Economic Development  
Appropriations (Fasano) recommended the following:

**Senate Amendment**

Delete lines 478 - 489

and insert:

(2) Except as provided in ss. ~~s.~~ 316.1001(2) and 316.0083,  
any person cited for a violation requiring a mandatory hearing  
listed in s. 318.19 or any other criminal traffic violation  
listed in chapter 316 ~~an infraction under this section~~ must sign  
and accept a citation indicating a promise to appear. The  
officer may indicate on the traffic citation the time and  
location of the scheduled hearing and must indicate the  
applicable civil penalty established in s. 318.18. For all other



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13 infractions under this section, except s. 316.1001, the officer  
14 must certify by electronic, electronic facsimile, or written  
15 signature that the citation was delivered to the person cited.  
16 This certification is prima facie evidence that the person cited  
17 was served with the citation.

**LATE FILED**



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LEGISLATIVE ACTION

Senate

House

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The Committee on Transportation and Economic Development  
Appropriations (Fasano) recommended the following:

**Senate Amendment**

Delete lines 1010 - 1040

and insert:

Section 17. Section 320.0807, Florida Statutes, is amended  
to read:

320.0807 Special license plates for Governor and federal  
and state legislators.—

(1) Upon application by any member of the House of  
Representatives of Congress and payment of the fees prescribed  
by s. 320.0805, the department is authorized to issue to such  
Member of Congress a license plate stamped "Member of Congress"



13 followed by the number of the appropriate congressional district  
14 and the letters "MC," or any other configuration chosen by the  
15 member which is not already in use. Upon application by a United  
16 States Senator and payment of the fees prescribed by s.  
17 320.0805, the department is authorized to issue a license plate  
18 stamped "USS," followed by the numeral II in the case of the  
19 junior senator.

20 (2) Upon application by any member of the state House of  
21 Representatives and payment of the fees prescribed by s.  
22 320.0805, the department is authorized to issue such state  
23 representative license plates stamped in bold letters "State  
24 Legislator," followed by the number of the appropriate House of  
25 Representatives district and the letters "HR," or any other  
26 configuration chosen by the member which is not already in use  
27 ~~on one plate; the numbers of the other plates will be assigned~~  
28 ~~by the department.~~ Upon application by a state senator and  
29 payment of the fees prescribed by s. 320.0805, the department is  
30 authorized to issue license plates stamped in bold letters  
31 "State Senator," followed by the number of the appropriate  
32 Senate district and the letters "SS," or any other configuration  
33 chosen by the member which is not already in use ~~on one plate;~~  
34 ~~the numbers of the other plates will be assigned by the~~  
35 ~~department.~~

36 (3) Upon application by the Governor and payment of the  
37 appropriate fees, the department is authorized to issue to the  
38 Governor two license plates stamped in bold letters "Florida 1"  
39 and "Florida 2."

40 (4) License plates purchased under subsection (1),  
41 subsection (2), or subsection (3) shall be replaced by the



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42 department at no cost, other than the fees required by ss.  
43 320.04 and 320.06(3)(b), when the person to whom such plates  
44 have been issued leaves the elective office with respect to  
45 which such license plates were issued. Within 30 days after  
46 leaving office, the person to whom such license plates have been  
47 issued shall make application to the department for a  
48 replacement license plate. Such person may return the prestige  
49 license plates to the department or may retain such plates as  
50 souvenirs. Upon receipt of the replacement license plate, such  
51 person shall not continue to display on any vehicle the prestige  
52 license plate or plates issued with respect to his or her former  
53 office.

54 ~~(5) Upon application by any current or former President of~~  
55 ~~the Senate and payment of the fees prescribed by s. 320.0805,~~  
56 ~~the department is authorized to issue a license plate stamped in~~  
57 ~~bold letters "Senate President" followed by the number assigned~~  
58 ~~by the department or chosen by the applicant if it is not~~  
59 ~~already in use. Upon application by any current or former~~  
60 ~~Speaker of the House of Representatives and payment of the fees~~  
61 ~~prescribed by s. 320.0805, the department is authorized to issue~~  
62 ~~a license plate stamped in bold letters "House Speaker" followed~~  
63 ~~by the number assigned by the department or chosen by the~~  
64 ~~applicant if it is not already in use.~~

65 (5) ~~(6)~~ Any person who does not make application for a  
66 replacement license plate as required by subsection (4), or who,  
67 after receipt of the replacement license plate, continues to  
68 display on any vehicle the prestige license plate or plates  
69 issued with respect to his or her former office, is guilty of a  
70 misdemeanor of the second degree, punishable as provided in s.



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71 775.082 or s. 775.083.



LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development  
Appropriations (Fasano) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 1447

and insert:

Section 28. Effective July 1, 2010, subsection (10) of  
section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors;  
International Registration Plan.—

(10) (a) Jurisdiction over the electronic filing system for  
use by authorized electronic filing system agents to  
electronically title or register motor vehicles, vessels, mobile  
homes, or off-highway vehicles; issue or transfer registration



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13 license plates or decals; electronically transfer fees due for  
14 the title and registration process; and perform inquiries for  
15 title, registration, lienholder verification, and certification  
16 of service providers is expressly preempted to the state. The  
17 department shall have regulatory authority over the system. The  
18 electronic filing system shall be available for use statewide  
19 and applied uniformly throughout the state. An entity that, in  
20 the normal course of their business, sells products that must be  
21 titled or registered, provides title and registration services  
22 on behalf of its consumers, and meets all established  
23 requirements may be an authorized electronic filing system agent  
24 and may not be precluded from participating in the electronic  
25 filing system in any county. Upon a request from a qualified  
26 entity, the tax collector shall appoint the entity as an  
27 authorized electronic filing system agent for the county. The  
28 department shall adopt rules pursuant to chapter 120 to replace  
29 the program standards of December 10, 2009, and to administer  
30 this section, including, but not limited to, establishing  
31 participation requirements, certification of service providers,  
32 electronic filing system requirements, and enforcement  
33 authority. The program standards of December 10, 2009, excluding  
34 any standards that conflict with this paragraph, shall remain in  
35 effect until rules are adopted. An authorized electronic filing  
36 agent may charge a fee to the customer for use of the electronic  
37 filing system.

38 (b) Notwithstanding paragraph (a), the private entity  
39 providers of the electronic filing system shall continue to  
40 comply with the financial arrangements with the tax collector  
41 service corporation which were in effect January 1, 2010,



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42 ~~through December 31, 2010. This paragraph expires January 1,~~  
43 ~~2011. Jurisdiction over the outsourced electronic filing system~~  
44 ~~for use by licensed motor vehicle dealers electronically to~~  
45 ~~title and to register motor vehicles and to issue or to transfer~~  
46 ~~registration license plates or decals is expressly preempted to~~  
47 ~~the state. The department shall continue its current outsourcing~~  
48 ~~of the existing electronic filing system, including its program~~  
49 ~~standards. The electronic filing system is approved for use in~~  
50 ~~all counties, shall apply uniformly to all tax collectors of the~~  
51 ~~state, and no tax collector may add or detract from the program~~  
52 ~~standards in his or her respective county. A motor vehicle~~  
53 ~~dealer licensed under this chapter may charge a fee to the~~  
54 ~~customer for use of the electronic filing system, and such fee~~  
55 ~~is not a component of the program standards. Final authority~~  
56 ~~over disputes relating to program standards lies with the~~  
57 ~~department. By January 1, 2010, the Office of Program Policy~~  
58 ~~Analysis and Government Accountability, with input from the~~  
59 ~~department and from affected parties, including tax collectors,~~  
60 ~~service providers, and motor vehicle dealers, shall report to~~  
61 ~~the President of the Senate and the Speaker of the House of~~  
62 ~~Representatives on the status of the outsourced electronic~~  
63 ~~filing system, including the program standards, and its~~  
64 ~~compliance with this subsection. The report shall identify all~~  
65 ~~public and private alternatives for continued operation of the~~  
66 ~~electronic filing system and shall include any and all~~  
67 ~~appropriate recommendations, including revisions to the program~~  
68 ~~standards.~~

69 Section 29. Effective January 1, 2011, paragraph (e) of  
70 subsection (3) of section 320.05, Florida Statutes, is amended



71 to read:

72 320.05 Records of the department; inspection procedure;  
73 lists and searches; fees.-

74 (3)

75 (e) When motor vehicle, vessel, or mobile home registration  
76 data is provided by electronic access through a tax collector's  
77 office, the applicable fee as provided in paragraph (b) must be  
78 collected and deposited pursuant to paragraph (c). However, when  
79 such registration data is obtained through an electronic system  
80 described in s. 320.03(10), s. 320.0609, and s. 320.131 which  
81 results in the issuance of a title certificate or the  
82 registration credential, such fee shall not apply a fee for the  
83 electronic access is not required to be assessed. However, at  
84 the tax collector's discretion, a fee equal to or less than the  
85 fee charged by the department for such information may be  
86 assessed by the tax collector for the electronic access.  
87 Notwithstanding paragraph (c), any funds collected by the tax  
88 collector as a result of providing such access shall be retained  
89 by the tax collector.

90 Section 30. Except as otherwise expressly provided in this  
91 act and except for this section, which shall take effect July 1,  
92 2010, this act shall take effect September 1, 2010.

93

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

95 And the title is amended as follows:

96 Delete line 124

97 and insert:

98 school; amending s. 320.03, F.S.; preempting to the  
99 state jurisdiction over a statewide electronic filing



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100 system for titling and registering vehicles, vessels,  
101 and mobile homes; providing requirements for the  
102 system; providing requirements for such filing system  
103 agents to participate in the system; providing for the  
104 appointment of agents; providing for the adoption of  
105 rules; providing for certain program standards to  
106 remain in effect until such rules are adopted;  
107 providing for fees; extending the time for certain  
108 private providers of the system to comply with certain  
109 financial arrangements; amending s. 320.05, F.S.;  
110 exempting the provision of certain registrations  
111 through a specific electronic filing system from  
112 certain fees charged by a tax collector; providing  
113 effective dates.

**LATE FILED**



LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development  
Appropriations (Fasano) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete line 1447

and insert:

Section 28. Except as otherwise expressly provided in this  
act and except for this section, which shall take effect July 1,  
2010, this act shall take effect September 1, 2010.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete line 621

and insert:



438698

13           Section 13. Effective July 1, 2010, subsection (2) of  
14 section 319.28, Florida

15  
16 ===== T I T L E   A M E N D M E N T =====

17 And the title is amended as follows:

18           Delete line 124

19 and insert:

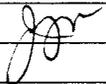
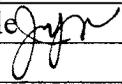
20           school; providing effective dates.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 2500  
 INTRODUCER: Commerce Committee and Senator Altman  
 SUBJECT: Space and Aerospace Infrastructure  
 DATE: April 14, 2010      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	<b>Fav/CS</b>
2.	Noble 	Noble 	TA	<b>Pre-meeting</b>
3.			WPSC	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

Space Florida was created by the Legislature in 2006 to act as the state’s space-related economic development entity. Space Florida’s major challenge is the retirement of NASA’s Space Shuttle Program. The last shuttle mission is scheduled for September 2010. The “moon to Mars” successor program (known as Constellation) is scheduled to begin launches no earlier than 2015. The intervening period is referred to as the “shuttle gap,” in which a number of employees in the aerospace industry, in Florida and other states, likely will lose their current jobs. But the Obama Administration’s plan to end Constellation and rely instead on commercial spaceflight companies to fly cargo and crew into space has added more uncertainty. Current estimates are that 9,000 Florida aerospace workers may be unemployed after the last shuttle flight, creating a ripple effect throughout the Space Coast communities of other job losses and business failures.

The bill:

- Creates the Space Transition and Revitalization (STAR) Act;
- Modifies the Quick Action Closing Fund (QAC) to cap at 20 percent of its legislative appropriation projects that retain or create high-technology jobs associated with developing a more diverse aerospace economy in Florida;

- Waives QAC requirements for projects that seek to mitigate the negative economic impacts on Florida of the Space Shuttle Program's impending retirement;
- Creates the "Space Business Investment and Financial Services Initiative," which directs the president of Space Florida to develop a 5-year strategic plan, to be updated annually, for the management and goals of the Space Business Investment and Financial Services Trust Fund;<sup>1</sup> specifies the responsibilities of Space Florida's board of directors in approving expenditures from the trust fund; and requires periodic reports;
- Diverts for the next 4 fiscal years that portion of state sales and use tax collected from businesses operating attractions and tours at Kennedy Space Center from the state General Revenue Fund to the Space Business Investment and Financial Services Trust Fund for use by Space Florida for infrastructure projects;
- Provides Space Florida with flexibility in how it spends the remaining \$10.8 million from Specific Appropriation 2649 of ch. 2008-152, L.O.F.; and
- For FY 10-11, appropriates just over \$25.5 million in nonrecurring state general revenue for various Space Florida-related activities.

It also creates ss. 212.0502 and 331.370, F.S., and several unnumbered sections of chapter law, and amends s. 288.1088, F.S.

## II. Present Situation:

### Space Florida

Prior to July 1, 2006, Florida had three statutorily created space entities: the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation. Each had its own set of responsibilities, but there was some overlap, as well, particularly in the area of developing commercial space activities.

That changed with the passage of HB 1489 (ch. 2006-60, L.O.F.), which combined the three existing space entities into one, Space Florida, and substantially rewrote Part III of ch. 331, F.S. Space Florida's mission encompasses the responsibilities of all of its predecessor entities, but with a current emphasis on economic development. As expressed in s. 331.302(1), F.S., Space Florida was created to:

“... foster the growth and development of a sustainable and world-leading aerospace industry in this state. Space Florida shall promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.”

Space Florida is funded with a combination of state funding and revenues from leases and fees from conduit financing agreements. The state funding typically is general revenue, and is initially deposited in the Economic Development Trust Fund managed by OTTED.

As an agent of the state, Space Florida holds title to four aerospace-related infrastructure assets, and has obtained, or is in the process of obtaining, licenses or leases for two others. The major

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<sup>1</sup> This trust fund is the subject of SB 2476.

assets are the Space Life Sciences Lab, Reusable Launch Vehicle (RLV) Hangar, Solid Rocket Operational Storage Facility (OSF) at Camp Blanding, and Space Launch Complexes 36, 46, and 47.<sup>2</sup>

Space Florida also is developing plans for “Exploration Park,” planned as a mixed-use, multi-tenant technology and commerce park supporting both government and commercial space activities. Space Florida recently selected a general contractor to design and build the complex in phases. It will be located near the existing Space Life Sciences Lab, and on non-restricted property within Kennedy Space Center (KSC).

A final aspect of Space Florida’s economic-development abilities is the use of conduit financing. Space Florida and its predecessor agencies have, over the years, entered into four conduit financing agreements, pursuant to s. 331.305, F.S., whereby it can issue revenue bonds or other debt instruments for the express purpose of providing capital financing for a third party, typically a private business, which in turn is solely responsible for repaying the debt. Among the four facilities built using this financing structure are two KSC attractions: the “Shuttle Launch Experience”<sup>3</sup> and the “Saturn V” Visitor Center.<sup>4</sup>

#### A New Direction for the National Aeronautical Space Administration (NASA)

Since 2005, concerns have been growing over the scheduled 2010 retirement of the Space Shuttle program and the estimated 5-year gap before its successor, Constellation, was scheduled to begin flights to the ISS and beyond.

In preparation, NASA in 2006 announced two separate, but intertwined programs: the Commercial Orbital Transportation Services (COTS) program, designed to develop vehicles capable of flight to the ISS and which could ferry cargo and human crew; and the Commercial Resupply Services (CRS) program to handle the actual deliveries to the ISS.<sup>5</sup>

For the next 2 years, NASA evaluated the proposals submitted by aspiring commercial spaceflight companies, and on December 23, 2008, entered into CRS contracts with Orbital Sciences and SpaceX to utilize their COTS cargo vehicles for cargo delivery to the ISS. On February 1, 2010, NASA awarded \$50 million in preliminary funding to five companies to further development of their proposed human-rated commercial ships: Blue Origin, Boeing, Paragon Space Development Corporation, the Sierra Nevada Corporation, and United Launch Alliance.<sup>6</sup>

When President Obama released his FY 10-11 budget request on Feb. 1, 2010, there was no funding for the Constellation program, but increased funding over each of the next 5 years to:

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<sup>2</sup> [http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-307cm.pdf](http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-307cm.pdf).

<sup>3</sup> More information about the attraction is available at <http://www.kennedyspacecenter.com/shuttle-launch-experience.aspx>. Site last visited Aug. 15, 2009.

<sup>4</sup> More information is available at <http://www.kennedyspacecenter.com/apollo-saturn-v-center.aspx>. Site last visited Aug. 15, 2009.

<sup>5</sup> More information about NASA’s commercial space program is available at <http://www.nasa.gov/offices/c3po/home/>. Last visited March 18, 2010.

<sup>6</sup> United Launch Alliance (UAL) is a joint venture of Lockheed-Martin and Boeing.

- Invest in opportunities to use commercial spaceflight companies to carry astronauts and cargo into space;
- Pursue new exploration research and development programs (in areas such as in-orbit refueling, heavy-lift and propulsion rocketry, and robotic precursor missions to outer space in advance of astronaut travel);
- Provide more funding for the ISS, with a goal to extend its lifetime to at least 2020 or beyond with assistance from other nations;
- Add nearly \$1 billion to modernize KSC to improved use by NASA and others;
- Spend an additional \$600 million to assist the remaining Space Shuttle flights;
- Provide grants and other funds to promote space-related research and development; and
- Increase funding for NASA's expanded responsibilities for climate research.

Congress has begun committee hearings on the Obama Administration's space proposals, and opposition has been expressed by some members of Congress, including members of the Florida delegation, about the proposed shift from a space launch program using government-owned vehicles to one using private commercial vehicles, albeit financed with public money.

#### NASA's Economic Impact

NASA's operations in Florida are a major economic driver.<sup>7</sup> The total amount of NASA spending (so-called "outside money") for KSC-related activities was \$1.96 billion, including \$1.1 billion in wages in FY 2007-2008. Counting indirect spending, the total economic impact of NASA to Florida was estimated at \$4.1 billion in production output; \$2.1 billion in household income; 40,802 jobs; and \$103 million in state and local tax revenues. The study also found that 98 percent of the output impact and 99 percent of the jobs and wage impacts occur in the seven-county Central Florida region<sup>8</sup> around KSC.

#### State Incentives for Space-Related Businesses

The state of Florida offers three aerospace-specific financial incentives, along with a number of general business incentives and tax exemptions, of which aerospace companies can take advantage, depending on their location and investment.

The three specific incentives are:

- the Qualified Defense Contractor and Space Flight Business Tax Refund Program,<sup>9</sup> which authorizes a tax refund based on \$3,000 per retained or created job, which pays an annual wage of at least 115 percent of the area's average annual wage and meets other conditions of the business' agreement with OTTED;
- A sales tax exemption for heavy machinery and equipment used in aerospace, defense, and semiconductor facilities;<sup>10</sup> and
- A sales tax exemption for heavy machinery and equipment used in spaceport activities, defined as activities directed or sponsored by Space Florida on spaceport property.<sup>11</sup>

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<sup>7</sup> Information in the paragraph was obtained from the report, "Economic Impact of NASA in Florida, FY 2008." Available at [http://www.nasa.gov/centers/kennedy/pdf/318131main\\_economic-impact08.pdf](http://www.nasa.gov/centers/kennedy/pdf/318131main_economic-impact08.pdf). Last visited Feb. 24, 2010.

<sup>8</sup> The report lists those seven counties as Brevard, Flagler, Lake, Orange, Osceola, Seminole, and Volusia.

<sup>9</sup> Section 288.1045, F.S.

<sup>10</sup> Section 212.08(5)(j), F.S.

<sup>11</sup> Section 212.08(5)(b)1. and 2., F.S

Aerospace or spaceflight businesses also could be eligible – based on their location, job creation and wage numbers, and level of investment – for 12 other state incentives.<sup>12</sup> One of them is the Quick Action Closing Fund (QAC),<sup>13</sup> which, as its name implies, is used by the state to “close the deal” when recruiting new businesses or encouraging existing businesses to remain in Florida and expand.

The statutory criteria for QAC projects are:

- Operating in a state-designated “targeted industry” pursuant to s. 288.106, F.S.,<sup>14</sup> which aviation and aerospace companies are;
- Having a return on investment (ROI) or “payback” to the state of at least \$5:\$1;
- Being an inducement in the company’s decision to locate or remain in Florida;
- Paying an average wage of at least 125 percent of the statewide or areawide private-section annual average wage; and
- Having the support of the local community.

However, these criteria may be waived by OTTED and the state’s business recruiter, Enterprise Florida, Inc., (EFI) for two reasons: undefined “extraordinary circumstances” or projects in rural areas of critical economic concern.

The QAC incentive is awarded by the Governor, after consultation with the President of the Senate and the Speaker of the House of Representatives and approval of the Legislative Budget Committee. For FY 09-10, the Legislature appropriated \$13.8 million to QAC.

### III. Effect of Proposed Changes:

The bill creates the Space Transition and Revitalization (STAR) Act, the framework for a number of space business initiatives expressed in the bill. The bill also includes \$25.575 million in legislative appropriations from non-recurring state general revenue.

Section 1: Names this legislation the Space Transition and Revitalization (STAR) Act.

Section 2: Creates s. 212.0502, F.S., to specify that sales and use taxes collected under ch. 212, F.S., from any business contracted or subcontracted by NASA to sell admissions or tours at KSC and Cape Canaveral Air Force Station, and conducts business at these locations, shall be deposited into the Space Business Investment and Financial Services Trust Fund.<sup>15</sup> Specifically

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<sup>12</sup> The 12 incentives are the: Brownfield Redevelopment Bonus Refund Program; Capital Investment Tax Credit; Contaminated Site Rehabilitation Tax Credit; High Impact Performance Incentive Grant; Incumbent Worker Training Program; Innovation Incentive Program; Quick Action Closing Fund; Qualified Targeted Industry Tax Refund Program; Quick Response Training Program; Rural Job Tax Credit Program; Economic Development Transportation Fund, or the “road fund;” and Urban High-Crime Area Job Tax Credit Program.

<sup>13</sup> Section 288.1088, F.S.

<sup>14</sup> The complete targeted industry list is available in the 2009 Incentives Report, page 49. Published by Enterprise Florida, Inc. Available at:

[http://www.eflorida.com/uploadedFiles/Florida\\_Knowledge\\_Center/My\\_eFlorida\\_EFI\\_and\\_Partners/Floridas\\_Economic\\_Perspective/2009%20Incentives%20Report.pdf](http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2009%20Incentives%20Report.pdf). Free registration required. Site last visited March 19, 2010.

<sup>15</sup> This trust fund will be created if CS/SB 2476 or similar legislation passes the Legislature this session and becomes law.

excluded from deposit are discretionary sales surtaxes (commonly called local-option sales taxes) authorized under s. 212.055, F.S.

The applicable businesses are directed to file a monthly sales-and-use tax return with the Department of Revenue (DOR) that segregates information on taxes collected on sales, admissions, tours, leases, and licenses. DOR must keep this information confidential, pursuant to s. 213.053, F.S.

This diversion of tax collections expires June 30, 2014; after that date, the tax collections will revert to deposit in the state General Revenue Fund.

Section 3: Amends s. 288.1088, F.S., to express legislative findings about the negative impact the Space Shuttle retirement will have on Florida, and how it is in the state's interest to provide incentives to mitigate the anticipated job losses and other economic impacts, and to create a more diverse aerospace economy in Florida.

The bill specifies that up to 20 percent of the funding made available under the QAC program may be used for projects that "retain or create high-technology jobs directly associated with developing a more diverse aerospace economy" in Florida. As worded, this provision caps QAC expenditures for space projects. It also allows OTTED and EFI to waive the wage, return on investment (ROI), and other eligibility criteria to mitigate the impacts of the conclusion of the Space Shuttle Program.

Section 4: Creates s. 331.370, F.S., the "Space Business Investment and Financial Services Initiative." This section expresses a number of legislative findings related to the critical need of capital assistance to, financing of, and investments in aerospace businesses, as a way to offset job losses tied to the shuttle's retirement, and to promote economic growth.

The process as established in this section is:

- Space Florida's *president* is directed to develop a 5-year strategy and plan for managing the "Space Business Investment and Financial Services Trust Fund" (trust fund) and achieving its goals. Annual updates to the strategy and plan are required, and must be incorporated in Space Florida's financing assistance plan.
- These funds must be used exclusively to provide investment and financial services to new, expanding, and relocating space businesses, programs, and projects within Florida. The funds must not be used for Space Florida's personnel, administrative, or overhead expenses.
- The strategy and plan must be submitted to Space Florida's *board of directors* for its approval, before any monies in the trust fund are used. The *board of directors* also may adopt procedures and rules for the approval of all proposed expenditures and investments from the trust fund.
- *OTTED* must receive a quarterly financial report, prepared by Space Florida's president, on the use and status of the trust fund.
- Beginning January 1, 2011, and every year thereafter, Space Florida must submit a report to the *Governor*, the *President of the Senate*, and the *Speaker of the House of Representatives* summarizing the activities and accomplishments of the businesses that received assistance from the trust fund during the previous 12 months.

Section 5: Provides flexibility for Space Florida on how to spend funds appropriated in Specific Appropriation 2649 of ch. 2008-152, L.O.F.<sup>16</sup>

In 2008, the Legislature appropriated \$14.5 million in general revenue to Space Florida specifically to renovate SLC-36 into a multi-use, multi-vehicle launch facility for liquid-fueled rockets. For a number of reasons, release of the funds by OTTED was delayed.<sup>17</sup> Currently, about \$3.7 million of the \$14.5 million has been spent on the SLC-36 project, and Space Florida officials want the ability to shift those funds to projects at other SLCs, and to otherwise advance aerospace technology related to the commercial space transportation industry.

Section 6: Appropriates \$10 million in nonrecurring state general revenue to the Space Business Investment and Financial Services Trust Fund for FY 10-11 to establish and provide initial funding for the trust fund. Any balance left at the end of the fiscal year will remain in the trust fund and be carried forward for future use by Space Florida rather than revert to the state's General Revenue Fund.

Section 7: Appropriates \$3 million in nonrecurring general revenue to Space Florida for FY 10-11 exclusively for the purpose of providing targeted business-development support services and business recruitment. Examples of eligible services are securing federal programs, securing contract and grant opportunities for space-related businesses in Florida, and "engaging company and federal officials in discussions regarding new program projects" for Florida. This provision specifies that an emphasis must be placed on using this appropriation to assist small- and medium-sized businesses on a statewide basis. The funds may not be used for Space Florida's administrative or operating costs.

Section 8: Appropriates \$12.575 million in nonrecurring general revenue to OTTED for FY 10-11 for deposit in the trust fund for infrastructure needs for space businesses that plan to create high-technology, high-wage jobs.

Section 9: Specifies this act shall take effect July 1, 2010, contingent on the passage of SB 2476 or similar legislation during the same legislative session, or an extension thereof, and which becomes law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

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<sup>16</sup> This provision is the subject of CS/SB 1776 (which passed the Commerce Committee on March 3, 2010, and is included in CS/SB 1752, which passed the Policy & Steering Committee on Ways and Means on March 18, 2010.

<sup>17</sup> For more details, see the analysis for CS/SB 1776, available at <http://www.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s1776.cm.pdf>.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The fiscal impact is unknown for CS/SB 2500. The Revenue Estimating Conference (REC) has not reviewed it.

However, the REC at its March 12, 2010, meeting, evaluated the linked bill HB 2476 and proposed amendments. At the time, language similar to the sales tax diversion provision in Section 2 of CS/SB 2500 was in HB 2476; the REC estimated a zero fiscal impact of that provision because the diversion of certain sales tax collections at KSC and the Cape Canaveral Air Force Station from the state General Revenue Fund to the new trust fund would be neutral.

Based on historical sales tax collections from affected KSC vendors and a projected growth rate of 5 percent annually, DOR had reported to the REC that the amount of sales tax revenues that likely would be available for deposit in the new trust fund would be an estimated \$5.2 million cash in FY 10-11, \$6 million cash in FY 11-12, \$6.3 million cash in FY 12-13, and \$6.6 million in cash in FY 13-14.

B. Private Sector Impact:

Indeterminate, but likely positive.

C. Government Sector Impact:

The bill appropriates \$25.575 million in nonrecurring general revenue to either OTTED or Space Florida, for the purposes of implementing this initiative. It appears that some of this appropriation is duplicated in CS/SB 1752.

VI. Technical Deficiencies:

Line 287 of CS/SB 2500 references s. 331.305(6), F.S., as the citation for Space Florida's "financing assistance plan." The plan is not mentioned in that subsection; perhaps the drafter's intent was to reference s. 331.3051(1), F.S., which mentions Space Florida's annual report, to include information about the entity's financing activities.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce Committee on March 24, 2010:**

- Adds a new funding source for STAR: the sales tax revenues collected from attractions vendors at KCS. This language diverts from the state General Revenue Fund about \$5.2 million in FY 10-11 for use by Space Florida to implement STAR.
- Prevents mandates questions from being raised because it exempts local-option sales taxes from being included in this revenue stream to STAR.
- Specifies general uses of funds earmarked for the STAR initiative, and specifies that these funds must not be used for Space Florida's personnel, administrative, or overhead expenses.
- Revises the language providing Space Florida with flexibility in approved uses of a 2008 state appropriation for the entity to match the language in CS/SB 1776. It specifically adds "advancing aerospace technology...for the commercial space transportation industry" as another approved use, which is consistent the Obama Administration's plan to expand aerospace R&D spending.
- Replaces OTTED with the Space Business Investment and Financial Services Trust Fund, as the recipient of \$10 million for space infrastructure projects.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation and Economic Development  
Appropriations (Diaz de la Portilla) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Space Transition  
and Revitalization Act."

Section 2. Section 288.1088, Florida Statutes, is amended  
to read:

288.1088 Quick Action Closing Fund.—

(1)(a) The Legislature finds that attracting, retaining,  
and providing favorable conditions for the growth of certain  
high-impact business facilities, privately developed critical



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13 rural infrastructure, or key facilities in economically  
14 distressed urban or rural communities which provide widespread  
15 economic benefits to the public through high-quality employment  
16 opportunities in such facilities or in related facilities  
17 attracted to the state, through the increased tax base provided  
18 by the high-impact facility and related businesses, through an  
19 enhanced entrepreneurial climate in the state and the resulting  
20 business and employment opportunities, and through the  
21 stimulation and enhancement of the state's universities and  
22 community colleges. In the global economy, there exists serious  
23 and fierce international competition for these facilities, and  
24 in most instances, when all available resources for economic  
25 development have been used, the state continues to encounter  
26 severe competitive disadvantages in vying for these business  
27 facilities. Florida's rural areas must provide a competitive  
28 environment for business in the information age. This often  
29 requires an incentive to make it feasible for private investors  
30 to provide infrastructure in those areas.

31 (b) The Legislature finds that the conclusion of the space  
32 shuttle program and the gap in civil human space flight will  
33 result in significant job losses that will negatively impact  
34 families, companies, the state and regional economies, and the  
35 capability level of this state's aerospace workforce. Thus, the  
36 Legislature also finds that this loss of jobs is a matter of  
37 state interest and great public importance. The Legislature  
38 further finds that it is in the state's interest for provisions  
39 to be made in incentive programs for economic development to  
40 maximize the state's ability to mitigate these impacts and to  
41 develop a more diverse aerospace economy.



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42           (c) ~~(b)~~ The Legislature therefore declares that sufficient  
43 resources shall be available to respond to extraordinary  
44 economic opportunities and to compete effectively for these  
45 high-impact business facilities, critical private infrastructure  
46 in rural areas, and key businesses in economically distressed  
47 urban or rural communities, and that up to 20 percent of these  
48 resources may be used for projects to retain or create high-  
49 technology jobs that are directly associated with developing a  
50 more diverse aerospace economy in this state.

51           (2) There is created within the Office of Tourism, Trade,  
52 and Economic Development the Quick Action Closing Fund. Projects  
53 eligible for receipt of funds from the Quick Action Closing Fund  
54 shall:

55           (a) Be in an industry as referenced in s. 288.106.

56           (b) Have a positive payback ratio of at least 5 to 1.

57           (c) Be an inducement to the project's location or expansion  
58 in the state.

59           (d) Pay an average annual wage of at least 125 percent of  
60 the areawide or statewide private sector average wage.

61           (e) Be supported by the local community in which the  
62 project is to be located.

63           (3) (a) Enterprise Florida, Inc., shall review applications  
64 pursuant to s. 288.061 and determine the eligibility of each  
65 project consistent with the criteria in subsection (2).

66 Enterprise Florida, Inc., in consultation with the Office of  
67 Tourism, Trade, and Economic Development, may waive these  
68 criteria:

69           1. Based on extraordinary circumstances;

70           2. In order to mitigate the impact of the conclusion of the



71 space shuttle program; or

72 3. In rural areas of critical economic concern if the  
73 project would significantly benefit the local or regional  
74 economy.

75 (b) Enterprise Florida, Inc., shall evaluate individual  
76 proposals for high-impact business facilities and forward  
77 recommendations regarding the use of moneys in the fund for such  
78 facilities to the director of the Office of Tourism, Trade, and  
79 Economic Development. Such evaluation and recommendation must  
80 include, but need not be limited to:

81 1. A description of the type of facility or infrastructure,  
82 its operations, and the associated product or service associated  
83 with the facility.

84 2. The number of full-time-equivalent jobs that will be  
85 created by the facility and the total estimated average annual  
86 wages of those jobs or, in the case of privately developed rural  
87 infrastructure, the types of business activities and jobs  
88 stimulated by the investment.

89 3. The cumulative amount of investment to be dedicated to  
90 the facility within a specified period.

91 4. A statement of any special impacts the facility is  
92 expected to stimulate in a particular business sector in the  
93 state or regional economy or in the state's universities and  
94 community colleges.

95 5. A statement of the role the incentive is expected to  
96 play in the decision of the applicant business to locate or  
97 expand in this state or for the private investor to provide  
98 critical rural infrastructure.

99 6. A report evaluating the quality and value of the company



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100 submitting a proposal. The report must include:

101 a. A financial analysis of the company, including an  
102 evaluation of the company's short-term liquidity ratio as  
103 measured by its assets to liability, the company's profitability  
104 ratio, and the company's long-term solvency as measured by its  
105 debt-to-equity ratio;

106 b. The historical market performance of the company;

107 c. A review of any independent evaluations of the company;

108 d. A review of the latest audit of the company's financial  
109 statement and the related auditor's management letter; and

110 e. A review of any other types of audits that are related  
111 to the internal and management controls of the company.

112 (c) ~~(b)~~ Within 22 calendar days after receiving the  
113 evaluation and recommendation from Enterprise Florida, Inc., the  
114 director shall recommend to the Governor approval or disapproval  
115 of a project for receipt of funds from the Quick Action Closing  
116 Fund. In recommending a project, the director shall include  
117 proposed performance conditions that the project must meet to  
118 obtain incentive funds. The Governor shall provide the  
119 evaluation of projects recommended for approval to the President  
120 of the Senate and the Speaker of the House of Representatives  
121 and consult with the President of the Senate and the Speaker of  
122 the House of Representatives before giving final approval for a  
123 project. The Executive Office of the Governor shall recommend  
124 approval of a project and the release of funds pursuant to the  
125 legislative consultation and review requirements set forth in s.  
126 216.177. The recommendation must include proposed performance  
127 conditions that the project must meet in order to obtain funds.

128 (d) ~~(e)~~ Upon the approval of the Governor, the director of



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129 the Office of Tourism, Trade, and Economic Development and the  
130 business shall enter into a contract that sets forth the  
131 conditions for payment of moneys from the fund. The contract  
132 must include the total amount of funds awarded; the performance  
133 conditions that must be met to obtain the award, including, but  
134 not limited to, net new employment in the state, average salary,  
135 and total capital investment; demonstrate a baseline of current  
136 service and a measure of enhanced capability; the methodology  
137 for validating performance; the schedule of payments from the  
138 fund; and sanctions for failure to meet performance conditions.  
139 The contract must provide that payment of moneys from the fund  
140 is contingent upon sufficient appropriation of funds by the  
141 Legislature and upon sufficient release of appropriated funds by  
142 the Legislative Budget Commission.

143 (e) ~~(d)~~ Enterprise Florida, Inc., shall validate contractor  
144 performance. Such validation shall be reported within 6 months  
145 after completion of the contract to the Governor, President of  
146 the Senate, and the Speaker of the House of Representatives.

147 Section 3. Notwithstanding any other provisions of law,  
148 funds provided in Specific Appropriation 2649 of chapter 2008-  
149 152, Laws of Florida, for Space and Aerospace Infrastructure to  
150 make improvements to Launch Complex 36 on the 45th Space Wing  
151 property may also be used by Space Florida for improvements to  
152 other launch complexes and space transportation facilities in  
153 order to attract new space vehicle testing and launch business  
154 to the state; to address intermodal requirements and impacts of  
155 the launch ranges, spaceports, and other space transportation  
156 facilities; to advance aerospace technology to meet the current  
157 and future needs of the United States commercial space



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158 transportation industry; and to assist in the development of  
159 joint-use facilities and technology that support aviation and  
160 aerospace operations, including high-altitude and suborbital  
161 flights and range technology development.

162 Section 4. This act shall take effect July 1, 2010.

163

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

165 And the title is amended as follows:

166 Delete everything before the enacting clause  
167 and insert:

168 A bill to be entitled  
169 An act relating to space and aerospace infrastructure;  
170 providing a short title; amending s. 288.1088, F.S.;  
171 providing legislative findings; authorizing the use of  
172 a specified amount of resources for projects to retain  
173 or create high-technology jobs directly associated  
174 with developing a more diverse aerospace economy in  
175 the state; authorizing Enterprise Florida, Inc., to  
176 waive eligibility criteria for projects receiving  
177 funds from the Quick Action Closing Fund which would  
178 mitigate the impact of the conclusion of the space  
179 shuttle program; revising authorized uses of specified  
180 Space Florida appropriations; providing an effective  
181 date.



# **TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS**

Senator Fasano, Chair  
Senator Hill, Vice Chair

**-Supplemental Meeting Packet-  
LATE FILED AMENDMENTS**

Monday, April 19, 2010  
10:30 a.m. — 11:30 pm  
Verle A. Pope Committee Room, 309 The Capitol

**LATE FILED**



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation and Economic Development  
Appropriations (Smith) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 458 and 459

insert:

Section 9. Paragraph (a) of subsection (1) of section  
101.657, Florida Statutes, is amended to read:

101.657 Early voting.-

(1)(a) As a convenience to the voter, the supervisor of  
elections shall allow an elector to vote early in the main or  
branch office of the supervisor. The supervisor shall mark,  
code, indicate on, or otherwise track the voter's precinct for  
each early voted ballot. In order for a branch office to be used



13 for early voting, it shall be a permanent facility of the  
14 supervisor and shall have been designated and used as such for  
15 at least 1 year prior to the election. The supervisor may also  
16 designate any city hall, ~~or~~ permanent public library facility,  
17 or any other site that is convenient, accessible and satisfies  
18 the required security protocol, as early voting sites; however,  
19 if so designated, the sites must be geographically located so as  
20 to provide all voters in the county an equal opportunity to cast  
21 a ballot, insofar as is practicable. The results or tabulation  
22 of votes cast during early voting may not be made before the  
23 close of the polls on election day. Results shall be reported by  
24 precinct.

25  
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete line 42  
29 and insert:

30  
31 under certain circumstances; amending s. 101.657,  
32 F.S.; authorizing a supervisor of elections to  
33 designate any site that is convenient, accessible, and  
34 satisfies the required security protocol as an early  
35 voting site; amending s. 101.694,

**LATE FILED**

TRANSPORTATION AND ECONOMIC  
DEVELOPMENT APPROPRIATIONS

DATE: 4-19-2010  
TIME: 8:01 am



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development Appropriations (Diaz de la Portilla) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 131 and 132

insert:

Section 11. Section 288.9625, Florida Statutes, is amended to read:

288.9625 Institute for the Commercialization of Public Research.—There is established the Institute for the Commercialization of Public Research.

(1) The institute shall be a not-for-profit corporation registered, incorporated, and operated in accordance with chapter 617.



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13           (2) The purpose of the institute is to assist in the  
14 commercialization of products developed by the research and  
15 development activities of universities and colleges, research  
16 institutes, ~~and~~ publicly and privately supported organizations  
17 within the state, and individuals. The institute shall operate  
18 to fulfill its purpose and in the best interests of the state.  
19 The institute:

20           (a) Shall be a corporation primarily acting as an  
21 instrumentality of the state pursuant to s. 768.28(2), for the  
22 purposes of sovereign immunity;

23           (b) Is not an agency within the meaning of s. 20.03(11);

24           (c) Is subject to the open records and meetings  
25 requirements of s. 24, Art. I of the State Constitution, chapter  
26 119, and s. 286.011;

27           (d) Is not subject to the provisions of chapter 287;

28           (e) Shall be governed by the code of ethics for public  
29 officers and employees as set forth in part III of chapter 112;

30           (f) Is not authorized to create corporate subsidiaries; and

31 ~~(g) Shall support existing commercialization efforts at~~  
32 ~~state universities; and~~

33           (g)-(h) Shall not supplant, replace, or direct existing  
34 technology transfer operations or other commercialization  
35 programs, including incubators and accelerators, whether public  
36 or private.

37           (3) The articles of incorporation of the institute must be  
38 approved in a written agreement with Enterprise Florida, Inc.  
39 The agreement and the articles of incorporation shall:

40           (a) Provide that the institute shall provide equal  
41 employment opportunities for all persons regardless of race,



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42 color, religion, gender, national origin, age, handicap, or  
43 marital status;

44 (b) Provide that the institute is subject to the public  
45 records and meeting requirements of s. 24, Art. I of the State  
46 Constitution;

47 (c) Provide that all officers, directors, and employees of  
48 the institute shall be governed by the code of ethics for public  
49 officers and employees as set forth in part III of chapter 112;

50 (d) Provide that members of the board of directors of the  
51 institute are responsible for the prudent use of all public and  
52 private funds and that they will ensure that the use of funds is  
53 in accordance with all applicable laws, bylaws, and contractual  
54 requirements; and

55 (e) Provide that the fiscal year of the institute is from  
56 July 1 to June 30.

57 (4) The affairs of the institute shall be managed by a  
58 board of directors who shall serve without compensation. Each  
59 director shall have only one vote. The chair of the board of  
60 directors shall be selected by a majority vote of the directors,  
61 a quorum being present. The board of directors shall consist of  
62 the following five members:

63 (a) The chair of Enterprise Florida, Inc., or the chair's  
64 designee.

65 (b) The president of the university where the institute is  
66 located or the president's designee unless multiple universities  
67 jointly sponsor the institute, in which case the presidents of  
68 the sponsoring universities shall agree upon a designee.

69 (c) Three directors appointed by the Governor to 3-year  
70 staggered terms, to which the directors may be reappointed.



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71 (5) The board of directors shall provide a copy of the  
72 institute's annual report to the Governor, the President of the  
73 Senate, the Speaker of the House of Representatives, Enterprise  
74 Florida, Inc., and the president of the university at which the  
75 institute is located.

76 (6) Enterprise Florida, Inc., the president and the board  
77 of trustees of the university where the institute is located,  
78 the Auditor General, and the Office of Program Policy Analysis  
79 and Government Accountability may require and receive from the  
80 institute or its independent auditor any detail or supplemental  
81 data relative to the operation of the institute.

82 ~~(7) Enterprise Florida, Inc., shall issue a request for~~  
83 ~~proposals to state universities requesting proposals to fulfill~~  
84 ~~the purposes of the institute as described in this section and~~  
85 ~~provide for its physical location in a major metropolitan area~~  
86 ~~in the southern part of the state having extensive commercial~~  
87 ~~air service to facilitate access by venture capital providers.~~  
88 ~~Enterprise Florida, Inc., shall review the proposals in a~~  
89 ~~committee appointed by its board of directors which shall make a~~  
90 ~~recommendation for final selection. Final approval of the~~  
91 ~~selected proposal must be by the board of directors of~~  
92 ~~Enterprise Florida, Inc., at one of its duly noticed meetings.~~

93 (7)~~(8)~~(a) To be eligible for assistance, the company or  
94 organization attempting to commercialize its product must be  
95 accepted by the institute before receiving the institute's  
96 assistance.

97 (b) The institute shall receive recommendations from any  
98 publicly supported organization that a company that is  
99 commercializing the research, technology, or patents from a



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100 qualifying publicly or privately supported organization should  
101 be accepted into the institute.

102 (c) The institute shall thereafter review the business  
103 plans and technology information of each such recommended  
104 company. If accepted, the institute shall mentor the company,  
105 develop marketing information on the company, and use its  
106 resources to attract capital investment into the company, as  
107 well as bring other resources to the company which may foster  
108 its effective management, growth, capitalization, technology  
109 protection, or marketing or business success.

110 ~~(8)~~~~(9)~~ The institute shall:

111 (a) Maintain a centralized location to showcase companies  
112 and their technologies and products;

113 (b) Develop an efficient process to inventory and publicize  
114 companies and products that have been accepted by the institute  
115 for commercialization;

116 (c) Routinely communicate with private investors and  
117 venture capital organizations regarding the investment  
118 opportunities in its showcased companies;

119 (d) Facilitate meetings between prospective investors and  
120 eligible organizations in the institute;

121 (e) Hire full-time staff who understand relevant  
122 technologies needed to market companies to the angel investors  
123 and venture capital investment community; and

124 (f) Develop cooperative relationships with publicly and  
125 privately supported organizations all of which work together to  
126 provide resources or special knowledge that is likely to be  
127 helpful to institute companies.

128 (g) Administer a matching grant program created by the



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129 Legislature to provide financial assistance for early stage  
130 companies that have received federal funding and that may have  
131 received private or other public financial assistance.

132 ~~(9)~~~~(10)~~ The institute shall not develop or accrue any  
133 ownership, royalty, patent, or other such rights over or  
134 interest in companies or products in the institute and shall  
135 maintain the secrecy of proprietary information.

136 ~~(10)~~~~(11)~~ The institute shall not charge for services  
137 rendered to state universities and affiliated organizations,  
138 community colleges, or state agencies.

139 ~~(11)~~~~(12)~~ By December 1 of each year, the institute shall  
140 issue an annual report concerning its activities to the  
141 Governor, the President of the Senate, and the Speaker of the  
142 House of Representatives. The report shall include the  
143 following:

144 (a) Information on any assistance and activities provided  
145 by the institute to assist publicly supported universities,  
146 colleges, research institutes, and other publicly supported  
147 organizations in the state, and any support to private research  
148 institutes, organizations, and individuals.

149 (b) A description of the benefits to this state resulting  
150 from the institute, including the number of businesses created,  
151 associated industries started, the number of jobs created, and  
152 the growth of related projects.

153 (c) Independently audited financial statements, including  
154 statements that show receipts and expenditures during the  
155 preceding fiscal year for personnel, administration, and  
156 operational costs of the institute.

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

159 And the title is amended as follows:

160 Delete line 15

161 and insert:

162 for expiration of the grant program; amending s.  
163 288.9625, F.S., relating to the Institute for the  
164 Commercialization of Public Research; expanding the  
165 purpose of the institute to include providing  
166 assistance in the commercialization of products  
167 developed by privately supported organizations and  
168 individuals; deleting provisions requiring the  
169 institute to support certain commercialization efforts  
170 at state universities and requiring Enterprise  
171 Florida, Inc., to providing assistance in selecting  
172 certain proposals; requiring that the institute  
173 administer a matching grant program to assist certain  
174 early stage companies; requiring the institute to  
175 provide information regarding such assistance in its  
176 annual report to the Governor and Legislature;  
177 providing an

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Transportation and Economic Development  
Appropriations (Fasano) recommended the following:

**Senate Substitute for Amendment (411350)**

Delete lines 1010 - 1040

and insert:

Section 17. Section 320.0807, Florida Statutes, is amended  
to read:

320.0807 Special license plates for Governor and federal  
and state legislators.-

(1) Upon application by any member of the House of  
Representatives of Congress and payment of the fees prescribed  
by s. 320.0805, the department is authorized to issue to such  
Member of Congress a license plate stamped "Member of Congress"



13 followed by the number of the appropriate congressional district  
14 and the letters "MC," or any other configuration chosen by the  
15 member which is not already in use. Upon application by a United  
16 States Senator and payment of the fees prescribed by s.  
17 320.0805, the department is authorized to issue a license plate  
18 stamped "USS," followed by the numeral II in the case of the  
19 junior senator.

20 (2) Upon application by any member of the state House of  
21 Representatives and payment of the fees prescribed by s.  
22 320.0805, the department is authorized to issue such state  
23 representative license plates stamped in bold letters "State  
24 Legislator," followed by the number of the appropriate House of  
25 Representatives district and the letters "HR," or any other  
26 configuration chosen by the member which is not already in use  
27 ~~on one plate; the numbers of the other plates will be assigned~~  
28 ~~by the department.~~ Upon application by a state senator and  
29 payment of the fees prescribed by s. 320.0805, the department is  
30 authorized to issue license plates stamped in bold letters  
31 "State Senator," followed by the number of the appropriate  
32 Senate district and the letters "SN," or any other configuration  
33 chosen by the member which is not already in use ~~on one plate;~~  
34 ~~the numbers of the other plates will be assigned by the~~  
35 ~~department.~~

36 (3) Upon application by the Governor and payment of the  
37 appropriate fees, the department is authorized to issue to the  
38 Governor two license plates stamped in bold letters "Florida 1"  
39 and "Florida 2."

40 (4) License plates purchased under subsection (1),  
41 subsection (2), or subsection (3) shall be replaced by the



42 department at no cost, other than the fees required by ss.  
43 320.04 and 320.06(3)(b), when the person to whom such plates  
44 have been issued leaves the elective office with respect to  
45 which such license plates were issued. Within 30 days after  
46 leaving office, the person to whom such license plates have been  
47 issued shall make application to the department for a  
48 replacement license plate. Such person may return the prestige  
49 license plates to the department or may retain such plates as  
50 souvenirs. Upon receipt of the replacement license plate, such  
51 person shall not continue to display on any vehicle the prestige  
52 license plate or plates issued with respect to his or her former  
53 office.

54 ~~(5) Upon application by any current or former President of~~  
55 ~~the Senate and payment of the fees prescribed by s. 320.0805,~~  
56 ~~the department is authorized to issue a license plate stamped in~~  
57 ~~bold letters "Senate President" followed by the number assigned~~  
58 ~~by the department or chosen by the applicant if it is not~~  
59 ~~already in use. Upon application by any current or former~~  
60 ~~Speaker of the House of Representatives and payment of the fees~~  
61 ~~prescribed by s. 320.0805, the department is authorized to issue~~  
62 ~~a license plate stamped in bold letters "House Speaker" followed~~  
63 ~~by the number assigned by the department or chosen by the~~  
64 ~~applicant if it is not already in use.~~

65 (5)~~(6)~~ Any person who does not make application for a  
66 replacement license plate as required by subsection (4), or who,  
67 after receipt of the replacement license plate, continues to  
68 display on any vehicle the prestige license plate or plates  
69 issued with respect to his or her former office, is guilty of a  
70 misdemeanor of the second degree, punishable as provided in s.



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71 775.082 or s. 775.083.

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LEGISLATIVE ACTION

Senate

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House

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The Committee on Transportation and Economic Development  
Appropriations (Gardiner) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1439 - 1447

and insert:

offense, as shown by a fingerprint-based criminal  
background check, the cost of which must be borne by the  
applicant, instructor, agent, or employee;

(3) Committed any fraud or willful misrepresentation in  
applying for or obtaining a license; or

(4) Solicited business on any premises, including parking  
areas, used by the department or a tax collector for the purpose  
of licensing drivers.



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For purposes of subsection (2), fingerprints shall be submitted by the Department of Highway Safety and Motor Vehicles to the Florida Department of Law Enforcement for state processing, and the Florida Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for national processing. The Department of Highway Safety and Motor Vehicles shall screen the background check results to determine if an applicant, instructor, agency or employee meets licensure or certification requirements.

Section 28. Section 45 of chapter 2008-176, Laws of Florida, is amended to read:

Section 45. Except for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, Florida Statutes, prior to October 1, 2008 ~~the effective date of this act~~, or which was included in a bill filed during the 2008 Legislative Session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, Florida Statutes, between July 1, 2008, and July 1, 2014 ~~2011~~.

Section 29. Section 320.08053, Florida Statutes, is amended to read:

320.08053 Requirements for requests to establish specialty license plates.—

(1) An organization that seeks authorization to establish a new specialty license plate for which an annual use fee is to be



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42 charged must submit to the department:

43 (a) A request for the particular specialty license plate  
44 being sought, describing the proposed specialty license plate in  
45 specific terms, including a sample plate that conforms to the  
46 specifications set by the department and this chapter, and that  
47 is in substantially final form.

48 ~~(b) The results of a scientific sample survey of Florida~~  
49 ~~motor vehicle owners that indicates at least 30,000 motor~~  
50 ~~vehicle owners intend to purchase the proposed specialty license~~  
51 ~~plate at the increased cost. As used in this paragraph, the term~~  
52 ~~"scientific sample survey" means information that is gathered~~  
53 ~~from a representative subset of the population as a whole. The~~  
54 ~~sample survey of registered motor vehicle owners must be~~  
55 ~~performed independently of the requesting organization by an~~  
56 ~~organization that conducts similar sample surveys as a normal~~  
57 ~~course of business. Prior to conducting a sample survey for the~~  
58 ~~purposes of this section, a requesting organization must obtain~~  
59 ~~a determination from the department that the organization~~  
60 ~~selected to conduct the survey performs similar surveys as a~~  
61 ~~normal course of business and is independent of the requesting~~  
62 ~~organization. The methodology, results, and any evaluation by~~  
63 ~~the department of the scientific sample survey shall be~~  
64 ~~validated by the Auditor General as a condition precedent to~~  
65 ~~submission of the specialty license plate for approval by the~~  
66 ~~Legislature.~~

67 (b)(e) An application fee, not to exceed \$60,000, to defray  
68 the department's cost for reviewing the application and  
69 developing the specialty license plate, if authorized. State  
70 funds may not be used to pay the application fee, except for



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71 collegiate specialty license plates authorized in s.  
72 320.08058(3) and (13). ~~The specialty license plate application~~  
73 ~~provisions of this act shall not apply to any organization which~~  
74 ~~has requested and received the required forms for obtaining a~~  
75 ~~specialty license plate authorization from the Department of~~  
76 ~~Highway Safety and Motor Vehicles, has opened a bank account for~~  
77 ~~the funds collected for the specialty license tag and has made~~  
78 ~~deposits to such an account, and has obtained signatures toward~~  
79 ~~completing the requirements for the specialty license tag. All~~  
80 applications requested on or after the effective date of this  
81 act must meet the requirements of this act.

82 (c) ~~(d)~~ A marketing strategy outlining short-term and long-  
83 term marketing plans for the requested specialty license plate  
84 and a financial analysis outlining the anticipated revenues and  
85 the planned expenditures of the revenues to be derived from the  
86 sale of the requested specialty license plates.

87  
88 The information required under this subsection must be submitted  
89 to the department at least 90 days before the convening of the  
90 next regular session of the Legislature.

91 (2) If the specialty license plate requested by the  
92 organization is approved by law, the organization must submit  
93 the proposed art design for the specialty license plate to the  
94 department, in a medium prescribed by the department, as soon as  
95 practicable, but no later than 60 days after the act approving  
96 the specialty license plate becomes a law. If the specialty  
97 license plate requested by the organization is not approved by  
98 the Legislature or does not meet the presale requirements in  
99 subsection (3), the application fee shall be refunded to the



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100 requesting organization.

101 (3) (a) Within 120 days following the specialty license  
102 plate becoming law, the department shall establish a method to  
103 issue a specialty license plate voucher to allow for the presale  
104 of the specialty license plate. The processing fee as prescribed  
105 in s. 320.08056, the service charge and branch fee as prescribed  
106 in s. 320.04, and the annual use fee as prescribed in s.  
107 320.08056 shall be charged for the voucher. All other applicable  
108 fees shall be charged at the time of issuance of the license  
109 plates.

110 (b) Within 24 months after the presale specialty license  
111 plate voucher is established, the approved specialty license  
112 plate organization must record with the department a minimum of  
113 1,000 voucher sales before manufacture of the license plate may  
114 commence. If, at the conclusion of the 24-month presale period,  
115 the minimum sales requirements have not been met, the specialty  
116 plate is deauthorized and the department shall discontinue  
117 development of the plate and discontinue issuance of the presale  
118 vouchers. Upon deauthorization of the license plate, a purchaser  
119 of the license plate voucher may use the annual use fee  
120 collected as a credit towards any other specialty license plate  
121 or apply for a refund on a form prescribed by the department.

122 (c) An organization that meets the requirements of this  
123 subsection shall be deemed to have submitted a valid survey for  
124 purposes of s. 45 of chapter 2008-176, Laws of Florida, as  
125 amended.

126 Section 30. Subsection (1) and paragraph (b) of subsection  
127 (8) of section 320.08056, Florida Statutes, are amended, and  
128 paragraph (rrr) is added to subsection (4) of that section, to



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129 read:

130 320.08056 Specialty license plates.--

131 (1) The department is responsible for developing the  
132 specialty license plates authorized in s. 320.08053. ~~The~~  
133 ~~department shall begin production and distribution of each new~~  
134 ~~specialty license plate within 1 year after approval of the~~  
135 ~~specialty license plate by the Legislature.~~

136 (4) The following license plate annual use fees shall be  
137 collected for the appropriate specialty license plates:

138 (rrr) Hispanic Achievers license plate, \$25.

139 (8)

140 (b) The department is authorized to discontinue the  
141 issuance of a specialty license plate and distribution of  
142 associated annual use fee proceeds if the organization no longer  
143 exists, if the organization has stopped providing services that  
144 are authorized to be funded from the annual use fee proceeds, if  
145 the organization does not meet the presale requirements as  
146 prescribed in s. 320.08053(3), or pursuant to an organizational  
147 recipient's request. Organizations shall ~~are required to~~ notify  
148 the department immediately to stop all warrants for plate sales  
149 if any of the conditions in this section exist, and must meet  
150 the requirements of s. 320.08062 for any period of operation  
151 during a fiscal year.

152 Section 31. Subsection (70) is added to section 320.08058,  
153 Florida Statutes, to read:

154 320.08058 Specialty license plates.--

155 (70) HISPANIC ACHIEVERS LICENSE PLATES.--

156 (a) Upon the National Hispanic Corporate Achievers, Inc.,  
157 meeting the requirements of s. 320.08053, the department shall



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158 develop a Hispanic Achievers license plate as provided in this  
159 section. The plate must bear the colors and design approved by  
160 the department. The word "Florida" must appear at the top of the  
161 plate and the words "Hispanic Achievers" must appear at the  
162 bottom of the plate.

163 (b) The proceeds from the license plate annual use fee  
164 shall be distributed to National Hispanic Corporate Achievers,  
165 Inc., a nonprofit corporation under s. 501(c)(3) of the Internal  
166 Revenue Code, to fund grants to nonprofit organizations to  
167 operate programs and provide scholarships and for marketing the  
168 Hispanic Achievers license plate. National Hispanic Corporate  
169 Achievers, Inc., shall establish a Hispanic Achievers Grant  
170 Council that shall provide recommendations for statewide grants  
171 from available Hispanic Achievers license plate proceeds to  
172 nonprofit organizations for programs and scholarships for  
173 Hispanic and minority Floridians. National Hispanic Corporate  
174 Achievers, Inc., shall also establish a Hispanic Achievers  
175 License Plate Fund. Moneys in the fund shall be used by the  
176 grant council as provided in this paragraph. All fund received  
177 under this subsection must be used in this state.

178 (c) National Hispanic Corporate Achievers, Inc., may retain  
179 all proceeds from the annual use fee until documented startup  
180 costs for developing and establishing the plate have been  
181 recovered. Thereafter, the proceeds from the annual use fee  
182 shall be used as follows:

183 1. Up to 10 percent of the proceeds may be used for the  
184 cost of administration of the Hispanic Achievers License Plate  
185 Fund, the Hispanic Achievers Grant Council, and related matters.

186 2. Funds may be used as necessary for annual audit or



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187 compliance affidavit costs.

188 3. Twenty-five percent of the proceeds shall be used by the  
189 Hispanic Corporate Achievers, Inc., located in Seminole County,  
190 for grants.

191 4. The remaining proceeds shall be available to the  
192 Hispanic Achievers Grant Council to award grants for services,  
193 programs, or scholarships for Hispanic and minority individuals  
194 and organizations throughout Florida. All grant recipients must  
195 provide to the Hispanic Achievers Grant Council an annual  
196 program and financial report regarding the use of grant funds.  
197 Such reports must be available to the public.

198 Section 32. The amendments to s. 320.08053 shall not apply  
199 to organizations which are exempt from the moratorium contained  
200 in Section 45 of chapter 2008-176, Laws of Florida, and which  
201 have complied with the provisions of s. 320.08053, Florida  
202 Statutes (2009).

203 Section 33. The Department of Highway Safety and Motor  
204 Vehicles may not establish any new voluntary contributions on  
205 the motor vehicle registration form under s. 320.023, Florida  
206 Statutes, or the driver's license application form under s.  
207 322.081, Florida Statutes, between July 1, 2010, and July 1,  
208 2013. However, the Department of Highway Safety and Motor  
209 Vehicles may establish a voluntary contribution for an  
210 organization that has:

211 (1) Submitted a request to establish a voluntary  
212 contribution on a motor vehicle registration application under  
213 s. 320.023, Florida Statutes, or a driver's license application  
214 under s. 322.081, Florida Statutes, to the Department of Highway  
215 Safety and Motor Vehicles before May 1, 2010; and



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216       (2) Submitted a valid financial analysis, marketing  
217 strategy, and application fee before September 1, 2010; or  
218       (3) Filed a bill during the 2010 Legislative Session to  
219 establish a voluntary contribution under s. 320.023, Florida  
220 Statutes, or s. 322.081, Florida Statutes.

221       Section 34. Paragraph (i) is added to subsection (15) of  
222 section 320.02, Florida Statutes, to read:

223       320.02 Registration required; application for registration;  
224 forms.—

225       (15)

226       (i) The application forms for motor vehicle registration  
227 and renewal of registration must include language permitting a  
228 voluntary contribution of \$1 per applicant, which shall be  
229 distributed to the League Against Cancer/La Liga Contra el  
230 Cancer. Such contributions shall be distributed by the  
231 department to the League Against Cancer/La Liga Contra el  
232 Cancer, a not-for-profit organization that provides free medical  
233 care to needy cancer patients. The department shall retain all  
234 contributions necessary, up to a maximum of \$10,000, to defray  
235 the cost of including the voluntary contribution language on the  
236 registration forms.

237  
238 For the purpose of applying the service charge provided in s.  
239 215.20, contributions received under this subsection are not  
240 income of a revenue nature.

241       Section 35. Subsection (7) of section 322.08, Florida  
242 Statutes, is amended to read:

243       322.08 Application for license; requirements for license  
244 and identification card forms.—



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245 (7) The application form for an original, renewal, or  
246 replacement a driver's license or identification card ~~duplicate~~  
247 ~~thereof~~ shall include language permitting the following:

248 (a) A voluntary contribution of \$1 per applicant, which  
249 contribution shall be deposited into the Health Care Trust Fund  
250 for organ and tissue donor education and for maintaining the  
251 organ and tissue donor registry.

252 (b) A voluntary contribution of \$1 per applicant, which  
253 contribution shall be distributed to the Florida Council of the  
254 Blind.

255 (c) A voluntary contribution of \$2 per applicant, which  
256 shall be distributed to the Hearing Research Institute,  
257 Incorporated.

258 (d) A voluntary contribution of \$1 per applicant, which  
259 shall be distributed to the Juvenile Diabetes Foundation  
260 International.

261 (e) A voluntary contribution of \$1 per applicant, which  
262 shall be distributed to the Children's Hearing Help Fund.

263 (f) A voluntary contribution of \$1 per applicant, which  
264 shall be distributed to Family First, a nonprofit organization.

265 (g) A voluntary contribution of \$1 per applicant, to Stop  
266 Heart Disease, which shall be distributed to the Florida Heart  
267 Research Institute, a nonprofit organization.

268 (h) A voluntary contribution of \$1 per applicant, which  
269 shall be distributed to the League Against Cancer/La Liga Contra  
270 el Cancer, a not-for profit organization.

271

272 A statement providing an explanation of the purpose of the trust  
273 funds shall also be included. For the purpose of applying the



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274 service charge provided in s. 215.20, contributions received  
275 under paragraphs (b)-(h) ~~(b), (c), (d), (e), (f), and (g)~~ and  
276 under s. 322.18(9) are not income of a revenue nature.

277 Section 36. Except as otherwise expressly provided in this  
278 act, this act shall take effect September 1, 2010.

279  
280 ===== T I T L E A M E N D M E N T =====

281 And the title is amended as follows:

282 Delete line 124

283 and insert:

284 school; amending s. 45 of chapter 2008-176, Laws of  
285 Florida; delaying the expiration of the moratorium on  
286 the issuance of new specialty license plates by the  
287 Department of Highway Safety and Motor Vehicles;  
288 amending s. 320.08053, F.S.; removing provisions  
289 requiring that an organization seeking authorization  
290 to establish a new specialty license plate submit a  
291 sample survey of motor vehicle owners to the  
292 department; requiring that the department establish a  
293 method to issue vouchers allowing the presale of a  
294 specialty license plate; requiring that an  
295 organization that is approved to issue a specialty  
296 license plate record with the department a minimum  
297 number of voucher sales in order to proceed with the  
298 development of the plate; providing for the purchaser  
299 of a voucher to receive a refund or use the voucher to  
300 purchase of another license plate if the specialty  
301 plate is deauthorized; amending ss. 320.08056 and  
302 320.08058, F.S.; conforming provisions to changes made



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303 by the act; creating the Hispanic Achievers license  
304 plate; establishing an annual use fee for the plate;  
305 providing for the distribution of use fees received  
306 from the sale of such plate; providing clarification  
307 for certain organizations exempt from the moratorium;  
308 prohibiting the Department of Highway Safety and Motor  
309 Vehicles from establishing any new voluntary  
310 contribution checkoffs on the motor vehicle  
311 registration form or the driver's license application  
312 form between a specified period; providing an  
313 exception; amending s. 320.02, F.S.; requiring the  
314 application forms for motor vehicle registration and  
315 renewal of registration to include language permitting  
316 the applicant to make a voluntary contribution to the  
317 League Against Cancer/La Liga Contra el Cancer;  
318 amending s. 322.08, F.S.; requiring the application  
319 form for an original, renewal, or replacement driver's  
320 license or identification card to include language  
321 permitting the applicant to make voluntary  
322 contributions for certain purposes; requiring such  
323 forms to include language permitting the applicant to  
324 make a voluntary contribution to the League Against  
325 Cancer/La Liga Contra el Cancer; providing for  
326 distribution of funds collected from such  
327 contributions; providing that such contributions are  
328 not considered income of a revenue nature; providing  
329 effective dates.