

STORAGE NAME: h1053z.tr
DATE: August 14, 2001

****AS PASSED BY THE LEGISLATURE****
****VETOED BY THE GOVERNOR****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
FINAL ANALYSIS**

BILL #: CS/CS/HB 1053, 3rd Eng.

RELATING TO: Transportation

SPONSOR(S): Council for Ready Infrastructure, Committee on Transportation and Representative(s)
Russell and Slosberg

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON TRANSPORTATION YEAS 12 NAYS 0
- (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 13 NAYS 1
- (3) COUNCIL FOR READY INFRASTRUCTURE YEAS 16 NAYS 0
- (4)
- (5)

I. SUMMARY:

CS/CS/HB 1053, 3rd Engrossed, included numerous transportation and highway safety and motor vehicle issues. The bill's substantive provisions include:

- Streamlining airport registration and eliminating airport license fees.
- Transforming the state's Turnpike District into a "Turnpike Enterprise," allowing it to operate much like an independent authority, except the Department of Transportation (DOT) will retain management oversight.
- Conforming Florida's commercial driver's license process to federal requirements by disqualifying persons violating out-of-service orders or railroad-highway grade crossing regulations from driving commercial vehicles.
- Authorizing DHSMV to affix a decal to a rebuilt vehicle identifying it as rebuilt from parts, and providing that removal of the decal is a third degree felony.
- Conforming voluntary check-off donation and specialty license plate laws to Florida's Single Audit Act, and requiring organizations receiving donation and plate sale proceeds to report to DHSMV if they cease to exist.
- Creating an arbitration process for local governments and billboard owners who cannot reach agreement on just compensation for sign removal.
- Eliminating solicitation of funds at highway rest areas, welcome centers and similar facilities along the State Highway System.
- Making changes to the existing Transportation Outreach Program (TOP) to refocus its project selection on transportation improvements that promote economic competitiveness and development.
- Eliminating the limit on how many times motorists who violate traffic laws can attend driving school, rather than accumulate "points" against their driver's licenses.
- Facilitating opportunities for private entities to build and manage toll roads and other transportation facilities associated with state highway systems.

The bill also would have deleted a number of responsibilities – including regulation of train speeds – which the Florida Statutes assign to DOT, but which actually are governed by federal law. The bill also would have had a minimal fiscal impact on the DOT and the DHSMV, and would have taken effect July 1, 2001.

(NOTE: The House passed the bill by a final vote of 106-8 on May 4, 2001, and the Senate passed it by a vote of 39-1 later than night. The Governor vetoed the bill on June 14, 2001.)

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill supports the principle of less government by: streamlining DOT regulation of private airports; eliminating unnecessary rulemaking and licensing requirements; deleting rail regulations that are duplicative of federal laws; and returning roads that principally serve subdivisions to those neighborhoods for maintenance.

The bill contradicts the principle of less government by: requiring counties, cities and expressway or bridge authorities to consider DOT-pre-qualified construction contractors for their local transportation projects, except in a narrow circumstance; establishing an arbitration process for local governments and sign owners to work out their differences over relocation and reconstruction agreements; and requiring additional motorists to attend driver improvement schools.

B. PRESENT SITUATION:

Because of the comprehensive nature of the changes in this bill, the "Present Situation" relating to each issue is set out in the "Section-By-Section Analysis."

C. EFFECT OF PROPOSED CHANGES:

Because of the comprehensive nature of the changes in this bill, the "Effect of Proposed Changes" relating to each issue is set out in the "Section-By-Section Analysis."

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 and 2: DOT reorganization

Current Situation:

The Department of Transportation has one of the most detailed statutory descriptions of any state agency, in terms of internal organization, the duties and responsibilities of agency officers, and DOT reporting requirements. DOT staff say there are no plans to reorganize the agency, but as staffing and other changes occur through outsourcing efforts and efficiencies, amending s. 20.23, F.S., provides the Secretary the flexibility needed to address these changes.

Effect of Proposed Changes:

The bill heavily amends s. 20.23, F.S., deleting unnecessary instructions on the Secretary's responsibilities and to whom the Secretary may delegate, the tasks assigned to other DOT officers and supervisors, and obsolete references in general.

This section also changes the Turnpike District into a "Turnpike Enterprise" -- just short of an authority. The DOT Secretary would delegate responsibility for the day-to-day operations of the Turnpike Enterprise to an executive director, who would serve at the Secretary's pleasure. In addition, the DOT Secretary may exclude the Turnpike Enterprise from rules, policies and procedures that the divisions and programs within DOT must adhere to, and initiate rulemaking specifically to assist the Turnpike Enterprise in using "best business practices" to operate much like a private company. (See Sections 67-82 for more detail about the Turnpike Enterprise.)

Section 2 of the bill corrects cross-references in s. 110.205, F.S., necessary because of the changes in s. 20.23, F.S.

Sections 3, 4, 24, 53-55, and 58: Developments of Regional Impact/Concurrency

Current Situation:

Florida has one of the most detailed growth-management laws in the nation. Among its requirements is "concurrency:" adequate infrastructure, such as schools, roads, and sanitary sewer systems, must be made available to serve the growth that comes with development. For example, s. 163.3180, F.S., requires that transportation facilities to serve new development shall be in place or under actual construction no later than three years after the local government has issued a certificate of completion for the development.

Another element of Florida's growth-management law is special review of large-scale projects that have the potential for regional impacts. Airports and petroleum storage facilities are among the types of developments that must go through a "development of regional impact" (DRI) review prior to being built or expanded, pursuant to ss. 380.06 and 380.0651, F.S. The DRI review process allows the Department of Community Affairs and regional boards to scrutinize an eligible project's impact on the health, safety and welfare of the citizenry, and to determine if it is consistent with the area's approved land-uses and comprehensive plans.

Each type of development has at least one numeric threshold, above which a DRI review is mandated. Examples of numeric thresholds that trigger a DRI review include: 10,000 permanent spectator seats in a stadium; an office park to be operated under common ownership that will encompass 30 or more acres; and recreational vehicle parks that will accommodate 500 or more parking spaces.

During the 2000 legislative session, a number of growth-management proposals were considered. One proposal would have exempted airports, with adopted master plans that had been incorporated into their relevant local governments' comprehensive plans, from DRI review. This proposal failed to pass; however, legislation creating the Governor's Growth Management Study Commission became law. The Study Commission, comprised of private citizens and legislators, met several times in the latter half of 2000, and evaluated a number of issues, including the DRI process. Among its recommendations to the Governor and the Legislature, submitted prior to the start of the 2001 session, was eventually replacing DRIs with less-cumbersome "regional cooperation agreements."

Effect of Proposed Changes:

The bill amends s. 163.3177, F.S., to give local governments the discretion to incorporate in their comprehensive plans the airport master plans, prepared pursuant to s. 333.06, F.S., by publicly owned and operated airports. Local governments that decide to incorporate these airport master plans must accomplish this via the comp plan amendment process, which typically entails an evaluation of land-use compatibility, transportation and other infrastructure in the area of the airport, concurrency, and other issues. Development or expansion of an airport that is consistent with an adopted airport master plan which has been incorporated in to a local comp plan, and airport- or aviation-related development that has been addressed in a comp plan amendment, shall be exempt from DRI review.

Section 163.3180, F.S., also is amended to change the concurrency timeframes for certain transportation projects. Roads, bridges and other transportation facilities designated as part of the Florida Intrastate Highway System that are needed to serve new development shall be in place, or under actual construction, no more than five years after the relevant local government has issued a certificate of completion to a development. For all other transportation projects, the deadline remains at three years.

Also, the bill amends s. 333.06, F.S., to direct publicly owned and operated airports to send to "affected local governments" all copies of master plans, environmental assessments, site-selection studies and other specified documents which the airports are either submitting to, or requesting from, state and federal government agencies. "Affected local governments" are defined as any city or county having jurisdiction over the airport and any city or county located within 2 miles of the boundaries of the land subject to the airport master plan.

The bill also amends s. 380.06, F.S., to exempt new or expanding petroleum storage facilities from DRI review, as long as they either consistent with a local government comprehensive plan in compliance with s. 163.3177, F.S., or a port master plan in compliance with s. 163.3178, F.S.,. In addition, the bill addresses the status of applicable petroleum storage facilities that have received a DRI development order, but would no longer be required to undergo DRI review, because of passage of this legislation. In such cases, the development would continue to be governed by the terms of the development order, which may be enforced by the appropriate local government. The landowner or development may request that the DRI development be amended or rescinded, consistent with the local comprehensive plan and land-development regulations. Petroleum storage facilities with an application for development approval, or notification of approval, pending as of the effective date of this act, may decide to continue with the review. In any event, the resulting development order would be governed by the provisions of this act.

Finally, the bill either exempts or raises numeric thresholds that trigger a DRI review for wholesale automobile auction lots, by amending s. 380.0651, F.S. These auto auction lots would be exempt from the current threshold of more than 2,500 parking spaces. And, the acreage threshold for auto auction lots, which conduct sales activities no more frequently than an annual average of three days a week, would be in excess of 500 acres.

Sections 5, 9 and 12: Consultant Competitive Negotiation Act

Current Situation:

Chapter 287, F.S., regulates the bidding, negotiation for, and procurement of goods and services by public agencies. In addition, it specifies circumstances where some activities don't have to be competitively bid, or even re-bid every year.

Section 287.055, F.S., the "Consultants' Competitive Negotiation Act," (or CCNA) was created by the Legislature in 1975 to address the special circumstances faced by agencies in the hiring of engineers, architects, surveyors and other consultants. The law requires agencies to publicly notice

projects for which they need consultant services, and to select at least three pre-certified firms, among those that submit proposals. Agencies are required to negotiate first with the top-ranked firm, and if they can't come to terms, then negotiate with the next firm.

During the 2000 legislative session, CS/SB 2346, 2nd Engrossed, became law. It created s. 189.441, F.S., which allowed Community Improvement Districts to develop their own competitive bidding processes, outside of chapter 287, F.S. In part, the Legislature's intent was for the bill to promote the activities of these special districts. Proponents of the legislation now say they did not intend to exempt Community Improvement Districts from s. 287.055, F.S.

Another CCNA glitch occurred with the passage of CS/SB 772, 1st engrossed, last session. Language from a different Senate bill related to seaports specifically required the Florida Seaport Transportation and Economic Development Council to utilize chapter 287.057, F.S., for procurement of goods and contractual services. Most of this language was amended to CS/SB 772, 1st Engrossed, as well as a provision that seaports subject to the competitive bid requirements of local governments were exempt from the CCNA, s. 287.055, F.S. After CS/SB 772, 1st Engrossed, became law, proponents determined that the exemption was an internal inconsistency, since the CCNA also applies to local governments.

Effect of Proposed Changes:

The two "glitches" discussed above are corrected by the bill. Both s. 189.441, F.S., and s. 311.09(12), F.S., are amended to delete exemptions to the CCNA.

In addition, s. 287.055, F.S., is amended to raise the threshold amount that triggers when a continuing contract must be re-bid. Under the bill, no rebidding of professional service continuing contracts is required for projects in which the construction costs do not exceed \$1 million, nor for studies to be performed by a professional service continuing contract that does not exceed \$50,000. These amounts are double the current statutory thresholds. Proponents say the increased thresholds are necessary because the costs of doing business have grown in recent years.

Section 6: Eminent Domain/Attorney's Fees

Current Situation:

Eminent domain is the power of the government to take private property for public use. Under both the federal and state constitutions that power is restricted. The Fifth Amendment to the U.S. Constitution provides that private property may not be taken for public use without just compensation. Article X, s. (6)(a), of the Florida Constitution, prohibits the government from taking property through the exercise of eminent domain without the payment of full compensation, as follows:

No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.

Chapters 73 & 74, F.S., provide for eminent domain and proceedings supplemental to eminent domain, respectively. The petition-filing process, pre-suit negotiation, and notification requirements for governmental entities initiating eminent domain proceedings are precisely spelled out in statute, as is the content of the so-called "written offers of compensation" and "offers of judgment" by the governmental entity. The last significant changes to Florida's eminent domain laws were in 1999, with the passage of HB 591, 3rd ENG. That legislation created a pre-suit negotiation process that

required a written offer of compensation, clarified attorney's fees, and provided for computation of business damages.

Section 73.015, F.S., describes the pre-suit negotiation process and what must be included in the written offer of compensation; if the parties can't agree, then the governmental agency files a petition to initiate eminent domain proceedings. Prior to the court date, the governmental entity provides the defendant property owner with a written offer of judgment, which must include specific information. Each of these steps in the eminent domain process has a separate time-line.

Section 73.071, F.S., provides that at the trial on the petition for eminent domain, the court must impanel a jury of 12 persons as soon as practical to determine the amount of compensation for the property to be acquired. The amount of compensation is to be determined as of the date of trial, or the date upon which title passes, whichever occurs first. The jury is to determine solely the amount of compensation to be paid, with compensation to include, in part, the following:

- The value of the property sought to be appropriated; and
- When the condemning authority seeks to appropriate only a portion of the owner's property, any damages to the remainder of the property caused by the taking; these are known as severance damages. Severance damages may include the probable damages to a business.

In eminent domain proceedings, attorney's fees generally are awarded to a defendant. Section 73.091(1), F.S., requires condemning authorities to pay all reasonable costs incurred in the defense of the proceedings in the circuit court, including, but not limited to, reasonable appraisal fees and, when business damages are compensable, a reasonable accountant's fee. These costs are in addition to attorney fees that must be paid pursuant to s. 73.092, F.S. The amount of these costs are to be determined by the trial court. The bill adds a specific statutory prohibition against payment of pre-judgment interest on awards of costs or attorney fees.

Section 73.092, F.S., specifies that the fees paid to a defendant's attorney are based solely on the benefits achieved for the client. The term "benefits" means the difference, exclusive of interest, between the final judgment or settlement and the last written offer made by the condemning authority before the defendant hires an attorney. If an attorney is hired before a written offer is made, benefits must be measured from the first written offer after the attorney is hired. The section of law further provides a mathematical formula for determining the attorney's fees based on benefits achieved.

Effect of Proposed Changes:

A new subsection (6) is added to s. 73.092, F.S., to eliminate the eminent -domain defendant's attorney's fees, under certain circumstances. If a defendant does not accept the "last written settlement offer" by the condemning authority before the final judgment is announced, and that final judgment (less any interest that has accumulated since the written settlement offer was made), is equal to or less than that written settlement offer, then the court shall not award any attorney's fees or costs incurred by the defendant after receiving the last written settlement offer.

The new language does not in any way apply to "offers of judgment," under s. 73.032, F.S.

Section 7: Right-of-way bonds

Current Situation:

Section 206.46(2), F.S., authorizes that a maximum of 7 percent of the total revenues deposited in the State Transportation Trust Fund be transferred to the Right-of-Way Acquisition and Bridge Construction Trust Fund to pay debt service on bonds issued to buy right-of-way and build/repair bridges. The law also specifies that no more than the amount actually needed to pay debt service, up to a maximum \$135 million, shall be transferred.

In fiscal year 2000-2001, 7 percent of the State Transportation Trust Fund revenues equaled \$139 million. The actual debt service was \$59.3 million.

However, DOT financial projections indicate that by fiscal year 2006-2007, the debt service will be \$139.5 million, which exceeds the \$135 million statutory cap. Although exceeding the cap is projected to be five years away, DOT staff recommends raising the cap to \$200 million now because the agency plans its Work Program in five-year increments.

Effect of Proposed Changes:

The bill amends s. 206.46(2), F.S., to raise the cap on DOT's maximum debt service on right-of-way acquisition and bridge construction bonds to \$200 million. DOT staff has said this will help ensure an uninterrupted flow of revenue to pay projected increases in debt service.

Sections 8, 31, 32 and 35: Contractor bidding on local government/expressway projects

Current Situation:

The basic process for counties, municipalities, special districts and other political subdivisions of the state to award contracts for construction projects is described in s. 255.20, F.S., and elsewhere in statute. Typically, any construction project with a cost in excess of \$200,000, and any electrical project costing more than \$50,000, must be competitively awarded. However, s. 255.20, F.S., lists 10 types of projects where a competitive award is not required, such as emergency repair of facilities damaged by hurricanes, riots, or other "sudden unexpected turn of events."

Section 255.20, F.S., also includes a basic definition and framework for the competitive award process, but allows local governmental entities to establish specific procedures for conducting the process. This has resulted in differences among counties, cities, and other local governmental entities in bidding and contractor qualification requirements.

Sections 336.41 and 336.44, F.S., more specifically relate to county road contracting. Each county is required to competitively bid transportation projects, except in emergency situations and for projects that either don't exceed \$250,000 or 5 percent of the county's share of the 2-cents-gallon constitutional fuel tax, whichever is greater.

Section 337.14, F.S., details DOT's contractor certification process. All contractors who wish to bid on transportation projects costing in excess of \$250,000 must meet DOT qualifications and be certified.

Effect of Proposed Changes:

Section 255.20 (1)(a) is amended to add an eleventh exemption -- projects subject to chapter 336, F.S., County Road System -- from the provisions that set competitive bidding thresholds and allow local-government variations in the competitive award process. In effect, any contractor who is pre-qualified by DOT and eligible to bid on DOT projects to perform certain work also would be pre-qualified to obtain bid documents and to submit a bid on those same types of projects for any local government or expressway authority. A local government entity would be able to disqualify a

prospective bidder who is at least 10 percent behind on another construction project for that same entity. Sections 336.41 and 337.14, F.S., are similarly amended.

Section 10: Seaport funding issues

Current Situation:

In 1990, the Legislature created the Florida Seaport Transportation and Economic Development Program (FSTED). The FSTED Program began with an annual \$8 million appropriation in grants, pursuant to s. 311.07(2), F.S. In recent years, the Legislature has been appropriating \$10 million for FSTED grants. The program also receives an additional \$25 million in bondable state revenues, on an annual basis.

State funding cannot exceed 50 percent of the total cost of an FSTED project. In order to be approved, a proposed project must be found consistent with the seaport's comprehensive master plan and the appropriate local government's comprehensive plan, be of demonstrable economic benefit to the state, and be found consistent with DOT's adopted five-year work program. Candidate projects to be financed through bondable funding must also meet statutory eligibility and consistency requirements. Waterside dredging related improvements require a 75-percent state to 25-percent port or local government match. Off-port access improvements and on-port bonded projects require a minimum 50 percent contribution from recipient ports.

The FSTED Program is managed by the Florida Seaport Transportation and Economic Development Council, which consists of the fourteen deep-water port directors, the Executive Director of the Office of Tourism, Trade and Economic Development, and the Secretaries of the DOT and the Department of Community Affairs. The Council is responsible for preparing a five-year Florida Seaport Mission Plan, which defines the goals and objectives of the seaports. Additionally, the FSTED Council meets semi-annually to review project applications submitted by each of the individual seaports and recommends which projects should be forwarded to the agencies for further review and possibly recommended for funding with state funds.

As Florida's seaports have expanded—in size, in cargo moved, and in international importance—so have concerns about seaport security.

Florida is home to four of the 20 busiest container ports in the nation and the top three cruise ports in the world, so significant opportunities exist for drug smuggling, cargo theft, and other criminal activities. Recent assessments, including by the Interagency Commission on Crime and Security in U.S. Seaports, concluded that illegal drug trafficking is the single most prevalent crime problem in U.S. ports. In February, the Florida Office of Drug Control and the Florida Department of Law Enforcement completed their review of the preliminary security plans drafted by Florida seaports, and issued a report summarizing the ports' security needs. These plans include security projects valued at an estimated \$45 million, some amount of which the ports would contribute.

Effect of Proposed Changes:

Section 311.07, F.S., is amended to extend eligibility for FSTED funds to seaport security projects, and specifies that funds earmarked for security projects don't have to be matched by the ports, unlike their economic development projects. An obsolete reference to the Florida Trade Data Center also is deleted.

(Note: Governor Bush recommended in his FY 01-02 budget that \$19 million be appropriated for seaport security. The House and Senate recommended less funding, utilizing Transportation Outreach Program (TOP) funds. The Fiscal Year 2001-2002 General Appropriations Act included \$7 million in TOP funds for seaport security projects.)

Section 11: Seaport entertainment expenses

Current Situation:

Section 315.031, F.S., lists the types of promotional and advertising activities on which publicly owned and operated seaports can spend their funds. Expressly prohibited is the expenditure of funds for meals, hospitality, amusements or other entertainment activities.

Effect of Proposed Changes:

The bill amends s. 315.031, F.S., to eliminate the prohibition against seaports spending funds for meals, hospitality, amusements or other forms of entertainment. It also adds as acceptable expenditures of port funds meals, hospitality and entertainment of persons "in the interest of promoting and engendering good will toward ...port facilities."

Sections 13, 14, 29, 41, 42 and 105: Federal pre-emption issues

Current situation:

DOT has general authority over the State Highway System, certain federally delegated responsibilities for the Interstate System, and general responsibilities for public transportation systems. In terms of federal transportation regulations or federally delegated responsibilities to DOT, Florida Statutes periodically need to be reviewed for compliance and accuracy with federal law.

Effect of Proposed Changes:

The bill makes several adjustments to statutes where either federal law has changed and the state law needs to be updated, or to eliminate references to DOT authority where federal law actually regulates. Specifically, the bill:

- Updates s. 316.302 (1), F.S., related to requirements for drivers of commercial motor vehicles. It changes the date of relevant federal rules and regulations from March 1, 1999, to October 1, 2000.
- Corrects s. 316.3025, F.S., by deleting a statutory reference to commercial motor vehicle penalties and replacing it with a reference to 49 Code of Federal Regulations (C.F.R.) s. 390.21.
- Deletes references in s. 335.141(3) and (4), F.S., to DOT's authority to regulate train speed limits and assess penalties on railroad companies in violation of speed limits. These are federal responsibilities.
- Deletes references in s. 341.051(5), F.S., to DOT developing a major capital investment policy and methodology for funding public transit projects that receive federal dollars. DOT must use already-established federal guidelines.
- Deletes references in s. 341.302 (8) and (10), F.S., to DOT's authority to develop and administer state standards on train speed limits. Again, these are governed by federal regulations.
- Repeals two statutory references. Section 316.327, F.S., requires the location and design of identification stickers on commercial motor vehicles, but says any such vehicle meeting federal identification requirements shall be considered in compliance with this section. To avoid having multiple stickers, the majority of commercial vehicle owners attached the federally required identification. DOT is recommending deleting the state requirement. And,

s. 316.610(3), F.S., which allowed the owners of commercial motor vehicles to pay DOT \$25 per vehicle safety inspection, is being repealed because of a lack of inspection requests.

Section 15: Height of auto transporters

Current situation:

DOT regulates the height, width and length of motor vehicles, pursuant to s. 316.515, F.S. Subsection (2), for example, establishes a maximum height of 13 feet, 6 inches for a vehicle, regardless of cargo, although it allows automobile transporters to have a maximum height of 14 feet if they obtain a DOT permit. The industry standard for automobile transports is 14 feet high.

Effect of Proposed Changes:

The DOT permit requirement for automobile transporters with heights up to 14 feet is repealed because it is unnecessary paperwork.

Sections 16 and 17: Truck weight limits

Current situation:

Section 316.535, F.S., regulates the weights of trucks, based on their axle spacing. During the 2000 legislative session, s. 316.540, F.S., was identified as an obsolete section of law and repealed. However, upon further review in the interim, DOT came to the conclusion that one subsection in the repealed law was necessary, because without it, there would be no weight limits on concrete mixers, septic tank pump trucks, dump trucks and other "special use trucks" that don't comply with the standard axle spacing.

Effect of Proposed Changes:

A new subsection (6) is added to s. 316.535, F.S., to include weight limits on these specialty trucks, and to specify they have to meet all safety and operational requirements under law. Section 316.545, F.S., is amended to add a cross-reference, in light of the amendment to s. 316.535, F.S.

Sections 18-23 and 111: State regulation of airports/Airport noise issues

Current situation:

The Federal Aviation Administration is the prime regulator of airports, airlines and aircraft. Chapter 330, F.S., governs the state regulation of public and private airports. DOT's general responsibilities include licensing and inspecting public and private airports; reviewing airport siting plans; and providing funds for expansion or improvements. Florida has 20 commercial service airports, a total of 131 public airports, and in excess of 230 privately operated airports, airparks, heliports and seaplane landing areas

Effect of Proposed Changes:

Chapter 330, F.S., is amended throughout. The site and license fees for all airports are abolished. The proposal also replaces the current requirement for physical inspection of private airport sites for approval and licensing with an electronic self-certification registration program; however, DOT may continue to inspect and license any private airport with 10 or more planes based there, at the request of the owners of these private airports. This is expected to affect 46 private airports or

airparks. The amendments include authority and requirements for DOT to establish the data system to register private airports, standards to accomplish self-certification for site approval and registration, and requirements for administering and enforcing the new provisions. The amendments also include editorial changes to remove outdated, obsolete, or incorrect language, including airport definitions.

The bill also amends s. 332.004(4), F.S., broadening the definition of "airport or aviation development project" to include off-airport noise mitigation projects as eligible for state funding. These off-site mitigation projects, such as installing noise-buffering insulation in homes around airports, are less expensive than buying out the homeowners. DOT funds have been spent for these type projects in the past, and the agency wanted to ensure that such expenditures are clearly legal.

In addition, the bill also attempts to address noise-related conflicts between the Bradenton-Sarasota Airport and nearby neighborhoods. Section 111 of the bill directs the Bradenton-Sarasota Airport to establish a \$7.5 million noise mitigation fund in fiscal year 2002, and to add another \$2.5 million in fiscal year 2004, to comply with a development-order commitment by the airport to acquire property, or otherwise mitigate noise impacts, in the surrounding area. The noise problems must be addressed by December 31, 2006. If not, the airport shall not be able to amend its DRI development order, or commence with airport infrastructure improvements, until the aforementioned funds have been spent to correct the noise conflicts.

Section 25: DOT's authority to delegate permitting and to promote scenic highways

Current Situation:

DOT's powers and duties are listed in s. 334.044, F.S. Among its responsibilities is the ability to purchase, lease, or otherwise acquire promotional or educational materials on traffic and train safety awareness, commercial motor vehicle safety, and alternatives to single-occupant vehicle travel.

DOT also is authorized to regulate and prescribe conditions for the transfer of storm water to state right-of-way because of development of, or other manmade changes to, adjacent properties. Pursuant to s. 334.044(15), F.S., DOT is authorized to adopt rules for issuing storm water management permits. However, the section also directs DOT to accept storm water permits from the water management districts, the Department of Environmental Protection, or local governments, provided those permits are based on requirements equal to, or even more stringent than, DOT's requirements. Situations have arisen where a water management district's permit criteria were not equal to or more than stringent than DOT's criteria, yet still would have accomplished the goal of protection of state right-of-way.

Effect of Proposed Changes:

Section 344.044(5), F.S., is amended to include "scenic roads" among the topics for which DOT can purchase promotional materials.

Also, subsection (15) is amended to allow DOT to delegate storm water permitting to a water management district or other entity, provided that the permit is based on requirements, as determined by DOT, that ensure the safety and integrity of transportation facilities being affected by the runoff.

Section 26: DOT employee bidding

Current Situation:

Section 334.193, F.S., forbids DOT employees from entering into agreements for, or having a financial interest in, the purchase or furnishing of materials or supplies to the agency, contracts to build roads, acquire land, or any other work for which DOT is responsible.

As part of the Governor's initiative to outsource state agency work and to trim staffs, DOT has been researching ways to creatively address these issues.

Effect of Proposed Changes:

Section 334.193, F.S., is amended to authorize DOT to consider competitive bids or proposals from its employees for services that are being outsourced. If the DOT employee, or group of employees, is determined to be the successful bidder, the employee or group of employees must resign from the agency prior to executing an agreement to perform the work.

In addition, DOT can consider bids from an employee or group of employees, submitted on behalf of the agency, to continue to perform the work in-house.

DOT is directed to either update existing rules, or promulgate new rules, pertaining to employee usage of department equipment, facilities, and supplies during business hours, in order to prevent any abuses that could occur under these employee bidding procedures.

Section 27: Public-private transportation facilities

Current situation:

Section 334.30, F.S., was created in 1991 to allow for the development of private transportation facilities, such as toll roads or passenger rail service, that would serve to reduce burdens on public highway systems. The private entity developing the transportation facility would be able to charge tolls or fares for its use, under agreement with DOT, and DOT could regulate the amount charged, if the proposal was determined to be too unreasonable to users. No state funds were to be expended on these projects, except those with an "overriding state interest," in which case DOT had the discretion to exercise eminent domain and other powers to assist in such projects, and any maintenance, law enforcement, or other services provided by DOT had to be fully reimbursed by the private entity.

According to DOT, this section of law has never been used. However, DOT has recently received a series of unsolicited trial proposals from the Toll Road Corporation of America for an "I-95 Reversible HOT Lane System" in Miami that could be a candidate for this program, if certain legislative changes are made. The proposed project involves the construction of reversible toll lanes in the median of I-95 from its intersection with State Road 112 to north of the Golden Glades Interchange. Typically, HOT (high-occupancy toll) lanes attract motorists willing to pay a fee to use them, because traffic flows quicker.

Effect of Proposed Changes:

The bill rewrites s. 334.30, F.S., throughout. The section is renamed "public-private transportation facilities," and allows DOT to use state "resources" (most likely public right-of-way) for a transportation facility that is either on the State Highway System or which provides increased mobility for the state system. State funds could be used to advance projects that are in the 5-year work program and which a private entity wants to help build. Or, up to \$50 million in DOT funds

could be spent for partnership projects, statewide, that aren't in the work program. Partnership projects that seek more than the \$50 million would have to be approved by the Legislature.

The amended s. 334.30, F.S., also establishes some noticing requirements; allows DOT to participate in funding operating and maintenance costs of partnership projects that are on the State Highway System; allows DOT to participate in the creation of tax-exempt, public-purpose corporations (dubbed chapter 63-20 corporations by the IRS) and to lend toll revenues to these corporations for eligible projects.

Section 28: Safe Paths to Schools Program

Current situation:

Section 335.065, F.S., directs DOT to establish bicycle and pedestrian pathways in conjunction with its state transportation projects, with special emphasis on projects in or within 1 mile of an urban area. DOT is authorized to set construction standards for these paths, and to implement uniform signage. The current law also directs DOT and the Department of Environmental Protection to establish a statewide, integrated system of bicycle and pedestrian paths. The statute does list circumstances when bike or pedestrian pathways aren't required to be established, such as where there is an absence of need or the cost would be prohibitive.

During the 2000 legislative session, a proposal to create a DOT-funded "Safe Paths to Schools" Program was discussed, but it did not pass. In order to determine the extent of the need for such a program, the Department of Education over the interim compiled a survey from county school districts that identifies hazardous walking or biking locations near schools. The Department of Education did not request any legislation based on the survey information, but three bills filed for the 2001 session addressed the issue of hazardous walking or biking conditions near schools. Generally, they directed county school boards to work with the governmental entities responsible for the hazardous walking or biking conditions on the streets near schools to correct the problem. None of the bills – HB 1347, SB 326, and SB 1592 – passed the Legislature.

Effect of Proposed Changes:

The bill creates s. 335.066, F.S., the "Safe Paths to Schools Program." DOT is directed to consider the planning and construction of bicycle and pedestrian paths to provide safe passageways for children from their neighborhoods to their schools, local parks, and public greenways and trails. DOT is allowed to create a grant program to fund these types of projects, and to adopt rules to administer the new program. However, DOT is not specifically directed to allocate funds for the new program.

Section 30: Abandonment of county roads

Current Situation:

Chapter 336, F.S., discusses the funding, construction and maintenance, designation, and abandonment of county roads. In particular, s. 336.12, F.S., states only that an act by a county commission in closing, abandoning, or renouncing any rights in a recorded road abrogates the public's use of that road. Depending on the circumstances of the county acquiring use of the land as a public road, the property can either be returned to the previous fee owners, or surrendered to the abutting property owners.

Some subdivisions that deeded their platted roads to their counties, for public use and maintenance, have expressed an interest in becoming gated communities, and have sought a standardized process for re-acquiring those roads.

Effect of Proposed Changes:

Section 336.12, F.S., is amended to create a standardized process by which a county commission can consider, and at its discretion agree to, a request from a subdivision for a return of roads it originally owned but deeded to the county. Counties would have an option to abandon such roads, and simultaneously convey the county's interest in such roads, rights-of-way, drainage systems, lighting, and other appurtenant facilities, to the recorded subdivision. A subdivision's homeowners' association must request this abandonment and conveyance in writing; the reason for the request is that the subdivision wants to become a gated community; at least four-fifths of the subdivision's property owners of record have consented in writing to the plan; the homeowners' association is a not-for-profit corporation in good standing under chapter 617, F.S., meets the definition in s. 720.301(7) for "homeowners' association;" and has the authority to levy and collect assessments to pay for the maintenance of the road and related facilities.

Sections 33 and 34: Design-build contracts

Current Situation:

Chapter 337, F.S., describes DOT's contracting and acquisition processes. In particular, s.337.107, F.S., gives DOT the authority to enter into contracts, using state procurement guidelines, to purchase right-of-way or related services for transportation corridors and facilities. Section 337.11, F.S., governs DOT's overall contracting authority; one of its provisions prohibits the advertisement of bids and the publication of bid notices for projects until title to the affected right-of-way has either been vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Traditionally, individual phases of a transportation project are separately bid and awarded. Florida's DOT is among a handful of state transportation agencies that are awarding contracts to one provider who agrees to perform multiple project tasks. In Florida, these are called "design-build contracts," because the bidders agree to design and build the entire project. DOT is examining the feasibility of expanding this type of contract to include even more activities, but lacks specific statutory authority, pursuant to s. 337.11(7)(a), F.S., to combine more than the design and construction phases of buildings (including rest areas and weight stations), a major bridge, or a railroad corridor. In fiscal year 2000-2001, DOT has programmed in its budget to spend \$349.4 million on design-build projects, primarily to widen or replace bridges.

DOT also has interpreted s. 337.025, F.S., related to "innovative highway projects," to include design-build contracts for all types of transportation work. DOT is limited to spending no more than \$120 million annually for innovative highway projects, so most of these projects have been small resurfacing jobs. In fiscal year 2000-2001, DOT has programmed into its budget to spend about \$74 million on projects in this category.

DOT also is trying to promote "fast-tracking" of small construction and maintenance projects, meaning contracts that don't need to be competitively bid. Currently, s. 337.11(6)©, F.S., sets the threshold at \$60,000 for projects that don't have to go through competitive bid. As construction and materials costs have increased, DOT staff considers the \$60,000 cap too low.

Effect of Proposed Changes:

The bill amends s. 337.107, F.S., to add right-of-way services to those activities that can be included in a design-build contract.

Also, s. 337.11(7)(a), F.S., is amended to make "enhancement projects" eligible for design-build contracts. Examples of enhancement projects are sidewalks, bike paths, pedestrian crossings, landscaping, and street lighting. Language also is added to specify that design-build contracts can be advertised and awarded, but that construction cannot begin until title to all necessary right-of-way has vested in DOT or a local government, and all railroad crossing and utility agreements have been executed.

Finally, s. 337.11(6), F.S., is amended to raise from \$60,000 to \$120,000 the cap on maintenance and construction projects contracted without a competitive bid. DOT expects this will expedite completion of smaller transportation projects that are sometimes held up because of the need to competitively bid out the finishing touches, such as traffic signal improvements.

Section 36: Utility easements on public right-of-way

Current situation:

DOT or a local government, where applicable, have the authority to allow utilities the use of public right-of-way. Pursuant to s. 337.401, F.S., no utility shall be installed, located or relocated on a public right-of-way unless authorized by a permit issued by the entity owning the right-of-way. By practice, DOT also enters into utility relocation schedules and relocation agreement, which it treats like a utility permit, but this has raised legal issues.

Effect of Proposed Changes:

Section 337.401(2), F.S., is amended to allow DOT and a utility to execute a utility relocation schedule or relocation agreement in lieu of a permit, for activities on state-owned rights-of-way or rail corridors. This is expected to expedite the process and clear up legal confusion over whether a permit overrides a relocation schedule or agreement.

Section 37: Unnecessary rulemaking authority

Current situation:

DOT is directed by s. 339.08, F.S., to expend its funds according to its rules. According to the statute, these rules must restrict the type of expenditures to the 13 categories listed in the statute. DOT has taken the position that the rule is unnecessary, since the statute and other sections of law specifically direct how the agency is to spend its funds.

Effect of Proposed Changes:

References in s. 339.08(1) and (2), F.S., to DOT expenditures being governed by rule are deleted.

Section 38: Local government compensation

Current situation:

Section 339.12, F.S., guides DOT on the acceptance of monetary aid and contributions from federal, local and other governmental entities. There are different accounting processes for handling a situation where a local government is advancing money to DOT in order to expedite a state road project of community importance, and where a local government agrees to expend its own funds and perform the work. In the latter example, local governments are reimbursed their

actual costs, pursuant to s. 339.12(5), F.S.

In addition, under s. 339.12(4), F.S., DOT may enter into agreements with a city or county, whereby DOT accepts up to \$100 million from the local government to perform a transportation improvement project that is a priority for the city or county, but not in the agency's 5-year work program. The local government is reimbursed later through a legislative appropriation.

Effect of Proposed Changes:

Section 339.12(5), F.S., is amended so that the words "compensation" and "compensate" replace, where appropriate, the words "reimbursement" and "reimburse." Agency accountants have said the changes more accurately reflect the situation.

Also, subsection (4) of s. 339.12, F.S., is amended to raise the limit on local -government cash advances from \$100 million to \$150 million.

Sections 39 and 67-82: "Turnpike Enterprise"

Current Situation:

In 1953, the Legislature created an independent Florida State Turnpike Authority to finance, build and operate the Sunshine State Parkway. By 1964, the original 265-mile Mainline, connecting Miami to Wildwood, was completed. With the passage of the State Government Reorganization Act of 1969, the authority was dissolved and oversight responsibility of the Florida Turnpike shifted to DOT. Since 1994, the Florida Turnpike has been DOT's eight "district," with ultimate oversight by the DOT Secretary.

Today, the Florida Turnpike is 401 miles long, and includes the Beeline West in Orange County, the Veterans Expressway near Tampa, the Suncoast Parkway in Hernando County, the Sawgrass Expressway, and the Polk Parkway. Nearly 60 more miles of turnpike are under construction. It is the fourth-largest toll highway system in the United States, and has 174 employees.

In 1999, the Turnpike District generated \$311 million in toll revenues and \$8 million in concession revenues. This reliable and steady stream of revenues supports the repayment of state bonds issued to build turnpike projects, and finances their operation and maintenance. One of the reasons the Florida Turnpike is financially solid is that its projects are required by law to generate sufficient revenue to pay at least 50 percent of its bond debt service by the end of its fifth year in operation, and to pay at least 100 percent of its debt serve by the end of its 15th year.

Because it is a significant revenue-generator and outsources more than 80 percent of its activities (including many toll-collection duties), the Florida Turnpike has been mentioned as one of the better examples of state government that could be privatized. Separate studies by KPMG and the Infrastructure Management Group (IMG), Inc., evaluated the potential of privatizing the Florida Turnpike. Released in early 2001, these studies concluded that outright privatization would result in short-term cash flow benefits to the state, but could raise long-term public policy concerns. These studies seemed to support a middle ground, between outright privatization or retaining the status quo. The IMG study seemed to support turning the system into an enterprise (utilizing private-sector business practices but remaining under state oversight), while KPMG favorably discussed making the system into an independent authority.

Effect of Proposed Changes:

The bill significantly amends ss. 338.221 – 338.241, F.S., which is related to the Florida Turnpike. The Turnpike District is recreated as the “Turnpike Enterprise.” The term “enterprise” is not defined; instead, it is described in context as an entity that has the autonomy and flexibility to be able to pursue “innovations as well as the best practices found in the private sector in management, finance, organization, and operation.” A major change in how the Turnpike Enterprise will operate differently than the Turnpike District is that no longer will its toll road projects have to eventually generate enough toll revenue to repay the bond debt incurred to build them. Under the bill, “economically feasible” is redefined as meaning “the revenues of the proposed turnpike project in combination with those of the existing turnpike system are sufficient to service the debt of the outstanding turnpike bonds to safeguard investors.”

Other changes include:

- The Turnpike Enterprise is not bound by a cap on the amount of money to be spent on innovative highway projects; the authority of the enterprise to plan, design, build and maintain the Florida Turnpike system is expressed;
- DOT may adopt rules pertaining to the enterprise’s ability to use procurement procedures that are alternatives to those in chapters 255, 287 and 337, F.S.;
- The enterprise may automatically carry forward each fiscal year its unexpended funds;
- DOT may enter into contracts or licenses with persons to create business opportunities on the turnpike system; and
- Florida Highway Patrol Troop K is officially recognized as the preferred law enforcement troop of the Turnpike Enterprise. The enterprise’s executive director may contract with the DHSMV for additional officers to patrol the turnpike system.

The word “district” is replaced throughout with “enterprise,” and other cross-reference changes are made in these sections.

Section 40: Transportation Outreach Program (TOP)

Current Situation:

CS/CS/SB 862, 2nd Engrossed (chapter 2000-257, Laws of Florida), created a number of transportation-funding programs, under the umbrella of “Mobility 2000,” to accelerate construction of transportation projects that promote economic development. One such program was the Transportation Outreach Program (TOP) created in s. 339.137, F.S. TOP was intended to fund transportation projects of a high priority that would enhance Florida’s economic growth and competitiveness, preserve existing infrastructure, and improve travel choices to ensure mobility. Projects for this program are selected by a seven-member advisory council made up of representatives of private interests directly involved in transportation or tourism; the Governor appoints four members, while the Senate President and the Speaker of the House of Representatives each appoints three. The final project selection is made by the Legislature.

The drafters of TOP intended for the program to receive approximately \$60 million a year for the next 10 fiscal years, in funds that originally were set aside for the now-defunct FOX high-speed rail project, which was terminated by Governor Bush in 1999. Additionally, s. 339.1371, F.S., specifies that any of the general revenue funds remaining after Mobility 2000 project needs are met, must be appropriated to the TOP program. TOP wound up with an additional \$56.3 million in general revenue, for a total FY 01-02 appropriation of \$116.3 million. Over the next decade, TOP may receive an estimated \$936 million.

According to s. 339.137, F.S., the key criterion is that a TOP project must be consistent with the “prevailing principles” of preserving the existing transportation infrastructure, enhancing economic growth and competitiveness, and improving the public’s travel choices to ensure mobility. Other criteria, which can be waived under certain circumstances, are that the project:

- Is able to be made production-ready within five years;
- Is listed in an outer year of the DOT Five-Year Workplan, but could be made production ready and advanced to an earlier year;
- Is consistent with a current transportation system plan;
- Is not inconsistent with a local government comprehensive plan, or if inconsistent, can document why it should be undertaken.

The TOP project list is forwarded to the Governor and the Legislature for their review, and its approval is subject to the General Appropriations Act.

Section 339.1137, F.S., also lists a broad range of transportation projects generally eligible for TOP consideration; everything from improvements to the state highway system, to Spaceport Florida improvements, to bicycle and pedestrian paths.

The TOP Advisory Council met three times over the interim, and reviewed 207 project applications. The council adopted its final project list on January 8, 2001. It listed 24 projects, totaling \$115.3 million. Legislators and others have criticized the list for including projects without a clear economic benefit. Another criticism is that the projects don’t reflect equity in spending among the seven DOT districts. The council’s TOP list does not include a project within DOT District 4, which encompasses Broward, Indian River, Martin, Palm Beach and St. Lucie counties.

The House and Senate appropriations bills each include a TOP project list with different projects than the council’s list. The final list of TOP projects ultimately was approved in the FY 01-02 General Appropriations Act, a total of \$115.84 million. The Governor later vetoed \$32.75 million worth of TOP projects.

Effect of Proposed Changes:

The bill reorganizes and amends s. 339.137, F.S., throughout. It deletes references to the prevailing principal of “preserving the existing transportation infrastructure,” because that serves to maintain the status quo, and TOP has a different focus. It also deletes pedestrian and bicycle paths as eligible projects because they are covered in the existing DOT work program, or have other sources of public funding.

The language also emphasizes economic growth and competitiveness as the primary criterion for TOP project selection; re-emphasizes inter-modal connectivity as an important component of proposed projects; gives priority to eligible projects with matching funds; directs the TOP Advisory Council to create a methodology to score and rank project proposals, in order to bring more accountability to the project selection process; and directs the Florida Transportation Commission to review the TOP Advisory Council’s program list, and submit a report to the Legislature on its findings and recommendations.

These provisions are nearly identical to HB 1905 (formerly PCB TR 01-03).

Section 43: Expressway authorities

Current situation:

Chapter 348, F.S., deals with the creation and regulation of expressway authorities. Part I of the chapter, created by the Legislature in 1990, specifies the process for a county or counties to create and operate an expressway authority, including appointment of members. Parts II through IX refer to specific expressway authorities that were legislatively created. But other than the requirement that all the voting members of an authority must live in the county served by the expressway, no other qualifications for authority members are listed in statute.

Effect of Proposed Changes:

The bill amends s. 348.003(2)(d), F.S., to give a charter county, as defined by s. 125.011(1), F.S., the authority to establish qualifications, terms of office, and the obligations and rights of appointees to an expressway authority within its jurisdiction. Although there are several charter counties in Florida, only Miami-Dade County meets all of the conditions relevant to the section being amended. So, only the Dade County Expressway Authority will be impacted by the law change.

Sections 44 and 46-51: Orlando-Orange County Expressway Authority

Current situation:

The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963; its first project, the Beeline Expressway (State Road 528) opened to traffic four years later. Comprising the system are 90 total centerline miles, 11 main toll plazas, 42 ramp toll plazas, and 186 total toll lanes. More than 186 million motorists used the toll lanes in fiscal year 2000. OOCEA has adopted a 2025 Expressway Master Plan that includes expansions of the current system to better link with I-4, adding new lanes, and upgrading its toll plazas.

OOCEA's 2000 Annual Report indicated that for the seventh year in a row, the expressway authority experienced double-digit traffic and revenue growth. For example, total system revenues grew from \$112.4 million in 1999 to \$125.55 million in 2000. Forty-eight percent of the expressway authority's 2000 revenues were earmarked to pay debt service.

Pursuant to state law, the State Board of Administration's Division of Bond Finance issues bonds for OOCEA's projects on behalf of the authority.

Effect of Proposed Changes:

Sections 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S., are amended in various ways to give the OOCEA authority to issue its own bonds. A specific amendment to s. 348.755, F.S., says these bonds "shall not pledge the full faith and credit of the state."

Section 45: Approved projects for Tampa-Hillsborough County Expressway Authority

Current Situation:

In 1997 the Tampa-Hillsborough Expressway Authority was authorized to issue revenue bonds to finance and refinance certain projects. These revenue bonds are not backed by the full faith and credit of the State of Florida. In addition to existing facilities, the authority was authorized to issue bonds to finance Brandon area feeder roads, capitol improvements to the expressway system including the toll collection equipment, and the widening of the Lee Roy Selmon Crosstown Expressway System.

Specific projects by the Tampa-Hillsborough County Expressway Authority must be approved by the Legislature, by amending s. 348.565, F.S.

Effect of Proposed Changes:

This bill adds the connector highway linking Lee Roy Selmon Crosstown Expressway to Interstate 4 to the list of projects that could be financed through the Tampa-Hillsborough County Expressway bonds. The Expressway Authority plans to sell \$90 million to finance the project.

Section 52: Wetlands Mitigation Requirements for expressway and bridge authorities

Current Situation:

Many DOT projects involve the dredging and filling of wetlands, Florida's environmental "kidneys" that filter surface water runoff before it is absorbed into the ground, help hold floodwaters, and provide natural habitat. Since the 1970s, the state's environmental agencies have required "mitigation" for damage done to wetlands by human development. Originally, this mitigation was either done on-site, or adjacent to the damaged area, by trying to create or restore a wetland area, or to leave existing green space untouched. But a wealth of biological studies in the early 1990s indicted that this piece-meal, project-by-project approach to mitigation was largely unsuccessful in restoring an ecosystem. Florida and other states began developing regional or basin approaches to mitigating for wetlands damage.

In 1996 the Legislature created s. 373.4137, F.S., detailing a process by which DOT could pay a per-acre sum of money to the Department of Environmental Protection (DEP) and the water management districts (WMDs) for their staffs to perform basin-wide mitigation to offset the adverse environmental impacts of road projects. Currently, DOT, DEP and the WMDs match up transportation projects with wetlands impacts, and develop environmental impact inventories for each WMD region of the state. Based on a current \$80,000 per acre of impact cost, DOT makes quarterly deposits in a special escrow account within the State Transportation Trust Fund, and DEP can withdraw funds from it to pay for the mitigation projects within the basins overseen by each WMD. Much of the funds have been spent over the years to acquire and preserve lands from future development.

From DOT's perspective, this has proven to be a cost-effective and environmentally sound approach.

Effect of Proposed Changes:

Section 373.4137, F.S., is amended throughout to allow expressway authorities to utilize the process developed for DOT to pay mitigation funds into escrow accounts, managed by DEP, which finance WMD mitigation projects to offset the adverse environmental impacts of expressway projects.

Sections 56, 57, 112, 113 and 121: Florida Spaceport Authority and related issues

Current Situation:

The Spaceport Florida Authority (Spaceport Florida) was created as a state government space agency in 1989. (See ch. 331, part II, F.S.) Spaceport Florida's mission is to retain, expand, and diversify the state's space-related industry.

Chapter 331, F.S., gives Spaceport Florida governmental powers similar to other types of transportation authorities (airport, seaport, etc.) to support and regulate the state's space transportation industry. With regard to spaceport development and operations, Spaceport Florida is broadly empowered to own, operate, construct, finance, acquire, extend, equip, and improve the following types of spaceport infrastructure: launch pads, landing areas, ranges, space flight hardware, payloads, payload assembly buildings, payload processing facilities, laboratories, and space business incubators. In addition to these specific types of infrastructure, Spaceport Florida is empowered to support facilities and equipment for the construction of payloads, space flight hardware, rockets and other launch vehicles, and other spaceport facilities and related systems (utility infrastructure, fire and police services, mosquito control, etc.).

Spaceport Florida has sponsored more than \$500 million in new space industry developments, including improvements to launch pads, hangars, payload facilities, control centers, storage facilities, and tourism facilities. Using various financing mechanisms, Spaceport Florida is able to fund the construction of facilities and, while retaining ownership, lease the facilities to users who provide sufficient debt security.

Spaceport Florida is administered by a seven-member, Governor-appointed Board of Supervisors. There are also two ex officio nonvoting members on the board, one of whom is a state senator selected by the President of the Senate and one of whom is a state representative selected by the Speaker of the House of Representatives. Spaceport Florida's executive director reports to the board and provides day-to-day management of the agency. Functionally, Spaceport Florida reports to the Governor through the Office of Tourism, Trade, and Economic Development (OTTED). As the state's space agency, Spaceport Florida provides overall space policy advice to the Governor, Florida's congressional delegation, the Legislature, and other state-level elected officials. Spaceport Florida also has a "Spaceport Management Council" that provides coordination and recommendations on projects and activities that will increase the operability and capabilities of Florida's space launch facilities, increase statewide space-related industry and opportunities, and promote space education and research within the state. (s. 331.367, F.S.) The council develops integrated facility and programmatic development plans to address commercial, state, and federal requirements and to identify appropriate private, state, and federal resources to implement these plans. The council also makes recommendations regarding:

- the development of a spaceport master plan;
- the projects and levels of commercial financing required from the Florida Commercial Space Financing Corporation;
- development and expansion of space-related education and research programs within Florida, including recommendations to be provided to the State University System, the Division of Community Colleges, and the Department of Education;
- the regulation of spaceports and federal and state policy; and
- Florida's approach to the Federal Government regarding requests for funding of space development.

The council consists of an executive board and a Space Industry Committee. The following individuals (or their designees) serve on the executive board: the executive director of the Spaceport Florida Authority, the director of the John F. Kennedy Space Center, the Commander of the United States Air Force 45th Space Wing, the Commander of the Naval Ordnance Test Unit, the Secretary of Transportation, the president of Enterprise Florida, Inc., (as an ex officio nonvoting member), and the director of OTTED (as an ex officio nonvoting member). The Space Industry Committee is composed of representatives of Florida's space industry.

In 1999, the Legislature created the "Florida Space Research Institute" (FSRI) as an industry-driven center for research, leveraging the state's resources in a collaborative effort to support Florida's space industry and its transition to commercialization. FSRI functions as the academic center for space-related research and development and invites the participation of public and private universities, including, but not limited to, the University of Florida, Florida State University, the University of Central Florida, the Florida Institute of Technology, and the University of Miami, who serve as partners in the institute.

The institute operates as a public-private partnership under the direction of a board composed of a representative of: the Spaceport Florida Authority (Spaceport Florida); Enterprise Florida, Inc. (EFI); the Florida Aviation Aerospace Alliance (FAAA); and the Space Business Roundtable. These core board members then choose additional private-sector representatives from the space industry who must comprise the majority of members of the board and must be from geographic regions throughout the state. The core board members also choose one representative from a community college and one representative from a public or private university to be on the board. The members of the board annually select one of the members to serve as chair, who shall be responsible for convening and leading meetings of the board.

Effect of Proposed Changes:

Numerous changes are made to Spaceport Florida-related boards to improve their administrative structures, provide for federal governmental liaisons, and clarify their responsibilities.

The bill amends ss. 331.303 and 331.308, F.S., to make technical changes related to the Spaceport Authority, and to change the membership of its Board of Supervisors. Rather than seven regular members appointed by the governor and two ex-officio, nonvoting members, the board's new members will include the lieutenant governor as chair; six regular members appointed by the governor; and three ex-officio members, comprised of a state senator, a state House member, and the director of the Office of Tourism, Trade and Economic Development.

Also amended throughout are ss. 331.367 and 331.368, F.S. Many technical changes are made, as well as revamping membership on the boards of the Spaceport Management Council and the Florida Space Research Institute.

Finally, section 121 of the bill appropriates \$650,000 to the Florida Commercial Space Financing Corporation for funding aerospace infrastructure projects listed in the bill, and another \$650,000 is appropriated to the Spaceport Florida Authority to solely fund aerospace infrastructure projects recommended by OTTED. Both appropriations are from nonrecurring general revenue, and are for FY 2001-2002.

Section 59: Severability clause

This section provides that if any other section CS/CS/HB 1053, 3rd ENG., is declared invalid by the courts, then such provision is severed from the act, so that the rest of the provisions can be implemented.

Sections 60 and 62: Local government regulation of out-door advertising signs

Current situation:

Chapter 479 governs billboards and other forms of outdoor advertising. Advertising companies and other owners of outdoor signs must be licensed by DOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions relate to DOT's duties and

authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal-aid primary highway system, which includes state roads. Because federal dollars helped build or maintain these roads, DOT must adhere to federal guidelines, as first expressed in the Highway Beautification Act of 1965.

A recurring issue is what to do about billboards that were lawfully erected, but are now classified as "non-conforming," because the zoning, land-use, lighting and similar regulations have changed since they were permitted.

If DOT orders the removal of a legally erected, but now nonconforming, sign along the interstate or a federal-aid primary highway, it must pay the billboard owner just compensation. But Florida's local governments are not required to pay just compensation to billboard owners when they remove, or force the removal of, legal but nonconforming signs along local roads. Currently, 44 Florida counties or municipalities have ordinances that specify amortization schedules and/or removal provisions for non-conforming signs, based on information provided by the Florida Outdoor Advertising Association. An "amortization schedule" is a set period of time during which it is assumed the value of a billboard depreciates. A typical time-frame for amortization is five to seven years. For example, a local government would not owe compensation for the removal of a billboard that has been in use past the amortization period.

The Florida Supreme Court has not addressed the issue of amortization of legally erected, but non-conforming, outdoor signs that must be removed. However, the Fifth District Court of Appeals has ruled that local governments are not constitutionally required to compensate billboard owners, and may amortize nonconforming signs, as long as the amortization period is reasonably long enough to allow the sign owner to recoup his investment. [See *Lamar Advertising Associates, Ltd. V. Daytona Beach*, 450 So.2d 1145, 1150 (Fla. 5th DCA 1984)]

Effect of Proposed Changes:

The bill creates s. 70.20, F.S., to establish a process by which local governments and sign owners are encouraged to enter into relocation and reconstruction agreements that balance the public policy interests of both groups. "Relocation and reconstruction agreement" is defined as a "consensual, contractual agreement between a sign owner and municipality, county, or other governmental entity for either the reconstruction of an existing sign or removal of a sign and the construction of a new sign to substitute for the sign removed."

The new section of law specifies that no local governmental entity may remove, cause to be removed, or alter any lawfully erected sign along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation as determined by the agreement, or through eminent domain proceedings.

Local governmental entities must give sign owners notice of a public project or goal that would impact such signs. Both parties then have 30 days to meet, negotiate and try to execute a relocation and reconstruction agreement. If that fails, within 120 days, either party may request mandatory non-binding arbitration to try and resolve their differences. Each party will select one member of the arbitration panel, and those two shall select a third. The parties will share the costs of arbitration if an agreement is reached; if not, the party that rejects the arbitration has to bear the full costs. If no agreement is reached, and the local governmental entity decides to move forward with its project, then it must pay the sign owner just compensation.

The new s. 70.20, F.S., also establishes other conditions whereby just compensation must be paid to a sign owner whose sign is either relocated, removed, or altered. It is applicable only to lawfully erected, off-premises signs.

Excluded from the provisions of s. 70.20, F.S., are: counties and cities that have existing agreements with sign companies; local ordinances that sign owners have by written agreement waived all rights to challenge; a situation where local governments and sign companies have been engaged in judicial proceedings on or before January 1, 2001; a local ordinance that has created "view corridors" to effectuate a consensual agreement between a local government and at least two sign owners; to any dispute between a local government and sign owners, where the amortization period has expired and judicial proceedings are pending; and any municipality with an ordinance that prohibits billboards and has two or fewer billboards located within its current boundaries or its future annexed properties. Based on the above exclusions, Jacksonville, Lakeland, Tallahassee, Largo, Tampa, Orlando, Pompano Beach, Hillsborough County, Martin County, Pinellas County, parts of Clearwater, and Fort Walton Beach are exempt from the provisions of this act, and there may be more.

DOT is exempt from the provisions of this section because it pays "just compensation" pursuant to federal requirements.

Finally, the bill amends s. 479.15, F.S., to include a definition of "federal-aid primary highway system."

Section 61: Addressing impacts of noise barriers or similar obstructions on billboards

Current situation:

Chapter 479, F.S., does address ways to accommodate billboard owners whose signs are affected by highway beautification projects, such as planting of vegetation. However, the chapter does not address the issue of other types of obstructions, such as concrete sound barriers along highways and roads, intended to reduce the noise level in nearby neighborhoods.

Effect of Proposed Changes:

Section 479.25, F.S., would be created, to specify that governmental entities may enter into agreements with sign owners allowing a lawfully erected billboard to be raised when a sound barrier, visibility screen, or other highway improvement blocks the billboard from being seen. The increase in height shall only be sufficient to achieve the same degree of visibility the billboard enjoyed prior to construction of the blocking object. The agreement must be approved by the Federal Highway Administration if the billboard in question is located on a federal-aid primary or interstate highway.

Sections 63 and 64: Solicitation of funds at certain public transportation facilities

Current situation:

Chapter 496, F.S., regulates solicitation of funds by charitable and other organizations. Section 496.425, F.S., contains specific regulations on solicitation of funds within airports, railroad and bus stations, ports, rest areas, and similar facilities. For example, a soliciting organization must obtain a permit from the entity responsible for the transportation facility.

Once common, fund-raisers and fund soliciting at highway rest areas and welcome stations have declined in recent years. This can be attributed to a number of reasons; among them security concerns and competition from the variety of soda and snack machines now on site.

Effect of Proposed Changes:

Section 496.425(1), F.S., is amended to delete highway rest areas, roadside welcome centers and highway service plazas from the types of transportation facilities where fund solicitation can occur . Also, s. 496.4256, F.S., is created, specifying that any governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a solicitation permit.

Section 65: Regulation of light poles

Current Situation:

Section 337.408, F.S., regulates the placement, size and advertisers' use of bus benches, bus transit shelters, and trash barrels and other "waste receptacles" situated on public rights-of-way. DOT, the cities and the counties are empowered to regulate these structures on their particular rights-of-way. In addition, local governments have the discretion whether to seek competitive bids from companies wishing to place these structures. DOT rules establish the size limits on benches, transit shelter and waste disposal receptacles along state right-of-way. The statute does not address street light poles.

Effect of Proposed Changes:

Section 337.408, F.S. is amended to add street light poles to those roadside structures that are regulated by DOT and local governments. Public service messages and advertising may be attached to these poles, as specified by local ordinance if the poles are on county or city right-of-way, or by DOT rules if along the State Highway System. No advertising on street light poles may be erected along the Interstate Highway System or National Highway System.

The changes also include specific authority, as of July 1, 2001, for local governments and DOT to order the removal of any bench, transit shelter, or waste receptacle that is structurally unsound or in visible disrepair.

Finally, the law clarifies that a city or county may authorize the installation, with or without public bid, of bus benches or transit shelters.

Section 66: Sovereign Immunity

Current Situation:

Chapter 728, F.S., includes a number of provisions on negligence, sovereign immunity, and release of liability.

Sovereign immunity means neither the state, its agencies, nor subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$100,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$200,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this act up to \$100,000 or \$200,000, as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, which considers requests for additional amounts as claims bills.

Section 728.28, F.S., lists a number of entities or circumstances where sovereign immunity is applicable.

Effect of Proposed Changes:

Section 768.28, F.S., is amended to add that operators and security providers who are contracted by the Tri-County Commuter Rail Authority shall be considered agents of the state while acting within the scope of their contracted duties. As agents of the state, they are eligible for sovereign immunity protection in liability claims.

Section 83: “Dori Slosberg Act of 2001”

Current Situation:

Pursuant to s. 233.063, F.S., each school district must provide secondary school students with a course of study and instruction in the safe and lawful operation of a motor vehicle. In order to make these programs and instruction available to secondary students, the district school boards may use instructional personnel employed by the board, may contract with a commercial driving school licensed under the provisions of ch. 488, F.S., or may contract with an instructor certified under the provisions of ch. 488, F.S.

School districts earn funds for these programs on full-time equivalent students at the appropriate basic program cost factor, regardless of the method by which such courses are offered. The driver education programs are also funded by a levy of an additional \$.50 per year to the driver's license fees prescribed in s. 322.21, F.S. The additional fee is placed in the General Revenue Fund.

District school boards prescribe standards for courses required under s. 233.063, F.S., and for instructional personnel directly employed by the boards. Certified instructors and licensed commercial driving schools are deemed sufficiently qualified, and are not required to meet any standards beyond those prescribed in ch. 488, F.S.

Effect of Proposed Changes:

The bill creates the “Dori Slosberg Act” which authorizes a county to require by ordinance the payment of a \$3 surcharge on each civil traffic penalty to be collected by the clerk of the court. The bill specifies that the \$3 surcharge may be collected at the direction of the county commission despite that s. 318.121, F.S., preempts to the state the addition of fees, fines, surcharges, or non-court costs to certain traffic penalties. All proceeds from the surcharge shall be used to fund driver education programs in public and non-public schools. The ordinance must provide that the board of county commissioners will administer the funds. In addition, the bill requires that the funds must be used for direct educational expenses, and not for administration.

Section 84: NASA’s Small Aircraft Transportation System

Current Situation:

In response to a perceived underutilization of general aviation airports and the overutilization of ground transportation, the National Aeronautics and Space Administration (NASA), the Federal Aviation Administration (FAA), and state and local aviation development organizations developed the Small Aircraft Transportation System (SATS). NASA's vision is to use some of the underutilized airspace to alleviate the overutilized ground-transportation systems. This would be accomplished through technology that makes flying more user-friendly and competitive with intercity automobile traffic. SATS is an integration of new technologies that includes small airplanes with high-tech, user-friendly cockpits, quiet jet propulsion systems working with integrated airports infrastructure

technology to allow precision landings even in inclement weather. This integrated technology requires smaller landing space than conventional airport technology.

SATS technologies target smaller aircraft used for personal and business transportation missions within the infrastructure of smaller airports throughout the nation. These missions include travel by individuals, families, or groups of business associates. Consequently, the aircraft are of similar size to typical automobiles and vans used for non-commercial ground transportation (two to eight seats).

The SATS technology aboard the aircraft is integrated with the airport technology infrastructure. These airports will not require air traffic control towers, and the airspace will not require radar surveillance for air traffic services.

In addition to technologies for the aircraft, SATS strategies are conceived to affect the nature of aviation operational capabilities for airports, airspace, and air traffic and commercial services. The wider SATS vision encompasses inter-modal connectivity between public and private, air and ground modes of travel. In concept, the SATS vision integrates the use of smaller landing facilities with the interstate highway system, intra-city rail transit systems, and hub-and-spoke airports. The strategy focuses on airborne technologies that expand the use of airports with excess capacity as well as underutilized, unmanaged airspace for transportation use.

The SATS Program was initiated in October 2000 with a \$9 million budget appropriated by Congress for fiscal year 2001 and a total budget of \$69 million for five years. Congress requires a 5-year proof-of-concept research effort. The proof-of-concept program would culminate in a joint NASA/FAA demonstration of SATS operational capabilities. The 5-year program objective is to demonstrate key airborne technologies for precise guidance to virtually any touchdown zone at small airports.

Embry-Riddle Aeronautical University is leading a consortium of public and private sector stakeholders, known as SATSLab, designed to be Florida's (and the Southeast region's) focal point for communication and implementation of NASA's plan to demonstrate the convenience, affordability, and economic benefits of SATS.

Effect of Proposed Changes:

The bill would have made Florida a participant along with NASA, the FAA, the aircraft industry, and various universities in the SATS project. The bill expressed legislative intent language to:

- Improve travel choices, mobility, and accessibility for the citizens of the state;
- Enhance economic growth and competitiveness for the rural and remote communities of the state through improved transportation choices;
- Maintain the state's leadership and proactive role in aviation and aerospace through active involvement in advancing aviation technology infrastructure and capabilities;
- Take advantage of federal programs that can bring investments in technology, research, and infrastructure capable of enhancing competitiveness and opportunities for industry and workforce development;
- Participate in opportunities that can place the state's industries and communities in a first-to-market advantage when developing, implementing, and proving new technologies that have the potential to satisfy requirements of the public good;
- Participate as partners with NASA, FAA, the aircraft industry, local governments, and those universities comprising SATSLab to implement a SATS infrastructure as a statewide network of airports to support the Florida commitments.

It also would have made available \$1.5 million from the State Transportation Trust Fund for SATS, contingent on matching federal funding.

Sections 85-104: Road and bridge designations

Current Situation:

Section 334.071, F.S., explains the process for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not erase the current names of the facilities, nor do they require local governments and private entities to change street signs or addresses. Some public roads and bridges have multiple or overlapping designations.

The cost to the state is \$250 per marker, and each designated road and bridge gets two such markers.

Effect of Proposed Changes:

CS/CS/HB 1053, 3rd ENG., designated 20 roads and bridges. A list of the designations follows:

- The old Nassau Sound Bridge on S.R. 105 in Nassau and Duval counties is redesignated as the "George Crady Bridge."
- U.S. 17 from Wauchula to Bowling Green is designated as the "Doyle Parker Memorial Highway."
- S.R. 77 between Baldwin Road and Mowat School Road in Lynn Haven is designated as the "Lynn Haven Parkway."
- S.R. 87 from the Florida/Alabama border to U.S. 98 in Santa Rosa County is designated as the "Bennett C. Russell Florida/Alabama Parkway."
- The new U.S. 27 bridge in Moore Haven is designated as the "Mamie Langdale Memorial Bridge."
- S.R. 41 in White Springs is designated as the "Martin Luther King, Jr., Memorial Highway."
- Interstate 75 from the Georgia state line to the city limits of Ocala is designated as the "Purple Heart Highway."
- A portion of S.R. 944 in Miami-Dade County is designated as the "Jean-Jacques Dessalines Boulevard."
- U.S. 17 from Crescent City south to the Putnam/Volusia County line is designated the "Jerome A. Williams Memorial Highway."
- A portion of S.R. 25 in Miami-Dade County is designated the "Borinquen Boulevard."
- Highway 417 in Seminole County is designated as the "Korean War Veterans Memorial Highway."
- S.R. 100, beginning at Highway A1A in Flagler County and continuing east to U.S. 1 in Bunnell, is designated the "Veterans Memorial Highway."
- A portion of Semoran Boulevard in Orlando is designated the "Toni Jennings Boulevard."
- A portion of U.S. 1 in Miami-Dade County is designated the "Steven Cranman Boulevard."
- A portion of S.W. 186th Street in Miami-Dade County is designated the "Ethel Beckford Boulevard."
- A portion of S.R. 5 in Miami-Dade County is designated the "Phicol Williams Boulevard."
- A portion of S.R. 121, from the Florida/Georgia line in Baker County to the city limits of Lake Butler in Union County is designated as the "Ed Fraser Memorial Highway."
- A portion S.R. 16 from the city limits in Starke in Bradford County to S.R. 121 in Union County is designated the "Correctional Officers Memorial Highway."

- That portion of I-275 beginning at the Pinellas County end of Howard Franklin Bridge, to the beginning of the Sunshine Skyway Bridge, is designated the “St. Petersburg Parkway.”
- That portion of New Kings Road (S.R. 15) in Duval County between Moncrief Road and Redpoll Avenue is designated the “Johnnie Mae Chappell Memorial Highway.”

Section 106: Leon County proviso language

Current Situation:

Proviso language in Specific Appropriation 2022 in the 2001-2002 General Appropriations Act specified that DOT funding for road projects in Leon County was contingent on the county removing “speed bumps” on Lake Bradford Road, between the junction of Lake Bradford Road, Orange Avenue and Capital Circle Southwest, and on the county reverting the name of the Leon County Civic Center to the “Donald L. Tucker Civic Center.”

Effect of Proposed Changes:

Section 106 of the bill specified that notwithstanding the budget proviso, DOT could spend its transportation funds on Leon County projects.

(Note: Since this bill was vetoed by the Governor, the budget proviso remains in effect. Leon County will lose an estimated \$5 million worth of arterial road construction projects in the DOT Work Program.)

Sections 107, 108, 122, 127, 143, 161: Motorized Scooters/Authorized Emergency Vehicles

Current Situation:

The term “motorized scooter” is not currently defined or regulated in Chapters 316, 320, or 322, F.S. Enforcement of traffic control, vehicle registration and driver’s licensing provisions has been inconsistently applied in various jurisdictions in Florida. In addition, the Department of Health’s disaster response vehicles are not currently “authorized emergency vehicles.”

Effect of Proposed Changes:

The bill amends s. 316.003, F.S., to provide a definition of “motorized scooter” as a vehicle having no seat or saddle, having no more than three wheels, and not capable of speeds exceeding 30 miles per hour. The bill also amends s. 316.2065, F.S., to specify that motor scooters are subject to similar operating regulations as bicycles, including helmet regulations. However, the bill prohibits a person operating a motorized scooter from carrying passengers, and from operating the motorized scooter on sidewalks and in the roadways (except in crosswalks). The bill clarifies that electric personal assistive mobility devices are not prohibited from use on the sidewalks as long as their propulsion system is limited to a maximum speed of 15 miles per hour. The bill also permits counties and municipalities to adopt an ordinance authorizing persons to operate motorized scooters on roadways or sidewalks, notwithstanding the bill’s prohibitions. In addition, the bill also amends s. 320.01, and 322.01, F.S., to provide that a “motorized scooter” is not a motor vehicle for which a registration or driver’s license is required.

The bill amends ss. 316.003 and 316.2397, F.S., to provide that the Department of Health’s response vehicles are emergency vehicles and are authorized to display red flashing lights when responding to an emergency.

Sections 109, 110, 153 and 154: Florida Golf License Plate/Discontinuance of Specialty License Plates

Golf Plate

Current Situation:

The Florida specialty license plate program began in 1986 with legislation authorizing the Department of Highway Safety and Motor Vehicles (DHSMV) to issue a specialty license plate commemorating the Challenger space shuttle and for each university within the State University System. Specialty license plates must be specifically authorized by the Legislature. The State of Florida has 50 types of specialty license plates. For calendar year 2000, specialty license plates revenues were approximately \$20 million. Proceeds from specialty license plate annual use fees have been used to fund an astronaut memorial, space technology research, scholarships, university academic enhancements and numerous other programs and projects.

Section 320.08053, F.S., establishes requirements that organizations or agencies must meet in order to create a new specialty license plate. Current law requires that specified information and an application fee be submitted to DHSMV prior to requesting legislative approval for a specialty plate. Information required to be submitted includes:

- The results of a scientific sample survey indicating that at least 15,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased cost.
- A marketing plan and financial analysis of anticipated revenues and expenditures.

Once a specialty license plate has been approved by the Legislature, s. 320.08056, F.S., establishes uniform requirements for all specialty license plates, including taxes, fees, and design characteristics. Section 320.08058, F.S., specifies the individual requirements and distribution of annual use fees for approved specialty plates.

A Florida Golf license plate has not been authorized by the Legislature. On February 28, 2001, DHSMV indicated the applicant for the Florida Golf license plate had complied with the statutorily prescribed application requirements.

Effect of Proposed Changes:

The bill requires the DHSMV to issue a Florida Golf license plate. The Dade Amateur Golf Association (DAGA), in consultation with the PGA TOUR, the Florida Sports Foundation, the LPGA, and the PGA of America will be permitted to participate in the design of the license plate. In addition to the usual specialty license plate fees, a \$25 annual use fee will be charged for this new specialty license plate.

Proceeds from the license plate will be distributed to the Florida Sports Foundation as administrator of the program. A committee established within the foundation will then direct the distribution, distributing the first \$80,000 to DAGA to operate youth golf programs, and thereafter, fifteen percent to DAGA to operate youth golf programs in Miami-Dade County, five percent to the Florida Sports Foundation for administering the program, and the remaining eighty percent for grants to non-profit organizations to operate youth programs.

In addition, the Florida Sports Foundation is required to establish a Florida Youth Golf Program, and an advisory committee to direct the distribution of grants funded from the specialty plate's proceeds.

All grant recipients, including DAGA, must provide an annual program and financial report to the Florida Sports Foundation regarding the use of grant funds.

Discontinuance of Specialty Plates

Currently, if a specialty license plate sells fewer than 8,000 plates by the end of the fifth year of sales, it is to be discontinued by DHSMV. Only new sales are counted toward the 8,000-plate threshold, but not renewals of plates already sold. The bill provides that DHSMV must count annual renewals of license plates toward the 8000-plate threshold, along with sales of new plates, in determining whether to discontinue a specialty plate. The bill also requires organizations receiving contributions from the sales of specialty plates to report to DHSMV immediately if the organization ceases to exist, or discontinues the services funded by the contributions.

Section 114: Use of local toll-road revenues

Current situation:

Chapter 338, F.S. and chapter 348, F.S., include provisions pertaining to toll roads, which collect tolls from motorists that are used, first, to pay off the bonds issued to build them, and, next, to finance their maintenance and improvements. Section 338.165, F.S., allows DOT, an expressway authority, or a county (in the absence of an expressway authority) to continue collecting tolls on a facility built with bonds even after the debt service has been retired. The entity can even raise the amount of the tolls. The toll revenues must be spent first on constructing, maintaining, or improving the toll project; after that, the excess can be spent to construct, maintain, or improve other roads and transportation projects within that same county or counties where the toll project is located.

Effect of Proposed Changes:

Section 338.165(4), F.S., is amended to expand the uses of toll revenues from revenue-generating projects on a county road system in a county as defined in s. 125.011, F.S. Toll revenues in excess of the amount needed to pay debt service on the bonds issued to build the toll project may be spent on sewer, solid waste, drainage and other non-transportation infrastructure improvements. This provision would be applicable only to Miami-Dade County.

One toll project cited as an example is the improved causeway linking the Village of Key Biscayne to the mainland. Toll revenues collected from users of the causeway were dedicated in 1983 to repay bonds issued to replace one of the bridges comprising the causeway. That bond issue was paid off in April 2001. Toll revenues from causeway users are an estimated \$6 million a year, according to staff of the Miami-Dade County Public Works Department.

Sections 115-117: Racial profiling

Current Situation:

Racial Profiling

Racial profiling has been defined as the practice of "using race as a key factor in deciding whether to make a traffic stop." It has also been defined as "using race as a key factor in deciding whether, during a traffic stop, to search the vehicle or the driver." *Contacts between Police and the Public/Findings from the 1990 National Survey*, Bureau of Justice, U.S. Department of Justice, March 2001, NCJ 184957. Throughout the late 1990s the news media has identified the practice of racial profiling and has widely reported incidences of it. As a result, considerable attention has been given to this issue by state and local governments and law enforcement agencies nationwide.

Actions Taken by Florida Highway Patrol to Address Racial Profiling

Currently, the Florida Highway Patrol (FHP) collects traffic stop data, compiled from forms filled out by troopers stopping vehicles. The data captured includes a driver's race, sex, age, ethnicity, reason for the stop, and rationale for conducting a consent search. In the event that a trooper is unable to verify race, ethnicity, and age from an independent source such as a driver's license, he or she is instructed to record his or her perception regarding the characteristics.

According to FHP, "[t]he intent is to avoid having troopers question drivers about race or age. Since racial profiling is based on the officer's perception of race before making the stop, this perception is the appropriate entry for the data (even if it may be wrong)."

On April 26, 1999, Colonel Charles C. Hall, the FHP Director, issued a memorandum to all sworn FHP employees stating that racial profiling would not be condoned, and that members found to be conducting profile stops would be subject to disciplinary action. Colonel Hall stated that he expected "all traffic stops made by FHP officers to be based solely on the violation observed." He also stated that he expected that "the race, ethnicity, gender, or economic status of the vehicle occupants will not be considered in deciding whether to search the vehicle." Such decisions, he indicated, "are to be based on evidence and the occupant's behavior patterns."

On June 24, 1999, in a memorandum to all troop commanders, Colonel Hall directed each troop commander to form, within his or her troop, a Troop Diversity Advisory Committee "to consist of at least six prominent leaders within the various minority communities who would be willing to assist ... in gauging the FHP's effectiveness in enforcement, education, and information within their respective communities."

Criminal Justice Standards and Training Commission

The Criminal Justice Standards and Training Commission (CJSTC), within the Florida Department of Law Enforcement, consults and cooperates with municipalities or the state or its political subdivisions, and educational institutions concerning the development of criminal justice training schools and programs or courses of instruction. In addition, CJSTC certifies criminal justice training schools, and promulgates and enforces rules regarding the certification and discipline of law enforcement officers.

Currently, the CJSTC is required to integrate into its criminal justice standards, training, and employment requirements instructions on interpersonal skills relating to diverse populations. The curriculum must include standardized proficiency instruction relating to high-risk and critical tasks that include, but are not limited to, stops, use of force, and other areas of interaction between officers and members of diverse populations. In addition, the CJSTC must also develop the same kind of standardized instruction for trainers.

Effect of Proposed Changes:

The bill requires that, by October 1, 2001, instruction in the subject of interpersonal skills relating to diverse populations include a module developed by the CJSTC on the topic of discriminatory profiling.

In addition, the bill requires that, by January 1, 2002, every sheriff and municipal law enforcement agency, guided by the Florida Police Chiefs Association Model Policy, incorporate an anti-racial or anti-discriminatory profiling policy into the sheriff's or municipal law enforcement agency's policies and practices. These new policies must include definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

Sections 118-120: Florida Airport Authority Act

Current Situation:

Individual airport authorities have been created by enactment of local bills in a number of counties. At last count, there are 29 airport authorities in Florida, but not all of them are active. Authority to create the individual airport authorities is derived from numerous local bills, the language of which can be found in various chapters of the Laws of Florida, but not the Florida Statutes. In addition, local governments operate many airports as a department or office within the local government structure.

Miami International Airport has been the subject of controversy for many years. Local elected officials and the community are divided over how to address some of the issues of concern at their airport.

Miami-Dade County is constitutionally exempt from the local bill process.

Effect of Proposed Changes:

The bill creates ss. 332.201-332.211, F.S., the Florida Airport Authority Act. The provisions are modeled on the Florida Expressway Authority Act. Key provisions of the Airport Authority Act are:

- Any county which has a population of more than 2.1 million people is required to schedule a countywide referendum giving voters the opportunity to approve the creation of an airport authority. Based on 2000 U.S. Census figures, Miami-Dade County meets the population requirements.
- Such an authority would have seven members, who must be permanent residents of the county they are representing. Two members would be appointed by the Governor (subject to confirmation by the state Senate); two would be appointed by the County Ethics Commission; one by the County Mayor; and two by the County Commission. The authority members would elect from among their number the chairperson, and select a secretary and a treasurer who do not need to be authority members.
- The Governor's appointees would have four-year terms; no terms of office were specified for the other appointees. The Governor's appointments may not hold any elective office during their terms on the authority.
- Members of the authority and their spouses would be prohibited from owning certain stocks and bonds. As a condition of appointment, each appointee must affirm to the "Speaker" and the "President" his or her qualification by a specified certification.
- The authority members must file full and public financial disclosure, pursuant to s. 112.3144, F.S. Also, a member of the authority would be prohibited from contributing to the campaign account of any elected official and from soliciting any campaign contributions for any elected official.
- The authority would have the discretion to employ staff members and set the salaries for the following positions: executive director; executive secretary; counsel and legal staff; technical experts, consultants, and advisors; engineers and employees as it may require. It also may employ a fiscal agent, from among at least three persons or companies that submit sealed proposals.
- The authority must submit facility reports, audits and other reports required of special districts under Chapter 189, F.S., and it must notice its meetings and keep records, available to the public, of what transpired.

- An authority would exercise have discretion to acquire, hold, construct, improve, maintain, operate, own, and lease an airport system. Additional airports may be constructed only if the additional airport is financially feasible and compatible with the authority's existing plans. Each new airport must have the written consent of the board of county commissioners.
- The authority would be empowered to sue and be sued, adopt a corporate seal, acquire and use any real or personal property in carrying out its purposes, make leases or lease-purchase agreements, establish and collect fees, rentals and charges for its services and facilities, borrow money, and issue bonds under the State Bond Act, Chapter 215, F.S. It also could accept grants from and enter into contracts with a federal, state, or county agency, and would have the power of eminent domain.
- Any bonds pledging the full faith and credit of the State of Florida would have to be issued by the Board of Administration's Division of Bond Finance on behalf of the authority, upon express written consent of the board of county commissioners.
- The authority also would have been able to consider unsolicited proposals from private entities for planning, constructing, maintaining or operating its airport system. An airport constructed under this provision must have state and federal approval, and the prior express written consent of the board of county commissioners.
- The authority would be prohibited from undertaking any construction that is not consistent with federal aviation requirements, the statewide aviation system plan, and the county's comprehensive plan.
- The authority would be able to appoint the county as its agent for construction projects, and may enter into contracts, leases or other agreements with other governmental entities or individuals.
- The authority would be exempt from all state and local taxes except for the corporate tax pursuant to Chapter 220, F.S.

The provisions of this Act would not be applicable to a county in which an airport authority has been created by a general or special act of the Legislature, nor would its provisions apply to any county that has created its own airport authority.

Section 123: Local Enforcement of Stop Signs on Private Roads

Current Situation:

Section 316.006, F.S., provides that local government law enforcement agencies may enforce traffic laws on private roads if the local government and the private owners enter into a written agreement providing for traffic enforcement. Private communities may install multi-party stop signs on private roads that do not meet the minimum traffic requirements adopted by the Department of Transportation (DOT) for the installation of these signs on public roads. Because these signs do not meet minimum legal criteria for installation, law enforcement officers reportedly cannot issue citations for failure to obey the signs.

Effect of Proposed Changes:

The bill amends this section to permit issuance of a citation for failure to obey a multi-party stop sign in a private community, if provided for in the written agreement and if the signs conform to DOT's specifications. Minimum traffic volumes are not required for installation of the signs or for enforcement of traffic laws for failure to stop at the signs.

Section 124: Display of Vehicles for Sale

Current Situation:

Pursuant to s. 316.1951, F.S., it is illegal for a person to park a motor vehicle in excess of 24 hours on a public street or highway, a public parking lot, or other public property, or on private property where the public has the right to travel by motor vehicle, for the principal purpose of displaying the motor vehicle for sale, hire, or rent. This restriction does not prohibit a person from parking, for purposes of displaying for sale, their own motor vehicle on any private property that the person owns or leases or on other private property when the person obtains the permission of the owner to park the vehicle there. These provisions are related to the practice known as "curb-stoning" and may be enforced by a law enforcement officer, or by a DHSMV license inspector or supervisor.

Effect of Proposed Changes:

The bill amends s. 316.1951, F.S., to provide that a DHSMV compliance examiner may also enforce its provisions.

Section 125 and 134: Liability for Payment of Parking Ticket Violations/Uniform Traffic Citation System

Current Situation:

Pursuant to s. 316.1967, F.S., a person cited for a parking violation who elects to appear at a hearing on the matter waives the right to pay the civil penalty provided by the ticket. The official at the hearing determines whether a violation has been committed and may impose a civil penalty up \$100 plus court costs.

In addition, under law, DHSMV has contracted the Florida Association of Court Clerks, Inc., to design, operate, and maintain an automated system for tracking types, dispositions of citations, and fines, of traffic violations in Florida. The clerks of court are required to transmit this information to DHSMV by December 1, 2001.

Effect of Proposed Changes:

The bill clarifies that an official at a parking violation hearing is authorized to impose a fine amount that is designated by a county ordinance.

In addition, the bill extends until December 1, 2002, the deadline by which clerks of court are required to transmit required information.

Section 126: Unattended Vehicles

Current Situation:

Currently, s. 316.1975, F.S., provides that a motor vehicle operator may not permit the vehicle to stand unattended without first stopping the engine, locking the ignition, and removing the key. Also if the vehicle is left unattended on a perceptible grade the brake must be set and the front wheels must be turned to the curb or side of the street. A violation of this section is a non-criminal traffic infraction, punishable as a nonmoving violation. This section does not apply to the operator of an authorized emergency vehicle while performing official duties or to a licensed delivery vehicle while making deliveries.

Effect of Proposed Changes:

The bill exempts operators of solid waste and recovered materials trucks from these provisions regarding unattended vehicles.

Section 128: Commercial Trucks/Lamps or Flags on Projecting Loads

Current Situation:

Current law provides that certain vehicles transporting logs, long pulpwood, poles, or posts extending more than four feet from the rear of the vehicle must have an amber strobe-type lamp on the projecting load. The amber strobe lamp must be visible to other drivers from the rear and sides of the vehicle transporting the projecting load.

Effect of Proposed Changes:

The bill amends s. 316.228, F.S., to provide that multiple strobe lights are required if a single light is not visible from the rear and both sides. The bill also provides that the load must be marked with a red flag. The bill applies these requirements to loads of unprocessed logs or pulpwood, and excludes loads consisting of poles and posts.

Section 129: Flashing Red Lights/Authorized Vehicles

Current Situation:

Section 316.2397, F.S., prohibits driving, moving, or causing to be moved on the highways of the state, vehicles or equipment with red or blue lights visible from the front. The law makes specific exceptions to this prohibition, allowing certain vehicles to be operated or moved with red or blue lights. Flashing red lights may be used by emergency response vehicles of the Department of Environmental Protection when responding to an emergency in the line of duty.

Effect of Proposed Changes:

Section 316.2397(9), F.S., is amended to also exempt, in addition to emergency response vehicles of the Department of Environmental Protection, emergency response vehicles of the Department of Health when responding to an emergency in the line of duty.

Section 130: Loads on Vehicles/Failure to Secure

Current Situation:

Section 316.520, F.S., currently provides that failure to prevent the load on a vehicle from escaping is a traffic infraction. The last time this section was amended by the Legislature it was amended twice in the same bill, with one reference to this infraction being a moving violation and one reference to this infraction being a non-moving violation.

Effect of Proposed Changes:

The bill amends this section to clarify that these infractions are moving violations. In addition, the bill exempts trucks carrying agricultural products locally for distances of no more than 10 miles, and on roads with a speed limit of no more than 60 mph, from the requirements of s. 316.520, F.S.

Section 131: Traffic Enforcement – State Universities/Traffic Crash Investigators

Current Situation:

University police officers are authorized to enforce the state's traffic laws when violations of those laws occur on or about property or facilities that are under the guidance, supervision, regulation, or control of the state university system, and they are allowed to enforce laws off-campus when hot pursuit originates on campus.

Effect of Proposed Changes:

The bill authorizes university police officers to also enforce traffic laws when violations occur on or about properties of a university's direct support organizations, or those of any other organizations controlled by the university.

Sections 132, 133, and 135-137: Driver Improvement Schools

Current situation:

Section 318.14(9), F.S., permits a person cited for certain traffic infractions to elect to attend a basic driver improvement course in lieu of a court appearance. If a person attends a driver improvement course, adjudication is withheld, points are not assessed on the offender's driving record, and the civil penalty is reduced, provided the person has not elected to attend such a school in the previous 12 months. A person may only elect to attend driver improvement course in lieu of court appearance five times.

Section 322.0261, F.S., also makes the DHSMV responsible for screening crash reports to identify motor vehicle operators required to attend a driver improvement course. One criterion for mandatory attendance are two crashes within two years involving property damage of at least \$500. During the 2000 Legislative Session, the Legislature passed CS/HB 2368, which contained similar language to these sections of this bill. CS/HB 2368 was subsequently vetoed by the Governor.

Effect of Proposed Changes:

The bill is nearly identical to last session's CS/SB 2368. It:

- Amends s. 316.650, F.S., to direct traffic enforcement officers to issue a copy of the Traffic School Reference Guide to persons they cite for violations of state and local traffic laws.
- Amends s. 318.14, F.S., to delete the provision that persons who commit certain traffic violations can elect to attend a driver improvement course no more than five times. Adjudication is withheld and no points are assessed against the driver's licenses of persons who attend these courses.
- Amends s. 322.0261(1)(b), F.S., to direct DHSMV to screen all reports of any crash involving property damage of at least \$2,500.
- Creates s. 322.02615, F.S., which provides for mandatory driver improvement courses for motorists who commit specified violations.
- Amends s. 322.05, F.S., to specify that a person who is at least 16 years old, but less than 18 years old, can not obtain a driver's license unless the person has satisfactorily completed a Department of Education driver's education course, a commercial driving school course pursuant to chapter 488, or a basic driver improvement course approved by the DHSMV, in addition to existing statutory requirements.

Sections 138 and 139: Major Component Parts/Rebuilt Vehicles

Current Situation:

Current law provides that purchases of materials or major component parts from salvage motor vehicles must be documented. Further, all motor vehicles that were declared to be salvage that are rebuilt must be inspected by DHSMV. This involves identifying all major component parts that were replaced or repaired on the vehicle. The current definitions of major component parts provided in statute do not contain enough detail for proper implementation of these requirements.

In addition, all motor vehicles that were declared to be salvage that are rebuilt must be inspected by DHSMV to assure the identity of the vehicle. This also involves identifying all major component parts that were replaced or repaired on the vehicle. There is currently no statutory authority for placing a decal on a motor vehicle that has been rebuilt to indicate its status. In addition, the current definition of "combined" vehicle in the statutes is confusing, and in many cases, duplicative of the definition of an "assembled from parts" vehicle.

Effect of Proposed Changes:

The bill creates more detailed definitions of major component parts of motor vehicles to provide guidance regarding the disposition of salvage and rebuilt motor vehicles.

The bill also authorizes DHSMV to affix a decal to a rebuilt vehicle to show that the vehicle has been rebuilt. In addition, the bill deletes the separate definition of a combined vehicle from the statutes so that a combined vehicle becomes another type of vehicle "assembled from parts." Since the decal placed on the vehicle to indicate its status as rebuilt is important to potential purchasers, removal of the decal is made a third-degree felony.

Section 140: Certificates of Title – Issuance and Application

Current Situation:

Current law requires an applicant for a title to a motor vehicle to produce with the application a proper bill of sale or sworn statement of ownership, or a certified copy, or to produce a certificate of title, or any other evidence of ownership recognized by law. If the vehicle is an antique, the application must be accompanied by a certificate of title, a bill of sale, and a registration; or a bill of sale and an affidavit by the owner defending the title from all claims. DHSMV is required to retain the evidence of title presented by the applicant and based on which a certificate of title is issued.

Effect of Proposed Changes:

The bill deletes the separate requirements for application for title of an antique vehicle. In addition, the bill deletes the requirement that DHSMV retain evidence of title presented by title applicants, and clarifies that DHSMV is not required to retain any such evidence.

Section 141: Transfer of Title Upon Contractual Default

Current Situation:

Current law requires that an original or certified copy of the applicable contract accompany an application for a motor vehicle certificate of title that is predicated on a contractual default.

Effect of Proposed Changes:

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The bill deletes the requirement that the original or certified copy of the contract accompany the application for title. Because the contractual lien is acknowledged by the owner when it is recorded on the title certificate, submission of the contract is not necessary.

Section 142: Major Component Parts/Rebuilt Vehicles

Current Situation:

Section 319.30(6), F.S., provides that a salvage motor vehicle dealer who purchases materials or major component parts from salvage motor vehicles must document such purchases.

Effect of Proposed Changes:

The bill includes detailed definitions of major component parts of motor vehicles to provide guidance regarding the disposition of salvage and rebuilt motor vehicles.

Section 143: Motor Home Length Limit

The definition of "motor home" contained in chapter 320, F.S., provides that a motor home may not exceed 40 feet in length. This limitation conflicts with the provisions of chapter 316, F.S., which allows motor homes up to 45 feet in length. The bill amends s. 320.01(1)(b)4., F.S., to delete the length restriction. Motor homes would then be subject to the length requirements of s. 316.515(15) F.S., which provides for a length of up to 45 feet.

Sections 144,145 and 165: Voluntary check-offs/Florida Single Audit Act

Current Situation:

Various organizations receive funds that are collected by DHSMV either through voluntary check-off donations or the purchase of specialty license plates. Sections 320.023, 320.08062 and 322.081, F.S., contain separate audit and reporting requirements for recipients of these funds, and are not subject to the Florida Single Audit Act (FSAA).

The FSAA establishes uniform audit requirements for state financial assistance provided by state agencies to non-state entities to carry out state projects. The FSAA applies to non-state entities expending \$300,000 or more in state financial assistance annually. Although expenditures of funds by organizational recipients may not exceed the audit threshold in any given year, the FSAA does not limit the ability of DHSMV to conduct or arrange such audits, or limit the audit authority of the DHSMV Inspector General or the Auditor General.

Effect of Proposed Changes:

The bill requires motor vehicle registration and registration renewal forms to include two new voluntary check-offs, permitting a \$2 contribution to be distributed to the Hearing Research Institute, Inc., and a \$1 contribution to the Juvenile Diabetes Foundation International.

In addition, the bill makes entities receiving funding through voluntary check-off donations subject to the FSAA. Currently, under that act, any organization that receives more than \$15,000 from voluntary contributions is to submit an annual audit attesting that the contributions and interest earned was expended in accordance with law. The bill also requires organizations that are not subject to an annual audit pursuant to the FSAA, to attest under penalty of perjury that the contributions were legally expended. The bill also gives authority to DHSMV to examine records in regards to the use of funds.

Any organization receiving proceeds derived from a voluntary check-off on a driver's license application or vehicle registration form, must notify DHSMV immediately if the organization ceases to exist, or if it ceases the activity funded by the check-off contribution. The bill also requires certain organizations seeking to establish a voluntary contribution on a driver's license application or vehicle registration form to register as a charitable organization intending to solicit contributions with the Department of Agriculture and Consumer Services.

Sections 146 and 147: Vessel Registrations/Technical Revisions

Current Situation:

Statutes relating to the registration of law enforcement vehicles under fictitious names, and those relating to DHSMV's records and inspection procedures, refer to vehicles, but do not specifically refer to vessels.

Effect of Proposed Changes:

The bill amends ss. 320.025 and 320.05, F.S., to conform vessel registration requirements to motor vehicle registration requirements. The bill also requires government-owned vessels to display registration numbers and vessel decals.

Section 148: Non-AppORTioned Commercial Motor Vehicle Registration Period

Current Situation:

Section 320.055(5), F.S., provides that commercial vehicles be registered on a staggered 12 month basis as determined by DHSMV to spread vehicle registrations throughout the calendar year. An "apportioned vehicle" is a motor vehicle that is registered under the International Registration Plan. The International Registration Plan is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees in one jurisdiction, with the revenues being distributed on the basis of fleet miles operated by a vehicle in each jurisdiction.

Effect of Proposed Changes:

The bill provides that Florida commercial motor vehicles that are not apportioned have a registration period beginning December 1 and ending November 30 each year.

Section 149: Motor Vehicle Validation Stickers

Current Situation:

Current Florida law requires each vehicle license plate to have two decals: a decal on the left with the month of expiration and a decal on the right with the year of expiration.

Effect of Proposed Changes:

The bill amends s. 320.06, F.S., to allow for only one decal on the right with the month and year showing on the same decal. This will conform license plate decal provisions to DHSMV's implementation of a new decal dispenser system.

Section 150: Motor Vehicle Initial Registration Fee Exemption

Current Situation:

Section 320.072, F.S., requires a fee of \$100 to be imposed upon the initial application for registration on certain motor vehicle registration transactions. The fee is due on any private-use vehicle unless the vehicle being registered is a replacement for a vehicle that has been disposed of by the person applying for registration. Current law allows a registrant to provide proof that they have owned a Florida license plate at any point in time to be exempt from the \$100 initial registration fee.

Effect of Proposed Changes:

The bill restricts the time frame a person can use a previous license plate for exemption from the fee to 10 years.

Section 151: Personalized License Plates/Reissuance

Current Situation:

Personalized license plates consist of letter and numeric characters picked by the person registering the vehicle, and cost an additional \$12 annually. Currently, all personalized license plates must remain out of circulation for a period of 3 years before they can be reassigned to another individual.

Effect of Proposed Changes:

The bill amends s. 320.0805, F.S., to allow personalized license plates to be reassigned to another individual 1 year following the expiration of the registration.

Section 152: Educational License Plate

Current Situation:

The annual use fee for the Florida Educational License Plate is currently \$15. Proceeds from the sale of the Florida Educational License Plate are first used to defray DHSMV's direct costs of administration of the Educational License Plate. Thereafter, DHSMV must distribute the fees collected in a school district to a pre-K through grade 12 public school foundation or a direct support organization in that district for enhancing educational programs. If no such foundation or organization exists in the district, the moneys raised in that school district through plate sales must be distributed to the district school board and must be used at the discretion of the board for enhancing educational programs.

Effect of Proposed Changes:

The bill increases the annual use fee for the Florida Education specialty license plate from \$15 to \$25.

Section 155: Florida Single Audit Act/Specialty License Plates

Current Situation:

Currently, any organization that receives specialty license plate use fees is subject to an annual audit attesting that the contributions and interest earned was expended in accordance with law.

Effect of Proposed Changes:

The bill makes organizations receiving the use fees subject to the Florida Single Audit Act (FSAA), and requires those organizations that are not subject to an annual audit pursuant to the FSAA to attest under penalty of perjury that the license plate use fees were legally expended. The bill also gives DHSMV authority to examine records with regard to the use of funds.

Section 156: Specialty Plate Eligibility/Amateur Radio Operators

Current Situation:

At this time, a vehicle for private use weighing more than 5,000 pounds may not be issued a license plate designated for Amateur Radio Operators. When these license plates were created, most private vehicles weighed under the 5,000-pound limit. Due to the popularity of larger pick-up trucks and sport utility vehicles many individuals now own vehicles for private use that weigh over 5,000 pounds.

Effect of Proposed Changes:

The bill amends s. 320.083, F.S., to increase the maximum weight restriction for these license plates to include vehicles weighing less than 8,000 pounds.

Section 157: Specialty Plates/Ex-POW's, Purple Heart Recipients, Pearl Harbor Survivors

Current Situation:

At this time, a vehicle for private use weighing more than 5,000 pounds may not be issued a license plate designated for Ex-POW's or Purple Heart Medal Holders. When these license plates were created, most private vehicles weighed under the 5,000-pound limit. Due to the popularity of larger pick-up trucks and sport utility vehicles many individuals now own vehicles for private use that weigh over 5,000 pounds.

Effect of Proposed Changes:

The bill amends s. 320.089, F.S., to increase the maximum weight restriction for these license plates to include vehicles weighing less than 8,000 pounds.

Section 158: Withholding Registration/Weight and Safety Violations

Current Situation:

Currently s. 320.18, F.S., provides that DHSMV may withhold or cancel the motor vehicle registration of a person who has paid for a registration or other fee with a dishonored check. Chapter 316, F.S., authorizes the Department of Transportation to enforce commercial truck regulations, and law enforcement officers of DOT's Office of Motor Carrier Compliance may issue citations for weight and safety violations to a vehicle owner or motor carrier who has violated these regulations.

Effect of Proposed Changes:

The bill amends s. 320.18, F.S., to provide that DHSMV may cancel the registration of a vehicle if the owner has failed to pay a DOT weight or safety violation penalty.

Section 159: Motor Vehicle Auctions

Current Situation:

Section 320.27(1)(c), F.S., provides that only licensed motor vehicle dealers may buy or sell motor vehicles at an auction to the highest bidder. Subsection (7) of that section requires that the person offering a used motor vehicle for sale at an auction must have the certificate of title or other ownership documents in his or her possession.

Subsection (9) of s. 320.27, F.S., provides grounds for the denial, suspension, or revocation of a dealer's license. These grounds include matters such as fraud, misrepresentation in advertising, requiring a purchaser to accept unordered equipment, failure to provide odometer disclosure statements, and felony convictions. To take action against a licensee, DHSMV must prove sufficient frequency of violations to establish a pattern of wrongdoing by the licensee.

Section 320.27(1)(c)3, F.S., defines a "wholesale motor vehicle dealer" as any person who buys, sells, or deals in motor vehicles at wholesales or at auction. These wholesale motor vehicle dealers must be licensed by the state, and may not sell or auction a vehicle to any other person who is not a licensed dealer. However, a "bona fide employee" of a licensed motor vehicle dealer who buys or sells at wholesale or auction on behalf of a licensed dealer need not be licensed separately. Section 320.27 does not provide a definition of "bona fide employee."

Effect of Proposed Changes:

The bill provides that only the buyer of a motor vehicle sold at auction must be a licensed motor vehicle dealer. This change would allow other entities such as financial institutions and rental companies to sell motor vehicles at auctions. The bill also allows the person offering a vehicle for auction to have control of the certificate of title or ownership document. This change would allow ownership documents to be kept in another location to reduce the risk of loss, and be sent to the purchaser at a later date.

The bill also amends Subsection (9) of s. 320.27, F.S., to delete the requirement that a pattern of wrongdoing be established so that a licensee could be subject to discipline for failure to comply with any one violation. Further, when a motor vehicle dealer is convicted of a crime that results in being prohibited from continuing as a licensed dealer, the dealer may not continue in any capacity within the industry. Such a person may not have a financial interest, or a management, sales, or other role in the operation of a dealership. The person also may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

The bill provides that being convicted of a felony will disqualify a person from working in the industry or being involved in a dealership. If a dealer violates this provision by allowing a disqualified person to have an interest or role in a dealership, the bill also provides that the dealer's license can be denied or revoked.

In addition, the bill defines "bona fide employee" and includes in its definition both regular employees who receive IRS form W-2, and independent contractors that have a written contract and receive IRS form 1099.

Section 160: Automobile Dealers Industry Advisory Board

The bill creates s. 320.691, F.S., which is the Automobile Dealers Industry Advisory Board within DHSMV. The board would make recommendations on proposed legislation, rules and procedures,

and provide industry input to the department, the Governor and the Legislature. The board would be made up of 12 members appointed by the Executive Director of the department from names submitted by various industry entities. Private sector members of the board would be responsible for their own travel costs.

Sections 162 & 166: Mandatory Driver Improvement and Substance Abuse Education Courses/Technology

Current Situation:

DHSMV approves driver improvement courses and traffic law and substance abuse courses. In determining whether to approve a driver improvement course DHSMV is required by law to consider course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint. In addition, traffic law and substance abuse programs must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and the laws of the state relating to the operation of a motor vehicle. Current law does not address the use of modern technologies such as computers for delivering course content.

Effect of Proposed Changes:

The bill requires DHSMV to approve and regulate traffic law and substance abuse programs for driver's license applicants and mandatory driver improvement courses that use technology as the course delivery method. The bill also provides standards to be applied in determining whether the use of technology is approved. With respect to substance abuse education programs, the standards will be applied only to those courses submitted to DHSMV on or after July 1, 2001.

The term "technology" is not defined in the bill, and may cause uncertainty about which courses must be regulated. For example, if audio/video technology or computer technology is used in a classroom setting, DHSMV may have to approve and regulate the course.

Section 163: High Risk Drivers/Restricted Licenses

Current Situation:

Currently, DHSMV restricts the driving privileges of a class D or E licensee aged 15 through 17 who accumulates four or more points against his or her license within a 12-month period. A class E licensee who accumulates four points within 12 months is not eligible to obtain a class D license for one year.

Effect of Proposed Changes:

The bill provides that these restrictions shall occur only after the accumulation of six points, rather than four.

Section 164: Driver's License/Under 18 Years of Age

Current Situation:

Recently enacted law requires that a valid learner's driver's license be held for at least 12 months before an operator license can be issued. This requirement was not made applicable to class D licensees, who are licensed to operate trucks weighing between 8,000 and 26,000 pounds. In

addition, no person who is 16 years old but less than 18 years old may be licensed unless he or she is engaged in educational activities approved by the local school board (attend school, home schooling, has received a diploma or GED, etc.)

Effect of Proposed Changes:

The bill clarifies that a person under 18 years old must hold a learner's driver's license for 12 months before applying for a class D driver's license. It also requires a person between 16 and 18 years of age to attend an approved driver's education course or a basic driver improvement course before he or she may become licensed.

Section 167: Right to Administrative Hearing/Rulemaking Authority

Current Situation:

At this time, DHSMV has established a rule for processing hearings requested by a citizen when their driver's license is suspended or revoked for medical reasons. The DHSMV's statutory authority to have a rule has been questioned by the Joint Administrative Procedures Committee.

Effect of Proposed Changes:

The bill creates s. 322.222, F.S., to provide specific statutory authority for the department to hold administrative hearings for medical cases.

Section 168: Technical Revision

This section amends s. 322.25, F.S., to delete a cross-reference to a repealed section.

Sections 169, 171 & 172: Temporary Driving Permits/Period of Validity/Repeal of Obsolete Provisions

Current Situation:

Pursuant to s. 322.2615, F.S., a law enforcement officer must suspend the driver's license of a person who has been arrested for having an unlawful blood-alcohol or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by law. The officer takes the person's driver's license and issues a 30-day temporary permit at the scene of the arrest if the person is otherwise eligible to receive one.

Effect of Proposed Changes:

The bill repeals ss. 322.28(2)(d), and 322.282, F.S., which both relate to issuance of temporary driving permits when a license is suspended. These references are no longer needed because a temporary permit is issued at the scene of the arrest.

The bill amends s. 322.2615, F.S., to shorten the time that a temporary permit is valid from 30 days to 10 days after issuance. This will conform the permit's validity to the period of time the driver has to request a review of the suspension. When a 30-day temporary driving permit is issued, the driver has 10 days to request review of the suspension. If the driver requests a review, a restricted permit is issued which is valid until the suspension is either sustained or invalidated. If a driver does not request review within the 10-day period, the suspension becomes final on the tenth day and the driver should not have an unrestricted permit that could be valid for up to 20 more days.

Sections 170 & 174: Habitual Offenders/License Reinstatement

Current Situation:

Section 322.27, F.S., authorizes DHSMV to revoke the license of a habitual traffic offender for a minimum of 5 years. Section 322.331, F.S., requires an individual whose license is revoked for being a habitual traffic offender to come to DHSMV and schedule a hearing when the revocation has expired.

Effect of Proposed Changes:

The bill amends these provisions to make the revocation period a mandatory 5 years, and to provide that an individual whose license revocation has expired will be reinstated without a hearing. According to DHSMV, no other revocation or suspension requires a hearing for reinstatement when the time period for the revocation or suspension has passed.

Section 173: DUI Programs/Provider Limitations

Current Situation:

Prior to the 2000 legislative session, all DUI program providers were required to be either governmental entities or not-for-profit corporations. Section 322.292, F.S., was amended last session to delete this limitation on DUI program providers, opening the area to participation by for-profit corporations. DHSMV sets licensing and quality control guidelines for DUI programs in Florida, and has indicated that not-for-profit corporations have sought licensure. According to the DHSMV, some DUI providers have expressed concerns about additional competition from the for-profit private sector, citing concerns about DUI program costs, quality, and effectiveness.

Effect of Proposed Changes:

The bill reinstates the statutory provision that limits DUI programs to being operated by governmental entities or not-for-profit corporations.

Section 175 & 176: Commercial Motor Vehicles/Driver Disqualification/Temporary Driving Permits

Current Situation:

Under the federal Commercial Motor Vehicle Safety Act of 1986, all commercial truck drivers must have a Commercial Driver's License (CDL). Under current Florida law a driver can be disqualified and lose their CDL for certain traffic convictions if committed while operating a commercial motor vehicle:

- If convicted of two serious traffic violations within 3 years, the CDL can be suspended for 60 days. A third conviction within 3 years results in a 120-day disqualification. "Serious traffic violations" include unlawful speed (15 MPH or more over the posted speed), careless or reckless driving, fleeing or attempting to elude a police officer, other traffic offenses committed in a commercial motor vehicle resulting in the death or personal injury of any person, and not properly insuring a commercial motor vehicle.
- A driver will be disqualified for 1 year for a first time conviction of the following offenses while operating a commercial motor vehicle: a) driving with an alcohol concentration of .04 percent or more; b) leaving the scene of an accident; c) using a commercial motor vehicle in the

commission of a felony, or; d) refusing to take a DUI test. If convicted of any of these offenses while transporting hazardous materials, the disqualification time is increased to 3 years. A second conviction for the above offenses will result in disqualification for life. Using a commercial motor vehicle in the making, selling, or distribution of drugs will result in disqualification for life.

In addition, Florida law allows a 30-day temporary permit to be issued to a commercial driver when he or she is charged with driving with an unlawful blood alcohol level.

Effect of Proposed Changes:

The bill amends s. 322.61, F.S., to add two additional grounds for CDL disqualification, including being convicted or otherwise found to have committed a violation of an out-of-service order and violation of laws pertaining to railroad-highway grade crossings. For violations of an out-of-service order the suspension is 90 days to 1 year for a first violation; 1 year to 5 years for two violations within 10 years; and 3 years to 5 years for three violations within 10 years. These periods are increased for violations that occur while transporting hazardous materials. For railroad-highway grade crossing violations the suspension is a minimum of 60 days for a first violation; a minimum of 120 days for two violations within 3 years; and a minimum of 1 year for three violations within 3 years.

The bill also amends s. 322.64, F.S., to reduce the temporary permit time to 10 days. These changes bring Florida law in compliance with federal requirements for commercial drivers.

Section 177: Vehicle Insurer Information/Electronic Access

Current Situation:

Pursuant to Chapters 324 and 627, F.S., a vehicle owner must provide DHSMV with proof of compliance with financial responsibility requirements. DHSMV maintains records related to insurance coverage for vehicle owners and may cancel the license or registration for failure to carry proper insurance. Currently, this information may only be accessed by written request to the department.

Effect of Proposed Changes:

The bill amends s. 324.091, F.S., to authorize DHSMV to grant an approved third party electronic access to vehicle insurer information. The third-party provider would, for a fee, allow insurers, lawyers and financial institutions to access insurance information for subrogation and claims purposes only.

Section 178: Vessel Title Certificates/Contractual Default

Current Situation:

Currently, s. 328.01(3), F.S., requires a copy of the applicable contract when processing an application for vessel title based on a contractual default.

Effect of Proposed Changes:

The bill deletes the requirement for the copy of the contract. Because the owner acknowledges a contractual lien at the time it is recorded on the title certificate, a copy of the security contract between the owner and the lien holder is not necessary.

Section 179: Vessel Registration/Dishonored Checks

Current Situation:

Currently, s. 328.42, F.S., only allows a stop against vessel registration transactions if a person uses a dishonored check to pay a vessel registration fee.

Effect of Proposed Changes:

The bill amends this section to provide that a stop may be applied to any kind of vehicle or vessel transaction if a person pays any vehicle or vessel fee to DHSMV using a dishonored check.

Section 180: Vessel Registration Numbers

Current Situation:

Currently s. 328.56, F.S., uses the terminology of commercial or recreational vessels when referring to numbering on vessels operated on the state's waters. There is now only one series of state registration numbers issued for vessels without regard to how the vessel is used.

Effect of Proposed Changes:

The bill amends this section to delete the reference to "commercial or recreational" when referring to vessels operated on the waters of the state.

Section 181: Transfer of Title/Antique Vessels

Current Situation:

Section 328.72, F.S., currently provides special requirements for transferring ownership of an antique vessel.

Effect of Proposed Changes:

The bill deletes these special requirements for transfer of an antique vessel. This change conforms antique vessel title transfer requirements to the requirements for every other type of vessel.

Section 182: Marine Resources Conservation Trust Fund

Current Situation:

Pursuant to proviso language in the 2000 General Appropriations Act, \$1.4 million of vessel registration revenue was placed in the Highway Safety Operation Trust Fund for DHSMV administrative costs related to the vessel registration program.

Effect of Proposed Changes:

Effective July 1, 2001, the bill codifies this proviso language in s. 328.76, F.S. This will pay for DHSMV vessel registration administrative costs by depositing \$1.4 million from vessel registration fees in the Highway Safety Operating Trust Fund on an annual basis.

Section 183 & 184: Liens for Recovering, Towing, or Storing Vehicles and Vessels/Repeal of Obsolete Provision

Current Situation:

Currently, s. 713.78, F.S., only requires a towing company to notify the owner, the lien holder and the department when a vehicle has been towed. If, after storing a towed vehicle or vessel for 35 days, the towing company has not been paid for its reasonable costs related to towing and storage, it may sell the vehicle or vessel at auction. In some cases, car rental companies have indicated that they do not receive notice soon enough to pay a towing company before 35 days have passed.

Effect of Proposed Changes:

The bill amends this section to add the insurance company to the list of individuals that must be notified when a vehicle has been towed. The bill also moves the notice requirement to be followed when law enforcement authorizes the removal of a vehicle from s. 715.05, F.S., to s. 713.78, F.S. With these changes, s. 715.05, F.S., is no longer needed and is repealed. These changes are intended to insure proper notification is given to all parties that may have an interest in a towed vehicle. In addition, the bill requires a towing company to wait 50 days before selling a vehicle or vessel, if that vehicle or vessel is 3 years old or less. Since car rental companies generally own and rent only newer vehicles, this change appears to solve the problem discussed above.

Sections 185-187: Pilot Recreational Vehicle Mediation and Arbitration Program

Current Situation:

Section 681.1096, F.S., creates the Pilot Recreational Vehicle Mediation and Arbitration Program to resolve disputes between RV manufacturers and consumers. This pilot program is repealed effective September 30, 2001.

Effect of Proposed Changes:

The bill revises the automatic repeal provision so that the program will continue to operate until September 30, 2002, and recreational vehicle disputes will not be subject to the lemon law provisions of ss. 681.109 and 681,1095, F.S. In addition, the bill amends s. 681.1097, F.S., to allow a party in arbitration to request that the arbitrator make a technical correction to a decision upon filing a request within 10 days after receipt of the decision. The arbitrator's decision is binding unless a party appeals by filing a petition with the circuit court within the prescribed timeframe. The bill also voids motor vehicle warranty dispute agreements requiring as a condition that a consumer not disclose the terms of the agreement.

Section 188: Vehicles and Vessels Parked on Private Property/Towing

Current Situation:

Section 715.07, F.S., provides for the removal of vehicles parked on private property without permission, and prohibits property owners and lessees from ordering the towing of vehicles unless they have first posted signs indicating that unauthorized vehicles will be towed. This section does not address the removal of a vessel parked on private property.

Effect of Proposed Changes:

The bill amends this section to define the term "vessel" and to allow for the removal of vessels parked on private property. The same notice, storage and release requirements for towing a vehicle would be applicable to towing a vessel, however, only those property owners or lessees that actually tow vessels must post signs that indicate that unauthorized vessels will be towed. The bill also provides that failure of a towing company to make "good faith best efforts" to meet notice requirements precludes the imposition of any towing or storage charges.

Section 189: License Suspension/Worthless Checks

Current Situation:

Current law provides that any person who passes a worthless check, and who fails to appear before the court, and against whom a warrant or capias writ for failure to appear is issued shall have their driver's license suspended or revoked. The clerk of the court notifies DHSMV of the action of the court and the license is suspended or revoked by the department.

Effect of Proposed Changes:

The bill amends s. 832.09, F.S., to allow DHSMV to create a standardized form for all clerks of the court to use when notifying the department that a person has satisfied the requirements of the court and the driver's license should be reinstated.

Section 190: Hardship Driver's License/Minors

Current Situation:

The law currently provides courts discretion to direct DHSMV to issue adults a business or employment purposes only driver's license.

Effect of Proposed Changes:

The bill enables a court, at its discretion, to direct DHSMV to issue a temporary driver's license, restricted to business or employment purposes only, to a child whose driving privileges have been revoked or delayed, if the child is otherwise qualified for such a license.

Section 191: Effective Date

Provides that, except as otherwise provided, this act shall take effect July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Eliminating the airport license fees, as proposed in Section 20 of the bill, will have a minimal fiscal impact. The airport license fee generates an estimated \$90,000 a year, but DOT has estimated it costs the agency at least \$100,000 annually to administer the collection program. The annual license fees currently are: \$100 for public airports; \$70 for private airports; \$50 for a limited use airport; and \$25 for a temporary airport.

With respect to the Florida Golf License Plate created in Sections 109, 110, 153, and 154 of the bill, current law provides that an application fee, not to exceed \$60,000, be paid to DHSMV

to defray the Department's administrative costs of reviewing and developing the new specialty license plate. DHSMV has indicated that \$60,000 has been collected from the applicant to defray these costs. This fee will be refunded if the license plate is not approved by the Legislature.

2. Expenditures:

An appropriation of \$1.3 million from the State Transportation Trust Fund, from FY 01-02 nonrecurring general revenue, is split between the Spaceport Florida Authority and the Florida Spaceport Financing Corporation for aerospace infrastructure improvements.

Also, \$1.5 million from the same trust fund is appropriated for the SATs program, contingent on matching federal funding.

In addition, an estimated \$10,000 may be spent by DOT to erect markers for the 20 roads and bridges receiving honorary designations.

DOT will incur the expense of developing an on-line registration system for private airports, as proposed in Section 20 of the bill, and periodically reviewing the data. DOT expects this expense to be minimal.

The DHSMV has estimated it will cost \$72,900 to modify its Driver License Software System to allow it to screen for certain violations to determine which motorists must attend traffic school.

With respect to the Florida Golf specialty plate, DHSMV estimates administrative and design costs to be approximately \$60,000 per specialty license plate authorized. Any additional cost of issuing the license plate will be retained from the first proceeds derived from the annual use fees as provided in s. 320.08056(7), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

It is possible the "just compensation" standard, as proposed in Section 63 of the bill, will be more expensive for cities and counties who require the removal or relocation of outdoor advertising signs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Elimination of the airport registration/inspection fee should have a positive economic impact on private airports.

The ability of outdoor advertisers to receive "just compensation" rather than accept an amortized value, should have a positive economic impact on sign owners required to remove their billboards.

Owners of driver improvement schools likely will see a significant increase in students, and thus revenues, if the provisions in Sections 132, 133, 135, 136 and 137 of the bill become law. The fee that traffic schools charge varies considerably across the state, with prices starting in the \$25 to \$30 range.

With respect to the Florida Golf specialty plate, to the extent that the Florida Golf license plate is successful in attracting buyers willing to pay the additional \$25 fee, funds will be raised for Dade Amateur Golf Association programs.

D. FISCAL COMMENTS:

DOT estimates that raising the debt service cap, as proposed in Section 7 of the bill, will generate \$800 million of net proceeds (bond proceeds less debt service) over the next five years, to acquire right-of-way and repair or build bridges.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to an analysis of CS/CS/HB 1053, 3rd ENG. because the bill does not require cities or counties to expend funds, or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/CS/HB 1053, 3rd ENG. does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

CS/CS/HB 1053, 3rd ENG. does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

House Bill Drafting had suggested that HB 1053, as filed, contained more than one subject, and may be in violation of the constitutional single-subject rule. No additional written comments were provided by House Bill Drafting for subsequent iterations of the bill, but since the amendatory process has added more transportation and highway safety subjects, the same comment could be applicable to the bill in its current form.

B. RULE-MAKING AUTHORITY:

Section 1 of the bill gives the DOT Secretary authority to promulgate rules that will assist the proposed Turnpike Enterprise in utilizing best business practices.

Section 19 of the bill gives DOT authority to develop an on-line registration of private airports.

Section 37 deletes the requirement that DOT include in rule all of the activities on which it can spend its appropriated funds, because the statute is explicit.

C. OTHER COMMENTS:

Section 6 of the bill, related to when attorney's fees in eminent domain proceedings will not be paid, contains confusing terminology. The phrase "last written settlement offer" does not appear in

chapter 73, F.S. It is unclear whether the phrase refers to the “written offer of compensation” that is a product of the pre-suit negotiation, or if it is an offer a condemning agency might make later in the process, perhaps prior to the jury or judge handing down a decision. It is also unclear why the proposed provision is written to conflict with the “offer of judgment” (s. 73.032, F.S.), which is the proposal made by the governmental entity just prior to going to court.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Committee on Transportation adopted 18 amendments to the bill. A brief synopsis of these amendments follows:

- **Amendment 1** – Lengthy amendment that deletes unnecessary details about DOT’s organizational structure; deletes the position of Assistant Secretary for District Operations; creates the Office Management & Budget and the Office of Comptroller; makes technical changes.
- **Amendment 2** – Clarifying; replaces the word “documents” with “documentation” to allow DOT to accept on-line registration forms from private–airport owners.
- **Amendment 3s**—Adds a provision allowing local government to disqualify a DOT-pre-qualified contractor from bidding on a new project if the contractor is 10 percent or more behind on completing an existing project for that entity.
- **Amendment 4s** - Deletes provision making the changes in contractor qualification applicable to county and other local-government projects available for contracting after July 1, 2001.
- **Amendment 5** – Technical; adds a cross-reference.
- **Amendment 7** – Officially allows airports to use state aviation funds for off-airport noise mitigation projects.
- **Amendment 8s** - Places in statute the acceptable dimensions of advertising on bus benches, transit shelters and waste barrels on public right-of-way. Directs DOT to adopt rules to implement this section.
- **Amendment 8sa** - Adds a sentence preventing multiple advertising displays on these structures from facing in the same direction, at any one location.
- **Amendment 9s** – Defines “federal aid primary highway system” for the purposes of outdoor sign regulation. Allows local governments and other entities to enter into agreements with outdoor sign owners to elevate those signs which have been blocked by noise walls, visibility screens, etc. Creates in s. 70.20, F.S., a process for sign owners and governmental entities to work out their differences on sign relocation. DOT is not subject to the process elaborated in s. 70.20, F.S.
- **Amendment 12** —Gives a county governing board authority to establish certain membership criteria for members of an expressway authority in its jurisdiction.
- **Amendment 13** - Allows the Orlando-Orange County Expressway to sell bonds, rather than the bonds be issued through Division of Bond Finance. Also allows the OOCEA to use its bond funds to acquire lands or facilities necessary to the expressway, and to equip or refurbish its system.
- **Amendment 14** – Allows expressway authorities to utilize a process developed for DOT where they pay DEP/the WMDs a sum of money to conduct the necessary per-acre wetlands mitigation caused by expressway expansion or other projects.
- **Amendment 15** – Revamps existing statute (s 334.30, F.S.) on private entities building transportation projects that benefit the public system. Specifies that private entities may obtain state resources to build the project, under certain conditions.
- **Amendment 15a** -- Clarifying; makes it clear that private entities that build facilities not on the SHS will reimburse 100% DOT for any services that agency provides.
- **Amendment 16s** —Directs DOT to consider planning and developing a “Safe Paths to School Program.” Gives DOT discretion to adopt rules, if necessary.

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- **Amendment 17** – Raises minimum funding for seaports program from \$8 million to \$10 million annually. Allows the funds to be used for seaport security improvements. Exempts seaport security projects from the 50-50 match requirement.
- **Amendment 20** – Counties with at least 50,000 people and at least 15.5% of its property off the tax rolls, and which have passed a 1-cent local-option sales tax for transportation projects, are assured of still receiving at least as much state funding as they have in the past, based on a 10-year rolling average. Amendment apparently affects only Leon and Alachua counties.
- **Amendment 21** -- Basically the same language in the bill now, but adds a provision allowing expressway and bridge authorities to disqualify a DOT-pre-qualified contractor from bidding on a new project if the contractor is 10 percent or more behind on completing an existing project for that entity.

On April 4th, 2001, the Transportation & Economic Development Appropriations Committee adopted four amendments, which did the following:

- Deleted a provision that increased to \$10 million from \$8 million the amount provided to seaports for their Chapter 311, F.S., economic development grant program.
- Removed language increasing threshold amounts of work program project amount changes, above which a work program budget amendment must be submitted for notice and review by the Legislature and Governor.
- Deleted language that raised the debt service cap for right-of-way and bridge construction bonds issued by the DOT.
- Deleted language that specifies dimensions of advertising on bus benches, transit shelters, and roadside waste receptacles.

These four amendments traveled with the bill to its next stop, the Ready Infrastructure Council.

On April 16, 2001, the Ready Infrastructure Council adopted 24 amendments to CS/HB 1053. A brief description follows:

- Erased the impact of an amendment adopted by the Transportation and Economic Development Appropriations Committee that would have deleted the increased cap in debt service for ROW/bridge replacement bonds.
- Provided sovereign immunity to operators and security personnel of the Tri-County Commuter Rail System.
- Broadened the applicability of traffic school referrals and deleted the limit that a motorist can elect to attend school no more than five times.
- Regulated placement of and advertising on light poles.
- First of two amendments allowing DOT to create a "Turnpike Enterprise," which will allow the Florida Turnpike to operate more like a private business, with DOT oversight.
- Deleted provision that community improvement districts are not required to competitively bid, pursuant to s. 287.055, F.S., for the services of engineers, architects and other design professionals.
- Doubled the threshold amount for continuing contracts. Airports and other entities could enter into "continuing contracts," also called multi-year contracts, without having to re-bid each year, where construction services do not exceed \$1 million, and where the cost of a study does not exceed \$50,000.
- Reinstates requirement that seaports have to use the chapter 287, F.S., competitive bid process.
- Corrected technical glitch in definition of "temporary airport."
- Deleted inspection and licensing requirements for private airports. This amendment allows DOT to inspect and license private airports with 10 or more aircraft, at the airport's request.

- DOT employees would be able to bid on work proposed to be outsourced. The DOT employees can either bid as a group that will resign from the agency if winning the bid, or can bid as DOT employees, and keep the work in-house. DOT is authorized to revise or draft rules pertaining to employee use of agency equipment, facilities and supplies during business hours.
- Established a process and criteria for counties to use when considering requests from subdivision homeowners' associations requesting abandonment of a road, so that the subdivision can become a gated community.
- Technical, compromise language to replace provisions already in the bill about local governments allowing DOT-pre-qualified contractors to bid on their projects.
- Companion to previous amendment. Compromise language for provision already in the bill directing expressway and bridge authorities to allow DOT-pre-qualified contractors to bid.
- Included the text of HB 1905 (PCB TR 01-03), the Transportation Outreach Program rewrite.
- Allowed out-of-state companies or acquisition agents to provide ROW services to DOT, without having a Florida real-estate license.
- Inserted the latest language on billboard compensation proposal.
- Exempted airports and petroleum storage facilities from DRI review. For all other development projects potentially subject to a DRI review, the amendment creates a clear-cut numeric threshold for when a DRI review is triggered. Also, deletes current provision whereby a development in one county, if it is within 2 miles of the border of a less-populous county, can be evaluated under the less-populous county's growth requirements.
- Created the Turnpike Enterprise, and expressed its powers and duties.
- Exempted auto auction yards of a certain size from DRI review.

The Council accepted a motion to incorporate the amendments into the bill as a council substitute for a committee substitute, then approved the legislation by a vote of 16-0.

On April 26, 2001, the House considered the bill for the first time. It adopted six amendments: an early version of the noise-abatement requirements certain airports; allowing seaports to spend public funds for entertainment expenses; a technical correction related to distribution of driver-improvement school handbooks; requirement that a mitigation methodology rule be submitted to the Legislature in the 2002 session for its consideration; language exempting certain communities from the billboard "just compensation" provisions; and allowing local governments to direct their clerks of court to collect an additional \$3 in civil traffic penalties, to be used for driver's education programs in schools. The bill was then rolled over to third reading.

On May 2, 2001, the House took up CS/CS/HB 1053, 1st ENG., for a final vote. It adopted a strike-all amendment that included a number of new provisions, including the NASA SATs provisions and various road and bridge designations. The strike-all amendment did not include two previously adopted provisions: the mitigation rule approval and the airport noise abatement issue.

Three amendments to the strike-all amendment also were adopted: enhanced penalties for distracted drivers; the mitigation rule approval; and allowing local governments, under specific circumstances, to abandon roads and deed them to subdivisions wishing to become gated communities. The vote on which the "distracted drivers" amendment was adopted was reconsidered, and the amendment later stricken from the bill. The House then passed the bill by a vote of 112-2, engrossed a second time, and sent to the Senate.

On May 3, 2001, the Senate substituted CS/CS/HB 1053 for its CS/CS/SB 2056, and adopted a strike-all amendment to the House bill. On the morning of May 4, 2001, the Senate took up the legislation on third reading, and adopted one strike-all amendment and 12 amendments to that amendment. Key amendments:

- Removed outright DRI exemption for airports. Instead, the bill creates the opportunity for airport master plans to be incorporated into a local government comp plan by the local government. If airport projects' airport master plans are incorporated into a comp plan that is in compliance with the above requirements, then the airport project is not subject to a DRI review.
- Created s. 73.092, F.S., specifying that if a defendant in an eminent domain case rejects a written settlement offer by the condemning authority, and if the settlement offer is equal to or less than the initial offer (not counting interest earnings), then the defendant is not entitled to legal fees/costs incurred as of the date the settlement offer was received.
- Reinserted the provision in s. 311.07, F.S., which exempts the seaports from having to match funds for seaport security projects for which the Legislature has appropriated funds from the FSTED program. All other activities funded from the program required a 50-50 match.
- Changed membership of the TOP Advisory Council. Under the Senate strike-all amendment, the Council will have 11 members: four appointed by the governor to 4-year terms, and seven chosen by legislative leadership to 2-year terms. As specified in the amendment, the Speaker will appoint Council members who live in DOT Districts 1, 3, 5, and 7, and the Senate President will appoint members who live in DOT Districts 2,4 and 6. The DOT District appointments will alternate between the House and Senate leadership every two years.
- Deleted the requirement that DEP and the WMDs submit to the Legislature, no later than 30 days prior to the start of the 2002 session, draft rules creating and implementing a uniform wetlands assessment methodology. The Legislature would have the opportunity to reject, modify or take no action on the draft rules. By its inaction, the Legislature would have approved the rules as submitted.
- Regulated use of motorized scooters.
- Incorporated almost verbatim the text of HB 79, which extends a \$1.50 fee to registration and renewals of most vehicles, the proceeds of which go to the Transportation Disadvantaged program. The only change is, trucks used to haul citrus ("goats) and other agricultural products are exempt from the fee.
- Created the Florida Golf License plate, as expressed in HB 1091.
- Directed any multi-county airport authority (meaning Sarasota-Manatee Airport Authority) to expend certain funds for noise abatement by a date certain, or be required to its DRI development order or make infrastructure improvements to solve the noise problem.
- Made numerous technical changes to the Spaceport Authority Act.
- Tweaked s. 70.20, F.S., provision, related to just compensation for billboards, by adding another exemption for "any municipality with an ordinance that prohibits billboards and has 2 or fewer billboards within its boundary or its future annexed boundaries."
- Created a "Florida Motorist Profiling Evaluation Task Force." Directs law enforcement agencies by 10/1/01 to begin training on how to deal with diverse populations, based on a module created by the Criminal Justice Standards and Training Commission. By 1/1/02, each law enforcement agency must have adopted a policy about related to anti-racial/anti-discriminatory profiling.
- Deleted exemption for out-of-state firms, under contract with DOT or other public agency, to acquire R-O-W from state real estate training and licensing.
- Created the Florida Airport Authority Act, applicable only to Miami-Dade County. The provisions are nearly identical to those in HB 1099.
- Allowed "excess" toll revenues from county toll roads (apparently only in Miami-Dade), once debt service is paid, to be used for parks, sewer and potable water improvements, etc.

The Senate then voted 35-1 on the bill as amended. Senate staff incorporated all of the adopted amendments into one, before sending it to the House.

Later in the day, the House took up the bill, with its strike-all Senate amendment from Messages, and adopted seven amendments to the Senate amendment. The amendments were: the text of CS/CS/HB 807 (the DHSMV legislative package, plus language on driver-improvement schools); deletion of the

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Senate language to expand the applicability of the \$1.50 registration fee to help fund the Transportation Disadvantaged program; language canceling the effect of the proviso language prohibiting DOT from spending transportation funds in Leon County until certain conditions were met; removal of the membership changes to the TOP Advisory Council; three amendments adding the various Spaceport Florida provisions; and requiring development and use of law enforcement curriculum pertaining to racial profiling, and the implementation of policies by law enforcement agencies against profiling. Around 9 p.m. on May 4, 2001, the Senate concurred in the House amendments to the strike-all amendment, and passed CS/CS/HB 1053, 2nd ENG., by a vote of 39-1.

On June 15, 2001, the Governor vetoed the bill, describing it as a "textbook example of logrolling, the kind that makes it difficult to provide Floridians with good, sound public policy." In his veto message, the Governor wrote:

"In my view, the diversity and sheer number of issues contained in Council Substitute for Committee Substitute for House Bill 1053 goes beyond what has been marginally accepted in the past, and leaves the legislation vulnerable to legal challenges by aggrieved stakeholders, forcing the state into costly and unnecessary litigation....

"Policymakers in the executive and legislative branches alike should not be forced as a matter of procedure to accept a multitude of issues creating bad public policy as a condition of enacting policies of benefit to our citizens. Our laws and Constitution were designed to prevent against this type of practice."

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT
APPROPRIATIONS:

Prepared by:

Eliza Hawkins

Staff Director:

Eliza Hawkins

AS FURTHER REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Joyce Pugh

Council Director:

Thomas J. Randle

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Joyce Pugh and Bill Garner

Phillip B. Miller