

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Transportation Committee

BILL: CS/SB 1928

INTRODUCER: Transportation Committee and Senator Baker

SUBJECT: Transportation

DATE: March 14, 2007

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Fav/CS
2.			CA	
3.			GO	
4.			TA	
5.				
6.				

**I. Summary:**

The committee substitute (CS) addresses a number of transportation-related issues. Among its key provisions, the legislation:

- Clarifies Metropolitan Planning Organizations (MPOs) are separate and distinct legal entities, provides autonomy to MPOs by requiring independent staff and granting specific powers and authority, and provides MPO staff eligibility to participate in the Florida Retirement System (FRS);
- Revises the matching fund formula for fixed-guideway revenue bonds to allow for various matching scenarios up to a limit of 50 percent on the State's share of the eligible project cost;
- Revises the matching fund formula for the Transportation Regional Incentive Program (TRIP) to allow 50% funding of all eligible transportation projects, including public transportation projects;
- Provides for the salary and benefits of the executive director of the Florida Transportation Commission to be set in accordance with the Senior Management Service (SMS);
- Clarifies requirements related to the placement and legibility of vehicle license plates;
- Allows motorists cited for toll violations to pay a reduced fine and the unpaid toll directly to the tolling agency and avoid the court process and assessment of points against the motorist's license. Motorists convicted of 10 toll violations within a 36 month period will have their license suspended for 60 days;
- Deletes the once-per-year limitation on local governments bonding the revenues from local option fuel tax and local government infrastructure surtax;
- Raises the dollar thresholds on public construction and road projects that trigger the need to open the project to competitive bids;

- Prohibits elected officials from serving on the board of the Northwest Florida Transportation Corridor Authority (NWTCA) and transfers the responsibilities of the Emerald Coast Bridge Authority to the NWTCA;
- Allows property owners and developers to apply donations of right-of-way or road improvements to future transportation concurrency requirements through legally binding contracts; and
- Clarifies the ability for all expressway authorities to engage in public-private partnerships. The Orlando-Orange County Expressway Authority (OOCEA) is provided authorization to waive the requirement for surety bonds on projects less than \$500,000 when the contract is awarded under the provisions of a local economic development program.

This CS creates s. 339.282, and substantially amends ss. 20.23, 112.061, 121.021, 121.051, 121.055, 121.061, 121.081, 212.055, 215.615, 255.20, 316.605, 316.650, 318.14, 318.18, 320.061, 336.025, 336.41, 339.175, 339.2819, 343.81, 343.82, 348.0004, 348.0012, and 348.754 of the Florida Statutes. Sections 163.3177, 339.176, 341.828 of the Florida Statutes are amended to correct cross-references. Section 2 of ch. 89-383, Laws of Florida is substantially amended.

## II. Present Situation:

### **Florida Transportation Commission (FTC)**

The FTC is a governor-appointed board providing oversight of FDOT and providing transportation policy recommendations to the Governor and Legislature. The four employees of the FTC are classified as Selected Exempt Service personnel for the purposes of salary and benefits.

### **Metropolitan Planning Organizations**

An MPO is a transportation policy-making organization made up of representatives from local government and transportation authorities. Federal law requires the formation of an MPO for any urbanized area with a population greater than 50,000 to ensure expenditures for transportation projects and programs are based on a continuing, cooperative and comprehensive planning process. The metropolitan planning area of the MPO encompasses the census-designated urbanized area and the adjacent area expected to become urbanized within 20 years. The purpose of the MPO is to provide a forum for coordinating transportation decision-making among the various state and local entities and to carry out various transportation planning elements including the development of the long-range transportation plan (LRTP) and the transportation improvement program (TIP). Larger MPOs (those in urbanized areas with over 200,000 in population) have additional planning responsibilities relating to congestion management and air quality.

Section 339.175, F.S., requires MPOs to develop plans and improvement programs consistent with the comprehensive plans of the local governments within the metropolitan planning area of the MPO. Both the long-range transportation plan and the TIP must consider the anticipated effects of transportation policy decisions on land use and land development. These plans must also weigh the degree of consistency with all available long and short-term land use plans. Local governments likewise must consider the MPO plans when developing their comprehensive plans. Similarly, FDOT uses the MPOs' TIPs to create the work program.

There are 26 MPOs in Florida (more than any other state except Texas) administering the transportation planning process for 28 urbanized areas (as defined by the U.S. Census Bureau). As recently as the 1990 Census, almost all of Florida's urbanized areas were contained within county boundaries. However, the 2000 Census showed urbanized areas growing, merging, crossing county boundaries, and in some cases encroaching into adjacent metropolitan planning area boundaries. The designation of urbanized areas by the U.S. Census Bureau is made without deference to jurisdictional boundaries. Instead, the designation relies upon the observed pattern of land use and intensity of development to identify concentrated generators and attractors of socio-economic activity. For the most part, an urbanized area's socio-economic activity is unaffected by political boundaries. This is borne out through travel patterns; drivers are unconcerned and often unaware when their daily travels result in crossing jurisdictional boundaries.

Accordingly, the Legislature has endeavored to enhance regional transportation planning in recent years. In 2003, the Legislature passed SB 676 which recognized the need to maximize the efficient use of increasingly scarce state resources and clarified the FDOT's responsibilities in serving all transportation modes. Specifically, SB 676:

- Created the Strategic Intermodal System (SIS) comprising transportation facilities of statewide and interregional significance, and directed the FDOT to develop an implementation plan;
- Directed the FTC to conduct an assessment of the need for an improved philosophical approach to regional and intermodal input in the planning for and governing of the Strategic Intermodal System and other transportation systems; and
- Directed MPOs to develop coordination mechanisms with one another to expand and improve transportation within the state.

Responding to the Legislature's direction in SB 676, the FTC prepared the report "An Assessment of Florida's Regional and Intermodal Transportation Planning Process" (December, 2003). Based on an analysis of the transportation planning process in Florida and the best practices of MPOs around the nation, the report identified three key elements of Florida MPOs requiring attention: MPO boundaries, MPO staffing arrangements, and MPO voting membership.

Seven Florida MPOs administer the transportation planning process for more than one county. Fifteen MPOs contain more than one census-defined urbanized area, in whole or in part. Several counties have portions of two or more urbanized areas within their county boundaries. Fourteen MPOs are staffed by employees of a local government (13 county, 1 city). Five MPOs are staffed by employees of Regional Planning Councils. Four MPOs are independent agencies, and two are staffed by independent local planning departments or agencies.

### **The Florida Retirement System**

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income and disability benefits to the more than 600,000 employees and 225,000 beneficiaries of its more than 800 state, county, municipal, and independent district public employers. The default choice in the FRS is a defined benefit, or percent of final pay pension arrangement, in which a final benefit is calculated on the basis of service, retirement class factor, and the average of the best five years' salary. Since 2001, the FRS has permitted

employees to select a defined contribution alternative in which employees own and actively manage the contributions to their individual account. Both choices are accompanied by equivalent disability benefits for service and non-service related illness or injury. Retirees from either plan are also permitted to receive a contribution from a separate account to subsidize payment of health insurance premiums.

### **Fixed-Guideway Revenue Bonds**

A "fixed-guideway transportation system" is a public transit system for transporting people by a conveyance, or a series of interconnected conveyances, specifically designed for travel on a stationary rail or other guideway. Section 215.615, F.S. authorizes FDOT or commuter rail authorities and regional transportation authorities to issue revenue bonds to fund fixed guideway projects. Each party is contractually liable for an equal, 50/50 share of the bond debt service. Projects must comply with FDOT's major capital investment policy guidelines, and must be included in the work program. The FDOT's share of debt service is payable from, and is limited to, a maximum of two percent of all state revenues deposited into the State Transportation Trust Fund (STTF). These debt service payments are part of the 15 percent of transportation revenues committed to public transportation projects pursuant to s. 206.46, F.S. The local share is payable from any available revenues other than revenues of FDOT. To date, the fixed-guideway revenue bond financing option has not been employed. FDOT is currently negotiating with local governmental entities and a private railroad company in Central Florida to develop a fixed-guideway commuter or light rail system. Bond counsel assisting FDOT with the financing component of the project has suggested changes to the existing s. 215.615, F.S.

### **Transportation Regional Incentive Program**

In 2005, SB 360 created s. 339.2819, F.S., to establish the TRIP for the purpose of providing funds to improve regionally significant facilities in regional transportation areas. State funds are available throughout Florida to provide incentives for local governments and the private sector to help pay for critically needed projects that benefit regional travel and commerce. The FDOT will pay for 50 percent of project costs, however, matching funds for public transportation projects are limited to 50 percent of the nonfederal share of project costs.

### **Florida Turnpike Enterprise/Expressway Authority Traffic Enforcement**

Under current law (s. 316.1001, F.S.), persons who use a toll facility without paying a toll (unless otherwise exempted) are guilty of a noncriminal traffic infraction, punishable as a moving violation. If the citation is not paid in a timely fashion, the matter is forwarded to the courts pursuant to ch. 318, F.S. Motorists found guilty by the courts are subject to a fine, payment of unpaid toll, court costs, and having points assessed against their driver's license.

The Florida Turnpike Enterprise and expressway authorities are reporting an increase in the numbers of motorists, particularly repeat offenders, speeding through toll plazas without paying tolls or without transponders. The Turnpike and the Tampa-Hillsborough County Expressway Authority reported at least \$16 million in lost toll revenues in FY 2004-2005, while the Orlando-Orange County Expressway Authority (OOCEA) reported a \$6 million loss. These agencies also reported spending more money last fiscal year to contact and litigate toll-plaza violators than they collected. The Turnpike reported spending more than \$2.5 million to collect \$721,362 in unpaid toll collections, while the OOCEA spent \$1.41 million to collect about \$412,000.

Most toll plazas are equipped with cameras used to photograph the license plates on vehicles illegally neglecting to pay tolls. Often these photographs are of little use to enforcement personnel because the plates have been purposely obscured or mutilated, or displayed upside down or out of the cameras' view range. Numerous websites and retailers sell sprays or other materials that, when applied to license tags, obscure them just enough to prevent clear photographs by the toll cameras. See [www.photoblocker.com](http://www.photoblocker.com) or [www.photostopper.com](http://www.photostopper.com) for examples.

### **Local Option Fuel Tax Bonds**

Section 336.025, F.S., enables local governments to levy local fuel taxes of up to 11 cents per gallon of gasoline. A local government may pledge any of its revenues from the tax to repay state bonds issued on its behalf by the Division of Bond Finance at the State Board of Administration. However, local governments are prohibited from having bonds issued more than once per year.

### **Local Government Infrastructure Tax Bonds**

Section 212.055(2), F.S., permits counties to levy a discretionary sales surtax of 0.5 or 1 percent to be distributed by the county to any municipalities within the county by interlocal agreement or statutory formula. Proceeds of the surtax may be expended by the county and any municipalities or school districts within the county for infrastructure and to acquire land for conservation or recreation. School district, municipalities and counties may pledge any of its revenues from the tax to repay state bonds issued on its behalf by the Division of Bond Finance at the State Board of Administration. However, local governments are prohibited from having bonds issued more than once per year.

### **Northwest Florida Transportation Corridor Authority (NFTCA)**

The NFTCA was created by the Legislature in 2005 to improve mobility, traffic safety, and economic development along the U.S. 98 corridor stretching through Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin, and Wakulla counties. Another goal of the NFTCA is to identify and develop hurricane evacuation routes. The NFTCA is to adopt a master plan by July 1, 2007, which:

- identifies areas of the corridor where mobility, traffic safety, and efficient hurricane evacuation need to be improved;
- evaluates the economic development potential of the corridor and considers strategies to develop that potential;
- identifies methods of building partnerships with local governments, other state and federal entities, the private-sector business community, and the public in support of corridor improvements; and
- identifies projects that will accomplish these goals and objectives.

The NFTCA has numerous powers and responsibilities including the power:

- to build and maintain highways and other transportation facilities within the U.S. 98 corridor that will help meet its statutory goals;
- to issue revenue bonds, either on its own or through the state Division of Bond Finance.
- to set and collect tolls, fees, and other charges;
- acquire land by purchase, donation, or eminent domain;
- borrow money;

- to sue and be sued;
- enter into contracts, agreements, and partnerships;
- to enter into lease-purchase agreements with FDOT to manage the U.S. 98 Corridor System;
- to enter into public-private partnerships to construct, operate, own, or finance transportation facilities that are part of the system.

The governing board is composed of a resident from each of the eight counties, to be appointed by the governor to 4-year terms. The FDOT District 3 secretary serves as an ex-officio, non-voting member.

### **Emerald Coast Bridge Authority**

The Emerald Coast Bridge Authority was created in 2001 by the Legislature through a special act which changed the name of the then-existing Fort Walton Beach Area Bridge Authority and reduced the authority from seven to five members. The purpose for either authority was the same: planning, constructing, operating, and maintaining a bridge or bridges transversing Choctowhatchee Bay or Santa Rosa Sound, or both.

### **Florida's Expressway Authorities**

Florida's expressway authorities are formed by the Florida Expressway Authority Act (Chapter 348, Part I of the Florida Statutes) or by act (Parts II through X) of the Legislature for the purpose of constructing, maintaining, and operating tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. Most existing expressway authorities were created before Chapter 348, Part I of the Florida Statutes, was enacted in 1990 and are, therefore, not subject to many of its provisions.

### **Public Private Partnerships (P<sup>3</sup>)**

Section 348.0004(9), F.S., was created by the Legislature in 2004 to provide expressway authorities the ability to engage in public-private partnerships. The section provides that:

- Expressway authorities may receive or solicit proposals and contract with private parties for the building, operation, ownership, or financing of transportation facilities if:
  - the project is in the public's best interest;
  - no state funds are required unless the project provides increased mobility on the State Highway System (SHS); and
  - no additional costs or service disruptions would be borne by the public.
- The cost of reviewing public-private project submissions is borne by the private entity.
- Any tolls or fares imposed by the private entity are subject to regulation by the expressway authority.
- P<sup>3</sup> projects must comply with all applicable federal, state, and local laws, comprehensive plans, rules, policies, procedures, and standards, as well as any other conditions which the expressway authority determines to be in the public's interest;
- The expressway authorities may provide development and construction services, including eminent domain. Expressway authorities may pay all or part of the operating and maintenance costs or provide services for which it receives full or partial reimbursement.

- If an expressway authority receives an unsolicited proposal, the authority must publish weekly for two weeks, an invitation for competing proposals, which will be received for up to 60 days from the initial publication. Proposals will be ranked and the authority may negotiate with multiple proposers.
- Loans from the Toll Facilities Revolving Trust Fund may be made for P<sup>3</sup> toll facilities.

Since the changes made in 2004 were placed in Part I of Chapter 348, F.S., some concern has been raised relative to the provisions' applicability to expressway authorities formed in Parts II through X.

### **The Orlando-Orange County Expressway Authority's Small Business Program**

Currently, the OOCEA has a program that seeks to encourage Orlando-area small-business owners to bid on certain components of expressway authority projects. In its eight years' of existence, the "micro-contract" program has attracted more than 100 small companies to perform such tasks as erecting guard rails, installing landscaping, and striping toll roads. One of the benefits of the program to small businesses has been the waiver of a performance bond for project contracts of \$200,000 or less. This waiver is available to all state agencies (see s. 255.05, F.S.). Persons or entities awarded public contracts greater than \$200,000 must post a surety bond to guarantee the work will be performed to the state agency's specifications. Cost increases for transportation construction materials and labor in Florida have resulted in increased bid prices for these micro-contracts, according to the OOCEA staff. The OOCEA has proposed amending s. 348.754, F.S., which specifies the OOCEA's purposes and powers, to raise the \$200,000 threshold to \$500,000.

### **Contracts for Public Construction Projects**

The basic process used by 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. 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. Section 336.41, F.S., provides additional requirements specifically relating to county road contracting. Except in emergency situations, each county is required to competitively bid transportation projects for projects not exceeding \$250,000 or 5 percent of the county's share of the 2-cents-gallon constitutional fuel tax, whichever is greater.

### **Transportation Concurrence**

Local governments are required to use a systematic process to ensure new development does not occur unless adequate infrastructure is in place to support the growth. The requirement for public facilities and infrastructure to be available concurrent with new development is known as concurrence. Transportation concurrence uses a graded scale of roadway level of service (LOS) standards assigned to all public roads. The LOS standards are a proxy for the allowable level of congestion on a given road in a given area. Stringent standards (i.e., fewer vehicles allowed) are applied in rural areas and easier standards (i.e., more vehicles) are allowed in urban areas to help promote compact urban development. FDOT is responsible for establishing level-of-service standards on the highway component of the Strategic Intermodal System (SIS) and for developing guidelines to be used by local governments on other roads. Local governments, however, have broad discretion in the implementation of transportation concurrence because

they designate the concurrency management strategies and exception areas within their boundaries, and control land use decisions within their jurisdictions.

In 2005, the Florida Legislature enacted SB 360 to provide a method for mitigating the impacts of development on transportation facilities by the cooperative efforts of the public and private sectors. This method, called proportionate fair-share, can be used by a local government to determine a developer's fair-share of costs to meet concurrency. The developer's fair-share may be combined with public funds to construct future improvements; however, the improvements must be part of a plan or program adopted by the local government or FDOT. If an improvement is not part of the local government's plan or program, the developer may still enter into a binding agreement at the local government's option provided:

- the proposed improvement satisfies the significant benefit test; or
- the local government plans for additional contributions or payments from other developers to fully mitigate transportation impacts in the area within 10 years.

### **Red Road, Miami-Dade County**

Chapter 89-383, Laws of Florida, designated that portion of Red Road between S.W. 8th Street to S.W. 72nd Street in Miami as a state historic highway because it leads into Coral Gables Wayside Park and the Central Miami Subdivision, one of the earliest examples of a planned community noted for its Mediterranean revival architecture. Development activities and major transportation improvements to Red Road is strictly prohibited, under the chapter law's provisions, in order to preserve its historic and cultural significance. The removal of any healthy tree which is not a safety hazard is prohibited, as are any alteration of the physical dimensions or location of Red Road, the adjacent property, and any part of the original entranceway to the park. The chapter law also specifically prohibits construction on or along Red Road of any new structure, "or any building, clearing, filling, or excavating on or along Red Road except for routine maintenance or work which is essential to the health, safety, or welfare of the environment." Finally, the chapter law requires that, prior to performing any work claimed to be essential to the health, safety, or welfare of the environment, including the removal of any healthy tree, Miami-Dade County must hold an advertised public meeting to present the findings of fact necessitating such work. In recent years certain sections of Red Road have deteriorated. Patching the potholes is ineffective and unattractive, and not in keeping with the neighborhood's character.

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

**Section 1** provides for the salary and benefits of the executive director of the FTC to be set in accordance with the SMS. The CS also raises the qualification requirements for District Secretaries and the Turnpike Director to allow a minimum of ten years experience in senior level business management field to be substituted for the professional engineering registration or the masters degree requirements.

**Section 2** amends s. 112.061, F.S., to allow MPOs to establish per diem and travel reimbursement rates in the manner afforded to counties, district school boards, and special districts.

**Sections 3 through 7** revise sections of ch. 121, F.S., to enable MPO employees to participate in the Florida Retirement System (FRS). Section 121.055, F.S., is amended to require the executive director or staff director of each MPO participating in the FRS to be a member of the Senior Management Service Class within the Florida Retirement System.

**Section 8** amends s. 212.055, F.S., to remove the limitation preventing local governments from having bonds backed by local government infrastructure surtax revenues issued more frequently than once per year.

**Section 9** amends s. 215.615, F.S., to delete the 50/50 state/local matching requirement for fixed-guideway revenue bonds. The proposed changes allow for various matching scenarios with an upward limit on FDOT's share being established at up to 50 percent of the eligible project costs. This would allow local authorities to contribute more local dollars when the State's available match is insufficient to finance 50 percent of the project.

**Section 10** amends s. 255.20, F.S., to increase the dollar threshold for public construction projects that do not need to be competitively bid. The \$200,000 threshold for construction and the \$50,000 threshold for electrical projects are doubled to \$400,000 and \$100,000, respectively. The change in the thresholds would effectively increase the number of projects that could be performed by outside contractors without competitive bid.

**Section 11** amends s. 336.41, F.S., to increase the dollar threshold for county road and bridge projects that do not need to be competitively bid. The \$250,000 threshold is raised to \$400,000 or up to 5 percent of the county's 80-percent portion of the constitutional gas tax, whichever is greater.

**Section 12** amends s. 316.605, F.S., relating to the placement of license plates on vehicles. No license plate may be mounted more than 60 inches nor less than 12 inches above the ground. A vehicle's license plate must be mounted no more than 24 inches to the right or left of the vehicle's centerline and must be readable from left to right.

**Section 13** amends s. 316.650, F.S., to give motorists who use tolled highways without paying the required tolls the option to pay the tolling authority's fine and the unpaid toll, and the traffic citation is dropped and no points are assessed.

**Section 14** amends s. 318.14, F.S., to specify motorists who use tolled highways without paying the required tolls can elect to pay the unpaid toll and the tolling authority's fine, or if not, have 45 days to either request a court hearing or to pay the specified fines.

**Section 15** amends s. 318.18, F.S., to clarify the \$100 fine for each violation of s. 316.1001, F.S., is mandatory. If adjudication is withheld or a plea is entered prior to a court hearing, the minimum mandatory fine assessed per citation is \$100 plus the amount of the unpaid toll for each citation issued. The CS also provides for the distribution of fine proceeds and requires a 60-day suspension of a driver's license for motorists with 10 toll violations.

**Section 16** amends s. 320.061, F.S., making it unlawful to obscure a license plate by applying or attaching any item or material that interferes with the license plate's legibility or the ability to detect any feature on the license plate.

**Section 17** amends s. 336.025, F.S., to remove the limitation preventing local governments from having bonds backed by local option fuel tax revenues issued more frequently than once per year.

**Section 18** amends s. 339.175, F.S., to:

- Clarify the purpose of MPOs to include fostering economic growth and development.
- Establish the independence of MPOs, separate and distinct from any county, municipality, or other entity.
- Require the governing board of the MPO to designate a chair and vice chair from the board. An agency clerk, responsible for recording minutes and agency actions, must also be designated. The agency clerk may be a member of the governing board, an employee of the MPO, or other person.
- Specify the elected officials eligible for voting membership on the MPO must be from local government, excluding sheriffs, tax collectors, supervisors of elections, property appraisers, clerks of court, and other constitutional or charter officers.
- Provide for a process used to appoint alternate members to the MPO and non-voting representatives of major military installations.
- Require each MPO to have an executive director who reports directly to the MPO governing board.
- Provide for the training of local elected officials regarding the transportation planning process for urbanized areas.
- Allow the MPO to refer to regional planning efforts made by other entities.
- Require a majority recorded roll call vote or show of hands to approve the LRTP, the TIP, and any amendments to these products.

**Section 19** amends s. 339.2819, F.S., to remove the TRIP's funding limit of 50 percent of the non-federal share of public transportation projects. This change allows local governments to use certain federal funds in the local match requirement for eligible TRIP projects.

**Section 20** creates a new section 339.282, F.S., relating to transportation concurrency incentives. This section declares the Legislature's finding:

“that allowing private-sector entities to finance, construct, and improve public transportation facilities can provide significant benefits to the citizens of this state by facilitating transportation of the general public without the need for additional public tax revenues.”

Under the new provisions, a developer or property owner may apply the value of a contribution of right-of-way for, or the construction of a transportation facility to any future transportation concurrency requirements under ch. 163, as long as the contribution or credit is established in a legally binding agreement.

**Sections 21 and 22** amend s. 343.81, F.S., to restrict future membership on the NWFTCA to persons who do not hold elected office. The CS does not prohibit any member appointed prior to

the effective date of this act from completing his or her current term, and the prohibition shall only apply to members appointed after the effective date of this act.

**Section 23** amends s. 343.182, F.S., to specify, any special act notwithstanding, the NWFTCA shall be responsible for the planning, development, construction, operation, and maintenance of a bridge or bridges across Choctowhatchee Bay or Santa Rosa Sound or both. This would effectively empower the NWFTCA to subsume the responsibilities of the Emerald Coast Bridge Authority.

**Sections 24 and 25** amend ss. 348.0004, and 348.0012, F.S., to clarify any expressway authority, not just those created in Part I of ch. 348, as well as any transportation, bridge, or toll authority may enter into public-private partnerships. The CS further clarifies the provisions of Part I of ch. 348, F.S., do not apply to expressway authorities created in other parts of the chapter, “except where expressly provided.”

**Section 26** creates a new paragraph (6) of s. 348.754, F.S., authorizing the OOCEA to waive the requirements for payment and performance bonds (surety) on public construction projects of \$500,000 or less, when the project is awarded under the provisions of an economic development program for the encouragement of local small businesses. Criteria for participation in the program requires a participant be an independent business principally headquartered in the Orange County Standard Metropolitan Statistical Area, employing a maximum of 25 persons. Eligible businesses also must have gross annual construction sales averaging \$3 million or less over the previous three calendar years; be accepted into the OOCEA’s economic-development program; and participate in the OOCEA technical assistance or other educational programs.

The OOCEA’s procedures for waiving bonds on projects between \$200,000 and \$500,000 must provide bonds will only be set aside on projects set aside to be competitively bid on by participants in the development program. The executive director or his or her designee determines whether specific construction projects are suitable for bidding under the micro contracts program, and waiver of the bond. The decision to waive the bond must be based on the executive director’s investigation and conclusion that there exists “sufficient competition” so that the authority receives a “fair price” and does not undertake any “unusual risk” with respect to such project.

The waiver of surety does not affect the OOCEA’s obligation to pay for services rendered. Any small business which has been the successful bidder on six micro-contracts is ineligible to continue participating in the program. The OOCEA is required to prepare a report on the program every two years and submit it to the Orange County legislative delegation, beginning December 31, 2008.

**Section 27** conforms cross-references in s. 163.3177, F.S.

**Section 28** conforms cross-references in s. 339.176, F.S.

**Section 29** conforms cross-references in s. 341.828, F.S.

**Section 30** revises s. 2 of ch. 89-383, Laws of Florida, to allow not only routine maintenance of Red Road, but also alterations, modifications, or improvements to it, and to the adjacent right-of-way for the purpose of enhancing motorists' safety and pedestrian use of the road. Increasing the number of traffic lanes is expressly prohibited.

**Section 31** provides an effective date of July 1, 2007.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 20 may result in land developers and property owners avoiding construction delays stemming from transportation concurrency restrictions.

Business firms meeting the requirements of the OOCEA's economic-development program may benefit from enhanced opportunities to contract with the OOCEA, as detailed in Section 26.

C. Government Sector Impact:

The provisions relating to the Florida Retirement System and Senior Management Service will result in indeterminate fiscal impacts to the State.

The OOCEA may benefit from increased competition in certain projects. However, the OOCEA may take on additional risk by not having the protection of the payment and performance bonds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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