

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1271

Department of Transportation

SPONSOR(S): Horner

TIED BILLS:

IDEN./SIM. BILLS: SB 2686

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Johnson	Miller
2)	Transportation & Economic Development Appropriations Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill addresses several issues related to transportation. Specifically, the bill:

- Codifies the Department of Transportation’s Engineer Training, Senior Engineer Training, and Right-of-Way Training Programs and authorizes the associated incentive pay increases.
- Codifies the \$75 per pay period pay additive for Motor Carrier Compliance Officers who maintain certification by the Commercial Vehicle Safety Alliance.
- Repeals an obsolete legislative review of a seaport loan program.
- Addresses licenses suspensions for toll violators. Specifically:
 - Maintains the current \$100 fine, where no administrative election is made as mandatory once in court, but restores the option to pay \$30, plus the unpaid toll, to the court clerk, plus court costs;
 - Provides that paying the citation prior to the court hearing does not constitute an adjudication and assessment of points against a driver’s license but allows adjudication and the assessment of points only if imposed by the court after a hearing;
 - Deletes the mandatory 60 day drivers license suspension for a person convicted of 10 toll violations within 26 months: and
 - Distinguishes between citations issued by toll enforcement officers and those issued by law enforcement officers, in terms of direction to the clerk as to where to direct the proceeds.
- Repeals the Secure Airports for Florida’s Economy (SAFE) Council.
- Provides for the transfer of the SAFE Council’s funds to DOT.
- Revises the distribution of fees from the “United We Stand” specialty license plate.
- Amends or repeals ss. 334.03, 334.044, and 334.047, F.S., to conform to changes made in 1995 when the system of assigning road jurisdiction was changed from a system based on road functional classification to a system depending on mutual agreement between governmental entities.
- Revises provisions relating to applications for contractor prequalification to clarify when interim financial statements are needed for contractor qualification applications.
- Provides express authority with regard to DOT’s rulemaking related to video billing and the associated post-payment of tolls by toll road users.
- Clarifies that compensation to DOT for the use of the right-of-way only applies to the longitudinal placement of electric utility transmission lines on limited access facilities.
- Repeals a required report relating to the “adopt-a-highway” program.
- Provides a mechanism for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft or abandoned motor vehicles from the airport’s premises.

The bill transfers funds related to the sale and disposal of property abandoned at airports from the state school fund to the individual airport.

The change in toll provisions may result in fewer court cases related to toll violations.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill contains numerous provisions relating to the Department of Transportation (DOT) and other transportation related issues. For ease of understanding, this analysis is organized by topic.

Trainee Programs (Section 1)

Current Situation

DOT administers three separate trainee programs: Engineer Training Program, Senior Engineer Training Program, and the Right of Way Training Program. The combined Engineer and Senior Engineer Training Programs constitute the Professional Engineer Training Program. DOT has used these programs for over 20 years and operates them under adopted internal guidelines. According to DOT, these programs are extremely effective in the recruiting and retaining of highly specialized professional staff.

On July 1, 2006, a law preventing pay additives and general salary increases to a group of positions sharing the same classification or occupation without legislative approval¹ became law and prevented DOT from providing the incremental pay increases associated with these training programs. In order to continue these programs, for Fiscal Years 2007-2008, 2008-2009, and 2009-2010, DOT was granted the authority to continue its training programs and to provide the pay incentive package for trainees in these programs in the General Appropriations Act.

Proposed Change

The bill creates a new s. 20.23(6), F.S., codifying DOT's Engineer Training Program, Senior Engineer Training Program, and Right of Way Training Program. The bill authorizes DOT to maintain the programs for its employees and prospective employees who have graduated from an approved engineering curriculum of four or more years in a school, college, or university approved by the State of Florida Board of Professional Engineers. These programs are to provide broad practical expertise in transportation engineering, leading to the licensure as a professional engineer.² The bill authorizes DOT to maintain these training programs for its employees to provide broad practical experience and enhanced knowledge in the areas of right-of-way property management, real estate appraisal, and business valuation relating to DOT right-of-way acquisition activities.

¹ Section 216.251(3), F.S.>

² The practice of engineering is regulated in ch. 471, F.S.

Motor Carrier Certification Program (Section 1)

Current Situation

The Commercial Vehicle Safety Alliance (CVSA) certification program provides a pay incentive for Motor Carrier Compliance Officers. This pay incentive is \$75 per pay period for those officers that maintain certification by meeting special training and performance requirements of the CVSA.³ This pay incentive program has been funded through federal appropriations and authorized through the General Appropriations Act (GAA) beginning in fiscal year 2007-2008 to the current fiscal year 2009-2010. Initially, DOT requested that the funds be distributed to eligible employees with the authority issued by the Department of Management Services (DMS).

Since initial approval, the Department of Management Services (DMS) notified DOT that this is not an appropriate method to provide these incentives, as it is not a statutorily authorized pay additive.⁴ Subsequently, DOT sought an alternative pay additive that was appropriate to accommodate the issuance of the CVSA pay incentive. DMS, in consultation with Legislative staff, provided DOT authority to use the Temporary Special Duty Pay Additive as a mechanism to continue to issue this authorized pay incentive in fiscal year 2007-2008 through the current fiscal year. Approximately 208 current employees statewide are receiving this pay additive. In its fiscal year 2010-2011 Legislative Budget Request, DOT requested funding contingent on federal appropriation.

Proposed Changes

The bill creates a new s. 20.23(7), F.S., authorizing DOT to continue to grant the \$75 per pay period pay additive to MCCO officers who maintain certification by the CVSA.

Seaport Loan Program (Section 2)

Current Situation

Section 315.03, F.S., grants various powers to the state's seaports. Section 315.03(12), F.S., authorizes certain entities, with oversight by the Florida Seaport Transportation and Economic Development Council, to establish a loan program that provides for the reuse of loan proceeds for certain program purposes. The law requires the Florida Seaport Transportation and Economic Development Council to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Proposed Change

The bill repeals an obsolete statutory provision requiring the Legislature to review the seaport loan program during the 2004 Regular Session.

Tolls (Sections 3, 5, and 13)

Current Situation

Subject to a few limited exemptions⁵ a person may not use any toll facility without paying tolls, and the failure to pay the toll is a noncriminal traffic infraction, punishable as a moving violation, pursuant to s. 316.1001, F.S.

If a toll agency issues a citation for failing to pay a toll, the person has 30 days from when the citation is issued to pay it directly to the issuing toll agency, in which case the citation is never filed with the court.

³DOT's Motor Carrier Compliance Officers are paid bi-weekly. The annual pay additive for one of these officers is \$1,950.

⁴ Authorize pay additives are contained in s. 110.2035(6)(c), F.S.

⁵ The exceptions are contained in s. 338.155, F.S. and include marked emergency vehicles on official business, state military personnel on official business, funeral processions of law enforcement officers killed in the line of duty, and persons with a certified disability that substantially impairs that person's ability to pay tolls in the toll basket.

The penalty paid to the toll agency is \$25, or such other amount as imposed by the governmental entity owning toll facility, plus the amount of the unpaid toll that is shown on the traffic citation.

If the person does not pay the toll agency within that 30-day period, the citation is no longer treated administratively by toll agency. The toll agency then files the citation with the court.⁶ The person then has an additional 45 days to pay the citation to the clerk of the court, but higher civil penalty and delinquent fees, plus court costs, apply.⁷

If the person pays the clerk of the court as indicated above, he or she is deemed to have admitted the infraction and has waived the right to a hearing on the toll violation,⁸ and since it is considered a moving violation, three points are assessed against the person's driver's license.⁹

During this entire 75-day period, the person may choose to request a court hearing. If the person requests a court hearing, or is required to appear in court after failing to respond to the citation,¹⁰ the person is deemed to have waived his or her right to the civil penalty provision for toll violations¹¹ and if the judge or hearing officer then determines that the toll violation was committed, that official may impose a civil penalty up to \$500. The person is also subject to applicable court costs, and 3 points are assessed against the person's driver's license for an adjudicated violation.¹²

According to DOT, for Fiscal Year 2008-2009, the Turnpike Enterprise sent out notices for 22.5 million toll violations. Of those approximately 212,000 uniform traffic citations were issued for nonpayment of tolls. Of the traffic citations issued 89,000 were resolved prior to going to court and 107,000 ended up in court.¹³ The ones that ended up in court were less than one-half of one percent of the total toll violations.

In 2009, the Legislature directed the Turnpike Enterprise to "pursue and implement new technologies and processes in its operations and collection of tolls and of other amounts associated with road and infrastructure usage. Such technologies and processes include without limitation, video billing and pricing." DOT has broad rulemaking authority over the turnpike system and establishes and changes its toll rates through the rulemaking process.¹⁴

Proposed Changes

The bill amends ss. 318.18(7) and 322.27(3)(d)7, F.S., to address license suspensions for toll violators. Once the toll violator is in court, the bill maintains the current mandatory \$100 fine, where no administrative election is mad. However, the bill restores the option to pay, \$30 plus the unpaid toll amount to the clerk of the court prior to the court hearing, with \$25 going to DOT and \$5, plus court costs, being retained by the court. The bill provides that paying the citation in this manner does not

⁶ Section 318.14(12), F.S.

⁷ The civil penalty for a toll violation is contained in s. 318.18(7), F.S.

⁸ Section 318.14(4), F.S.

⁹ Section 322.27(3)(d)7.

¹⁰ Section 318.14(5), F.S.

¹¹ Section 318.18(7), F.S.

¹² Section 322.27(3)(d)7, F.S.

¹³ The difference in the number of uniform traffic citations against the number of cases settled and the number of cases includes items such as dismissals of citations, cases where the defendant does not show up in court, judgments where the defendant does not pay the judgment, and license plate misreads.

¹⁴ S. 338.239, F.S.

constitute adjudication and the assessment of points on a driver's license may only be imposed by the court after a hearing.

The bill also removes the mandatory 60 day suspension of a driver's license for persons convicted of 10 toll violations within 36 months.¹⁵

The bill amends s. 338.155(1), F.S., to provide that DOT is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including but not limited to, rules for the implementation of video or other image billing and variable pricing. The bill also removes the obsolete phrase "guaranteed toll account."

Safe Council (Sections 6 and 7)

Current Situation

In 2003, the Legislature created the Secure Airports for Florida Economy (SAFE) Council to address issues relating to airport security. Its members included representatives from various airports, DOT, the Department of Community Affairs, the Department of Law Enforcement, the office of Tourism, Trade, and Economic Development, the airline industry, and the general aviation industry. The council is required to prepare and annually update, a five- year "Master Plan" defining the goals and objectives of the council regarding development of airport facilities in the state. This plan is intended to recommend specific infrastructure projects for the purpose of protecting the safety and security of passengers and cargo, enhancing international trade, promoting cargo flow, increasing enplanements, increasing airport revenues, and providing economic benefit to the state.¹⁶

Proposed Change

The bill repeals the SAFE Council, which was requested by the council. The bill provides that the funds accrued by the SAFE Council prior to July 1, 2010, are to be retained by DOT. DOT is authorized to use these funds for statewide training purposed relating to airport security and management. DOT is further authorized to use these funds for security related aviation projects pursuant to ch. 332, F.S.¹⁷

United We Stand License Plate (Section 4)

Current Situation

Section 320.08058(32), F.S., creates the United We Stand License plate, with 100 percent of the proceeds allocated to the SAFE Council to fund a grant program to enhance security at airports throughout the state.

Proposed Change

The bill changes the allocation of the proceeds from the United We Stand license plate from the SAFE Council to DOT to fund security related aviation projects.

Road System Definitions (Sections 8 through 10; 19 through 30)

Current Situation

In 1995, the state revised the system where DOT assigned road jurisdiction based on road functional classification to a system where road jurisdiction changes depend on mutual agreement between governmental entities. This was accomplished by revising ch. 335, F.S., relating to the State Highway System, where s. 335.04, F.S., was deleted and s. 335.0415, F.S., was created.

¹⁵ S. 318.18(7), F.S.

¹⁶ Section 322.14, F.S.

¹⁷ The statutory reference of ch 332, F.S., which is in the bill, is incorrect. The correct reference is ch. 332, F.S.

However, some provisions in ch. 334, F.S., relating to Transportation Administration relate to the functional classification and road jurisdiction process formerly in ch. 335, F.S. The bill amends ch. 334, F.S., to make it consistent with ch. 335, F.S.

Proposed Changes

The bill amends s. 334.03, F.S., to amend and delete several definitions relating to the Florida Transportation Code.

The bill amends the definitions of “city street system”, “county road system”, and “state highway system” that are in conflict with the public road jurisdiction and transfer process.¹⁸ The bill revises these definitions to be:

- Roads under the appropriate jurisdiction on June 10, 1995;
- Roads constructed by the city, county, or state for the appropriate jurisdiction;
- Roads subsequently transferred to that jurisdiction, but not roads transferred from the appropriate jurisdiction.

The bill amends the definition of “functional classification” to link the usage of “functional classification” in state statute to the functional classification that is done according to federal procedures, rather than what DOT previously used for jurisdictional requirements. The only reference to this term in state statute relates to the access control classification system.¹⁹

The bill deletes the terms “arterial road”, “collector road”, “local road”, “urban minor arterial road”, and “urban principal arterial road.” These are obsolete definitions related to the use of functional classification for determining road jurisdiction. The bill either deletes or amends the current statutory provisions that use these terms.

The bill amends the functions and duties of DOT in s. 334.044, F.S., to remove its authority to assign jurisdictional responsibility for public roads.

The bill amends s. 334.047, F.S., to remove an obsolete provision prohibiting DOT from setting a maximum number of urban principal arterial roads within a district or county.

The bill amends s. 316.222, F.S., relating to the operation of low-speed vehicles on certain roadways to remove cross-references and to clarify that of low speed vehicles may be operated on certain roads under the jurisdiction of a county, municipality, or an urban minor arterial road under DOT’s jurisdiction.

The bill also amends various sections of statute to conform cross-references related to the deletion of definitions.

Contractor Financial Statements (Section 11)

Current Situation

DOT has learned that contractors have difficulty understanding that they must submit the currently required audited financial statements and the application for qualification within the currently specified four month period. Contractors often submit one or the other. Then, they miss the deadline and must submit audited interim financial statements. According to DOT, contractors are also confused as to when the audited interim financial statements are due.

Proposed Change

The bill amends s. 337.14, F.S., to clarify interim financial statements are due as it relates to qualification applications for contractors to provide that if the application or annual financial statement

¹⁸ Section 335.0415, F.S.

¹⁹ Section 335.188(3)(c)(1), F.S.

show financial information that is more than four months old, interim financial statements are due along with an updated application.

Utilities on Right-of-Way (Section 12)

Current Situation

Section 337.401, F.S., addresses the use of the right-of-way by utilities. Specifically, s. 337.401(1), F.S., provides that DOT and local government entities which have jurisdiction and control of public roads and publically-owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining of any electric transmission lines along, across, or on any road or publicly-owned rail corridors under their respective jurisdictions.

In 2008, section 337.401(1), F.S., was amended to provide that for transmission lines that operate more than 69 kilovolts, and where there is no practical alternative available, DOT rules must provide for placement of, and access to, transmission lines within the right-of-way of any DOT-controlled public roads, including longitudinally within limited access facilities to the greatest extent allowed by federal law, providing that compliance with minimum clear zone and other safety standards established by rules or regulations is achieved.²⁰ Current law requires compensation to DOT for the use of the right-of-way in a limited-access facility.

Proposed Changes

The bill amends s. 337.401(1), F.S., to provide that compensation to DOT by an electric utility for the use of the right-of-way only applies to the longitudinal placement of electric utility transmission lines on limited access facilities. The bill also changes DOT's rulemaking authority on non-limited access right-of-way with respect to 69 or more kilovolts aerial and underground electric utility transmission lines. The bill also eliminates DOT's authority to require that these lines be removed from the right-of-way in order to accommodate the expansion or improvement of transportation facilities.

Adopt-A-Highway (Section 14)

Current Situation

Section 403.4131, F.S., requires DOT to establish an "adopt-a-highway" program to allow local organizations to be identified with specific highway cleanup and beautification projects. The statute requires DOT to annually report to the Governor and Legislature the projects achieved and the savings from the "adopt-a-highway" program.

Proposed Change

The bill removes DOT's required annual report on the "adopt-a-highway" program.

Abandoned Property at Airports (Sections 15 through 18)

Current Situation

Currently, s. 705.18, F.S., addresses the disposal of personal property lost or abandoned at public use airports.²¹ However, the statute primarily addresses personal property, and provides that all moneys received from the sale, after associated expenses, are deposited into the state school fund.

The Florida Airports Council estimates that annually over 100 aircraft and 1,000 motor vehicles are abandoned on airport property. The airports currently use various statutes and local ordinances to remove derelict or abandoned aircraft and motor vehicles; however, the law does not clearly give them ability to remove this property and to recover the costs associated with its removal.

²⁰ Section 29, Ch 2008-227, L.O.F.

²¹ Section 332.004(14), F.S., defines "public use airport" as any publically owned airport which is used or to be used for public purposes.

Proposed Changes

The bill amends ch. 705.18, F.S., relating to the disposal of personal property lost or abandoned on university and community college campuses or certain public-use airports to remove references to abandoned property at public use airports. Any proceeds from the disposal of abandoned property at airports will no longer go to the state school fund, but will go to the airport to cover its cost of disposing of the abandoned property.

1. Abandoned Personal Property

The bill creates s. 705.182, F.S., relating to the disposal of personal property, except for motor vehicles and aircraft, found on the premises of public-use airports. The airport's director (director) or designee is required to take charge of the property and record the date it was found.

If, after 30 calendar days, or a longer period as deemed appropriate under the circumstances, the property is not claimed by its owner, the director or designee may:

- Retain the property for use by the airport or by the state or unit of local government owning or operating the airport;
- Trade the property to another unit of local government or state agency;
- Donate the property to a charitable organization;
- Sell the property; or
- Dispose of the property through an appropriate refuse removal or salvage company that provides salvage service for the type of personal property found.

Prior to the property's disposal, the airport must notify the property owner, if known, that the property was found at the airport and that the airport intends to dispose of it.

If the airport decides to sell the property, it must do so at a public auction either on the Internet or at a specified physical location. The airport must, at least 10 days prior to the sale, provide notice of the time and place of the sale in a publication of general circulation within the county where the airport is located. This is following written notice to the property owner, if known, via certified mail, return receipt requested. This notice is considered sufficient if it refers to the airport's intention to sell all of its then-accumulated found property, and it is not required to identify each individual item that will be sold. Prior to the sale, the owner may reclaim the property by presenting to the airport's director or designee acceptable evidence of ownership. The proceeds from the property's sale of property are retained by the airport to be used in any lawfully authorized manner.

The airport is not precluded from allowing a domestic or international air carrier or other airport tenant from establishing its own lost and found procedures for personal property and from disposing of such personal property.

The purchaser or recipient in good faith of the personal property sold or obtained takes the property free of the rights of persons then holding any legal or equitable interest in the property, whether or not the interest is recorded.

2. Abandoned Aircraft

The bill creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public use airports. The provisions apply whether or not the premises is under lease or license to a third party. When one of these aircraft is found, the airport's director or designee must record the date the aircraft was found or determined to be present on airport property.

"Abandoned aircraft" is defined as an aircraft that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or an aircraft that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

“Derelict aircraft” is defined as any aircraft that is not in flyable condition, does not have a current certificate of air worthiness issued by the Federal Aviation Administration (FAA) and is not in the process of actively being repaired.

The airport director or designee is required to contact the FAA Aircraft Registration Branch to determine the name and address of the last registered aircraft owner. The airport is also required to conduct a diligent search of the appropriate records, or a contact with an aircraft title search company to determine the name and address of any person having an equitable or legal interest in the aircraft.

Within 10 business days of receiving information related to persons with interest in the aircraft, the director or designee must notify, by certified mail, return receipt requested, all persons having an equitable or legal interest in the aircraft. This notice must advise them of the location of the derelict or abandoned aircraft, that fees and charges accrued for the use of the airport by the aircraft, the amount of these fees, that the aircraft is subject to a lien for the accrued fees and charges for use of the airport and for the transportation, storage, and removal of the aircraft, that the lien is subject to enforcement pursuant to law, and that the airport may cause the use, trade, sale, or removal of the aircraft. If the director or designee determines that the aircraft poses a danger to the health and safety of airport users, the notice may require the removal of the aircraft in less than 30 calendar days.

If the owner of the aircraft is unknown, or cannot be found, the director or designee is required to place a laminated notice, in a specific form, on the aircraft. The notice provides the same information that was provided in the notice mailed to those with an equitable or legal interest in the aircraft. The notice must be weatherproof and at least 8 inches by 10 inches.

If, after 30 calendar days from the date the notice is received or posted on the aircraft, the aircraft has not been removed from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft by the owner or any person with an interest in the aircraft, or shown reasonable cause for failure to do so, the director or designee may cause the use, trade, sale, or removal of the aircraft.

If the airport elects to sell the aircraft, the sale must be a public auction after giving at least 10 calendar days notice of the time and place of the sale. The notice must be in a publication of general circulation within the county where the airport is located and after providing written notice to all parties known to have an interest in the aircraft.

If the airport elects to dispose of the aircraft, the airport may negotiate with the refuse or removal company²² for the price for the aircraft, or if circumstances warrant, a price to pay the company to dispose of the aircraft. All information pertaining to the price and the justification for the prices shall be prepared and maintained by the airport, and the negotiated price is considered a reasonable price.

If the sale or negotiated price is less than the airport’s then current charges and costs against the aircraft, or the airport is required to pay a salvage company for its services, the owner of the aircraft remains liable for the airport’s costs that are not offset by the sale or negotiated price, in addition to the owner’s liability for payment to the airport of the price the airport was required to pay any salvage company. All costs incurred by the airport in the removal, storage, and sale of any aircraft are recoverable against the aircraft’s owner.

The airport shall have a lien on derelict or abandoned aircraft for all fees and charges for the use of the airport by the aircraft and for all fees and charges incurred by the airport for the transportation, storage, and removal of the aircraft. Prior to perfecting the lien, the director or designee must serve notice of the lien on the last registered owner and all persons having an equitable or legal interest in the aircraft. Service of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

²² The bill references s. 705.182(2)(e), which relates to the disposal of personal property found at in the premises of public use airports and references refuse removal and salvage companies

- The name and address of the airport.
- The name of the last registered aircraft owner and all persons having a legal or equitable interest in the aircraft.
- The fees and charges incurred by the aircraft for the use of the airport, and the fees and charges for the transportation, storage, and removal of the aircraft.
- A description of the aircraft sufficient for identification.

The claim of lien is required to be signed and sworn to by the airport's director or designee. The claim of lien is sufficient if it is substantially the form provided in the bill. However, the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the last registered owner, does not constitute a default that operates to defeat an otherwise valid lien.

The claim of lien is required to be served on the aircraft's last registered owner and all persons having an equitable or legal interest in the aircraft, and shall be served before it is recorded.

The claim of lien is required to be recorded with the clerk of court in the county where the airport is located. This recording is constructive notice to all persons of the contents and effect of such claim. The lien attaches when it is recorded and takes priority at that time.

The bill provides that a purchaser or recipient in good faith of an aircraft sold or obtained under this section takes the aircraft free of the rights of persons then holding any legal or equitable interest in the aircraft, whether or not the interest is recorded. The purchaser is required to notify the FAA of the change in the aircraft's registered owner.

If the aircraft is sold at a public sale, the airport must deduct from the proceeds the costs of transportation, storage, publication of notice, and all other costs reasonably incurred by the airport. The balance of the proceeds are deposited into an interest-bearing account no later than 30 calendar days after the airport receives the proceeds and the funds must be held for one year. Within one year of the date of deposit, the aircraft's rightful owner may claim the balance of the proceeds by making application to the airport and presenting to the airport's director or designee of acceptable written evidence of ownership. If the rightful owner fails to come forward to claim the proceeds within one year, the balance of the proceeds are retained by the airport to be used in any legally authorized manner.

Any person acquiring legal interest in an aircraft that is caused to be sold by an airport is the lawful owner of the aircraft and all other legal or equitable interest in the aircraft is divested with no further force and effect, provided that the holder of such interest was notified of the intended disposal of the aircraft. The airport is authorized to issue documents of disposition to the purchaser or recipient of an aircraft disposed of under this section.

3. Abandoned Motor Vehicles

The bill creates s. 705.184, F.S., relating to the disposal of derelict or abandoned motor vehicles on the premises of public-use airports. When one of these vehicles is found, the director or designee must record of the date the vehicle was found or determined to be present on airport property.

"Abandoned motor vehicle" is defined as a motor vehicle that has been disposed of in a public-use airport in a wrecked, inoperative, or partially dismantled condition or a motor vehicle that has remained in an idle state on the premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

"Derelict motor vehicle" is defined as any motor vehicle that is not in drivable condition.

After information relating to the derelict or abandoned motor vehicle is recorded, the director or designee may have the motor vehicle removed from the airport's premises by the airport's own wrecker or by a licensed independent wrecking company to be stored at a suitable location on or off the airport premises. If the vehicle is removed by the airport's own wrecker, the provisions in the bill apply.

However, if the vehicle is removed by a licensed independent wrecker company, current law for the disposal of vehicles by wrecker companies applies and the procedures below do not apply.²³

The director or designee must notify the Department of Highway Safety and Motor Vehicles (DHSMV) that it has possession of the motor vehicle and to determine the name and address of the vehicle's last registered owner, the insurance company insuring the vehicle,²⁴ and any person who has filed a lien on the motor vehicle.

The director or designee, within seven business days of receiving this information, must notify by certified mail, return receipt requested the owner of the vehicle, the insurance company insuring the vehicle, and all persons claiming a lien against the vehicle. The notice shall state the fact of possession of the vehicle, that charges for a reasonable towing, storage, and parking, have accrued and the amount of those fees, that a lien will be claimed, that the lien is subject to enforcement pursuant to law, and that the owner or any lienholder has the right to a hearing to contest the airport's possession.

If, after 30 calendar days from the date the notice was received, the vehicle has not been removed from the airport upon payment in full of all accrued charges for reasonable tow, storage, and parking fees, the vehicle may be disposed of, including, but not limited to, being sold free of all prior liens that are more than five years of age, or after 50 calendar days from the time the motor vehicle is stored if any prior liens are five years or less.

If attempts to notify the owner and/or lienholder are unsuccessful, the required notice is considered met and the vehicle may be disposed of in the manner provided for all abandoned vehicles.

The owner of, or any person claiming a lien on the motor vehicle has 10 calendar days after receiving knowledge of the location of the motor vehicle to file a complaint in the county court of the county where the motor vehicle is stored, to determine if the property was wrongfully taken or withheld.

Upon the filing of the complaint, the owner or leinholder may have the vehicle released upon posting with the court a cash or surety bond or other adequate security equal to the amount of fees for towing, storage, and accrued parking. This is to ensure the payment of the fees if the vehicle owner does not prevail. Once the security is posted and any applicable fees are paid, the clerk of the court must issue a certificate notifying the airport that the security was posted and directing the airport to release the vehicle. When the vehicle is released, after reasonable inspection, the owner or leinholder must give receipt to the airport reciting any claims for loss or damage to the vehicle or its contents.

If after 30 calendar days from receiving the notice the owner or any person claiming a lien has not removed the vehicle and paid the fees or shown reasonable cause for failure to do so, the director or designee may dispose of the vehicle in any manner provided.

If the airport elects to sell the vehicle, it may be sold free in clear of all prior liens after 35 calendar days from the time the motor vehicle is stored if any of the prior liens are more than five years old, or after 50 calendar days from the time the motor vehicle is stored if any prior lines are five years old or less. The vehicle must be sold at public auction, either on the Internet or at a specified location. If the date of the sale was not included in the previously required notice, notice of the of the sale, sent by certified mail, return receipt requested, must be given to the owner and to all persons claiming a lien on the vehicle. The notice must be mailed not less than 10 days before to the date of the sale. Additionally, a public notice must be in a publication of general circulation within the county where the sale is to be held at least 10 calendar days prior to the date of the sale. The proceeds of the sale must to be used to recover the airport's costs incurred for towing, storage, and the sale of the vehicle, as well as any

²³ Sections 323.001 and 713.78, F.S.

²⁴ This is notwithstanding the provisions of s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority, and claims.

accrued parking fees. Any proceeds exceeding these costs are retained by the airport for use in any authorized manner.

The airport or, if used, a licensed independent wrecking company, pursuant to s. 713.78, F.S.,²⁵ has a lien on the derelict or abandoned vehicle for a reasonable tow fee, a reasonable storage fee, and or accrued parking fees, except that no storage fee shall be charged if the vehicle is stored for less than six hours. Prior to perfecting a lien, the director or designee must serve notice of the lien on the owner, the insurance company, and all persons of record claiming a lien against the vehicle. If attempts to notify the owner, insurance company, and lienholders are unsuccessful, the notice requirement will be considered met. The serving of the notice does not dispense with recording the claim of lien. This claim of lien must contain the following information:

- The name and address of the airport.
- The name of the owner of the vehicle, the insurance company insuring the motor vehicle, and all persons of record claiming a lien against the vehicle.
- The fees incurred for a reasonable tow, reasonable storage, and parking, if any.
- A description of the motor vehicle sufficient for identification.

The claim of lien is required to be signed and sworn to by the director or designee. The claim of lien is considered sufficient if it is substantially the form provided in the bill. However, the bill provides that the negligent inclusion or omission of any information in the claim of lien, which does not prejudice the owner, does not constitute a default that operates to defeat an otherwise valid lien.

The claim of lien is required to be served on owner, the insurance company, and all recorded leinholders. If attempts at notification prove unsuccessful, the requirement of notification will be considered met. The claim of lien shall be served before it is recorded with the clerk of court in the county where the airport is located.

The bill provides a purchaser or recipient in good faith of a vehicle sold or obtained under this section takes the vehicle free of the rights of persons then holding any legal or equitable interest in the vehicle, whether or not this interest is recorded.

Effective Date (Section 31)

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

B. SECTION DIRECTORY:

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| Section 1 | Amends s. 20.23, F.S., relating to the Department of Transportation, authorizing DOT to maintain specified training programs for certain persons; authorizing DOT to provide for incremental increase to the base salary upon successful completion of the training phase; authorizing DOT to grant a specified pay additive to law enforcement officers assigned to the MCCO who maintain certification by the CVSA. |
| Section 2 | Repeals s. 215.03(12)(c), F.S., relating to a legislative review of a loan program of the Florida Seaport Transportation and Economic Development Council. |
| Section 3 | Amends s. 318.18, F.S., relating to the amount of penalties; revising provisions for distribution of proceeds collected by the clerk of the court for disposition of citations for failure to pay toll; providing alternative procedures for disposition of such citation; providing for adjudication to be withheld and no points assessed against the driver's license of a person who is convicted of failing to pay toll 10 or more times within a 36-month period. |

²⁵ Section 713.78, F.S., relates to liens for recovering, towing, or storing vehicles and vessels.

- Section 4 Amends s. 320.08058, F.S., relating to specialty license plates, revising authorized uses of revenue received from the United We Stand license plates.
- Section 5 Amends s. 322.27, F.S., relating to the authority of the Department of Highway Safety and Motor Vehicles to suspend or revoke driver's licenses; providing for assessment of points against a driver's license for specified violations of requirements to pay a toll only when the points are imposed by a court.
- Section 6 Repeals s. 332.14, F.S., relating to the Secure Airports for Florida's Economy Council.
- Section 7 Provides for the use of funds accrued by the Secure Airports for Florida's Economy Council.
- Section 8 Amends s. 334.03, F.S., relating to definitions; revising definitions for purposes of the Florida Transportation Code.
- Section 9 Amends s. 334.044, F.S., relating to Department of Transportation; powers and duties; revising powers and duties of DO; removing provisions for assigning jurisdiction of roads and designating facilities as part of the State Highway System.
- Section 10 Amends s. 337.047, F.S., relating to a Department of Transportation prohibition; removing a prohibition against DOT establishing a maximum number of miles of certain roads within a district or county.
- Section 11 Amends s. 337.14, relating to application for qualification; certificate of qualification; restrictions; request for hearing; revising application procedures for the qualification of contractors; requiring any interim financial statement to be accompanied by an updated application.
- Section 12 Amends s. 337.401, F.S., relating to the use of right-of-way for utilities subject to regulation; permit; fees; revising provisions for rules of DOT that provide for the placement of and access to certain electrical transmission lines on the right-of-way of DOT-controlled roads; authorizing the rules to include the use of the limited access right-of-way for longitudinal placement of such transmission lines is reasonable based upon consideration of certain economic and environmental factors.
- Section 13 Amends s. 338.155, F.S., relating to payment of tolls on toll facilities required; exemptions; authorizing DOT to adopt rules relating to the payment, collection, and enforcement of tolls.
- Section 14 Amends s. 403.4131, F.S., relating to the Adopt-A-Highway program.
- Section 15 Amends s. 705.18, F.S., relating to personal property lost or abandoned on university or community college campuses or certain public-use airports; removing provisions for the disposal of personal property lost or abandoned at public use airports.
- Section 16 Creates s. 705.182, F.S., relating to the disposal of personal property found on the premises of public-use airports; providing time frames, providing options for disposing of property; providing procedures for selling abandoned property; providing for notice of sale; permitting airport tenants to establish own procedures; providing that purchaser owns property free and clear.
- Section 17 Creates s. 705.183, F.S., relating to the disposal of derelict or abandoned aircraft on the premises of public-use airports; providing procedures, providing definitions; providing for notification of aircraft owner and persons having an interest in the aircraft; providing notice requirements; providing requirements for sale of aircraft; providing for liability of charges related to aircraft; providing for claim of lien; providing for disposition of funds.

- Section 18 Creates s. 705.184, F.S., relating to derelict or abandoned motor vehicles on the premises of public-use airports; creating a process to remove these vehicles, providing definitions; providing for removal of motor vehicle; providing notice requirements; providing for sale of motor vehicle; providing for liability of charges related to motor vehicle; providing for claim of lien.
- Section 19 Amends s. 163.3180, F.S., relating to concurrency to conform a cross-reference.
- Section 20 Amends s. 288.063, F.S., relating to contracts for transportation projects to conform a cross-reference.
- Section 21 Amends s. 311.07, F.S., relating to Florida seaport transportation and economic development funding to conform a cross-reference.
- Section 22 Amends s. 311.09, F.S., relating to the Florida Seaport Transportation and Economic Development Council to conform a cross-reference.
- Section 23 Amends s. 316.2222, F.S., relating to the operation of low-speed vehicles on certain roadways to remove cross-references and to clarify that these vehicles may be operated on certain roads.
- Section 24 Amends s. 316.515, F.S., relating to maximum width, height, and length to conform a cross-reference.
- Section 25 Amends s. 336.01, F.S., relating to designation of county road system to conform a cross-reference.
- Section 26 Amends s. 338.222, F.S., relating to DOT as the sole governmental entity to acquire, construct, or operate turnpike projects to conform a cross-reference.
- Section 27 Amends s. 341.8225, F.S., relating to DOT as the sole governmental entity to acquire, construct, or operate high-speed rail projects to conform a cross-reference.
- Section 28 Amends s. 479.01, F.S., relating to definitions to conform a cross-reference.
- Section 29 Amends s. 479.07, F.S., relating to sign permits to conform a cross-reference.
- Section 30 Amends s. 479.261, F.S., relating to the logo sign program to conform a cross-reference.
- Section 31 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The state school fund will lose any revenue that it currently receives from the disposal of property that is abandoned at airports.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Airports operated by local governments may receive additional revenue related to the disposal of abandoned property. However, the additional revenue is intended to cover the airports cost related to the disposal of this property.

2. Expenditures:

Some local governments may see a decrease in expenditures due to the change in the process for handling toll violations, which may result in fewer cases on the county court docket.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The codification of DOT's training programs and the pay additives for MCCO officers with a CVSA codify what has been annually authorized in the General Appropriations Act. There is no fiscal impact related to these codifications.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill updates DOT's existing rule-making authority regarding tolls to allow them to implement video billing and variable pricing.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 206 refers to ch. 322, F.S., which is related to driver's licenses. The reference should be ch. 332, F.S., which relates to airports.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES