

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

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/CS/SB 2362

INTRODUCER: Community Affairs Committee; Transportation Committee; and Senator Gardiner

SUBJECT: Transportation

DATE: April 8, 2010 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Howes</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

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

**I. Summary:**

This committee substitute (CS) for Senate Bill 2362 makes a number of statutory changes related to transportation. The CS:

- allows counties served by a regional transportation or transit authority to levy up to a 1% discretionary sales surtax for transportation systems by majority vote of the county electorate;
- clarifies the notification requirements to be used when a citation is issued for toll violations;
- allows points to only be imposed against a toll violator’s driver’s license if ordered by a judge;
- allows FDOT to issue permits authorizing a vehicle weighing 10% above the maximum allowable gross weight to use routes off the Interstate Highway System;
- clarifies the application process used by contractors seeking qualification to bid on transportation construction jobs;
- clarifies authorization to allow placement of certain electric transmission lines applies only to limited access highways;

- requires new rail transit systems to implement fare collection systems that are interoperable with multiple public transportation systems throughout the state;
- authorizes LYNX to borrow up to \$10 million annually for refinancing purposes;
- revises bonding provisions available to the Tampa Hillsborough County Expressway Authority to allow the authority to issue bonds without going through the State Board of Administration's Division of Bond Finance;
- creates the Osceola County Expressway Authority;
- clarifies land uses in relation to outdoor advertising and provides for sign owners, advertisers, or property owners to be held liable for the removal of improperly permitted signs; and
- provides explicit authority for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft and derelict or abandoned motor vehicles from the airport's premises.

This CS substantially amends the following sections of the Florida Statutes: 212.055, 316.1001, 316.545, 316.550, 318.18, 320.03, 322.27, 337.14, 337.401, 338.155, 341.051, 343.64, 348.51, 348.545, 348.56, 348.565, 348.57, 348.70, 479.01 and 705.18,

This CS creates part XI of ch. 348 and the following sections of Florida Statutes: 348.9950, 348.9951, 348.9952, 348.9553, 348.9954, 348.9955, 348.9956, 348.9957, 348.9958, 348.9959, 348.9960, 348.9961, 479.310, 479.311, 479.312, 479.313, 479.314, 705.182, 705.183, and 705.184.

This CS designates parts I and II, and creates part III of ch. 479 of the Florida Statutes.

## II. Present Situation:

### **Charter County Transportation System Surtax**

The Charter County Transportation System Surtax allows charter counties, as well as a county that is consolidated with one or more municipalities, to levy a maximum 1 percent sales surtax to finance the development, construction, and operation of fixed guideway rapid transit systems, bus systems, and roads and bridges. The proposal to levy the surtax and create a trust fund for surtax proceeds must appear on a ballot and receive the approval of a majority of the county electorate.

A charter county may deposit the surtax revenues into the trust fund, remit the revenues to an expressway, transit or transportation authority, or apply them directly to the permitted uses. The proceeds may also be distributed by interlocal agreement to municipalities or an expressway, transit or transportation authority to finance the permitted uses.

Currently, there are 20 counties that are eligible to levy this tax.

### **Toll Payments Enforcement**

Section 316.1001, F.S., establishes the requirement for the payment of tolls, the penalty for violating the requirement, and enforcement provisions. Specifically, s. 316.1001(1), F.S., effectively prohibits a person from using any toll facility without paying all required tolls.

Failure to do so is defined as a noncriminal traffic infraction, punishable as a moving violation. However, s. 338.155, F.S., exempts certain persons from the requirement to pay tolls.

Section 338.155, F.S., also classifies the failure to pay a required toll as a noncriminal traffic infraction, punishable as a moving violation under s. 318.18, F.S.

Section 316.640, F.S., vests the Florida Highway Patrol, local police officers, sheriffs' offices, and officers of various state agencies with the authority to enforce traffic laws wherever the public has the right to travel by motor vehicle. Any such law enforcement officer may issue a uniform traffic citation (UTC) for an alleged violation of s. 316.1001, F.S. Also, s. 316.1001(2), F.S., authorizes toll enforcement officers designated by a governmental entity owning or operating a toll facility to issue a uniform traffic citation for a violation of the section.<sup>1</sup> Paragraph (2) also establishes the legal admissibility of photographic evidence to prove the required toll was not paid and such evidence raises a rebuttable presumption a vehicle was used in violation of s. 316.1001, F.S.

#### *Camera Enforcement and Notification*

Under s. 316.1001(2)(c), F.S., the registered owner of a vehicle involved in a toll violation is responsible and liable for payment of a toll violation citation entered by photographic evidence unless the owner submits an affidavit showing the vehicle was in the care, custody, or control of another person at the time of the violation. Such affidavit must be submitted within 14 days of the issuance of the citation and identify the person who was responsible for the vehicle who may then be issued a citation. If the vehicle was stolen, the affidavit must include the police report filed in relation to the theft. Submission of a false affidavit is a second degree misdemeanor punishable by up to 60 days in jail and \$500 fine.

Camera-enforced toll violations use specialized cameras and lighting units to capture images of a vehicle's license plate at the tolling point. If a sensor detects a vehicle passing through the tolling point when no payment is received, an image or video is stored and transmitted for further processing. A toll enforcement officer, who can be a designated employee of the tolling agency or an independent contractor,<sup>2</sup> then reviews the image(s) to identify the vehicle and issue a citation to the registered owner.

A citation may be issued and mailed to the identified vehicle's registered owner by either first class mail or by certified mail, return receipt requested, to the address of the registered owner of the vehicle involved within 14 days of the violation. Such mailing constitutes notification. Due to the higher cost of certified mail, most agencies issuing citations do so by first class mail.

---

<sup>1</sup> Under s. 334.03, F.S., "government entity" means a unit of government, or any officially designated public agency or authority of a unit of government, that has the responsibility for planning, construction, operation, or maintenance or jurisdiction over transportation facilities; the term includes the Federal Government, the state government, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

<sup>2</sup> Under s. 316.640(1)(b)2.b., a toll enforcement officer may be an employee of the governmental entity or an independent contractor; however, any officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Florida Department of Transportation.

However, in addition to the citation, the notification must include remedies available under ss. 318.14(12) and 318.18(7), F.S., (outlined below).

*Fine System, Penalties, and Available Remedies*

Section 318.18(7), F.S., establishes the fine for citations issued under s. 316.1001, F.S., (i.e., for nonpayment of tolls) as \$100 for each violation plus the amount of the unpaid toll. Section 318.18(7), F.S., also provides that a violator who pleads out before the case goes to court must pay a mandatory fine of no less than \$50 and no more than \$100, plus the amount of the unpaid toll. The court will forward \$25 and the amount of the unpaid toll to the appropriate toll agency, with the remaining funds as provided in s. 318.21, F.S. The court has the authority to consolidate multiple citations for the same defendant for the purpose of sentencing and aggregate jurisdiction.

In addition to fines, violators of s. 316.1001, F.S., face potentially more severe penalties. Section 318.18(7), F.S., requires the driver's license of any person who receives 10 convictions of s. 316.1001, F.S., within a 36-month period be suspended for 60 days. Additionally, being convicted of a moving violation may result in the assessment of points (in this case, 3 points per violation) against the motorist's driver's license under s. 322.27, F.S. Current statutes authorize DHSMV to suspend the license of a driver who accumulates:

- 12 points within a 12-month period for up to 30 days;
- 18 points within a 24-month period for up to 3 months; and
- 24 points within a 36-month period for up to one year.

Under s. 316.1001(4), F.S., a tolling agency may submit to DHSMV a listing of persons having one or more toll violations. If such information was to be transmitted, DHSMV is prohibited under s. 320.03(8), F.S., from issuing a license plate for any motor vehicle belonging to a person having one or more outstanding toll violations.

The treatment of citations issued under s. 316.1001, F.S., differs from other noncriminal infractions. Under s. 318.14(4), F.S., a person charged with a noncriminal infraction other than a toll violation has two choices: pay the fine within 30 days or choose to appear in court. Toll violation citations issued on the roadside by a law enforcement officer adhere to this process.

However, citations issued for nonpayment of tolls by automatic camera-enforcement systems are processed differently. Most importantly, an alleged offender is usually presented with the opportunity to simply pay the toll without penalty either by mail, phone, or electronically before a citation is issued. This "courtesy notice" process differs by toll agency but as an example, on toll facilities operated by the Florida Turnpike Enterprise, if a vehicle is identified as traveling through a tolling point without payment, an Unpaid Toll Violation (UTV) is sent within a week to the registered owner of the vehicle, who has 21 days to pay the toll without penalty. Most recipients of UTVs rectify the non-payment within the allotted time. However, after 21 days a UTC is issued for any transaction listed on the UTV remaining unpaid. After the UTC is issued, the cited motorist has the following three options:

Option A. *Elect to pay a \$25 fine plus the unpaid toll directly to the toll agency under s. 318.14(12), F.S.*

By making this choice, the cited motorist avoids a court hearing (and court costs) and points are not assessed against the motorist's driver's license. This election must be completed within 30 days of the issuance of the citation. If not accomplished within 30 days, the cited motorist may exercise one of the two following options within 45 days.

Option B. Elect to pay the fine prescribed under s. 318.18(7), F.S. (i.e., \$100 plus the unpaid toll)

This must be completed within 45 days of the close of the 30-day period in Option A. The payment of the prescribed fine is made to the court. The clerk of the court forwards \$25 of the fine plus the amount of the unpaid toll to the toll agency. This option results in the assessment of 3 points against the violator's driver's license for each violation.

Option C. Request a court hearing

A person electing to challenge a toll violation citation must request a court hearing within 45 days of the close of the 30-day period in Option A (75 days from the issuance of the UTC). If a judge adjudicates the violator guilty, violators are subject to a \$100 fine plus the unpaid toll plus court fees for each violation. Additionally, three points may be assessed at the judge's discretion against the motorist's driver's license for each violation. If a plea arrangement is reached between the cited motorist and the toll agency prior to the scheduled hearing, the court may levy a fine of between \$50 and \$100 plus the amount of the unpaid toll. In most plea arrangements, points are not assessed.

Under s. 316.650(3)(a), F.S., most traffic citations must be reported by the issuing traffic enforcement officer to the appropriate court within five days of the citation's issuance. However, s. 316.650(3)(b), F.S., authorizes a traffic enforcement officer to withhold notification to the court for up to 45 days for violations of s. 316.1001, F.S. The extra time allows toll agencies to issue courtesy Unpaid Toll Violations (or similar notices) and subsequently cited motorists to make use of the election available in s. 318.14(12), F.S. (i.e., Option A - to pay a fine of \$25 and the amount of the unpaid toll directly to the governmental entity issuing the citation within 30 days of the issuance of the citation).

### **Truck Idling**

Section 316.302, F.S., provides a person who operates a commercial motor vehicle may not drive more than 12 hours following 10 consecutive hours off duty or for any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty. Due to these statutory requirements, truck drivers have long off-hour rest periods, which they often spend inside the cab of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods. The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. Idling functions to keep the fuel and engine warm; helps to keep the driver alert; mask out noises and smells; and provides safety. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Idling requires a great deal of fuel, increases emissions of greenhouse gases and other pollutants (which contribute to smog formation), and it generates a great deal of noise. As an alternative power source for trucks, idling reduction technology has been explored and Auxiliary Power Units (APUs) were developed. An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling. Most APUs are small diesel engines with their own cooling and

heating systems, generator or alternator system and air conditioning compressor, mounted to a frame rail. The benefits of APUs are numerous and include:

- Providing heating and cooling;
- Generating enough electricity to power laptop computers, televisions, and microwaves;
- Reducing fuel consumption, by using about half of the fuel as regular diesel-engine idling;
- Improving air quality;
- Reducing emissions of carbon dioxide and other pollutants;
- Reducing maintenance, parts wear on the engine, and oil change intervals;
- Reducing operating expenses for fleet and truck owners by decreasing both fuel and maintenance, allowing operators to conserve fuel when fuel is at a high price; and
- Low cost of installation and maintenance for the APU units, themselves.

However, while APUs provide great advantages, they add weight to the vehicle. Thus, vehicles must carry less revenue-producing cargo weight in order to compensate for the weight the APU adds to the vehicle, or risk violating state and federal maximum weight limits.

The Florida Statutes are silent on the issue of idle-reduction technology and do not provide a maximum weight exemption for any vehicles having installed an anti-idling device, such as an APU.

Section 756 of the Energy Policy Act of 2005, "Idle Reduction and Energy Conservation Deployment Program," amended Title 23 USC 127(a) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idling reduction technology on heavy-duty vehicles. In order to be eligible for the exemption, the operator of the vehicle must be able to prove by demonstration or certification that: (1) the idle reduction technology is fully functional at all times and (2) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology. This certification must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws. A memo from the Federal Highway Administration's Size and Weight Division indicates the exemption in s. 756 of the Energy Policy Act is not a mandate and does not preempt state regulations or compel states to grant the increased weight tolerance. Thus, federal law allows for the waiver of 400 pounds, but does not require it. Each state may determine whether they will honor the exemption. Thus far, approximately 22 states allow the 400-pound APU exemption.<sup>3</sup>

### **FDOT Contractor Qualification**

Construction contracts in excess of \$250,000 are advertised by invitations to bid and may only be bid upon by contractors meeting certain prequalification requirements identified in s. 337.14, F.S., including an annual financial statement. If the annual financial statement does not include

---

<sup>3</sup> A federal survey dated July, 2008, revealed the following results: 22 states allow the 400-pound APU exemption: Arkansas, Idaho, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Mississippi, Montana, Nevada, New Mexico, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wisconsin. Eleven states do NOT allow the 400-pound APU exemption: Alabama, California, Colorado, Florida, Georgia, Kentucky, Maine, North Carolina, Ohio, Rhode Island, and Wyoming. The remaining 17 states are not yet accounted for in the survey.

the financial condition of the contractor within the most recent four months, an interim financial statement must be included with the application. According to FDOT, confusion regarding the requirements has resulted in contractors submitting the required financial statements *or* the application for qualification, when in fact both documents are required. Similarly, confusion as to when the interim financial statements are due has resulted in delays and missed submission deadlines.

### **Utilities within FDOT Rights-of-Way**

Section 337.401(1), F.S., provides for the placement of utility lines within the right-of-way (ROW) of FDOT, as well as local public roads. FDOT and local governments are authorized to establish and enforce reasonable rules related to the placement of electric and other utility transmission lines within their road and rail ROW. In 2008, HB 7135 became law<sup>4</sup> to allow for the longitudinal placement (i.e., parallel to the road) of certain electrical lines operating at 69 or more kilovolts (kV) within the ROW of limited access highways “where there is no other practical alternative available.” The placement of the line is subject to restrictions of federal law and must remain compliant with minimum clear zone and other safety standards established by rules or regulations. Under revisions made by the 2008 law, the phrase “where there is no other practicable alternative available” can be interpreted to apply to the placement of 69 kV or greater electric transmission facilities within any public road ROW.

### **Central Florida Regional Transportation Authority (LYNX)**

The Central Florida Regional Transportation Authority (also known as LYNX) services Orange, Osceola and Seminole Counties, an area of over 2,500 square miles. LYNX operates fixed-route and paratransit services in its service area, traveling 52,000 total miles per day using 269 buses to transport more than 24,400,000 total passengers per year. Individual buses can accrue over 500,000 miles in less than seven years, the life span of a bus as outlined by the Federal Transit Administration. LYNX purchases both replacement and new service route buses annually, with the average bus costing roughly \$400,000 when purchased under the Florida state contract. Federal, state and local funding are used when purchasing buses. According to LYNX, consistently leasing buses (as opposed to purchasing) would significantly reduce current financing terms and eliminate required insurance premiums. However, unlike other authorities, LYNX does not have authorization to independently enter into capital leases. Instead, LYNX is required by statute to use the State of Florida Division of Bond Finance to enter into leases creating a cumbersome approval procedure.

### **Expressway Authorities**

Florida expressway authorities are formed either under the Florida Expressway Authority Act (ch. 348, F.S., Part I of the Florida Statutes) or by special act of the Legislature. Most existing expressway authorities were created before ch. 348, F.S., Part I, was enacted in 1990 and, therefore, are not subject to most of its provisions. The Miami-Dade Expressway Authority is the only authority currently created and governed by ch. 348, F.S., Part I.

The purpose of Florida’s expressway authorities is to construct, maintain, and operate tolled transportation facilities complementing the State Highway System and the Florida Turnpike Enterprise. The expressway authorities have boards of directors that typically include a

---

<sup>4</sup> Chapter 2008-227.

combination of local-government officials and Governor appointees who decide on projects and expenditure of funds.

### **Tampa Hillsborough County Expressway Authority (THCEA)**

The THCEA was established in 1963 under Part IV ch. 348, F.S., to build, operate, and maintain toll-financed expressways in Hillsborough County. The THCEA owns the Lee Roy Selmon Crosstown Expressway (including the elevated reversible lanes), currently the only expressway operated by the THCEA. The THCEA originally planned the neighboring Veterans Expressway which was transferred to, and is operated by FDOT.

Under the State Bond Act discussed in chs. 215 and 348, F.S., the Division of Bond Finance (DBF) issues revenue bonds for THCEA's projects on behalf of the authority. Pursuant to its statutory authority, the DBF independently reviews the recommendations of a paid financial adviser retained by the THCEA. The DBF's review does not focus solely upon the current transaction; it also reviews the issuance in light of the entire bonded indebtedness of the State of Florida. The DBF also maintains its own independent in-house legal staff to assist with issues which may arise during the financing. All financings issued through the DBF must receive the approval of the Governor and Cabinet. Additional state oversight is currently provided by FDOT, which may participate through financial contributions to the construction, operation and maintenance of THCEA's expressways. The revenue bonds issued by the DBF, on behalf of THCEA, pledge the toll revenues generated by THCEA's expressway system as repayment. These revenue bonds are not backed by the full faith and credit of the State of Florida. In addition to existing facilities, the authority is authorized to issue bonds to finance:

- Brandon area feeder roads,
- capital improvements to the expressway system including the toll collection equipment,
- the widening of the Lee Roy Selmon Crosstown Expressway System, and
- the Crosstown Connector linking I-4 and the Selmon Crosstown Expressway.

Specific projects by the THCEA must be approved by the Legislature, by amending s. 348.565, F.S.

Some local-government transportation entities, such as the Miami-Dade County Expressway Authority, the Orlando-Orange County Expressway Authority and the Mid Bay Bridge Authority, have specific authority to issue their own revenue bonds, independent of the DBF.

### **Outdoor Advertising**

Chapter 479, F.S., provides for the control and permitting of signs adjacent to the highways of the state. The chapter allows FDOT to recoup the costs incurred in removing illegal or unpermitted signs by assessing the owner of the sign. In many instances, an illegal or unpermitted sign does not display the name of the sign owner and FDOT is unable to make identification resulting in a negative fiscal impact to the department.

### **Abandoned Property at Airports**

The Florida Airports Council estimates over 100 aircraft and 500 motor vehicles are abandoned on Florida airport property each year. Florida's 124 public airports are owned and operated by various cities, counties, and special districts which results in airports using a variety of statutes

and local ordinances to remove derelict or abandoned aircraft and motor vehicles. The disposal of personal property lost or abandoned at public use airports is marginally addressed in s. 705.18, F.S. However, the section primarily addresses personal property, directing all moneys realized from the sale, following associated expenses, to be deposited into the state school fund.

### III. Effect of Proposed Changes:

#### **Charter County Transportation System Surtax**

The CS amends s. 212.055, F.S., to rename the surtax as the Charter County and Regional Transportation System Surtax, and expand the eligibility to include not only charter counties, but counties served by a regional transportation or transit authority created under chapter 343 or chapter 349, F.S. The 1% sales surtax must be approved by majority vote of the county electorate.

#### **Toll Payments Enforcement**

Generally, the toll enforcement provisions of the CS revise the notification process used by toll agencies and the courts to alert toll violators when citations are issued. The CS also revises penalties for toll violations.

Specifically, the CS amends s. 316.1001, F.S., which prohibits a person from using a toll facility without paying all required tolls.

- Paragraph (2) is amended to clarify the notification requirements to be used when a citation is issued for violations. The CS requires citations issued to be sent to a violator by first class mail, return receipt requested within 14 days of the issuance of the citation. The CS also specifies the proof of receipt, rather than the proof of mailing, constitutes legal notification.
- Paragraph (4) is amended to allow clerks of court (in addition to tolling agencies) to provide information to DHSMV identifying persons who have one or more toll violations. The DHSMV may not issue a license plate or registration revalidation to persons with outstanding toll violations.

Section 316.550(4)(a), F.S., is amended to allow an additional opportunity for toll violators to pay a toll/fine prior to adjudication.

Section 318.18(7), F.S., is amended to remove the directive to DHSMV to automatically suspend the driver's license of a person convicted of ten violations of s. 316.1001, F.S., within a 36-month period. The CS makes this a permissive action and transfers this authority to the court. Thus, instead of DHSMV automatically suspending a violator's driver's license, such action may only be taken upon the direction of a judge.

Section 320.03(8), F.S., is amended to clarify the receipt showing that outstanding fines have been paid may be issued by either the tolling agency or the clerk of court.

Section 322.27, F.S., which establishes the driver's license point system for violations of motor vehicle laws, is amended to include violations of s. 316.1001, F.S., (toll violations) in those moving violations for which points are only imposed by a court after a hearing.

Additionally, s. 338.155, F.S., is amended to authorize FDOT to adopt rules related to the payment, collection, and enforcement of tolls to accommodate new technology such as video billing and variable pricing.

### **Truck Idling**

Section 316.545, F.S., is revised to provide for an increase in the vehicle's maximum gross vehicle weight of up to 400 pounds to compensate for the additional weight of APUs installed, thus implementing s. 756 of the federal Energy Policy Act in Florida. The CS will create greater uniformity between federal and state law, which is especially important for truck drivers doing interstate business and would also assist regulatory officials by preventing enforcement ambiguities that could cause problems for drivers during inspections.

If a vehicle is found to be overweight, but is equipped with idle-reduction technology, then the penalty will be calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology, or 400 pounds, whichever is less. The 400 pound exemption will not be assessed on axle weight. FDOT cannot increase the axle weight because Florida's maximum allowable axle weight was grandfathered in at 22,000 pounds; ten percent greater than the federally allowed 20,000 pounds. Furthermore, each qualifying vehicle will not get an automatic exemption of 400 pounds by virtue of having an installed anti-idling device, unless the actual weight of the anti-idling device is 400 pounds or more. The weight limit exemption will depend on the certified weight of the anti-idling device.

The CS has two proof requirements identical to those found in the federal law. If drivers are questioned by a law enforcement or regulatory officer, the driver must: (1) prove the unit is fully functional at all times and (2) present written certification of the weight of the idle-reduction technology.

The CS excludes vehicles described in s. 316.535(6), F.S., from qualifying for the 400 pound exemption. These vehicles, typically called straight trucks, include: dump trucks; concrete mixing trucks; trucks engaged in waste collection and disposal; and fuel oil and gasoline trucks designed and constructed for special type work. These vehicles typically do not carry idle-reduction equipment and the addition of 400 pounds would exceed the weight limit on many state and local bridges.

### **Special Commercial Weight Permits**

Section 316.550(4), F.S., is created to authorize FDOT to issue special permits to allow commercial motor vehicles weighing 10% above the maximum allowable gross weight (i.e., up to 88,000 pounds) to travel on a designated non-Interstate routes. The designated route shall avoid any bridge that FDOT determines cannot safely accommodate the vehicles.

### **FDOT Contractor Qualification**

Section 337.14, F.S., relating to the qualification of contractors bidding on FDOT construction jobs is revised, clarifying the document submittal requirements to remove confusion related to when currently required financial statements and applications must be received by the department.

**Utilities within FDOT Rights-of-Way**

Section 337.4101(1), F.S., is amended to clarify the qualifying phrase: “where there is no other practicable alternative”, applies only to the longitudinal placement of 69 kilovolt (or greater) electric transmission lines within the ROW of limited access highways.

**Transit Fare Interoperability**

Section 341.051(7), F.S., is created to require new rail transit systems to implement fare collection systems that are interoperable with multiple public transportation systems throughout the state. Additionally, existing transit systems will be required to implement interoperable systems when adding or upgrading their fare collection systems.

**Central Florida Regional Transportation Authority (LYNX)**

Section 343.64, F.S., is revised to authorize LYNX to borrow up to \$10 million annually for the costs and obligations of the authority. This would allow the authority to more easily lease rather than purchase buses.

**Tampa Hillsborough County Expressway Authority Bonding**

Sections 348.51, 348.545, 348.56, 348.565, 348.57, 348.70, F.S., are revised to clarify the THCEA’s authority to issue its own bonds, without having to seek the state’s review and approval as required by s. 215.73, F.S. The State Bond Act, ss. 215.57-215.83, F.S., includes a number of requirements to ensure the integrity and fiscal sufficiency of bonds issued on behalf of the state. The cumulative effect of the CS would shift the final decision from the state-wide perspective of the Governor and Cabinet to a local perspective. THCEA would retain the option of going through the DBF. The THCEA does not have the power to pledge the credit or taxing power of the state, the City of Tampa, or Hillsborough County, meaning none of these entities would be legally liable for repaying the bonds. While a default upon the bonds of THCEA would not result in a legal obligation to pay off the bonds, the state or another party may determine it has a moral obligation to do so. In addition, it is possible the bond rating of the State of Florida or of other Florida bond issuers may suffer adversely from default upon the THCEA’s obligations.

**Osceola County Expressway Authority**

Several new sections of ch. 348, F.S., are created to form the Osceola County Expressway Authority (OCEA) largely using existing expressway authority statutory language from ch. 348, Part I by reference.

The governing body of the authority will have six members consisting of:

- three members selected by the county commission,
- two members appointed by Governor, and
- the FDOT District Secretary as an ex officio, nonvoting member.

The governor may remove any member for misconduct, malfeasance, misfeasance, or nonfeasance. Members are entitled to receive from the authority their travel and other necessary expenses but shall draw no salaries or other compensation. FDOT is not required to grant funds for startup costs to the authority; however, the county may provide funds for such startup costs. The authority is directed to cooperate with and participate in any efforts to establish a regional expressway authority.

The purpose of the authority, as well as other powers and responsibilities are established by reference to ch. 348, Part I. As such, the OCEA may acquire, hold, construct, improve, maintain, operate, own and lease an expressway system. Powers are granted to:

- enter lease or lease-purchase agreements;
- charge a toll for use of the system and to delegate toll collection responsibility to the FDOT;
- borrow money, and make and issue negotiable notes;
- enter contracts;
- have the power of eminent domain;
- encumber all or any part of the revenues, tolls, rates, fees, or other receipts of the authority, including gasoline tax revenues received from county under a lease-purchase agreement; and
- do all things necessary or convenient for the conduct of its business.

The authority is directed to institute procedures to encourage the awarding of contracts to certified minority business enterprises. The authority may borrow money and issue revenue bonds to finance the expressway system. Bonds may be issued through the state Division of Bond Finance. No obligation of the authority may be deemed an obligation of the state. The FDOT may be appointed by the authority an agent for construction of the expressway system.

### **Outdoor Advertising**

The CS clarifies the meaning of certain zoning terms as they relate to sign permitting and designates existing sections of ch. 479, F.S., as Parts I and II. The CS creates part III of chapter 479 to provide liability and jurisdiction related to the removal of illegal or unpermitted signs. Collectively, ss. 479.310, 479.311, 479.312, 479.313, and 479.314, F.S., provide legislative intent, establish jurisdiction, and create provisions requiring the sign owner, advertiser, or owner of the property where an unpermitted sign is located to be financially liable for removal of the sign. The cost for the removal of signs from the controlled area adjacent to the roadway ROW for which a permit has been revoked is assessed against the permittee. The cost of removing any illegal sign from the roadway ROW are assessed against the owner of the sign or the advertiser displayed.

### **Abandoned Property at Airports**

Section 705.18, F.S., is revised to delete the specifications on dealing with lost or abandoned property at a public use airport. Three new sections are created to control the treatment of property lost or abandoned at a public use airport:

Section 705.182, F.S., relates to the disposal of personal property found on the premises of public-use airports to address property, except for motor vehicles and aircraft, found at these airports. The CS requires the airport's director or designee to take charge of the property and make a record of the date it was found. If, within 30 calendar days from when the property is found, or a longer period as deemed appropriate under the circumstances, the owner does not claim the property, the director or designee may:

- Retain the property for use by the airport or for use 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 disposing of the property, the CS requires the airport to notify the 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 be sold at a public auction either on the Internet or at a specified physical location.

Section 705.183, F.S., relates to the disposal of derelict or abandoned aircraft on the premises of public use airports. The CS defines “abandoned aircraft” 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. The CS defines “derelict aircraft” 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/or is not in the process of actively being repaired. The CS requires the airport director or designee to contact the FAA Aircraft Registration Branch in order to determine the name and address of the last registered aircraft owner. The CS also requires a diligent search of the appropriate records, or 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. If, after 30 calendar days from the date of receipt of the notice or the posting of the notice on the aircraft, the owner has not removed the aircraft 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, 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, it must do so at a public auction after giving notice of the time and place of the sale. If the aircraft is sold at a public sale, the CS requires the airport to deduct from the proceeds of the sale the costs of transportation, storage, publication of notice, and all other costs reasonably incurred by the airport. The balance of the proceeds is deposited into an interest-bearing account and the funds must be held for one year. The aircraft’s rightful owner may claim the balance of the proceeds within one year from the date of the deposit. If no rightful owner comes forward to claim the proceeds within one year, the balance of the proceeds is retained by the airport to be used in any legally authorized manner.

Section 705.184, F.S., relates to the disposal of derelict or abandoned motor vehicles on the premises of public-use airports. The CS defines “abandoned motor vehicle” 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. The CS defines “derelict motor vehicle” as any motor vehicle that is not in drivable condition. If the vehicle is removed by the airport’s own wrecker, the provisions below apply. However, if the vehicle is removed by a licensed independent wrecker company, current laws for the disposal of vehicles by wrecker companies apply and the procedures below do not apply.

The CS requires the airport director or designee to contact the Department of Highway Safety and Motor Vehicles (DHSMV) to notify DHSMV it has possession of the motor vehicles to determine the name and address of the last registered vehicle owner, the insurance company insuring the vehicle, and any person who has filed a lien on the motor vehicle. The airport's director or designee must notify the owner of the vehicle, the insurance company insuring the vehicle, and all persons claiming a lien against the vehicle by certified mail, return receipt requested. If, after 30 calendar days from the date of receipt of the notice 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, the vehicle 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 prove unsuccessful, the requirement of notice will be considered met and the vehicle may be disposed of in the manner provided for all abandoned vehicles. The vehicle must be sold at public auction, either on the Internet or at a specified location. The proceeds of the sale must be used to recover the airport's costs incurred for towing, storage, and the sale of the vehicle, as well as any accrued parking fees. Any proceeds exceeding these costs are retained by the airport for use in any authorized manner.

**Effective Date**

The effective date of the CS is July 1, 2010.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Revisions to s. 316.545, F.S., eliminate potential negative impacts when trucks employing idle-reduction technology are prohibited from transporting a full cargo load due to the weight of the auxiliary power unit.

C. Government Sector Impact:

FDOT Issuance of Special Permits for Trucks with Idle Reduction Technology

The fiscal impact to FDOT is unknown at this time.

Special Weight Permits

The fiscal impact to FDOT is unknown at this time, however the permit fees should offset any increased workload costs for the FDOT.

FDOT Contractor Qualification Provisions

Clarification of the requirements should facilitate additional contractors becoming qualified for bidding on construction projects. The increased competition should result in more favorable bids and reduce the potential for collusion and other unlawful bidding practices.

Toll Enforcement Provisions

Given that current statute provides an option of notifying violators using either first-class mail or certified mail, return receipt requested, the CS's requirement for citations to be issued by first-class mail, return receipt requested will result in higher costs to tolling agencies and other governmental entities currently issuing citations without return receipt. Agencies currently using certified mail, return receipt requested will experience lower notification costs.

Transit Fare Interoperability

The fiscal impact to transit agencies is unknown at this time; however, it is expected that the costs should be minimal.

Central Florida Regional Transportation Authority (LYNX)

According to LYNX, leasing rather than purchasing buses can save taxpayers by reducing current financing terms and eliminating required insurance premiums. For example, a LYNX analysis of a recent purchase of 21 buses indicated potential savings of up to \$500,000 annually, had the buses been leased.

Osceola County Expressway Authority

The fiscal impact to FDOT is unknown at this time, as no projects (or project details) have been identified and no lease-purchase agreement provisions have been formulated. Upon their creation, other Florida expressway authorities have requested loans from the Toll Facilities Revolving Trust Fund to fund early studies and related costs. Then, as projects move forward, loans have been requested from the State-funded Infrastructure Bank to pay part or all of the cost of construction. Typically, monies from the State Transportation Trust Fund are used to pay for ongoing operation and maintenance of the expressway systems.

Outdoor Advertising Provisions

FDOT should experience minimal positive fiscal impacts from the provisions clarifying the department's ability to recoup sign removal costs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

**CS by Community Affairs Committee on April 7, 2010:**

The committee substitute:

- Allows counties served by regional transportation authorities to levy up to a 1% discretionary sales tax for transportation systems if a majority of the county commission votes to approve. Currently, only charter counties are allowed to levy the tax.
- Authorizes FDOT to issue special permits to allow commercial motor vehicles weighing 10% above the maximum allowable gross weight (i.e., up to 88,000 pounds) to travel on specific non-Interstate routes designated in the permit.
- Clarifies the distribution of revenues coming from pre-adjudication disposition for violations. The amendment also allows points to be imposed against an offender's driver's license but only on the order of a judge.
- Requires new rail transit systems to implement fare collection systems that are interoperable with multiple public transportation systems throughout the state. Additionally, existing transit systems will be required to implement interoperable systems when adding or upgrading their fare collection systems.

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

New provisions:

- clarify the notification requirements to be used when citation is issued for toll violations;
- provide a 400 pound weight allowance for trucks using anti-idling devices;
- clarify the application process used by contractors seeking qualification to bid on transportation construction jobs;
- clarify authorization to allow placement of certain electric transmission lines applies only to limited access highways;
- provide FDOT authority to adopt rules related to new toll collection techniques;
- authorize LYNX to borrow up to \$10 million annually for refinancing purposes;
- revise bonding provisions available to the Tampa Hillsborough County Expressway Authority to allow the authority to issue bonds without going through the State Board of Administration's Division of Bond Finance;
- create the Osceola County Expressway Authority;

- clarify land uses in relation to outdoor advertising and provides for sign owners, advertisers, or property owners to be held liable for the removal of improperly permitted signs;
- provide explicit authority for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft and derelict or abandoned motor vehicles from the airport's premises;

The CS deleted provisions which would have:

- effectively increased the maximum gross vehicle weight limit for vehicles operating on non-interstate highways;
- removed obsolete definitions and department functions related to the functional classification and jurisdictional assignment of public roads and various sections which corrected cross-references.

B. Amendments:

None.