State Infrastructure Council

MEETING PACKET

Tuesday, March 14, 2006
1:00 pm – 1:45 pm
404 House Office Building

Representative David D. Russell, Chair
Representative Adam Hasner, Vice Chair

The Florida House of Representatives

State Infrastructure Council

Dave Russell
Chair

303 House Office Building
(850) 414-9786

AGENDA
March 14, 2006
1:00 pm – 1:45 pm
404 House Office Building

I. Opening Remarks, Chair Dave Russell

II. Consideration of the following bills:

- **HB 267 CS by Rep. Bogdanoff – Driver License Services**
- **HB 273 CS by Rep. Mayfield – Outdoor Advertising**
- **HB 375 CS by Rep. Barreiro – Motor Vehicle Registration**
- **HB 385 CS by Rep. Jordan – Specialty License Plates**
- **HB 487 by Rep. Robaina – Commission for the Transportation Disadvantaged**

III. Closing Remarks, Chair Russell

Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 267 CS Driver License Services
SPONSOR(S): Bogdanoff
TIED BILLS: **IDEN./SIM. BILLS:** SB 268

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	11 Y, 1 N, w/CS	Thompson	Miller
2) Local Government Council	7 Y, 0 N	Smith	Hamby
3) Transportation & Economic Development Appropriations Committee	13 Y, 1 N	McAuliffe	Gordon
4) State Infrastructure Council		Thompson J.T.	Havlicak RH
5)			

SUMMARY ANALYSIS

HB 267 W/CS requires the Department of Highway Safety and Motor Vehicles (DHSMV) to study the outsourcing of driver's licensing services to a provider or other governmental agency, in whole or in part, while retaining responsibility and accountability for the services. The bill requires DHSMV to present their recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007. The study must provide the following:

- A detailed description of services to be outsourced and a description of the department's current performance of the service;
- A cost-benefit analysis including a detailed plan and implementation timeline;
- A statement of the potential effect on applicable revenues and expenditures;
- A public records compliance plan; and
- A transition and implementation plan addressing personnel issues and performance standards.

This bill also expands current law to allow DHSMV to use county constitutional officers, other than tax collectors, as driver license service agents in those counties where the tax collector is not elected or where the tax collector does not provide the services.

This bill will have no fiscal impact on the department and will take effect upon becoming law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill requires DHSMV to study the out-sourcing of driver's licensing services to a provider or other governmental agency. This bill also authorizes DHSMV's to contract with other county constitutional officers for driver license services in certain counties.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 322, F.S., provides for laws related to Drivers' Licenses. The DHSMV's Division of Driver Licenses, Driver License Program administers driver license-related activities, which are intended to increase consumer protection and promote public safety by licensing only those drivers who demonstrate the necessary knowledge, skills, and abilities to operate motor vehicles on Florida's roads; controlling and improving problem drivers by suspending and revoking the licenses of drivers who abuse their driving privileges; monitoring drivers to ensure they carry the required insurance to be financially responsible for their actions; and maintaining driver history records. According to DHSMV, there were an estimated 15,483,582 licensed Florida drivers in fiscal year 2004-2005. The DHSMV estimates in fiscal year 2005-2006 there are an estimated 15,888,511 licensed Florida drivers and 7,780,552 applicants to be processed in field offices.

Driver license-related activities are divided into 4 service categories: (1) Driver Licensure Service Category which provides licensing services including issuing driver licenses and identification cards; answering customer inquiries over the telephone and Internet; maintaining comprehensive driver history; and maintaining the statewide traffic citation system; (2) Motorists Financial Responsibility Compliance Service Category which is responsible for ensuring licensed drivers comply with Florida automobile insurance laws and requirements to carry Personal Injury Protection (PIP) and Property Damage Liability (PDL) insurance coverage, and Bodily Injury Liability coverage if required; (3) Identification and Control of Problem Drivers Service Category which is responsible for identifying and controlling problem drivers through suspending, revoking, disqualifying, and canceling driving privileges, conducting administrative reviews for issuance of limited restricted licenses for offenders, and approving course curriculum and evaluating driver improvement-related course programs; and (4) Executive Direction and Support Services Service Category which administers general business functions, provides leadership and direction, and supports all driver license-related activities.

There are seven state bureaus responsible for activities that support the acquisition or suspension of driving privileges. The Driver License Program consists of the following Bureaus:

- The Bureau of Field Operations. There are three field operations bureaus (North Field Operations, Central Field Operations, and South Field Operations) that include158 state and local county tax collector offices that issue driver licenses and identification cards. The tax collector offices function as licensing agents of DHSMV. Staff administers knowledge, skill, and visual examinations to determine driver qualification, process forms that show proof a person has obtained motor vehicle insurance, and provide a process for designating on the license application contribution to six charitable organizations (Organ Tissue Donor Education, Florida Council of Blind, Election Campaign, Children's Hearing Help Fund, Hearing Research Institute, Inc., and Juvenile Diabetes Foundation International).
- The Bureau of Customer Service. The bureau assists customers in the interpretation of motor vehicle laws and requirements. It provides telephone access for all citizens, and it analyzes and resolves all inquiries regarding driving activities.

- The Bureau of Records. This bureau provides documentation of all driver license activities which include issuance, suspension, revocation, cancellation, reinstatement, renewal, replacement, and processing all traffic citations. It controls all information recorded on individual driver history records and ensures public access to these records.
- The Bureau of Financial Responsibility. The bureau suspends driving privileges for non-compliance with appropriate laws, verifies insurance coverage through review of documents submitted by drivers, reinstates suspended driving privileges upon compliance, and updates driving history records.
- The Bureau of Driver Improvement. This bureau is divided into two sections, the Driver Services Section and Medical Section. The bureau suspends, revokes, and cancels licenses for violation of motor vehicle laws, fraudulent activity, medical reasons, and inadequate vision.
- The Bureau of Administrative Review. This bureau has 33 field offices located throughout the state. Hearing officers schedule and conduct driver license administrative hearings involving hardship license reinstatements, records review, post-suspension formal and informal reviews, medical competency and financial responsibility reviews, and special driver examinations.
- The Bureau of Driver Education and DUI Programs. The bureau's activities cover licensing commercial drivers, motorcycle safety, and driver improvement schools; approving instructor credentials; approving and evaluating curriculum; inspecting and approving DUI and motorcycle rider schools; and conducting research on improving current and developing future education methods.

DHSMV issues driver licenses through local driver license examination offices. Four different classes of driver licenses are issued:

- Class A, B, and C licenses are for drivers of commercial motor vehicles such as large trucks and buses. A commercial vehicle is defined as a motor vehicle weighing 26,001 pounds or more, designed to transport 16 or more persons, or carry hazardous materials.
- Class E licenses are for drivers of non-commercial vehicles and those who are exempt by law from obtaining a commercial driver license.

Driver License Services – County Tax Collectors

Section 322.135, F.S., allows DHSMV upon application, to authorize the tax collectors in the state to serve as its agent for the provision of specified driver's license services. These services include new licenses, renewals, duplicates, learner's permits, and identification cards. Each tax collector who is authorized by the department to provide driver's license services is to bear all costs associated with providing those services. A fee of $5.25 is charged, in addition to any other fees, for any driver's license issued or renewed by a tax collector. Currently, 28 county tax collectors are providing driver license services at 59 locations.

Driver License Services – Current Outsourcing Contracts

Additionally, DHSMV outsources commercial driver skills testing, contracting with approximately 450 third party testers to conduct commercial driver license (CDL) skills tests. The DHSMV also contracts with private organizations and community and technical colleges to provide motorcycle safety courses and skills tests. Furthermore, the DHSMV contracts with schools to conduct driver education and testing for the Driver Education Licensing Assistance Program; contracts with a private vendor to provide driver license equipment, software and human resources to produce centrally-issued driver licenses and identification cards; and is conducting a pilot project by contracting with providers of on-line courses of traffic law and substance abuse education to conduct Florida Class E (operator) driver license knowledge tests.

Proposed Changes

This bill requires DHSMV to study the outsourcing of driver's licensing services and present recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2007. The bill defines the term "outsourcing" to mean the process of contracting with an external service provider or other governmental agency to provide a service, in whole or in part, while the department retains the responsibility and accountability for the service.

This CS provides requirements for DHSMV with respect to issues to be included in the study. Specifically, as part of the study, DHSMV must provide a description of the services to be outsourced and must consider, but need not be limited to, the following issues:

- A detailed description of services to be outsourced;
- A cost benefit analysis of direct and indirect costs or savings with a detailed plan and timeline for implementation of actions to ensure the desired benefits are achieved;
- A statement of potential effect on federal, state and local revenues and expenditures and the possible direct or indirect impact on federal funding and cost allocations;
- A plan to ensure compliance with public records law; and
- A plan for the transition and implementation which addresses the changes in the number of the department's personnel and related transition issues and business processes, including the department's plan to resume the operation of the service should the contractor fail to perform within performance standards and provisions of the contract and identifying the full-time equivalent positions and resources subject to outsourcing.

This bill also amends s. 322.135, F.S., to allow DHSMV to use county constitutional officers, other than tax collectors, as driver license service agents in those counties where the tax collector is not elected or where the tax collector does not provide the services. These other constitutional officers would have the same powers and duties as tax collectors (including collection of the $5.25 service charge) when acting as DHSMV's driver license agents. This change will increase the department's options for providing driver licensing services in certain counties. According to DHSMV, currently there are two counties (Broward and Calhoun) in which there are discussions regarding using constitutional officers other than tax collectors as driver's license agents.

The tax collector is an elected constitutional officer in 64 counties. In the following counties, the tax collector is appointed by the county commission: Miami-Dade, Broward and Volusia.

C. SECTION DIRECTORY:

Section 1. Directs DHSMV to study outsourcing its driver licensing services; requires DHSMV to submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 1, 2007; provides issues to be studied; and requires a cost-benefit analysis and a transition and implementation plan.

Section 2. Amends subsection (2) of s. 318.15, F.S., providing for certain elected county officials used by DHSMV as driver licensing agents to collect a drivers license suspension clearance service charge.

Section 3. Amends subsection (1) of s. 322.02, F.S., providing legislative intent for certain elected county officials to be used by DHSMV as driver licensing agents.

Section 4. Creates subsection (10) of s. 322.135, F.S., providing for certain elected county officials to be used by DHSMV as driver licensing agents.

Section 5. Provides that the bill will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DHSMV has indicated that the study and report required by this bill can be performed with existing department resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Driver License Program (Division of Driver Licenses) is funded from driver license fees that the Driver License Program collects and from general revenue. In fiscal year 2005-06, the Driver License Program has a budget of $83.6 million with 1,317 authorized positions. In fiscal year 2004-05 the Driver Licenses Program collected about $186 million from driver license fees and from other driver license related revenues. The Division currently operates 100 field offices distributed throughout the state. Almost 1,000 of the Division's positions are assigned to field operations.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Federal Motor Carrier Safety Administration rules and regulations prohibit States from allowing third parties to administer commercial driver license (CDL) knowledge exams and, therefore, this area could not be contracted out by DHSMV.

According to DHSMV, certain types of privatized driver license testing, such as commercial vehicles skills tests that require special equipment, may save enough public expense to justify the investment of rigorous oversight needed to offset the risk of fraud. However, DHSMV has detected several major cases and numerous lesser instances of fraud in the course of monitoring privatized driver license testing. In instances of fraudulent CDL activity, DHSMV has decertified contracts with third party testers and recalled the drivers to state facilities for retesting.

DHSMV stated that a three-year pilot project for outsourcing of the Class D and E driver license testing began in the spring of 2000. The project involved seven third party administrators (TPAs) throughout the State. The department's final evaluation of this project revealed tendencies toward less rigorous testing, with a need for strong oversight. Many issues were found involving record keeping and road test performance. The monitors experienced difficulty accessing customer files and viewing the performance of testers. A review showed that in all cases, the conviction, crash and insurance suspension rates were significantly higher for customers who went to a TPA than for those individuals who tested at a driver license office.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On December 6, 2005 the Committee on Transportation amended HB 267 to provide for DHSMV to use county constitutional officers, other than tax collectors, as driver license service agents in those counties where the tax collector is not elected or where the tax collector does not provide the services. The committee then voted 11-1 to report the bill favorably with committee substitute.

CHAMBER ACTION

The Transportation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to driver license services; directing the Department of Highway Safety and Motor Vehicles to study outsourcing its driver license services; providing a definition; requiring that the department submit a report to the Governor and Legislature by a specified date; providing requirements for the department with respect to issues to be included in the study; requiring a cost-benefit analysis and a transition and implementation plan; amending s. 318.15, F.S.; providing for the collection of certain service charges by authorized driver's license agents; amending s. 322.02, F.S.; revising legislative intent provisions to include references to county constitutional officers providing driver license services; amending s. 322.135, F.S.; authorizing the department to contract with any county constitutional officer for driver license services in certain counties; providing an effective date.

24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. (1) The Department of Highway Safety and Motor
27 Vehicles shall study the outsourcing of its driver license
28 services and shall make recommendations to the Governor, the
29 President of the Senate, and the Speaker of the House of
30 Representatives by January 1, 2007. As used in this section, the
31 term "outsourcing" means the process of contracting with an
32 external service provider or other governmental agency to
33 provide a service, in whole or in part, while the department
34 retains the responsibility and accountability for the service.
35 (2) As part of its study, the department shall provide a
36 description of the services to be outsourced. Types of issues
37 for the department to consider must include, but need not be
38 limited to:
39 (a) A detailed description of the service to be outsourced
40 and a description and analysis of the department's current
41 performance of the service.
42 (b) A cost-benefit analysis describing the estimated
43 specific direct and indirect costs or savings; performance
44 improvements, including reducing wait times at driver license
45 offices; risks; and qualitative and quantitative benefits
46 involved in or resulting from outsourcing the service. The cost-
47 benefit analysis must include a detailed plan and timeline
48 identifying all actions that must be implemented to realize the
49 expected benefits.
50 (c) A statement of the potential effect on applicable
51 federal, state, and local revenues and expenditures. The

52 statement must specifically describe the effect on general
53 revenue, trust funds, general revenue service charges, and
54 interest on trust funds, together with the potential direct or
55 indirect effect on federal funding and cost allocations.
56 (d) A plan to ensure compliance with public records law.
57 (e) A transition and implementation plan for addressing
58 changes in the number of department personnel, affected business
59 processes, and employee-transition issues. Such a plan must also
60 specify the mechanism for continuing the operation of the
61 service if the contractor fails to perform or comply with the
62 performance standards and provisions of the contract. Within
63 this plan, the department shall identify all resources,
64 including full-time equivalent positions, which are subject to
65 outsourcing.
66 Section 2. Subsection (2) of section 318.15, Florida
67 Statutes, is amended to read:
68 318.15 Failure to comply with civil penalty or to appear;
69 penalty.--
70 (2) After suspension of the driver's license and privilege
71 to drive of a person under subsection (1), the license and
72 privilege may not be reinstated until the person complies with
73 all obligations and penalties imposed on him or her under s.
74 318.18 and presents to a driver license office a certificate of
75 compliance issued by the court, together with a nonrefundable
76 service charge of up to $47.50 imposed under s. 322.29, or
77 presents a certificate of compliance and pays the aforementioned
78 service charge of up to $47.50 to the clerk of the court or a
79 driver licensing agent authorized in s. 322.135, ~~tax collector~~

80 clearing such suspension. Of the charge collected by the clerk
81 of the court or a driver licensing agent ~~the tax collector~~, $10
82 shall be remitted to the Department of Revenue to be deposited
83 into the Highway Safety Operating Trust Fund. Such person shall
84 also be in compliance with requirements of chapter 322 prior to
85 reinstatement.
86 Section 3. Subsection (1) of section 322.02, Florida
87 Statutes, is amended to read:
88 322.02 Legislative intent; administration.--
89 (1) The Legislature finds that over the past several years
90 the department and individual county tax collectors have entered
91 into contracts for the delivery of full and limited driver
92 license services where such contractual relationships best
93 served the public interest through state administration and
94 enforcement and local government implementation. It is the
95 intent of the Legislature that future interests and processes
96 for developing and expanding the department's relationship with
97 tax collectors and other county constitutional officers through
98 contractual relationships for the delivery of driver license
99 services be achieved through the provisions of this chapter,
100 thereby serving best the public interest considering
101 accountability, cost-effectiveness, efficiency, responsiveness,
102 and high-quality service to the drivers in Florida.
103 Section 4. Subsection (10) is added to section 322.135,
104 Florida Statutes, to read:
105 322.135 Driver's license agents.--
106 (10) The department may contract with any county
107 constitutional officer to provide driver license services in the

108 same manner as provided in this section in a county in which the
109 tax collector is not elected or elects not to provide driver
110 license services.
111 Section 5. This act shall take effect upon becoming a law.

CS/HB 273

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 273 CS Outdoor Advertising
SPONSOR(S): Mayfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 566(s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	11 Y, 2 N	Pugh	Miller
2) Local Government Council	8 Y, 0 N, w/CS	Smith	Hamby
3) State Infrastructure Council		Pugh BJP	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

Chapter 479, F.S., regulates billboards and other forms of outdoor advertising signs. Advertising companies and other owners of outdoor signs must be licensed by the Florida Department of Transportation (FDOT) and obtain permits that regulate height, size and other characteristics of the billboards. County and municipal governments are not precluded from enacting local ordinances regulating outdoor advertising, but these regulations must be in harmony with state and federal requirements.

HB 273 w/CS makes significant changes to two sections of law in chapter 479, F.S. The bill:

- Establishes "view zones" along the public rights of way of interstates, expressways, federal-aid primary highways and the State Highway System in the state, excluding privately owned property.
- Allows FDOT and sign owners to enter into agreements identifying the specific location of a billboard's view zone, meaning an unobstructed view by passing motorists.
- Specifies in statute the standard dimensions of a view zone.
- Prohibits trees and other vegetation that are part of a beautification project from being planted in a billboard's view zone.
- Requires any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of either lost revenue because the sign was blocked or the sign's fair market value, and provide exemptions from such payment requirements.
- Allows the owner of a lawfully erected billboard that conforms to state and federal requirements for land-use, size, height, and spacing to elevate the billboard at its permitted location if a sound wall blocks or screens the signage.
- Specifies that a billboard reconstructed so it can be raised above a sound wall must comply with the Florida Building Code standards and wind load requirements.
- Provides local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations. One of the options is prohibiting FDOT from building a sound wall if it would necessitate allowing a billboard owner to raise his sign in violation of a local ordinance or regulation.
- Specifies that this act does not apply to any existing settlement agreement between any local government and the owner of an outdoor advertising sign.

HB 273 w/CS raises no apparent constitutional issues. The bill has no immediate financial impact on the state or on local governments, and will not fiscally impact these governmental entities unless they refuse to allow the specified view zones and increases in sign height, and are required to pay penalties or compensation to the sign owners. However, FDOT is concerned that it could lose an indeterminate amount of federal transportation funding if it is not allowed to build sound walls where necessary and as required by the Federal Highway Administration to meet noise abatement standards.

HB 273 w/CS takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government/Safeguard Individual Liberty – HB 273 w/CS prohibits trees and other vegetation that are part of a "beautification project" from being planted in a legally erected and permitted billboard's view zone. The bill requires any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of lost revenue because the sign was blocked or the sign's fair market value, and provides exemptions from such payment requirements. Additionally, the bill allows the owner of a lawfully erected billboard conforming to state and federal requirements for land use, size, height, and spacing, to increase the billboard's height at its permitted location if a noise wall blocks or screens the signage. The bill provides local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations including the issuance of a permit by variance.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida has an estimated 20,900 permitted outdoor advertising signs on 13,700 billboard structures. About 5,900 are considered by FDOT as lawful, non-conforming signs, meaning they were in compliance with federal, state, and, if applicable, local regulations when they were erected, but are not in compliance with current regulations.

Chapter 479, F.S., governs billboards and other forms of outdoor advertising. Advertising companies and other owners of outdoor signs must be licensed by FDOT and obtain permits, regulating height, size and other characteristics of the billboards. The majority of the provisions specify FDOT's duties and authority as they relate to permitting, removing, and otherwise regulating billboards along the interstate highway system and the federal–aid primary highway system, which includes state roads. The chapter also addresses ways to accommodate billboard owners whose signs' "view zones" are affected by highway beautification projects, such as planting of vegetation, and highway widening or other improvements.

Because federal dollars are used to build and maintain these federal and state roads in Florida, FDOT must adhere to federal laws and regulations concerning billboards. The Highway Beautification Act of 1965 (chapter 23 U.S. Code section 131), chapter 23 Code of Federal Regulations section 750, and Federal Highway Administration (FHWA) Policy Guidance relate to the regulation of billboards. Under federal law, regulation, and policy guidance:

- To be able to remain, nonconforming signs must remain substantially the same as they were on the effective date of the state law or regulations that made them nonconforming.
- Reasonable repair and maintenance of the sign, including a change of advertising message, is allowable.
- Nonconforming signs may continue as long as they are not destroyed, abandoned, or discontinued. States may pass laws for exceptions to be made for nonconforming signs destroyed due to vandalism and other criminal or tortious acts.
- Each state must develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights. When nonconforming rights are terminated under state law, the sign must be removed as an illegal sign without compensation.
- However, lawfully erected signs, even if they are now nonconforming, cannot be removed by a state without payment of just compensation.

Under state law, local governments also may not remove, or order to be removed, lawfully erected signs along the interstate or federal-aid highways without paying the signs' owners just compensation.

A March 2005 memorandum from the FHWA addressed a relatively new issue relating to nonconforming signs – conflicts between sign owners and state transportation agencies over noise-attenuation barriers (or "sound walls") along highways that are blocking billboards. The memorandum concluded that allowing owners of non-conforming billboards to increase the signs' height in such circumstances is inconsistent with federal law and regulations.[1]

Current state law clarifies that nothing in chapter 479, F.S., prevents FDOT or other governmental entities from entering into an agreement with a sign owner increasing the height of a lawfully erected sign at its permitted location if a noise-attenuation barrier, visibility screen, or other highway improvement is erected in such a way as to screen or block the sign's visibility. Under such agreements, the affected sign's height can be increased only as much as is necessary to achieve the same degree of visibility from the road as it had previously. If the affected sign is non-conforming and it is located along a federal aid primary highway system (which includes most of Florida's major highways), the FHWA must approve the agreement – a provision in conflict with the aforementioned FHWA memorandum.

Effect of Proposed Changes

HB 273 w/CS amends two sections of chapter 479, F.S., related to visibility and height of lawfully permitted billboards.

Specifically, the bill amends s. 479.106, F.S., to:

- Establish "view zones," which are unobstructed views of billboards by passing motorists, along the public rights-of-way of interstates, expressways, federal-aid primary highways and the State Highway System, excluding privately owned property.
- Specify in statute the standard dimensions of a view zone. Along public rights-of-way where the posted speed limit is no more than 35 miles per hour, the view zone is 350 feet. But the view zone is 500 feet where the posted speed limit is greater than 35 miles per hour. These view zones must be within the first 1,000 feet as measured along the pavement's edge in the direction of oncoming traffic, from a point on the edge of the pavement perpendicular to the billboard sign's edge that is facing the highway.
- Allow FDOT and sign owners to enter into agreements identifying the specific location of a billboard's view zone, Prohibit trees and other vegetation that are part of a beautification project from being planted in a billboard's view zone.
- Require any governmental entity violating the view zone provisions to pay the sign owner a penalty equal to the lesser of either lost revenue because the sign was blocked or the sign's fair market value, and provide a 90-day written notice to the sign owner of a violation regarding the view zone and no penalty will be assessed if the alleged violation is cured within a 90-day period.
- Eliminate the need for additional FDOT permits if 48-hour notice is given to FDOT for corrective action of any modifications or removal of material within a beautification project or other planting by the governmental entity or other party.
- Provide protection from penalties to landscape architects and other persons licensed under Part II, ch. 481, F.S.

The bill amends s. 479.25, F.S., to:

- Allow the owner of a lawfully erected billboard that conforms to state and federal requirements for land use, size, height, and spacing to elevate the billboard at its permitted location if a sound wall blocks or screens the signage.
- Delete references to the Federal Highway Administration's approval before raising the height of a non-conforming billboard along a federal-aid primary highway. This reflects the 2005 policy memorandum issued by FHWA on the issue.

[1] U.S. DOT /FHWA memorandum from Susan Lauffer, director of Office of Real Estate Services to Division Administrators and Directors of Field Services, dated March 8, 2005.

- Specify that a billboard reconstructed so it can be raised above a sound wall must comply with the Florida Building Code standards and wind load requirements.
- Provide local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations being: 1.) to issue a permit by variance; 2.) allow relocation of the sign; 3.) refuse to issue the permit and pay fair market of the sign and its associated interest in the real property to the sign owner; and 4.) local governments can prohibit the erection of a sound wall or noise barrier by the FDOT, to the extent that it blocks the sign.

The bill also specifies that this act does not apply to any existing settlement agreement between any local government and the owner of an outdoor advertising sign.

HB 273 w/CS takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 479.106, F.S. to specify view-zone dimensions and method for determining the view zone. Specifies penalties. Provides exemptions.

Section 2: Amends s. 479.25, F.S., to clarify under what circumstances lawfully erected, conforming billboards may be raised. Deletes obsolete language. Provides local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations.

Section 3: Provides this act does not apply to any existing settlement agreement between any local government and the owner of an outdoor advertising sign.

Section 4: Specifies this act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   No direct or immediate impact. But see "D. FISCAL COMMENTS" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   No immediate impact. But see "D. FISCAL COMMENTS" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

No direct or immediate impact. But see "D. FISCAL COMMENTS" below.

D. FISCAL COMMENTS:

In the event FDOT or a local governmental entity violates the proposed view zone provisions in s. 479.106, F.S., it would have to pay the sign owner a penalty equal to the lesser of the lost revenue from the screened or blocked billboard or the fair market value of the sign.

Additionally, the bill provides local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations:

- Issue a issue a permit by variance;
- Allow relocation of the sign;
- Refuse to issue the permit and pay fair market of the sign and its associated interest in the real property to the sign owner; and
- Prohibit FDOT from building the sound wall, to the extent that it blocks the sign.

A governmental entity violating these provisions also may have to pay legal costs and expenses if the issue is litigated.

FDOT has expressed concerns that the fourth option could potentially cost the agency federal transportation funds programmed to build or improve roads where sound walls are required to meet federal traffic noise-abatement standards.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable, because HB 273 w/CS does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Resolution 2005-1521-A, regarding Outdoor Advertising and Highway Beautification, was passed unanimously by the Jacksonville City Council on December 13, 2005 and signed by Mayor Peyton on December 19, 2005. This resolution opposes HB 273 and SB 566.[2]

Resolution No. 2006-12, regarding Outdoor Advertising and Highway Beautification, was passed and adopted by the City of Clearwater on January 19, 2006 and signed by Mayor Hibbard. This resolution opposes HB 273 and SB 566.[3]

Mr. Ken Towcimak, Director, Florida Department of Transportation, submitted the following statement regarding the "option 4:"

> "[Lines 115-133 of the bill] allows local governments four (4) options if the Department intends to construct a sound attenuation wall on its rights of way, and if the wall will screen an outdoor advertising sign from view, and if the local government has an ordinance in place which precludes a screened outdoor advertising sign from being increased in height so as to be seen above the wall.

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[2] *See* Resolution from Tracey Arpen, Office of General Counsel, City of Jacksonville, Florida (December 29, 2005) (on file with House of Representatives, Local Government Council).

[3] *See* Resolution from Bill Jonson, Vice-Mayor, City of Clearwater, Florida (January 19, 2006) (on file with House of Representatives, Local Government Council).

The Department must object to the fourth option [lines 124-133 of the bill] which provides that if the local government will not issue a variance from the sign height ordinance, then the local government may prohibit the Department's installation of the noise attenuation wall.

Noise walls constructed on the National Highway System, which includes Interstate Highways, must comply with regulations promulgated by the Federal Highway Administration. Such regulations specify that the wall must be installed if approved by the property owners directly impacted by the highway noise (receptors). If such impacted individuals approve the installation of the wall, and if the wall meets other technical and cost criteria, then the Department must construct the wall. The local government may not "veto" such installation on DOT rights of way.

Also, please note that the Department has previously purchased all rights of "view" to the Interstate Highway System from adjacent land, giving the Department the right to construct any necessary improvements on its rights of way."[4]

FDOT has drafted an amendment to address its concerns, and is continuing its discussions with the bill sponsor and the bill's supporters.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Local Government Council

The Council on Local Government adopted four amendments on February 22, 2006. Briefly:

- Amendment #1 clarifies that the changes to s. 479.106, F.S., do not apply to private property owners; provides for a shorter view zone for posted speed limits of 35 mph or less; clarifies that the bill pertains to the public rights of way of interstates, expressways, federal-aid primary highways and the State Highway System instead of a 'view zone of the State Highway System and expressways.'
- Amendment #2 provides a 90-day written notice by the sign owner of a violation regarding the view zone and provides no penalty will be assessed if the violation is cured within the 90 day period; removes the need for additional DOT permits (if 48-hours notice is given) for corrective action of any modifications or removal of material within a beautification project or other planting by the governmental entity or other party; and provides protection from penalties to persons licensed under ch. 481, F.S.
- Amendment #3 provides local governments and local jurisdictions with four options for resolution when a sign height increase conflicts with local ordinances or land development regulations being: 1.) to issue a permit by variance; 2.) allow relocation of the sign; 3.) refuse to issue the permit and pay fair market value of the sign and its associated interest in the real property to the sign owner; and 4.) prohibit the installation of the noise barrier to the extent that it blocks the sign.
- Amendment #4 clarifies that this act will not negate any existing settlement agreements between local governments and owners of outdoor advertising signs.

The bill, as amended, was reported favorably with council substitute.

[4] *See* e-mail from Ken Towciamk, Director, Florida Department of Transportation, (February 22, 2006) (on file with House of Representatives, Local Government Council).

CHAMBER ACTION

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1 The Local Government Council recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to outdoor advertising; amending s.
7 479.106, F.S.; revising provisions relating to the
8 proximity of vegetation and beautification projects to
9 outdoor advertising signs; prohibiting planting that will
10 block the signs; specifying distances that constitute a
11 view zone on interstate highways, expressways, federal-aid
12 primary highways, and the State Highway System for outdoor
13 advertising signs; authorizing the Department of
14 Transportation and owners of outdoor advertising signs to
15 enter into agreements identifying view zone locations;
16 requiring governmental entities and other parties to pay a
17 penalty amount equal to the lesser of the lost revenue or
18 sign market value for violation of view zone requirements;
19 providing conditions for the payment; providing exemptions
20 from such payment requirement; amending s. 479.25, F.S.;
21 revising provisions for height increase of certain outdoor
22 advertising signs; authorizing the height to be increased
23 if visibility is blocked due to installation of certain

24 noise-attenuation barriers; requiring sign reconstruction
25 to meet the requirements of the Florida Building Code;
26 providing for resolution when a sign height increase
27 conflicts with local ordinances or land development
28 regulations; providing options for resolution by the local
29 government or jurisdiction; providing for application;
30 providing an effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Subsection (6) of section 479.106, Florida
35 Statutes, is amended to read:
36 479.106 Vegetation management.--
37 (6) Beautification projects, trees, or other vegetation
38 shall not be planted or located in the view zone of ~~an area~~
39 ~~which will screen from view~~ legally erected and permitted
40 outdoor advertising signs which have been permitted prior to the
41 date of the beautification project or other planting, where such
42 planting will, at the time of planting or after future growth,
43 screen such sign from view.
44 (a) View zones are established along the public rights-of-
45 way of interstate highways, expressways, federal-aid primary
46 highways, and the State Highway System in the state, excluding
47 privately owned property as follows:
48 1. A view zone of 350 feet for posted speed limits of 35
49 miles per hour or less.
50 2. A view zone of 500 feet for posted speed limits of over
51 35 miles per hour.

52 (b) The established view zone shall be within the first
53 1,000 feet measured along the edge of the pavement in the
54 direction of approaching traffic from a point on the edge of the
55 pavement perpendicular to the edge of the sign facing nearest
56 the highway and shall be continuous unless interrupted by
57 existing, naturally occurring vegetation. The department and the
58 sign owner may enter into an agreement identifying the specific
59 location of the view zone for each sign facing. In the absence
60 of such agreement, the established view zone shall be measured
61 from the sign along the edge of the pavement in the direction of
62 approaching traffic as provided in this subsection.
63 (c) Any governmental entity or other party violating this
64 subsection shall pay to the sign owner a penalty equal to the
65 lesser of the revenue from the sign lost during the time of the
66 screening or the fair market value of the sign; however, the
67 governmental entity or other party allegedly violating this
68 subsection shall be given 90 days' written notice by the sign
69 owner of such alleged violation and no penalty shall be assessed
70 if the alleged violation is cured by the governmental entity or
71 other party within the 90-day period. Any modification or
72 removal of material within a beautification project or other
73 planting by the governmental entity or other party to cure an
74 alleged violation shall not require the issuance of a permit
75 from the Department of Transportation provided not less than 48
76 hours' notice is provided to the department of the modification
77 or removal of the material. A natural person, private
78 corporation, or private partnership licensed under part II of
79 chapter 481 providing design services for beautification or

80 other projects shall not be subject to penalty under this
81 section when the initial project design meets the requirements
82 of this section.
83 Section 2. Section 479.25, Florida Statutes, is amended to
84 read:
85 479.25 Application of chapter.--The owner of a lawfully
86 erected sign that is governed by and conforms to state and
87 federal requirements for land use, size, height, and spacing may
88 increase the height above ground level of such sign ~~This chapter~~
89 ~~does not prevent a governmental entity from entering into an~~
90 ~~agreement allowing the height above ground level of a lawfully~~
91 ~~erected sign to be increased~~ at its permitted location if a
92 noise-attenuation barrier~~, visibility screen, or other highway~~
93 ~~improvement~~ is permitted by or erected by any governmental
94 entity in such a way as to screen or block visibility of the
95 sign. ~~However, if a nonconforming sign is located on the~~
96 ~~federal-aid primary highway system, as such system existed on~~
97 ~~June 1, 1991, or on any highway that was not a part of such~~
98 ~~system as of that date but that is or becomes after June 1,~~
99 ~~1991, a part of the National Highway System, the agreement must~~
100 ~~be approved by the Federal Highway Administration.~~ Any increase
101 in height permitted under this section may only be the increase
102 in height which is required to achieve the same degree of
103 visibility from the right-of-way which the sign had prior to the
104 construction of the noise-attenuation barrier, notwithstanding
105 the restrictions contained in s. 479.07(9)(b). A sign
106 reconstructed under this section shall comply with the building
107 standards and wind load requirements set forth in the Florida

108 Building Code. If an increase in the height of a sign as
109 permitted under this section will violate a provision contained
110 in an ordinance or land development regulation of a local
111 government or local jurisdiction, the provisions of such
112 ordinance or regulation notwithstanding, the local government or
113 local jurisdiction shall have the authority to choose by
114 resolution one of the following options:
115 (1) Issuance of a permit by variance or otherwise for the
116 reconstruction of a sign under this section;
117 (2) Allow the relocation of a sign, or construction of
118 another sign, at an alternative location if the sign owner
119 agrees to relocate the sign or construct another sign;
120 (3) Refuse to issue the required permits for
121 reconstruction of a sign under this section and pay fair market
122 value of the sign and its associated interest in the real
123 property to the owner of the sign; or
124 (4) Notify the department that application of this section
125 will violate a provision contained in an ordinance or land
126 development regulation of the local government or local
127 jurisdiction and that the local government or local jurisdiction
128 prohibits the installation of the noise-attenuation barrier to
129 the extent the barrier screens or blocks visibility of the sign,
130 whereby the department shall not permit or erect the noise-
131 attenuation barrier to the extent the barrier screens or blocks
132 visibility of the sign ~~visibility screen, or other highway~~
133 ~~improvement~~.
134 Section 3. This act shall not apply to any existing
135 settlement agreement executed before the effective date of this

136 act between any local government and the owner of an outdoor
137 advertising sign.
138 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 375 CS Motor Vehicle Registration
SPONSOR(S): Barreiro
TIED BILLS: **IDEN./SIM. BILLS:** SB 738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	10 Y, 0 N, w/CS	Thompson	Miller
2) Transportation & Economic Development Appropriations Committee	12 Y, 0 N	McAuliffe	Gordon
3) State Infrastructure Council		Thompson J.T.	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

HB 375 w/CS requires the Department of Highway Safety and Motor Vehicles (DHSMV), to include a check-off for a voluntary $1.00 contribution to "Stop Heart Disease" on each motor vehicle registration and renewal form. The funds will be distributed to the Miami Heart Research Institute, Inc., doing business as the Florida Heart Research Institute, for heart disease research, education and prevention. The Miami Heart Research Institute, Inc., has completed the statutory requirements to seek Legislative enactment of a new voluntary contribution check-off on the motor vehicle registrations.

Currently, the motor vehicle registration and registration renewal form contains seven voluntary contribution check-offs. They include:

- $1.00 for the Nongame Wildlife Trust Fund
- $2.00 for the Highway Safety Operating Trust Fund
- $5.00 for the Election Campaign Financing Trust Fund
- $1.00 for the Transportation Disadvantaged Trust Fund
- $1.00 for the Prevent Blindness Florida
- An unspecified amount for Florida Mothers Against Drunk Driving, Inc.
- $1.00 for the Southeastern Guide Dogs, Inc.

The required $10,000 fee provided by the Miami Heart Research Institute, Inc. will defray DHSMV's programming costs associated with the development of the motor vehicle registration and renewal application check-off form.

This act will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Section 320.023, F.S., provides a procedure an organization must follow prior to seeking Legislative authorization to establish a voluntary check-off on a motor vehicle registration application. Before the organization is eligible, it must submit to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms;
- An application fee of up to $10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized; and
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than $25,000 has been contributed by the end of the fifth year, or if less than $25,000 is contributed during any subsequent 5-year period.

Currently, the motor vehicle registration and registration renewal form contains seven voluntary contribution check-offs. They include:

- $1.00 for the Nongame Wildlife Trust Fund
- $2.00 for the Highway Safety Operating Trust Fund
- $5.00 for the Election Campaign Financing Trust Fund
- $1.00 for the Transportation Disadvantaged Trust Fund
- $1.00 for the Prevent Blindness Florida
- An unspecified amount for Florida Mothers Against Drunk Driving, Inc.
- $1.00 for the Southeastern Guide Dogs, Inc.

HB 375 w/CS requires the DHSMV to include a check-off for a voluntary $1.00 contribution to "Stop Heart Disease" on each motor vehicle registration and renewal form. The Miami Heart Research Institute, Inc., doing business as the Florida Heart Research Institute, has completed the statutory requirements authorizing it to seek Legislative enactment of the voluntary contribution check-off. The bill also provides that the funds must be used for the purpose of heart disease research, education, and prevention programs.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.02, F.S., requiring the DHSMV to include a check-off for a voluntary $1.00 contribution to "Stop Heart Disease" on each motor vehicle registration and renewal form and provides for the use of funds.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   There are no known or expected fiscal impacts on state government revenues.

2. Expenditures:

   The required $10,000 fee provided by the Miami Heart Research Institute, Inc. will defray DHSMV's programming costs associated with the development of the motor vehicle registration and renewal application check-off.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   There are no known or expected fiscal impacts on local government expenditures.

2. Expenditures:

   There are no known or expected fiscal impacts on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons applying for registration or renewal of their vehicle will be permitted to make a $1.00 voluntary contribution to benefit "Stop Heart Disease." The contribution is not mandatory. The estimated first year revenues are not known.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No rule-making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On **January 26, 2006** the Committee on Transportation amended HB 375 to change the name of the corporation which receives the funds from the check-off for a voluntary $1.00 contribution to "Stop Heart Disease". The Miami Heart Research Institute, Inc. doing business as the Florida Heart Research Institute will receive the funds from the voluntary contribution check-off.

The committee then voted 10-0 to report the bill favorably with committee substitute.

CHAMBER ACTION

The Transportation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to motor vehicle registration; amending s. 320.02, F.S.; requiring that the application forms for registration and renewal contain a provision permitting a voluntary contribution to be distributed to Miami Heart Research Institute, Inc.; providing for use of the funds; exempting such funds from the general revenue service charge; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (16) of section 320.02, Florida Statutes, is amended to read:

320.02 Registration required; application for registration; forms.--

(16)(a) The application form for motor vehicle registration shall include language permitting the voluntary contribution of $1 per applicant, to be quarterly distributed by the department to Prevent Blindness Florida, a not-for-profit

24 organization, to prevent blindness and preserve the sight of the
25 residents of this state. A statement providing an explanation of
26 the purpose of the funds shall be included with the application
27 form. Prior to the department distributing the funds collected
28 pursuant to this paragraph, Prevent Blindness Florida must
29 submit a report to the department that identifies how such funds
30 were used during the preceding year.
31 (b) The application form for motor vehicle registration
32 and renewal of registration must include language permitting a
33 voluntary contribution to the Florida Mothers Against Drunk
34 Driving, Inc., which contribution must be transferred by the
35 department to the Florida Mothers Against Drunk Driving, Inc.,
36 on a monthly basis.
37 (c) The application form for motor vehicle registration
38 shall include language permitting the voluntary contribution of
39 $1 per applicant, to be distributed quarterly by the department
40 to Southeastern Guide Dogs, Inc., a corporation not for profit
41 under s. 501(c)(3) of the Internal Revenue Code, to be used by
42 that organization for the purpose of breeding, raising, and
43 training guide dogs for the blind. Such funds may also be used
44 toward the costs of the required in-residence training for the
45 individual receiving a guide dog.
46 (d) The application form for motor vehicle registration
47 and renewal of registration shall include language permitting a
48 voluntary contribution of $1 to "Stop Heart Disease." Such funds
49 shall be distributed quarterly by the department to the Miami
50 Heart Research Institute, Inc., doing business as the Florida
51 Heart Research Institute, a corporation not for profit under s.

52 501(c)(3) of the Internal Revenue Code. Funds shall be used by
53 the organization for the purpose of heart disease research,
54 education, and prevention programs.
55 (e) For the purpose of applying the service charge
56 provided in s. 215.20, contributions received under this
57 subsection are not income of a revenue nature.
58 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 385 CS Specialty License Plates
SPONSOR(S): Jordan
TIED BILLS: **IDEN./SIM. BILLS:** SB 460

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	11 Y, 0 N, w/CS	Thompson	Miller
2) Transportation & Economic Development Appropriations Committee	13 Y, 0 N	McAuliffe	Gordon
3) State Infrastructure Council		Thompson J.T.	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

Under current law the annual use fees for the Police Athletic League License Plates are distributed to the Florida Police Athletic League, Inc., to provide educational materials, athletic equipment, transportation, food, medical checkups, counseling, scholarships, and other direct expenses incurred by the league in conducting its youth programs.

HB 385 w/CS directs the Police Athletic League's license plate annual use fees to be distributed to the State of Florida Association of Police Athletic/Activities Leagues, Inc. The purpose is to reflect an administrative change in the corporation name that receives the proceeds from the sale of Police Athletic League license plates. The bill authorizes the use of up to 15 percent of the proceeds for administrative costs and up to 10 percent for marketing and promotional expenses.

Under current law, the annual use fees for the motorcycle specialty license plates are distributed to The Abel Trust which may retain a portion of the fees for administrative costs and distributes the remaining funds to the following organizations:

- Twenty-five percent to the Brain and Spinal Cord Injury Program Trust Fund,
- Twenty-five percent to Prevent Blindness Florida,
- Twenty-five percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program, and
- Twenty-five percent to the Florida Association of Centers for Independent Living for the purpose of setting up direct-support organizations for each center, and for programs and activities serving disabled Floridians.

The bill redistributes the proceeds collected for each motorcycle specialty license plate as follows:

- Twelve and one-half percent to Prevent Blindness Florida,
- Twelve and one-half percent to the Blind Services Foundation of Florida, and
- Twenty-five percent to be used to leverage additional funding and new sources of revenue for the centers for independent living in this state by the Florida Association of Centers for Independent Living.

The current percentages distributed to the Brain and Spinal Cord Injury Program and to the Foundation for Vocational Rehabilitation are not changed.

The bill will not have a fiscal impact on the Department of Highway Safety and Motor Vehicles. The bill will have a fiscal impact on the organizations receiving funds from the sale of motorcycle specialty license plates. HB 385 w/CS takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Specialty license plates are listed in s. 320.08058, F.S. Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. The legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Section 320.08056, F.S., specifies annual use fees ranging from $15 to $25 for the various specialty plates, which are paid in addition to required license taxes and service charges.

Funds derived from these annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in s. 320.08058, F.S. This section also provides for the uses of funds derived for each plate from its annual use fee. There is wide variation on the uses of these fees regarding administrative costs and marketing or promotion expenses. For example, the "Support Soccer" license plate[1] allows 25 percent of funds to be used for promotion and marketing and 5 percent to be used for administrative costs; while the "United We Stand" license plate[2] requires that 100 percent of funds be used for airport security grants.

The Police Athletic League license plate[3] was created by the legislature in 1996 by chapter 96-163, Laws of Florida. This license plate ranks 24th in popularity for the number of license plates currently issued. The Police Athletic League license plate raised $328,500 in calendar year 2004, with $1.8 million raised from 1997 to 2004.

Currently the annual use fees from the Police Athletic League license plates are distributed to the Florida Police Athletic League, Inc., to provide educational materials, athletic equipment, transportation, food, medical checkups, counseling, scholarships, and other direct expenses incurred by the league in conducting its youth programs. The Police Athletic League, Inc. is not authorized to use any portion of the license plate proceeds for administrative, marketing or promotional costs.

The motorcycle specialty license plate[4] was created by the legislature in 2003 by chapter 2003-280, Laws of Florida. This license plate ranks 41st in popularity for the number of license plates currently issued. The motorcycle specialty license plate raised $98,820 in calendar year 2004, with $246,945 raised from 2003 to 2004.

Currently the annual use fees for the motorcycle specialty license plates are distributed to The Abel Trust which may retain up to 10 percent of the proceeds for administrative costs and distributes the remaining funds to the following organizations:

- Twenty-five percent to the Brain and Spinal Cord Injury Program Trust Fund,
- Twenty-five percent to Prevent Blindness Florida,
- Twenty-five percent to the Foundation for Vocational Rehabilitation to support the Personal Care Attendant Program, and

[1] s. 320.08058 (54), F.S.,
[2] s. 320.08058 (33), F.S.,
[3] s. 320.08058 (16), F.S.,
[4] s. 320.08068, F.S.

- Twenty-five percent to the Florida Association of Centers for Independent Living for the purpose of setting up direct-support organizations for each center, and for programs and activities serving disabled Floridians.

Proposed Changes

HB 385 w/CS amends s. 320.08058, F.S., transferring distribution of the annual use fees of Police Athletic League license plates from the Florida Police Athletic League, Inc., to the State of Florida Association of Police Athletic/Activities Leagues, Inc. The purpose is to reflect an administrative change in the corporation that receives the proceeds from the sale of Police Athletic League license plates.

The bill authorizes the use of a portion of the Police Athletic League funds for administrative and promotional costs. The league may use a maximum of 15 percent of such fees for administrative costs and a maximum of 10 percent to market and promote the plate.

The bill also redistributes the proceeds collected for each motorcycle specialty license plate as follows:

- Twelve and one-half percent to Prevent Blindness Florida,
- Twelve and one-half percent to the Blind Services Foundation of Florida, and
- Twenty-five percent to be used to leverage additional funding and new sources of revenue for the centers for independent living in this state by the Florida Association of Centers for Independent Living.

The current percentages of license plate proceeds distributed to the Brain and Spinal Cord Injury Program and to the Foundation for Vocational Rehabilitation are not changed by the bill.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08058, F.S., providing distribution and allocation of annual use fees from the sale of the Police Athletic League license plate.

Section 2. Amends s. 320.08068, F.S., providing distribution and allocation of annual use fees from the sale of the Motorcycle Specialty license plate.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector. However, the entities that receive funding from motorcycle specialty license plates would be affected by changing how the proceeds are distributed. Also, the Blind Services Foundation of Florida, which does not currently receive funding from the sale of motorcycle specialty license plates, would benefit from receiving twelve and one-half percent of the proceeds.

D. FISCAL COMMENTS:

If the bill's provisions were effective in 2004, the Police Athletic League, Inc. would have been authorized to use $49,275 for administrative costs and $32,850 for marketing and promotion.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The purpose of the transfer of proceeds is to reflect an administrative change in the corporation that receives the proceeds from the sale of Police Athletic League license plates. The new corporation is on file with the Department of State, Division of Corporations, listed as the State of Florida Association of Police Athletic Leagues/Activities, Inc.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 26, 2006 the Committee on Transportation amended HB 385 to redistribute the proceeds collected for motorcycle specialty license plates; and to modify how the Florida Association of Centers for Independent Living may use its share of license plate proceeds.

The committee then voted 11-0 to report the bill favorably with committee substitute.

CHAMBER ACTION

The Transportation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to specialty license plates; amending s. 320.08058, F.S.; providing for the proceeds from the sale of Police Athletic League license plates to be distributed to the State of Florida Association of Police Athletic/Activities Leagues, Inc.; authorizing the use of a portion of such fees for administrative and promotional cost; amending s. 320.08068, F.S.; revising provisions for distribution of proceeds from the sale of motorcycle specialty license plates; requiring a portion of the proceeds to be distributed to the Blind Services Foundation of Florida; revising amounts distributed and permissible uses of the proceeds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (16) of section 320.08058, Florida Statutes, is amended to read:

24 320.08058 Specialty license plates.--
25 (16) POLICE ATHLETIC LEAGUE LICENSE PLATES.--
26 (a) The department shall develop a Police Athletic League
27 license plate as provided in this section to commemorate the
28 Police Athletic League in this state. The word "Florida" must
29 appear at the top of the plate, the words "Police Athletic
30 League" must appear at the bottom of the plate, and a shield
31 with the Police Athletic League logo must appear to the left of
32 the numerals.
33 (b)1. The annual use fees shall be distributed to the
34 State of Florida Association of Police Athletic/Activities
35 Leagues, Inc.
36 2. The league may use a maximum of 15 percent of such fees
37 for administrative costs and a maximum of 10 percent to market
38 and promote the plate. The balance of such fees shall be used
39 ~~Florida Police Athletic League, Inc.,~~ to provide educational
40 materials, athletic equipment, transportation, food, medical
41 checkups, counseling, scholarships, and other direct expenses
42 incurred by the league in conducting its youth programs.
43 Section 2. Subsection (4) of section 320.08068, Florida
44 Statutes, is amended to read:
45 320.08068 Motorcycle specialty license plates.--
46 (4) A license plate annual use fee of $15 shall be
47 collected for each motorcycle specialty license plate. Annual
48 use fees shall be distributed to The Able Trust as custodial
49 agent. The Able Trust may retain a maximum of 10 percent of the
50 proceeds from the sale of the license plate for administrative

51 costs. The Able Trust shall distribute the remaining funds as
52 follows:
53 (a) Twenty-five percent to the Brain and Spinal Cord
54 Injury Program Trust Fund.
55 (b) Twelve and one-half ~~Twenty-five~~ percent to Prevent
56 Blindness Florida.
57 (c) Twelve and one-half percent to the Blind Services
58 Foundation of Florida.
59 (d) ~~(c)~~ Twenty-five percent to the Foundation for
60 Vocational Rehabilitation to support the Personal Care Attendant
61 Program pursuant to s. 413.402.
62 (e) ~~(d)~~ Twenty-five percent to the Florida Association of
63 Centers for Independent Living to be used to leverage additional
64 funding and new sources of revenue for the centers for
65 independent living in this state ~~for the purpose of setting up~~
66 ~~direct-support organizations for each center, and for programs~~
67 ~~and activities serving disabled Floridians. Each center~~
68 ~~participating in the development of a direct-support~~
69 ~~organization shall be eligible to apply through the Association~~
70 ~~for a startup grant of up to $50,000. Thereafter, to the extent~~
71 ~~that funds are available, each participating center may apply~~
72 ~~for funds in the form of matching grants. The first year, the~~
73 ~~centers shall provide 25 cents for each dollar requested. The~~
74 ~~second year, the center shall provide 50 cents to each dollar~~
75 ~~requested, and thereafter, the center shall provide a dollar for~~
76 ~~dollar match for each dollar requested. The match shall be from~~
77 ~~private, nongovernmental sources~~.
78 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 487 Commission for the Transportation Disadvantaged
SPONSOR(S): Robaina and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 634

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Fiscal Council	15 Y, 0 N	McAuliffe	Kelly
2) State Infrastructure Council		Green	Havlicak
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 487 makes a number of administrative changes to the Florida Commission for the Transportation Disadvantaged (Commission). The bill reduces the membership of the Commission from 27 to 7 persons, and provides all of the members will be appointed by the Governor.

The bill also provides:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and may not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., certain transportation related entities.
- The Commission must create a technical advisory committee, and set the size and membership to include representatives of private paratransit providers. The technical advisory committee will advise the Commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the Commission may appoint other technical advisory committees.

In addition, the bill requires each Commission candidate, prior to accepting the appointment, to undergo a security background investigation. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with the Florida Department of Transportation (DOT). The fingerprints must be submitted to the Florida Department of Law Enforcement (FDLE) for state processing, and to the Federal Bureau of Investigation (FBI) for federal processing.

The bill also directs the Commission to develop a funding methodology or formula that equitably distributes funds under its control using certain criteria.

The bill does not raise any apparent constitutional or other legal issues, nor does the bill significantly impact state revenues or expenditures.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill reduces the number of members on the Florida Commission for the Transportation Disadvantaged from 27 to 7.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Commission for the Transportation Disadvantaged was created in 1979 by the Legislature.[1] The Commission coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens. Its mission is to ensure the availability of efficient, cost-effective and quality transportation services for transportation disadvantaged persons. The Commission also administers the Transportation Disadvantaged (TD) Trust Fund. The TD Trust Fund is used to subsidize trips, provide funding for TD eligible persons not otherwise funded, and provide for administrative expenses.

Over the years, the Legislature has modified the program's administrative structure, program responsibilities, and funding. A 27-member Commission sets state policy and oversees its statewide implementation, and distributes a share of its budgeted funds to the local providers, based on the Commission's criteria. Commissioners represent a broad spectrum of interested parties, including social service agencies, a public transit association, various citizens' advocacy groups from rural and urban areas, transportation providers, the non-transportation business community, and DOT. Appointments to the Commission are made by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The current Commission membership includes:

- The secretary of the DOT or the secretary's designee.
- The secretary of the Department of Children and Family Services or the secretary's designee.
- The Commissioner of Education or the commissioner's designee.
- The director of the Agency for Workforce Innovation or the director's designee.
- The executive director of the Department of Veterans' Affairs or the executive director's designee.
- The secretary of the Department of Elderly Affairs or the secretary's designee.
- The director of the Agency for Health Care Administration (AHCA) or the director's designee.
- A representative of the Florida Association for Community Action, who serves at the pleasure of that association.
- A representative of the Florida Transit Association, who serves at the pleasure of that association.
- A person over the age of 60 who is a member of a recognized statewide organization representing elderly Floridians. Such person is appointed by the Governor for a term of four years to represent elderly Floridians.
- A person with a disability who is a member of a recognized statewide organization representing Floridians with disabilities. Such person is appointed by the Governor for a term of four years to represent Floridians with disabilities.
- Two citizen advocate representatives, appointed by the Governor for a term of four years, one representing rural citizens and one representing urban citizens.
- A representative of the community transportation coordinators appointed by the Governor for a term of four years, to represent all community transportation coordinators.

[1] See Part I of Chapter 427, F.S.

- One member of the Early Childhood Council. Such person is appointed by the Governor for a term of four years to represent maternal and child health care.
- Two representatives of current private for-profit or private not-for-profit transportation operators each of which have a minimum of five years of continuous experience operating a broad-based system of ambulatory and wheelchair/stretcher type transportation, utilizing not less than 50 vehicles and including dispatch and scheduling responsibilities. Such persons are appointed by the Commissioner of Agriculture to serve a term of four years.
- Four representatives of current private for-profit or private not-for-profit transportation operators, each of which having a minimum of five years of continuous experience operating a broad-based system of ambulatory and wheelchair or stretcher-type transportation, utilizing not less than 50 vehicles, and including dispatch and scheduling responsibilities. Such persons are appointed by the Commissioner of Agriculture to serve a term of four years.
- Six citizens representing the nontransportation business community of the state, three members appointed by the President of the Senate and three members appointed by the Speaker of the House of Representatives.[2]

The Commission is housed within DOT for administrative purposes only.

Florida's 67 counties are divided into 50 TD service areas. While most urban counties are single-county service areas, some rural counties are organized into multi-county service areas. All 67 counties have some level of TD service for elderly, disabled, or needy residents. According to the Commission's most recent annual report, in fiscal year 2004-2005 almost 50.1 million trips were provided to clients, about a 12-percent decrease over fiscal year 2003-2004. There were 841,190 passengers served last fiscal year. About half of the trips are to doctor's offices or medical facilities, and transportation to educational or training facilities ranks second.

Total funding for TD services in Florida – from public and private sources – was $353 million in fiscal year 2004-2005. Not all of those funds were expended directly by the Commission, which relied, until recently, on an average of $25 million to $35 million which it received from four statutory program earmarks and special appropriations from the Legislature.

For fiscal year 2004-2005, the state appropriation was $38 million. As of November 1, 2004, with the signing of a memorandum of agreement with AHCA, the Commission also has spending authority over an estimated $68 million in Medicaid funds for non-emergency transportation (NET) services for Medicaid clients.

The Commission coordinates TD services at the state and local level. At the statewide level, the Commission assists communities in establishing coordinated transportation systems; manages contracts and memoranda of agreement; ensures state agencies purchase transportation services from within the TD coordinated system, unless a more cost-effective provider outside the coordinated system can be found by the purchasing agency; and approves the local entities that manage the delivery of transportation services to eligible clients.

At the local level, the TD program is implemented through a network of planning agencies, local advisory boards, community transportation coordinators (CTC's), and transportation operators. Local planning agencies, such as a metropolitan planning organization (MPO) or regional planning council, appoint and staff each local coordinating board. A local elected official chairs each coordinating board. These local boards also recommend the CTC to the Commission.

The CTC's are the entities responsible for the actual arrangement or delivery of transportation services within their local service area. A CTC may be a government entity, a transit agency, a private not-for-profit agency or a for-profit company. A CTC may function as a sole-source provider of TD services, or it may broker part or all of the trips to transportation operators. The Commission enters into a

[2] Section 427.012, F.S.

memorandum of agreement for services with a CTC. This agreement identifies the anticipated service population, service area, information regarding any subcontractors, and rates for services.

The Commission has also recently assumed responsibility and funding for the Medicaid NET services. As managers of the NET program, the Commission identifies and enters into agreements with subcontracted transportation providers, and pays them a monthly lump-sum amount. These subcontracted transportation providers in turn use these funds to pay the local transportation operators providing the services.

According to the Commission, when AHCA transferred to the commission only $68 million in Medicaid funds, rather than the $75 million the Commission had budgeted for NET services, the Commission readjusted its formula to address the budget cut. The final allocation resulted in an approximate 11-percent reduction for all counties for the November 1, 2005 – June 30, 2006 time period.

Effects of Proposed Changes

The bill makes a number of administrative changes to the Commission. First, it significantly restructures the Commission by reducing the Commission's membership from 27 to 7 persons. All seven members are appointed by the Governor. Two of the members must be persons with a disability and who use the transportation disadvantaged system. Five of the members must have significant experience in the operation of a business. In addition, when making an appointment, the bill provides it is the intent of the Legislature that the Governor selects persons who reflect the broad diversity of the business community in the state, as well as the racial, ethnic, geographical, and gender diversity of the population of this state.

The following serve as ex officio, nonvoting advisors to the Commission:

- The DOT secretary or a designee;
- The Department of Children and Family Services secretary or designee;
- The Agency for Workforce Innovation director or designee;
- The Department of Veteran's Affairs executive director or designee;
- The Department of Elderly Affairs secretary or designee;
- The AHCA director or designee;
- The Agency for Persons with Disabilities director or designee; and
- An elected local government official who is appointed by the Governor.

As a result of reducing the membership of the Commission, the bill revises the number of Commission members to five which are needed to constitute a quorum. In addition, the bill provides the chair of the Commission will be appointed by the Governor. The vice chairperson will be elected annually from the membership of the commission.

The bill also specifies a number of requirements on TD commissioners. These are:

- Commissioners must represent the needs of transportation disadvantaged persons statewide, and they may not subordinate the transportation needs of persons statewide to favor a specific region of the state.
- Appointed commissioners serve a term of four years and may be reappointed for one additional four-year term.
- Commissioners must be residents of Florida and registered voters.
- Commissioners, other than elected officials, may not within the five years immediately before the appointment, or during his or her term on the Commission, have or have had a financial relationship with, or represent or have represented as a lobbyist as defined in s. 11.045, F.S., the following:
    - A transportation operator;
    - A community transportation coordinator;
    - A metropolitan planning organization;

- A designated official planning agency;
- A purchaser agency;
- A local coordinating board;
- A broker of transportation; or
- A provider of transportation services.

- The Commission is required to create a technical advisory committee, and set the size and membership to include representatives of private paratransit providers. The technical advisory committee will advise the Commission on issues of importance to the state, including information, advice and direction regarding the coordination of services for the transportation disadvantaged. In addition, the Commission may appoint other technical advisory committees whose members may include representatives of community transportation coordinators; metropolitan planning organizations; regional planning councils; experts in insurance, marketing, economic development, or financial planning; and users of the transportation disadvantaged system, or their relatives, parents, guardians, or service professionals who tend to their needs.

In addition, the bill requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation pursuant to s. 435.04, F.S. A complete set of fingerprints taken by an authorized law enforcement agency must be filed with the Department of Transportation (DOT). The fingerprints must be submitted to the Florida Department of Law Enforcement (FDLE) for state processing, and to the Federal Bureau of Investigation (FBI) for federal processing. The DOT must screen the background results and report to the Commission any candidate who fails to meet the level 2 screening standards of s. 435.04, F.S., which list 47 criminal offenses. Any candidate found through fingerprint processing to have failed to meet such standards may not be appointed as a member of the Commission. Finally, the bill requires the costs of the background screening to be paid by DOT or the appointed candidate.

The bill directs the Commission to develop a funding methodology or formula that equitably distributes funds, to include Medicaid nonemergency funds, under its control using certain criteria, and which ensures not only the actual costs of each trip but also efficiencies a provider might adopt to reduce costs are taken into account, including cost efficiencies of trips when comparing like services to the local cost of private paratransit providers.

C. SECTION DIRECTORY:

Section 1. Amends s. 427.012, F.S., to amend membership of the Commission. Specifies requirements for commissioners. Provides for ex officio, nonvoting advisors to the Commission. Requires each appointed Commission candidate, prior to accepting the appointment, to undergo a security background investigation. Provides for creation of technical advisory committees.

Section 2. Amends s. 427.013, F.S., to require the Commission to develop equitable funding methodology or formula.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

DOT may be responsible for costs associated with the required background screening of a candidate prior to appointment to the Commission. FDLE indicates each criminal history check costs $47. [3]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Candidates for the Commission may be responsible for costs associated with the required background screening prior to appointment to the Commission.

FDLE reports each request will cost $47; $23 goes into the FDLE Operating Trust Fund. $24 from each request is forwarded to the FBI; this is not revenue for Florida, but an expense for the private sector.[4]

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to HB 487 because the legislation does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

3. Other:

None

B. RULE-MAKING AUTHORITY:

The Commission has sufficient rulemaking authority to implement the provisions of HB 487.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[3] Fiscal analysis of HB 487 by FDLE (on file with Council staff).
[4] Ibid

1 A bill to be entitled
2 An act relating to the Commission for the Transportation
3 Disadvantaged; amending s. 427.012, F.S.; revising the
4 membership of the commission; establishing term limits;
5 directing each member of the commission to serve without
6 regional bias; providing qualifications for appointment to
7 membership on the commission; providing for nonvoting
8 advisory members; requiring candidates for appointment to
9 the commission to meet certain standards for background
10 screening; requiring the Department of Transportation to
11 inform the commission if a candidate fails to meet the
12 screening standards; providing that costs of screening be
13 borne by the department or the candidate for appointment;
14 authorizing the commission to appoint technical advisory
15 committees; amending s. 427.013, F.S.; requiring the
16 commission to develop an allocation methodology to
17 equitably distribute transportation funds under the
18 control of the commission to counties, community
19 transportation coordinators, or other entities providing
20 services to the transportation disadvantaged; providing an
21 effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Section 427.012, Florida Statutes, is amended
26 to read:
27 427.012 The Commission for the Transportation
28 Disadvantaged.--There is created the Commission for the

29 Transportation Disadvantaged in the Department of
30 Transportation.
31 (1) The commission shall consist of seven members, all of
32 whom shall be appointed by the Governor.
33 (a) Five of the members must have significant experience
34 in the operation of a business and it is the intent of the
35 Legislature that, when making an appointment, the Governor
36 select persons who reflect the broad diversity of the business
37 community in this state, as well as the racial, ethnic,
38 geographical, and gender diversity of the population of this
39 state.
40 (b) Two of the members must have a disability and use the
41 transportation disadvantaged system.
42 (c) Each member shall represent the needs of the
43 transportation disadvantaged throughout the state. A member may
44 not subordinate the needs of the transportation disadvantaged in
45 general in order to favor the needs of others residing in a
46 specific location in the state.
47 (d) Each member shall be appointed to a term of 4 years. A
48 member may be reappointed for one additional 4-year term.
49 (e) A member must be a resident of the state and a
50 registered voter.
51 (f) The Secretary of Transportation, the Secretary of
52 Children and Family Services, the director of Workforce
53 Innovation, the executive director of the Department of
54 Veterans' Affairs, the Secretary of Elderly Affairs, the
55 Secretary of Health Care Administration, the director of the
56 Agency for Persons with Disabilities, and an elected local

57 government official who is appointed by the Governor, or a
58 designee of each, shall serve as ex officio, nonvoting advisors
59 to the commission.
60 (g) A member may not, within the 5 years immediately
61 before his or her appointment, or during his or her term on the
62 commission, have or have had a financial relationship with, or
63 represent or have represented as a lobbyist as defined in s.
64 11.045, the following:
65 1. A transportation operator;
66 2. A community transportation coordinator;
67 3. A metropolitan planning organization;
68 4. A designated official planning agency;
69 5. A purchaser agency;
70 6. A local coordinating board;
71 7. A broker of transportation; or
72 8. A provider of transportation services. ~~the following~~
73 ~~members:~~
74 ~~(a) The secretary of the Department of Transportation or~~
75 ~~the secretary's designee.~~
76 ~~(b) The secretary of the Department of Children and Family~~
77 ~~Services or the secretary's designee.~~
78 ~~(c) The Commissioner of Education or the commissioner's~~
79 ~~designee.~~
80 ~~(d) The director of the Agency for Workforce Innovation or~~
81 ~~the director's designee.~~
82 ~~(e) The executive director of the Department of Veterans'~~
83 ~~Affairs or the executive director's designee.~~
84 ~~(f) The secretary of the Department of Elderly Affairs or~~

85 ~~the secretary's designee.~~
86 ~~(g) The director of the Agency for Health Care~~
87 ~~Administration or the director's designee.~~
88 ~~(h) A representative of the Florida Association for~~
89 ~~Community Action, who shall serve at the pleasure of that~~
90 ~~association.~~
91 ~~(i) A representative of the Florida Transit Association,~~
92 ~~who shall serve at the pleasure of that association.~~
93 ~~(j) A person over the age of 60 who is a member of a~~
94 ~~recognized statewide organization representing elderly~~
95 ~~Floridians. Such person shall be appointed by the Governor to~~
96 ~~represent elderly Floridians and shall be appointed to serve a~~
97 ~~term of 4 years.~~
98 ~~(k) A handicapped person who is a member of a recognized~~
99 ~~statewide organization representing handicapped Floridians. Such~~
100 ~~person shall be appointed by the Governor to represent~~
101 ~~handicapped Floridians and shall be appointed to serve a term of~~
102 ~~4 years.~~
103 ~~(l) Two citizen advocate representatives who shall be~~
104 ~~appointed by the Governor for a term of 4 years, one~~
105 ~~representing rural citizens and one representing urban citizens.~~
106 ~~(m) A representative of the community transportation~~
107 ~~coordinators. Such person shall be appointed by the Governor to~~
108 ~~represent all community transportation coordinators and shall be~~
109 ~~appointed to serve a term of 4 years.~~
110 ~~(n) One member of the Early Childhood Council. Such person~~
111 ~~shall be appointed by the Governor to represent maternal and~~
112 ~~child health care providers and shall be appointed to serve a~~

113 ~~term of 4 years.~~
114 ~~(o) Two representatives of current private for-profit or~~
115 ~~private not-for-profit transportation operators each of which~~
116 ~~have a minimum of 5 years of continuous experience operating a~~
117 ~~broad-based system of ambulatory and wheelchair/stretcher type~~
118 ~~transportation, utilizing not less than 50 vehicles and~~
119 ~~including dispatch and scheduling responsibilities. Such persons~~
120 ~~shall be appointed by the Commissioner of Agriculture to serve a~~
121 ~~term of 4 years.~~
122 ~~(p) Four representatives of current private for-profit or~~
123 ~~private not-for-profit transportation operators, each of which~~
124 ~~having a minimum of 5 years of continuous experience operating a~~
125 ~~broad-based system of ambulatory and wheelchair or stretcher-~~
126 ~~type transportation, utilizing not less than 50 vehicles, and~~
127 ~~including dispatch and scheduling responsibilities. Such persons~~
128 ~~shall be appointed by the Commissioner of Agriculture to serve a~~
129 ~~term of 4 years.~~
130 ~~(q) Six citizens representing the nontransportation~~
131 ~~business community of the state, three members appointed by the~~
132 ~~President of the Senate and three members appointed by the~~
133 ~~Speaker of the House of Representatives.~~
134 (2) The chairperson shall be appointed by the Governor and
135 the vice chairperson of the commission shall be elected annually
136 from the membership of the commission.
137 (3) Members of the commission shall serve without
138 compensation but shall be allowed per diem and travel expenses,
139 as provided in s. 112.061.
140 (4) The commission shall meet at least quarterly, or more

141 frequently at the call of the chairperson. Five ~~Nine~~ members of
142 the commission constitute a quorum, and a majority vote of the
143 members present is necessary for any action taken by the
144 commission.
145 (5) The Governor may remove any member of the commission
146 for cause.
147 (6) Each candidate for appointment to the commission must,
148 before accepting the appointment, undergo background screening
149 under s. 435.04 by filing with the Department of Transportation
150 a complete set of fingerprints taken by an authorized law
151 enforcement agency. The fingerprints must be submitted to the
152 Department of Law Enforcement for state processing, and that
153 department shall submit the fingerprints to the Federal Bureau
154 of Investigation for federal processing. The Department of
155 Transportation shall screen the background results and inform
156 the commission of any candidate who does not meet level 2
157 screening standards. A candidate who has not met level 2
158 screening standards may not be appointed to the commission. The
159 cost of the background screening may be borne by the Department
160 of Transportation or the candidate.
161 (7) ~~(6)~~ The commission shall appoint an executive director
162 who shall serve under the direction, supervision, and control of
163 the commission. The executive director, with the consent of the
164 commission, shall employ such personnel as may be necessary to
165 perform adequately the functions of the commission within
166 budgetary limitations. ~~All~~ Employees of the commission are
167 exempt from the Career Service System.
168 (8) The commission shall appoint a technical advisory

169 committee that includes representatives of private paratransit
170 providers. The committee shall advise the commission on issues
171 of importance to the state, including information, advice, and
172 direction regarding the coordination of services for the
173 transportation disadvantaged. The commission may appoint other
174 technical advisory committees whose members may include
175 representatives of community transportation coordinators;
176 metropolitan planning organizations; regional planning councils;
177 experts in insurance, marketing, economic development, or
178 financial planning; and persons who use transportation for the
179 transportation disadvantaged, or their relatives, parents,
180 guardians, or service professionals who tend to their needs.
181 (9) ~~(7)~~ The commission is assigned to the office of the
182 secretary of the Department of Transportation for administrative
183 and fiscal accountability purposes, but it shall otherwise
184 function independently of the control, supervision, and
185 direction of the department.
186 (10) ~~(8)~~ The commission shall develop a budget pursuant to
187 chapter 216. The budget is not subject to change by the
188 department staff after it has been approved by the commission,
189 but it shall be transmitted to the Governor, as head of the
190 department, along with the budget of the department.
191 Section 2. Subsection (12) of section 427.013, Florida
192 Statutes, is amended to read:
193 427.013 The Commission for the Transportation
194 Disadvantaged; purpose and responsibilities.--The purpose of the
195 commission is to accomplish the coordination of transportation
196 services provided to the transportation disadvantaged. The goal

197 of this coordination shall be to assure the cost-effective
198 provision of transportation by qualified community
199 transportation coordinators or transportation operators for the
200 transportation disadvantaged without any bias or presumption in
201 favor of multioperator systems or not-for-profit transportation
202 operators over single operator systems or for-profit
203 transportation operators. In carrying out this purpose, the
204 commission shall:
205 (12) (a) Have the authority to apply for and accept funds,
206 grants, gifts, and services from the Federal Government, state
207 government, local governments, or private funding sources.
208 Applications by the commission for local government funds shall
209 be coordinated through the appropriate coordinating board. Funds
210 acquired or accepted under this subsection shall be administered
211 by the commission and shall be used to carry out the
212 commission's responsibilities.
213 (b) Develop an allocation methodology or formula that
214 equitably distributes all funds, including Medicaid nonemergency
215 transportation funds, under the control of the commission to
216 compensate counties, community transportation coordinators, or
217 other entities providing transportation disadvantaged services.
218 The formula shall consider not only the actual costs of each
219 trip provided for the transportation disadvantaged but also
220 efficiencies that a provider might adopt to reduce costs,
221 including cost efficiencies of trips when comparing like
222 services to the local cost of private paratransit providers.
223 Section 3. This act shall take effect July 1, 2006.