State Infrastructure Council

MEETING PACKET

Tuesday, April 4, 2006
1:00 pm – 1:45 pm
404 House Office Building

REVISED

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

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

State Infrastructure Council

Start Date and Time:	Tuesday, April 04, 2006 01:00 pm
End Date and Time:	Tuesday, April 04, 2006 01:45 pm
Location:	404 HOB
Duration:	0.75 hrs

Consideration of the following bill(s):

HB 415 CS Tax on Sales, Use, and Other Transactions by Quinones
HB 615 Professional Sports Franchises by Simmons
HB 791 CS Road Designations by Fields
HB 935 CS Temporary Buildings by Benson
HB 963 CS License Plates by Gannon
HB 1077 CS Motor Vehicle Dealers by Russell
HB 1415 CS Traffic Control by Sansom

NOTICE FINALIZED on 03/31/2006 15:48 by DUNAWAY.JOYCE

The Florida House of Representatives

State Infrastructure Council

Dave Russell
Chair

303 House Office Building
(850) 414-9786

AGENDA
April 4, 2006
1:00 pm – 1:45 pm
404 House Office Building

I. Opening Remarks, Chair Dave Russell

II. Consideration of the following bills:

- **CS/HB 415 by Rep. Quinones – Tax on Sales, Use and Other Transactions**
- **HB 615 by Simmons – Professional Sports Franchises**
- **CS/HB 791 by Rep. Fields – Road Designations**
- **CS/HB 935 by Rep. Benson – Temporary Buildings**
- **CS/HB 963 by Rep. Gannon – License Plates**
- **CS/HB 1077 by Rep. Russell – Motor Vehicle Dealers**
- **CS/HB 1415 by Rep. Sansom – Traffic Control**

III. Closing Remarks, Chair Russell

IV. Adjourn

402 South Monroe Street, Tallahassee, Florida 32399-1300 – FAX (850) 414-6872

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 415 CS Tax on Sales, Use, and Other Transactions
SPONSOR(S): Quinones and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 962

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Spaceport & Technology Committee	4 Y, 0 N	Whittier	Saliba
2) Finance & Tax Committee	9 Y, 0 N, w/CS	Noriega	Diez-Arguelles
3) State Infrastructure Council		Whittier	Havlicak
4)			
5)			

SUMMARY ANALYSIS

The bill exempts machinery and equipment used predominantly for research and development activities from the state sales and use tax.

The bill increases sales and use tax exemption for industrial machinery and equipment used for the production of space or defense technology products from 25 percent to 100 percent. Also, the bill expands this production exemption to include the design or assembly of space or defense technology products. In addition, the bill amends the definition of space technology products by adding space flight vehicles and components of any of the items covered by the definition.

The Department of Revenue is authorized to promulgate rules to implement the exemption for machinery and equipment used for research and development.

The Revenue Estimating Conference has estimated that this bill will have a negative fiscal impact of $24.8 million to state government and $6.1 million to local governments in FY 2006-07, and of $27.1 million to state government and $6.1 million to local governments in FY 2007-08.

This bill appears to be a mandate that requires a 2/3 vote of the membership of each house to pass.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill exempts the purchase of machinery and equipment used predominantly for research and development activities from the state sales and use tax, and eliminates the sales tax on the purchase of machinery and equipment used to produce space and defense technology products.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 212.052(2), F.S., provides that any person, including an affiliated group,[1] who manufactures, produces, compounds, processes, or fabricates tangible personal property for the taxpayer's own use directly and solely in research or development shall not be subject to the tax imposed by chapter 212. This includes the cost of the manufactured, produced, compounded, processed, or fabricated product. However, taxes are due on the purchase, rental, or repair of real property or tangible personal property employed in research or development which is subject to the tax.

The term "research or development" is defined as research which has one of the following as its ultimate goal:

- Basic research in a scientific field of endeavor;
- Advancing knowledge or technology in a scientific field or technical field of endeavor;
- The development of a new product, whether the new product is offered for sale;
- The improvement of an existing product, whether the new or improved product is offered for sale;
- The development of new uses of an existing product, whether a new use is offered as a rationale to purchase the product; or
- The design and development of prototypes, whether a resulting product is offered for sale.

Research or development does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency or consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar non-technical activities.[2]

The tax exemption does not apply to any product of research or development which is used in the ordinary course of business, other than for research or development, except and to the extent that the knowledge, technology, science, design, plan, patent, or understanding which is derived from the product of research or development is applied in the ordinary course of business. In addition, this section does not apply to any product of research or development that is tangible personal property which is offered for sale.

Section 212.08(5)(j), F.S., provides exemptions for machinery and equipment used in semiconductor (100 percent exemption), defense (25 percent exemption), or space (25 percent exemption) technology production and research and development (R & D) from sales tax on the following: sales, rental, use, consumption, distribution, and storage. Machinery and equipment includes molds, dies, machine

[1] Section 212.052(2), F.S., As defined in s. 1504 of the Internal Revenue Code of 1954, an "affiliated group" is generally defined as one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation.
[2] See s. 212.052(1)(a), F.S.

tooling, other appurtenances or accessories to machinery and equipment, testing equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials and labor for design, fabrication, and assembly. "Predominately," where used, is defined as at least 50 percent of the time.

The two exemptions for the semiconductor industry are:

- Industrial machinery and equipment used in semiconductor technology facilities certified to manufacture, process, compound, or produce semiconductor technology products for sale or use by these facilities are exempt from the tax imposed by chapter 212, F.S.; and

- Machinery and equipment are exempt from the tax imposed by chapter 212, F.S., if used predominantly in semiconductor wafer research and development activities in a certified semiconductor technology research and development facility.

The two exemptions for the defense and space industries are:

- Industrial machinery and equipment used in defense or space technology facilities certified to manufacture, process, compound, or produce defense technology products or space technology products for sale or use by these facilities are exempt from 25 percent of the tax imposed by chapter 212.F.S.; and

- Machinery and equipment are exempt from 25 percent of the tax imposed by chapter 212, F.S., if used predominately in defense or space research and development activities in a certified defense or space technology research and development facility.

In all of the above cases, a business entity must apply to Enterprise Florida, Inc. (EFI), to certify that machinery and equipment purchased are used consistent with the requirements described above. Once the application is determined to be complete, EFI evaluates the application and recommends approval or disapproval of the application to the Office of Tourism, Trade, and Economic Development (OTTED) within 10 working days. Upon receipt, OTTED has 5 working days to certify those applicants who are found to meet the requirements of s. 212.08, F.S., and must notify the applicant, EFI, and the Department of Revenue of the certification. If OTTED determines that the applicant does not meet the requirements, it must notify the applicant and EFI within 10 working days that the certification application was denied, along with the reasons for denial.[3]

According to EFI, Florida's sales tax treatment of R & D equipment constitutes a distinct competitive disadvantage for manufacturers and other target industries in Florida, as many competitor states have either abolished or significantly reduced their sales tax on equipment used in R & D. EFI reports that the level of R & D activity in Florida is low relative to the size of its economy and that eliminating the sales and use tax on machinery and equipment used in R & D activities is key to encouraging expansion in two Florida industry sectors: the aviation/aerospace and biomedical industries. Also, eliminating the sales and use tax on R & D machinery and equipment is consistent with EFI's 2006 Strategic Plan for Economic Development.[4]

The Florida Chamber of Commerce, along with the Manufacturing Advisory Council, asserts that, "A missing ingredient to a successful business climate in the state is the elimination of the sales and use tax on R & D equipment. The elimination of this tax would encourage business investment and expansion, make Florida more competitive with other states and promote the creation of higher quality jobs for Floridians." The Chamber echoes EFI's claims that most of the states that are Florida's competitors for recruiting and developing new businesses, such as California, Massachusetts, New York, Virginia, and Washington, have exempted or substantially discounted taxes on R & D equipment.[5]

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[3] See s. 212.08(5)(j)6., F.S.
[4] *Roadmap to Florida's Future*, 2006 Annual Report, Enterprise Florida, Inc., p. 25.
[5] *Where We Stand: Research and Development Tax Exemption*, Florida Chamber of Commerce.

Proposed Changes

The bill provides an exemption from the sales and use tax for machinery and equipment used predominantly for R & D. The bill defines "predominantly" as at least 50 percent of the time. The exemption applies to all businesses domiciled in the state.

The bill defines "machinery and equipment" to include, but not be limited to, molds, dies, machine tooling, and other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials and labor for design, fabrication, and assembly. The term "other appurtenances or accessories" is not defined in the bill.

The bill also defines the term "research and development," using the current definition contained in s. 212.052(1), F.S. (See *Current Situation* section).

The bill removes the exception from the tax exemption set forth in s. 212.052(2), F.S., for the purchase, rental or repair of real property or tangible personal property employed in R & D. Removing this exception ensures that s. 212.052(2), F.S., does not conflict with the proposed machinery and equipment sales and use tax exemption created by Section 2 of the bill.

The bill changes the amount of the exemption for industrial machinery and equipment used for the production of space or defense technology products from 25 percent to 100 percent. The bill expands this production exemption to include the design or assembly of space or defense technology products. In addition, the bill amends the definition of space technology products by adding space flight vehicles and components of any of the items covered by the definition.

The bill provides an administrative procedure for a purchaser of machinery and equipment to claim the R & D sales tax exemption. The purchaser must furnish the vendor with an affidavit stating that the machinery and equipment will be used predominantly for R & D activities. Persons claiming the exemption by refund must include the affidavit with the refund application. Any person who fraudulently furnishes an affidavit is subject to a mandatory penalty of 200 percent of the tax, payment of the tax itself, a fine of up to $5,000, and a term of imprisonment of up to five years.[6]

C. SECTION DIRECTORY:

Section 1. Amends s. 212.052(2), F.S., by removing an exception to the tax exemption.

Section 2 . Amends s. 212.08(5)(j) by eliminating R & D language for semiconductors, space, and defense; changes the amount of the exemption for industrial machinery and equipment used for the production of space or defense technology products; amends the definition of space technology products by adding space flight vehicles and components of any of the items covered by the definition; adds s. 212.08(18), F.S., which provides sales and use tax exemptions for machinery and equipment used predominantly for R & D.

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

[6] Section 212.085, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of this bill will have the following impact on state revenues:

	FY 2006-07	FY 2007-08
General Revenue	($24.7) million	($27.0) million
State Trust	($0.1) million	($0.1) million
Total State Impact	**($24.8) million**	**($27.1) million**

2. Expenditures:

The Department of Revenue estimated the following state government expenditures before the Finance & Tax Committee adopted a strike-all amendment to the bill:

	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
Recurring	$43,262	$55,548	$55,548	$55,548
FTE	1			
Salaries	$36,859	$49,145	$49,145	$49,145
Expenses	$6,403	$6,403	$6,403	$6,403
Non-Recurring	$4,843			
Expenses	$3,343			
OCO	$1,500			
Total	**$48,105**	**$55,548**	**$55,548**	**$55,548**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of this bill will have the following impact on local revenues:

	FY 2006-07	FY 2007-08
Revenue Sharing	($0.9) million	($0.9) million
Local Gov't. Half Cent	($2.6) million	($2.6) million
Local Option	($2.6) million	($2.6) million
Total Local Impact	**($6.1) million**	**($6.1) million**

2. Expenditures:

The bill may reduce local government expenditures to the extent the local government revenues are reduced.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates the tax burden on businesses purchasing machinery and equipment used predominately for R & D, or used for the production of space or defense technology products.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes by $2.6 million, as estimated by the Revenue Estimating Conference. As such, the mandates provision appears to apply to this bill and it does not seem to qualify for an exemption. Therefore, the bill must be adopted by a 2/3 vote of the membership of each house.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Revenue with authority to adopt rules that provide for administering and implementing the R & D exemption.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue indicates that the lack of a definition for "other appurtenances or accessories" may cause problems when implementing and administering the law's provisions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Finance & Tax Committee adopted one amendment to the bill. The amendment changed the subsection of chapter 212, F.S., where the new exemption for R & D was placed.

In addition, the amendment increased the amount of the exemption for industrial machinery and equipment used for the production of space or defense technology products from 25 percent to 100 percent. Also, the amendment clarified this production exemption to include the design or assembly of space or defense technology products, and included space flight vehicles and a variety of components to the definition of space technology products.

This analysis reflects the changes contained in the amendment adopted by the Finance & Tax Committee.

CHAMBER ACTION

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1 The Finance & Tax Committee 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 the tax on sales, use, and other
7 transactions; amending s. 212.052, F.S.; deleting an
8 exception to an exemption from the tax for research or
9 development costs; amending s. 212.08, F.S.; deleting
10 provisions providing an exemption on account of use for
11 machinery and equipment used for research and development;
12 exempting machinery and equipment used predominantly for
13 research and development activities; providing
14 definitions; authorizing the Department of Revenue to
15 adopt rules administering and implementing the exemption;
16 providing requirements and procedures for claiming the
17 exemption; requiring an affidavit to be given by a
18 taxpayer claiming entitlement to the exemption; providing
19 penalties for fraudulently claiming the exemption;
20 providing recordkeeping requirements; providing an
21 effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (2) of section 212.052, Florida
26 Statutes, is amended to read:
27 212.052 Research or development costs; exemption.--
28 (2) Notwithstanding any provision of this chapter to the
29 contrary, any person, including an affiliated group as defined
30 in s. 1504 of the Internal Revenue Code of 1954, as amended, who
31 manufactures, produces, compounds, processes, or fabricates in
32 any manner tangible personal property for such taxpayer's own
33 use directly and solely in research or development shall not be
34 subject to the tax imposed by this chapter upon the cost of the
35 product so manufactured, produced, compounded, processed, or
36 fabricated. ~~However, the tax imposed by this chapter shall be~~
37 ~~due on the purchase, rental, or repair of real property or~~
38 ~~tangible personal property employed in research or development~~
39 ~~which is subject to the tax imposed by this chapter at the time~~
40 ~~of purchase or rental.~~
41 Section 2. Paragraph (j) of subsection (5) of section
42 212.08, Florida Statutes, is amended, and subsection (18) is
43 added to that section, to read:
44 212.08 Sales, rental, use, consumption, distribution, and
45 storage tax; specified exemptions.--The sale at retail, the
46 rental, the use, the consumption, the distribution, and the
47 storage to be used or consumed in this state of the following
48 are hereby specifically exempt from the tax imposed by this
49 chapter.
50 (5) EXEMPTIONS; ACCOUNT OF USE.--

51 (j) Machinery and equipment used in semiconductor,
52 defense, or space technology production ~~and research and~~
53 ~~development~~.--
54 1.a. Industrial machinery and equipment used in
55 semiconductor technology facilities certified under subparagraph
56 5. ~~6.~~ to manufacture, process, compound, or produce
57 semiconductor technology products for sale or for use by these
58 facilities are exempt from the tax imposed by this chapter. For
59 purposes of this paragraph, industrial machinery and equipment
60 includes molds, dies, machine tooling, other appurtenances or
61 accessories to machinery and equipment, testing equipment, test
62 beds, computers, and software, whether purchased or self-
63 fabricated, and, if self-fabricated, includes materials and
64 labor for design, fabrication, and assembly.
65 b. Industrial machinery and equipment used in defense or
66 space technology facilities certified under subparagraph 5. ~~6.~~
67 to design, manufacture, assemble, process, compound, or produce
68 defense technology products or space technology products for
69 sale or for use by these facilities are exempt from ~~25 percent~~
70 ~~of~~ the tax imposed by this chapter.
71 ~~2.a. Machinery and equipment are exempt from the tax~~
72 ~~imposed by this chapter if used predominately in semiconductor~~
73 ~~wafer research and development activities in a semiconductor~~
74 ~~technology research and development facility certified under~~
75 ~~subparagraph 6. For purposes of this paragraph, machinery and~~
76 ~~equipment includes molds, dies, machine tooling, other~~
77 ~~appurtenances or accessories to machinery and equipment, testing~~
78 ~~equipment, test beds, computers, and software, whether purchased~~

79 ~~or self-fabricated, and, if self-fabricated, includes materials~~
80 ~~and labor for design, fabrication, and assembly.~~
81 ~~b. Machinery and equipment are exempt from 25 percent of~~
82 ~~the tax imposed by this chapter if used predominately in defense~~
83 ~~or space research and development activities in a defense or~~
84 ~~space technology research and development facility certified~~
85 ~~under subparagraph 6.~~
86 2.~~3.~~ Building materials purchased for use in manufacturing
87 or expanding clean rooms in semiconductor-manufacturing
88 facilities are exempt from the tax imposed by this chapter.
89 3.~~4.~~ In addition to meeting the criteria mandated by
90 subparagraph 1. or~~,~~ subparagraph 2., ~~or subparagraph 3.,~~ a
91 business must be certified by the Office of Tourism, Trade, and
92 Economic Development as authorized in this paragraph in order to
93 qualify for exemption under this paragraph.
94 4.~~5.~~ For items purchased tax exempt pursuant to this
95 paragraph, possession of a written certification from the
96 purchaser, certifying the purchaser's entitlement to exemption
97 pursuant to this paragraph, relieves the seller of the
98 responsibility of collecting the tax on the sale of such items,
99 and the department shall look solely to the purchaser for
100 recovery of tax if it determines that the purchaser was not
101 entitled to the exemption.
102 5.~~6.~~a. To be eligible to receive the exemption provided by
103 subparagraph 1. or~~,~~ subparagraph 2., ~~or subparagraph 3.,~~ a
104 qualifying business entity shall apply to Enterprise Florida,
105 Inc. The application shall be developed by the Office of

106 Tourism, Trade, and Economic Development in consultation with
107 Enterprise Florida, Inc.
108 b. Enterprise Florida, Inc., shall review each submitted
109 application and information and determine whether or not the
110 application is complete within 5 working days. Once an
111 application is complete, Enterprise Florida, Inc., shall, within
112 10 working days, evaluate the application and recommend approval
113 or disapproval of the application to the Office of Tourism,
114 Trade, and Economic Development.
115 c. Upon receipt of the application and recommendation from
116 Enterprise Florida, Inc., the Office of Tourism, Trade, and
117 Economic Development shall certify within 5 working days those
118 applicants who are found to meet the requirements of this
119 section and notify the applicant, Enterprise Florida, Inc., and
120 the department of the certification. If the Office of Tourism,
121 Trade, and Economic Development finds that the applicant does
122 not meet the requirements of this section, it shall notify the
123 applicant and Enterprise Florida, Inc., within 10 working days
124 that the application for certification has been denied and the
125 reasons for denial. The Office of Tourism, Trade, and Economic
126 Development has final approval authority for certification under
127 this section.
128 6.~~7.~~a. A business may apply once each year for the
129 exemption.
130 b. The application must indicate, for program evaluation
131 purposes only, the average number of full-time equivalent
132 employees at the facility over the preceding calendar year, the
133 average wage and benefits paid to those employees over the

134 preceding calendar year, the total investment made in real and
135 tangible personal property over the preceding calendar year, and
136 the total value of tax-exempt purchases and taxes exempted
137 during the previous year. The department shall assist the Office
138 of Tourism, Trade, and Economic Development in evaluating and
139 verifying information provided in the application for exemption.
140 c. The Office of Tourism, Trade, and Economic Development
141 may use the information reported on the application for
142 evaluation purposes only and shall prepare an annual report on
143 the exemption program and its cost and impact. The annual report
144 for the preceding fiscal year shall be submitted to the
145 Governor, the President of the Senate, and the Speaker of the
146 House of Representatives by September 30 of each fiscal year.
147 7.~~8.~~ A business certified to receive this exemption may
148 elect to designate one or more state universities or community
149 colleges as recipients of up to 100 percent of the amount of the
150 exemption for which they may qualify. To receive these funds,
151 the institution must agree to match the funds so earned with
152 equivalent cash, programs, services, or other in-kind support on
153 a one-to-one basis in the pursuit of research and development
154 projects as requested by the certified business. The rights to
155 any patents, royalties, or real or intellectual property must be
156 vested in the business unless otherwise agreed to by the
157 business and the university or community college.
158 8.~~9.~~ As used in this paragraph, the term:
159 ~~a. "Predominately" means at least 50 percent of the time~~
160 ~~in qualifying research and development.~~

161 ~~b. "Research and development" means basic and applied~~
162 ~~research in the science or engineering, as well as the design,~~
163 ~~development, and testing of prototypes or processes of new or~~
164 ~~improved products. Research and development does not include~~
165 ~~market research, routine consumer product testing, sales~~
166 ~~research, research in the social sciences or psychology,~~
167 ~~nontechnological activities, or technical services.~~
168 a.~~c.~~ "Semiconductor technology products" means raw
169 semiconductor wafers or semiconductor thin films that are
170 transformed into semiconductor memory or logic wafers, including
171 wafers containing mixed memory and logic circuits; related
172 assembly and test operations; active-matrix flat panel displays;
173 semiconductor chips; semiconductor lasers; optoelectronic
174 elements; and related semiconductor technology products as
175 determined by the Office of Tourism, Trade, and Economic
176 Development.
177 b.~~d.~~ "Clean rooms" means manufacturing facilities enclosed
178 in a manner that meets the clean manufacturing requirements
179 necessary for high-technology semiconductor-manufacturing
180 environments.
181 c.~~e.~~ "Defense technology products" means products that
182 have a military application, including, but not limited to,
183 weapons, weapons systems, guidance systems, surveillance
184 systems, communications or information systems, munitions,
185 aircraft, vessels, or boats, or components thereof, which are
186 intended for military use and manufactured in performance of a
187 contract with the United States Department of Defense or the
188 military branch of a recognized foreign government or a

189 subcontract thereunder which relates to matters of national
190 defense.
191 d. ~~f.~~ "Space technology products" means products that are
192 specifically designed or manufactured for application in space
193 activities, including, but not limited to, space launch
194 vehicles, space flight vehicles, missiles, satellites or
195 research payloads, avionics, and associated control systems and
196 processing systems, and components of any of the foregoing. The
197 term does not include products that are designed or manufactured
198 for general commercial aviation or other uses even though those
199 products may also serve an incidental use in space applications.
200 (18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR
201 RESEARCH AND DEVELOPMENT.--
202 (a) Machinery and equipment used predominantly for
203 research and development as defined in this subsection are
204 exempt from the tax imposed by this chapter.
205 (b) For purposes of this subsection:
206 1. "Machinery and equipment" includes, but is not limited
207 to, molds, dies, machine tooling, other appurtenances or
208 accessories to machinery and equipment, testing and measuring
209 equipment, test beds, computers, and software, whether purchased
210 or self-fabricated, and, if self-fabricated, includes materials
211 and labor for design, fabrication, and assembly.
212 2. "Predominantly" means at least 50 percent of the time.
213 3. "Research and development" means research that has one
214 of the following as its ultimate goal:
215 a. Basic research in a scientific field of endeavor;

216 b. Advancing knowledge or technology in a scientific or
217 technical field of endeavor;
218 c. The development of a new product, whether or not the
219 new product is offered for sale;
220 d. The improvement of an existing product, whether or not
221 the improved product is offered for sale;
222 e. The development of new uses of an existing product,
223 whether or not a new use is offered as a rationale to purchase
224 the product; or
225 f. The design and development of prototypes, whether or
226 not a resulting product is offered for sale.
227
228 The term "research and development" does not include ordinary
229 testing or inspection of materials or products used for quality
230 control, market research, efficiency surveys, consumer surveys,
231 advertising and promotions, management studies, or research in
232 connection with literary, historical, social science,
233 psychological, or other similar nontechnical activities.
234 (c) The department may adopt rules pursuant to ss.
235 120.536(1) and 120.54 that provide for administering and
236 implementing this exemption.
237 (d) A person who claims the exemption provided in this
238 subsection shall furnish the vendor of the machinery or
239 equipment, including the vendor of materials and labor used in
240 self-fabrication of the machinery or equipment, an affidavit
241 stating that the item or items for which an exemption is claimed
242 are machinery and equipment that will be used predominantly for
243 research and development as required by this subsection. A

244 purchaser who claims the exemption by refund shall include the
245 affidavit with the refund application. The affidavit must
246 contain the purchaser's name, address, sales and use tax
247 registration number, and, if applicable, federal employer's
248 identification number. Any person fraudulently furnishing an
249 affidavit to the vendor for the purpose of evading payment of
250 any tax imposed under this chapter shall be subject to the
251 penalty set forth in s. 212.085 and as otherwise provided by
252 law.
253 (e) In lieu of furnishing an affidavit, a purchaser
254 claiming the exemption provided in this subsection who has a
255 direct-pay permit may furnish the vendor with a copy of the
256 direct-pay permit and shall maintain all documentation necessary
257 to prove the exempt status of the purchases and fabrication
258 activity.
259 (f) Purchasers shall maintain all documentation necessary
260 to prove the exempt status of purchases and fabrication activity
261 and make such documentation available for inspection pursuant to
262 the requirements of s. 212.13(2).
263 Section 3. This act shall take effect July 1, 2006.

HB 615

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 615 Professional Sports Franchises
SPONSOR(S): Simmons
TIED BILLS: **IDEN./SIM. BILLS:** SB 1426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism Committee	7 Y, 0 N	Langston	McDonald
2) Finance & Tax Committee	5 Y, 2 N	Rice	Diez-Arguelles
3) State Infrastructure Council		Langston	Havlicak
4)			
5)			

SUMMARY ANALYSIS

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is authorized under s. 288.1162, F.S., to certify up to eight applicants as a facility for a new or retained professional sports franchise. Currently, the following seven applicants have been certified: Broward County for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and, Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

The Department of Revenue (DOR) is required to distribute monthly $166,667 ($2 million annually) of tax proceeds collected under ch. 212, F.S., for no more than 30 years, to each applicant certified as a facility for a new or retained professional sports franchise by OTTED as meeting specific requirements outlined in s. 288.1162, F.S. Funds distributed can be used only for the public purposes delineated in s. 288.1162(6), F.S.

The bill requires that the remaining eighth certification for an applicant as a facility for a new professional sports franchise or a facility for a retained professional sports franchise under s. 288.1162, F.S., must be for a franchise that is a member of the National Basketball Association that has been located in the state since 1987, and has not been previously certified. The requirement is repealed on July 1, 2010.

The only franchise in the state that qualifies as an applicant for the eighth certification under the bill is the Orlando Magic.

The bill has an effective date of 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

Facilities for New and Retained Professional Franchises

Certification

Section 288.1162, F.S., charges the Governor's Office of Tourism, Trade, and Economic Development (OTTED) with the authority to certify up to eight applicants as facilities for new or retained professional sports franchises. A "new professional sports franchise" is a professional sports franchise that is not based in this state prior to April 1, 1987 and a "retained professional sports franchise" is a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, has continuously remained at that location, and has never been located at a previously certified facility.[1]

To qualify an applicant for certification as either a facility for a "new professional sports franchise" or a "facility for a retained professional sports franchise," the following criteria must be satisfied:

- The applicant is a unit of local government or a private entity; however, a local government must be responsible for the construction, management, or operation of the facility or must hold the title to the property on which the professional sports franchise facility is located;
- The franchise has agreed to use the facility for 10 or 20 years depending on the type of franchise;
- The governing league approves;
- The projections indicate 300,000 in paid annual attendance;
- The tax revenues generated will equal or exceed $2 million annually;
- The local government certifies that the facility serves a public purpose;
- The applicant is capable of providing more than 50% of costs incurred or related to the improvement and development of the facility; and,
- The applicant has not been previously certified and received funds for that certification.

Currently, the following seven applicants/facilities have been certified:

1. Broward County for Home Depot Stadium (Panthers),
2. Joe Robbie, Inc., for Pro Player Stadium (Marlins),
3. City of Jacksonville for Alltel Stadium (Jaguars),
4. Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning),
5. City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays),
6. BPL, Ltd., for American Airlines Arena (Miami Heat), and
7. Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

[1] See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. The only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

Funding

Once an applicant is certified, OTTED notifies the Department of Revenue (DOR) pursuant to s. 288.1162(6), F.S., that the certified applicant qualifies for state funding.

DOR is authorized to distribute funds under ch. 212, F.S., relating to the state sales and use taxes and s. 202.18(1)(b) and 202.18(2)(b), F.S., relating to the communication services tax. Section 212.20(6)(d)7.b., F.S., requires DOR to distribute $166,667 monthly ($2 million annually) to each certified applicant for no more than 30 years.

Funds received can only be used for the public purposes listed under s. 288.1162(6), F.S. The public purpose listed in the section is to pay for the acquisition, construction, reconstruction, or renovation of a professional sports, retained professional sports, or retained spring training franchise facility, or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of the facility, including reimbursement of costs and financing for such purposes.

DOR may audit the facilities to verify that the distributions have been spent for the public purposes required by s. 288.1162(6), F.S. If DOR determines that the funds have not been used as required, it may pursue recovery of the funds.

Effect of Proposed Changes

The bill designates the eighth remaining certification for an applicant as a facility for a new professional sports franchise or a facility for a retained professional sports franchise to be for a franchise which is a member of the National Basketball Association, and that has been located in the state since 1987, and has not been previously certified. The designation is repealed July 1, 2010.

The only franchise in the state meeting the criteria is the Orlando Magic.

C. SECTION DIRECTORY:

Section 1: Amends s. 288.1162, F.S., relating to professional sports franchises and spring training franchises; designates the eighth certification for a specific applicant; repeals designation requirement on July 1, 2010.

Section 2: Provides for 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:

None

D. FISCAL COMMENTS:

This bill does not have a fiscal impact because the Orlando Magic meets the definition of a "new professional sports franchise" and could be the franchise used by an applicant to qualify for state funds under current law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

1 A bill to be entitled
2 An act relating to professional sports franchises;
3 amending s. 288.1162, F.S.; providing additional
4 requirements with respect to certification as a facility
5 for a new professional sports franchise or a facility for
6 a retained professional sports franchise; providing for
7 repeal of the requirements by a specified date; providing
8 an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsection (7) of section 288.1162, Florida
13 Statutes, is amended to read:
14 288.1162 Professional sports franchises; spring training
15 franchises; duties.--
16 (7)(a) The Office of Tourism, Trade, and Economic
17 Development shall notify the Department of Revenue of any
18 facility certified as a facility for a new professional sports
19 franchise or a facility for a retained professional sports
20 franchise or as a facility for a retained spring training
21 franchise. The Office of Tourism, Trade, and Economic
22 Development shall certify no more than eight facilities as
23 facilities for a new professional sports franchise or as
24 facilities for a retained professional sports franchise and
25 shall certify at least five as facilities for retained spring
26 training franchises, including in such total any facilities
27 certified by the Department of Commerce before July 1, 1996. The
28 office may make no more than one certification for any facility.

29 The office may not certify funding for less than the requested
30 amount to any applicant certified as a facility for a retained
31 spring training franchise.
32 (b) The eighth certification of an applicant under this
33 section as a facility for a new professional sports franchise or
34 a facility for a retained professional sports franchise shall be
35 for a franchise that is a member of the National Basketball
36 Association, has been located within the state since 1987, and
37 has not been previously certified. This paragraph is repealed
38 July 1, 2010.
39 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 791 CS Road Designations
SPONSOR(S): Fields
TIED BILLS: **IDEN./SIM. BILLS:** SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	16 Y, 0 N, w/CS	Rousseau	Miller
2) Transportation & Economic Development Appropriations Committee	19 Y, 0 N, w/CS	McAuliffe	Gordon
3) State Infrastructure Council		Rousseau T.D.R.	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

HB 791 designates the following honorary roads. They are:

- A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Ms. Eddie Mae Steward Avenue."
- A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Dr. Mary L. Austin Jones Avenue."
- A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Mrs. Flossie Brunson Avenue."
- A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Dr. Robert L. Brown, Sr., Highway."
- A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Ms. Barbara Van Blake Parkway."
- A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Nassau County is designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway."
- A portion of State Road 188 between State Road 189 and State Road 85 in Okaloosa County is designated as "Brian D. Little Road."
- A portion of State Road 414 that extends west from U.S. Highway 441 to the City of Apopka before heading north to U.S. Highway 441 near County Road 437 is designated as "John Land Apopka Expressway."
- A portion of State Road 944 on N.W. 54th Street between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County is designated as "Toussaint L'Ouverture Boulevard."
- A portion of State Road 944 on N.W. 54th Street between N.E. 2nd Avenue and N.W. 7th Avenue in Miami-Dade County is designated as "Reverend Gerard Jean-Juste Boulevard."

The Florida Department of Transportation is directed to erect suitable markers to denote the honorary designations. The markers will cost an estimated $8,000, not including maintenance or replacement costs.

HB 791 does not create any constitutional or other legal issues. It takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

HB 791 does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation
Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Florida Department of Transportation (FDOT) to place a marker at each terminus or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Based on FDOT records, some 1,079 honorary road and bridge designations have been approved since 1922, most of them by the Legislature. Some public roads and bridges have multiple or overlapping designations.

Effect of HB 791
The bill proposes the following honorary road designations:

- A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Ms. Eddie Mae Steward Avenue."
- A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Dr. Mary L. Austin Jones Avenue."
- A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Mrs. Flossie Brunson Avenue."
- A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Dr. Robert L. Brown, Sr., Highway."
- A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Ms. Barbara Van Blake Parkway."
- A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Nassau County[1] is designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway."
- A portion of State Road 188 between State Road 189 and State Road 85 in Okaloosa County is designated as "Brian D. Little Road."
- A portion of State Road 414 that extends west from U.S. Highway 441 to the City of Apopka near County Road 437 is designated as "John Land Apopka Expressway."
- A portion of State Road 944 on N.W. 54th Street between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County is designated as "Toussaint L'Ouverture Boulevard."
- A portion of State Road 944 on N.W. 54th Street between N.E. 2nd Avenue and N.W. 7th Avenue in Miami-Dade County is designated as "Reverend Gerard Jean-Juste Boulevard."

[1] This segment of highway is actually located in Nassau County, see Drafting Issues or Other Comments section of this analysis.

The FDOT is directed to erect suitable markers to denote the honorary designations.

The Duval County designations will be to honor Ms. Eddie Mae Steward, one of Jacksonville's leading advocates for civil and human rights; Dr. Mary L. Austin Jones, a reverend in the City of Jacksonville whose outreach and ministries comfort and spiritually console families and individuals throughout the community; Mrs. Flossie Brunson, who nearly single-handedly organized her community to turn a once blighted neighborhood into one that blossoms anew with energies and hope for its young people, young families and seniors; Dr. Robert L. Brown, Sr., a doctor in the City of Jacksonville who was a change agent for economic development efforts; and Ms. Barbara Van Blake, who taught mathematics in Florida for 12 years and was also an active supporter of civil rights and labor union organizing.

The Nassau County designation will honor Ms. MaVynee 'The Beach Lady' Betsch, the official historian and matriarch of American Beach.

The Okaloosa County designation will honor Brian D. Little, who served as District Roadway Design Engineer for the Department of Transportation's District 3.

The City of Apopka designation will honor John Land Apopka, who is the longest-serving mayor in the State of Florida.

C. SECTION DIRECTORY:

Section 1: A portion of Main Street between West 6th Street and West 8th Street in Duval County is designated as "Ms. Eddie Mae Steward Avenue."

Section 2: A portion of Main Street between West 37th Street and West 46th Street in Duval County is designated as "Dr. Mary L. Austin Jones Avenue."

Section 3: A portion of Main Street between West 8th Street and West 18th Street in Duval County is designated as "Mrs. Flossie Brunson Avenue."

Section 4: A portion of U.S. Highway 1 between Finch Avenue and Trout River Boulevard in Duval County is designated as "Dr. Robert L. Brown, Sr., Highway."

Section 5: A portion of Lem Turner Road between Interstate 95 and Edgewood Avenue in Duval County is designated as "Ms. Barbara Van Blake Parkway."

Section 6: A portion of Florida First Coast Highway beginning at Burney Road and continuing north through the 5500 block of Florida First Coast Highway in Duval County is designated as "Ms. MaVynee 'The Beach Lady' Betsch Highway."

Section 7: A portion of State Road 188 between State Road 189 and State Road 85 in Okaloosa County is designated as "Brian D. Little Road."

Section 8: A portion of State Road 414 known as Maitland Boulevard that extends west from U.S. Highway 441 to the City of Apopka before heading north to U.S. Highway 441 near County Road 437, which is commonly known as Maitland Boulevard Extension, is designated as "John Land Apopka Expressway."

Section 9: A portion of State Road 944 on N.W. 54th Street between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County is designated as "Toussaint L'Ouverture Boulevard."

Section 10: A portion of State Road 944 on N.W. 54th Street between N.E. 2nd Avenue and N.W. 7th Avenue in Miami-Dade County is designated as "Reverend Gerard Jean-Juste Boulevard."

Section 11: Specifies an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   FDOT estimates that the cost to erect suitable road markers is approximately $800 per designation, for a marker at each end of the designated road area. The total signage cost of HB 791 is $8,000. The expenditure is from the State Transportation Trust Fund. FDOT also is responsible for any future maintenance and replacement cost, which is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 cities or counties to spend funds or take actions 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:

FDOT has sufficient rulemaking authority to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, this bill was considered by the Transportation Committee. Two amendments were adopted, one was a technical amendment and the other added the designation of "Brian D. Little Road" in Okaloosa County. The bill was reported favorable with a committee substitute.

On March 17, 2006, this bill was considered by the Transportation & Economic Development Appropriations Committee. Two amendments were adopted, one provides for the designation of "John Land Apopka Expressway" in Apopka, and the other added the designations of "Toussaint L'Overture Boulevard" and "Reverend Gerard Jean-Juste Boulevard" in Miami-Dade County. The bill was reported favorable with a committee substitute.

CHAMBER ACTION

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1 The Transportation & Economic Development Appropriations
2 Committee recommends the following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to road designations; designating Ms.
8 Eddie Mae Steward Avenue, Dr. Mary L. Austin Jones Avenue,
9 Mrs. Flossie Brunson Avenue, Dr. Robert L. Brown, Sr.,
10 Highway, and Ms. Barbara Van Blake Parkway in Duval
11 County; designating Ms. MaVynee "The Beach Lady" Betsch
12 Highway in Nassau County; designating Brian D. Little Road
13 in Okaloosa County; designating John Land Apopka
14 Expressway in Orange County; designating Toussaint
15 L'Ouverture Boulevard in Miami-Dade County; repealing s.
16 6, ch. 2003-296, Laws of Florida, relating to a prior
17 designation of Toussaint L'Ouverture Boulevard;
18 designating Reverend Gerard Jean-Juste Boulevard in Miami-
19 Dade County; directing the Department of Transportation to
20 erect suitable markers; providing an effective date.
21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Ms. Eddie Mae Steward Avenue designated;
25 Department of Transportation to erect suitable markers.--
26 (1) That portion of Main Street between West 6th Street
27 and West 8th Street in Duval County is designated as "Ms. Eddie
28 Mae Steward Avenue."
29 (2) The Department of Transportation is directed to erect
30 suitable markers designating Ms. Eddie Mae Steward Avenue as
31 described in subsection (1).
32 Section 2. Dr. Mary L. Austin Jones Avenue designated;
33 Department of Transportation to erect suitable markers.--
34 (1) That portion of Main Street between West 37th Street
35 and West 46th Street in Duval County is designated as "Dr. Mary
36 L. Austin Jones Avenue."
37 (2) The Department of Transportation is directed to erect
38 suitable markers designating Dr. Mary L. Austin Jones Avenue as
39 described in subsection (1).
40 Section 3. Mrs. Flossie Brunson Avenue designated;
41 Department of Transportation to erect suitable markers.--
42 (1) That portion of Main Street between West 8th Street
43 and West 18th Street in Duval County is designated as "Mrs.
44 Flossie Brunson Avenue."
45 (2) The Department of Transportation is directed to erect
46 suitable markers designating Mrs. Flossie Brunson Avenue as
47 described in subsection (1).
48 Section 4. Dr. Robert L. Brown, Sr., Highway designated;
49 Department of Transportation to erect suitable markers.--

50 (1) That portion of U.S. Highway 1 between Finch Avenue
51 and Trout River Boulevard in Duval County is designated as "Dr.
52 Robert L. Brown, Sr., Highway."
53 (2) The Department of Transportation is directed to erect
54 suitable markers designating Dr. Robert L. Brown, Sr., Highway
55 as described in subsection (1).
56 Section 5. Ms. Barbara Van Blake Parkway designated;
57 Department of Transportation to erect suitable markers.--
58 (1) That portion of Lem Turner Road between Interstate 95
59 and Edgewood Avenue in Duval County is designated as "Ms.
60 Barbara Van Blake Parkway."
61 (2) The Department of Transportation is directed to erect
62 suitable markers designating Ms. Barbara Van Blake Parkway as
63 described in subsection (1).
64 Section 6. Ms. MaVynee "The Beach Lady" Betsch Highway
65 designated; Department of Transportation to erect suitable
66 markers.--
67 (1) That portion of Florida First Coast Highway beginning
68 at Burney Road and continuing north through the 5500 block of
69 Florida First Coast Highway in Nassau County is designated as
70 "Ms. MaVynee 'The Beach Lady' Betsch Highway."
71 (2) The Department of Transportation is directed to erect
72 suitable markers designating Ms. MaVynee "The Beach Lady" Betsch
73 Highway as described in subsection (1).
74 Section 7. Brian D. Little Road designated; Department of
75 Transportation to erect suitable markers.--

76 (1) That portion of State Road 188 between State Road 189
77 and State Road 85 in Okaloosa County is designated as "Brian D.
78 Little Road."
79 (2) The Department of Transportation is directed to erect
80 suitable markers designating Brian D. Little Road as described
81 in subsection (1).
82 Section 8. John Land Apopka Expressway designated;
83 Department of Transportation to erect suitable markers.--
84 (1) That portion of State Road 414 known as Maitland
85 Boulevard that extends west from U.S. Highway 441 to the City of
86 Apopka before heading north to U.S. Highway 441 near County Road
87 437, which is commonly known as Maitland Boulevard Extension, is
88 designated as "John Land Apopka Expressway."
89 (2) The Department of Transportation is directed to erect
90 suitable markers designating John Land Apopka Expressway as
91 described in subsection (1).
92 Section 9. Toussaint L'Ouverture Boulevard designated;
93 Department of Transportation to erect suitable markers; repeal
94 of prior designation.--
95 (1) That portion of State Road 944 on N.W. 54th Street
96 between U.S. Highway 1 and N.E. 2nd Avenue in Miami-Dade County
97 is designated as "Toussaint L'Ouverture Boulevard."
98 (2) The Department of Transportation is directed to erect
99 suitable markers designating Toussaint L'Ouverture Boulevard as
100 described in subsection (1).
101 (3) Section 6 of chapter 2003-296, Laws of Florida, is
102 repealed.

103 Section 10. Reverend Gerard Jean-Juste Boulevard
104 designated; Department of Transportation to erect suitable
105 markers.--
106 (1) That portion of State Road 944 on N.W. 54th Street
107 between N.E. 2nd Avenue and N.W. 7th Avenue in Miami-Dade County
108 is designated as "Reverend Gerard Jean-Juste Boulevard."
109 (2) The Department of Transportation is directed to erect
110 suitable markers designating Reverend Gerard Jean-Juste
111 Boulevard as described in subsection (1).
112 Section 11. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 CS Temporary Buildings
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Smith	Hamby
2) Growth Management Committee	9 Y, 0 N	Strickland	Grayson
3) State Infrastructure Council		Strickland B.S.	Havlicak
4)			
5)			

SUMMARY ANALYSIS

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[1] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less than six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[2] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood-prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

HB 935 w/CS provides that modular buildings, manufactured buildings, and factory-built buildings that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month extension on the certificate of occupancy for a temporary building.

[1] Section 553.73(4)(a), F.S., (2005).
[2] Section 553.415, F.S., (2005).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill may restrict the ability of local governments to enforce safety requirements as applied to temporary buildings and reduces the number of repeated permits by increasing the time between inspections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[3] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less than six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[4] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood-waters.

Technically, the Code provides that "[t]emporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare."[5]

The following "temporary" buildings are exempt from application of the Code:

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.[6]

Effect of Proposed Changes

The bill provides that modular buildings, manufactured buildings[7], and factory-built buildings[8] that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such

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[3] *Supra* note 1.
[4] *Supra* note 2.
[5] Section 107.2, Florida Building Code, Building Volume (2004). [This section was adopted verbatim by the Commission from the International Building Code.]
[6] Section 553.73(8), F.S., (2005).
[7] Section 553.36(12), F.S., (2005).
[8] Section 212.02(7), F.S., (2005). [Factory-built buildings are not defined in Ch. 553, F.S., but a definition is provided in Ch. 212, F.S.]

exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month extension on the certificate of occupancy for a temporary building.

C. SECTION DIRECTORY:

Section 1. Adds subsection (12) to s. 553.37, F.S., amending s. 553.37, F.S., relating to manufactured buildings. The bill allows for one additional 24 month extension on the certificate of occupancy for a temporary building.

Section 2. Provides that the 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:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   There may be a minimal fiscal impact on local governments relating to permitting by increasing the time between inspections.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Decreased costs of installation and lack of repeated permitting will result in savings to the private sector.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Community Affairs proposed the following amendments to the original filed bill:

- Shortened threshold, 4 years is a long period of time to call a building temporary in general application.
- Limit the application of provision to areas outside of those governed by the flood-resistant construction requirements of the National Flood Insurance Program.
- Provision for design for anticipated loads caused by factors in addition to wind.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Local Government Council adopted one strike-all amendment on March 8, 2006. The amendment provides that modular buildings, manufactured buildings, and factory-built buildings that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month temporary permit. The bill, as amended, was reported favorably with council substitute.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to temporary buildings; amending s. 553.37, F.S.; considering certain buildings as temporary; extending the certificate of occupancy for a temporary building for a limited time; providing foundation requirements for such buildings; exempting such buildings from soil and foundation requirements of the Florida Building Code; providing exceptions; providing an effective date.

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

Section 1. Subsection (12) is added to section 553.37, Florida Statutes, to read:

553.37 Rules; inspections; and insignia.--

(12) Any modular building, manufactured building, or factory-built building, regardless of the occupancy type, that meets the requirements of this part and does not exceed a maximum of 24 months' occupancy from the date of the certificate

24 of occupancy is considered temporary. The certificate of
25 occupancy for a temporary building may be extended for an
26 additional 24 months. Such temporary building shall use a
27 temporary foundation design that meets or exceeds the wind load
28 capacity of the building and the soil bearing capacity of the
29 building location and shall be exempt from the soil and
30 foundation requirements of the Florida Building Code. If the
31 occupancy length of such building is greater than 48 months, or
32 if the building is located in a flood zone, the building is
33 considered a permanent structure and shall comply with all
34 requirements of the Florida Building Code, unless otherwise
35 exempted.
36 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 963 CS License Plates
SPONSOR(S): Gannon
TIED BILLS: **IDEN./SIM. BILLS:** SB 1450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	14 Y, 1 N, w/CS	Thompson	Miller
2) Transportation & Economic Development Appropriations Committee	18 Y, 1 N	McAuliffe	Gordon
3) State Infrastructure Council		Thompson J. T.	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

HB 963 w/CS creates the "Donate Organs-Pass It On" specialty license plate, and establishes an annual use fee of $25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to Transplant Foundation, Inc., to fund marketing and administrative costs, grants for patient services, including preoperative, and housing assistance, organ donor education and awareness programs, and statewide medical research.

The organization seeking authority for this plate has submitted the information and application fee required by current law.

The fiscal impact of the bill of approximately $60,000 on the Department of Highway Safety and Motor Vehicles (DHSMV) for implementation of the new specialty license plate will be offset by the application fees paid to DHSMV by the sponsoring organization.

The bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill appears to increase government in that it requires DHSMV to develop and provide for the manufacture of a new license plate, and therefore requires county tax collectors offices to maintain an appropriate inventory and administer the new plate.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, 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. Annual use fees ranging from $15 to $25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the Department of Highway Safety and Motor Vehicles (DHSMV):

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 15,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to $60,000 defraying DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If it passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype roll-coat. PRIDE, the contracted manufacturer of license plates, embosses and roll-coats sample plates that must be submitted to FHP, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors' Offices for sale to the public.

Discontinuance of an approved specialty license plate occurs only when the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is to be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. According to DHSMV there are currently twenty-two plates that are not meeting the minimum sales requirement and could be discontinued in 2006 if their sales do not increase. If none of these plates meet the minimum sales requirement by next summer, the number of plates offered for sale could be reduced to seventy-eight.

Specialty license plates are distinguished from other types of specialized license plates by the fact that anyone may obtain one by simply paying an additional annual use fee, and by the fact that annual use fees are dedicated to supporting a particular cause or organization. The Legislature has also created a number of specialized license plates that are not specialty plates. These plates differ because the purchaser must be eligible by his or her status to obtain the plate, and because ownership of these plates does not require payment of an annual use fee that is distributed for charitable purposes. These types of "status plates" are referred to in the statutes as special plates, and include: the Governor and Legislator plates; the amateur radio operators plate; the disabled veterans plate; the street rods plate; the National Guard, Pearl Harbor Survivor, Combat-wounded veteran and U.S. Reserve plates; the U.S. Paratrooper plate; and the Medal of Honor plate.

The statutes provide for all specialty plates within ss. 320.08056 and 320.08058, F.S., and provide for a uniform procedure for approval and authorization in s. 320.08053, F.S. By comparison, other specialized plates (the status or special plates) are created on an ad hoc basis by the Legislature, and the statutes provide for them independently of one another in separate sections. It is unnecessary for a proponent of a special plate to obtain prior approval before seeking Legislative action.

The Legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Annual use fees for sales of specialty license plates for 2003-2004 totaled $26,168,581 and for fiscal year 2004-2005 the total was $29,049,472.90. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than $280 million.

Effect of Proposed Changes

HB 963 w/CS directs DHSMV to develop the "Donate Organs-Pass It On" license plate. A qualified motor vehicle owner may obtain the "Donate Organs-Pass It On" license plate upon payment of a $25 annual use fee in addition to the appropriate license taxes and service fees.

Transplant Foundation, Inc., a tax-exempt organization affiliated with the University of Miami School of Medicine, will retain 10 percent of the proceeds from the annual use fee to fund marketing and administrative costs directly associated with the management and distribution of the proceeds. The remaining proceeds are to be used to provide statewide grants for patient services, which includes preoperative, rehabilitative, and housing assistance, organ donor education and awareness programs, and for statewide medical research.

According to DHSMV, the Transplant Foundation, Inc., has met all the requirements set fourth in s. 320.08058, F.S. with regard to the "Donate Organs-Pass It On" specialty license plate.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08056, F.S., providing for a $25 annual use fee for the "Donate Organs-Pass It On" license plate;

Section 2. Amends s. 320.08058, F.S., creating the "Donate Organs-Pass It On" license plate; providing for plate design; and providing for distribution and uses of annual use fees;

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section below.

2. Expenditures:

   See FISCAL COMMENTS section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who elect to purchase these specialty license plates, will be required to pay an annual use fee of $25 in addition to applicable license taxes and administrative charges. The fee from the "Donate Organs-Pass It On" license plate will be distributed to the Transplant Foundation, Inc. Proceeds from the sale of this license plate will fund Transplant Foundation, Inc. marketing and administrative costs and statewide grants for patient services, and medical research.

Since it is impossible to determine how many persons will purchase the plates, it is impossible to determine the aggregate impact on the private sector.

D. FISCAL COMMENTS:

Implementation of HB 963 w/CS will cost DHSMV approximately $60,000 in contract programming, development labor, and product purchasing costs for creation of the "Donate Organs-Pass It On" license plate. This impact is offset by the statutory application fee of $60,000, which has been submitted to DHSMV by the organization seeking creation of the specialty license plate.

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:

No additional rulemaking 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 **March 14, 2006** the Transportation Committee amended HB 963 to change the name of the license plate from "Organ Donor Awareness" to the "Donate Organs-Pass It On" specialty license plate. The amendment also revised the uses of annual use fee proceeds to allow Transplant Foundation, Inc., to fund marketing and administrative costs, and to broaden the uses to statewide grants for patient services and statewide medical research.

The committee then voted 14-1 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 license plates; amending ss. 320.08056 and 320.08058, F.S.; creating a Donate Organs-Pass It On license plate; providing for the distribution of annual use fees received from the sale of such plates; providing an effective date.

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

Section 1. Paragraph (eee) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.--

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(eee) Donate Organs-Pass It On license plate, $25.

Section 2. Subsection (57) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.--

(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.--

24 (a) The department shall develop a Donate Organs-Pass It
25 On license plate as provided in this section. The word "Florida"
26 must appear at the top of the plate, and the words "Donate
27 Organs-Pass It On" must appear at the bottom of the plate.
28 (b) The annual use fees shall be distributed to Transplant
29 Foundation, Inc., a tax-exempt organization under s. 501(c)(3)
30 of the Internal Revenue Code that is affiliated with the
31 University of Miami School of Medicine. Transplant Foundation,
32 Inc., shall use up to 10 percent of the proceeds from the annual
33 use fee for marketing the license plate and administrative costs
34 that are directly associated with the management and
35 distribution of the proceeds. The remaining proceeds shall be
36 used to provide statewide grants for patient services, including
37 preoperative, rehabilitative, and housing assistance, organ
38 donor education and awareness programs, and statewide medical
39 research.
40 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1077 CS Motor Vehicle Dealers
SPONSOR(S): Russell
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	13 Y, 0 N, w/CS	Pugh	Miller
2) Civil Justice Committee	6 Y, 0 N	Blalock	Bond
3) State Infrastructure Council		Pugh BJP	Havlicak RH
4)			
5)			

SUMMARY ANALYSIS

A manufacturer, distributor, or importer of motor vehicles must have a license in order to conduct business in Florida. Manufacturers, distributors, and importers enter into contractual agreements with franchised motor vehicle dealers to sell particular vehicles which they manufacture, distribute, or import. A franchised motor vehicle dealer is any person who engages in the business of repairing, servicing, buying, selling, or dealing in motor vehicles pursuant to an agreement between a manufacturer, distributor, or importer, and a franchised motor vehicle dealer:

This bill provides that a franchised motor vehicle dealer that has been licensed continuously for 2 years and is in good standing with the Department of Highway Safety and Motor Vehicles is exempt from the pre-licensing training requirement when seeking a new franchised motor vehicle dealer license.

This bill revises the following provisions pertaining to the contractual relationship between a "licensee" (manufacturers, distributors, or importers) and a franchised motor vehicle dealer:

- Requires a licensee to repurchase certain inventory and business-related equipment from franchised motor vehicle dealers whose franchises have been terminated, and provides for sanctions if these provisions are not followed.
- Specifies new requirements for a licensed manufacturer to open or reopen a dealership without being subject to protest by motor vehicle dealers.
- Limits a licensed manufacturer's ability to prohibit a franchised dealer from selling his or her dealership to a new owner who plans to relocate it, if certain requirements are followed.
- Revises the definition of "demonstrator" vehicle.
- Provides for the measurement of geographic boundaries.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill creates additional requirements and obligations for automobile manufacturers regarding aspects of their agreements with franchised motor vehicle dealers in Florida.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 320, F.S., provides for the licensing of automobile dealers and automobile manufacturers and regulates the franchise relationship between franchised dealers and the manufacturers. Section 320.605, F.S., states:

> It is the intent of the Legislature to protect the public health, safety, and welfare of citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers.

Section 320.27, F.S. defines a "franchised motor vehicle dealer" as "any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1)." Section 320.27(4), F.S., provides the requirements that must be met in order for a franchised motor vehicle dealer to receive a license certificate, which must be renewed every 2 years.

Section 320.642, F.S., provides that a dealer who seeks to establish another motor vehicle dealership or relocate a dealership to a location within a community where the same line-make vehicle is presently represented must give written notice by certified mail to the Department of Highway Safety and Motor Vehicles (DHSMV).

Manufacturers, distributors, and importers enter into contractual agreements with franchised motor vehicle dealers to sell particular vehicles which they manufacture, distribute, or import. The requirements regulating the business relationship between franchised motor vehicle dealers and automobile manufacturers, distributors, and importers are primarily in ss. 320.60 -320.071, F.S. These sections of law specify:

- The conditions and situations under which the DHSMV may deny, suspend, or revoke a vehicle manufacturer's license;
- The process, timing, and notice requirements for licensed manufacturers wanting to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a change;
- The procedures a licensed manufacturer must follow if it wants to add a dealership in an area already served by a franchised dealer, the protest process, and the DHSMV's role in these circumstances;
- The circumstances under which a licensed manufacturer, distributor, or importer may temporarily operate as a licensed vehicle dealer;
- Amounts of damages and fines that can be assessed against licensed manufacturers in violation of statutes;
- The ability of licensed vehicle dealers to seek administrative hearings; and
- DHSMV's authority to promulgate rules to implement these sections of law.

Effect of Bill

This bill amends s. 320.27(4), F.S., to provide that a franchised motor vehicle dealer that has been licensed continuously for 2 years and is in good standing with the Department of Highway Safety and Motor Vehicles is exempt from the pre-licensing training requirement when seeking a new franchise motor vehicle dealer license.

This bill amends s. 320.60(3), F.S., to clarify the existing definition of "demonstrator" by specifying that new vehicles which have been "driven" by prospective customers qualify as demonstrators.

This bill amends s. 320.64, F.S., to create a new cause for a licensee to have its license denied, suspended, or revoked by DHSMV. A licensee can have its license denied, suspended, or revoked by DHSMV for failing to repurchase, within a specific time frame, certain vehicles and other property from a dealer upon the voluntary or involuntary termination of that dealer's franchise. Specifically, licensed manufacturers would be required to:

- Buy back, at net cost, new vehicles with a mileage of 2,000 miles or less, not counting the mileage placed on the vehicle before it was delivered to the dealer;
- Repay the cost of new, unused, undamaged, and unsold parts and accessories in their original packaging and in unbroken lots, with exceptions for sheet metal;
- Pay fair market value for signs, special tools, and other equipment that meet certain conditions; and
- Pay the costs related to packing, storing, loading and shipping these items eligible for repurchase.

The dealer would have 90 days to return the property to the manufacturer, who would have 60 days upon receipt of the items to pay the dealer. These repurchase provisions do not apply in cases where the dealer's franchise is being terminated as a result of dealer selling his or her assets or stock.

This bill amends s. 320.642(1), F.S., to remove the requirement that notice must be sent to DHSMV by "certified mail".

This bill amends s. 320.642(5), F.S., to make it more difficult for a licensee to relocate an existing franchised dealership, and then open a new dealership at the old location without notice or the opportunity for other dealers to protest. The bill provides that the opening or reopening of the same or successor motor vehicle dealer within 12 months will not be considered an additional motor vehicle dealer subject to protest if:

- There is no motor vehicle dealer within 25 miles of the proposed location; or
- The opening or reopening is within 6 miles of the prior location and, if an existing dealer of the same line-make is located within 15 miles of the former location, the proposed location is not closer to an existing dealer of the same line-make "within 15 miles of the proposed location."

This bill also specifies that if the opening or reopening is not considered an additional motor vehicle dealer, then the manufacturer cannot open a new dealership for 2 years if it is within 4 miles of the old site.

This bill creates s. 320.642(7), F.S., to require that all measurements required for the purposes of determining the locations of existing and proposed new dealerships be based on the "geometric centroid." "Geometric centroid" is a mathematical term that basically means the center point of, in this case, the dealership's property.

This bill creates s. 320.642(8), F.S., to provide that DHSMV is not obligated to determine the accuracy of any distance asserted by any party in a notice submitted to it. Any dispute concerning a distance

measurement must be resolved by a hearing conducted in accordance with the Administrative Procedures Act.

C. SECTION DIRECTORY:

Section 1 amends s. 320.27, F.S., to provide that under certain circumstances a motor vehicle dealer is exempt from the pre-licensing training requirement when seeking to renew a certification license.

Section 2 amends s. 320.60, F.S., to amend the definition of "demonstrator."

Section 3 amends s. 320.64, F.S., to specify the types of costs owed to a motor vehicle dealer whose contract has been terminated by a manufacturer.

Section 4 amends s. 320.642, F.S., to amend criteria determining when a proposed opening or reopening of a motor vehicle dealership is subject to protest.

Section 5 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 amends s. 320.642, F.S., by removing a provision requiring licensees to give certain notices to DHSMV by certified mail. The cost of certified mail according to the USPS is $2.40 in addition to postage. Therefore, this bill will save licensees that must give notice under s. 360.642(1), F.S., $2.40 per mailing.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At its March 14, 2006, meeting, the House Transportation Committee adopted a strike-all amendment to conform to the Senate companion. The amendment made the following revisions to the original bill:

- It amended s. 320.27, F.S., to delete the requirement that applicants for new franchised dealer licenses attend training seminars if they have held an existing license continuously for the past two years and are in good standing with the DHSMV.
- It amended s. 320.642, F.S., to specify that the DHSMV is not obligated to check the accuracy of the measurements in the applications, and that any dispute about distance measurements in an application shall be resolved by an administrative hearing in accordance with ss. 120.569 and 120.57, F.S.
- It deleted the proposed changes to s. 320.643, F.S., related to criteria and circumstances in which a licensed manufacturer can prohibit a franchised dealer from selling his or her dealership to a new owner who plans to relocate it.

The bill was then reported favorably with a committee substitute.

CHAMBER ACTION

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1 The Transportation Committee 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 motor vehicle dealers; amending s.
7 320.27, F.S.; exempting certain applicants for a new
8 franchised motor vehicle dealer license from certain
9 training requirements; amending s. 320.60, F.S.; revising
10 the definition of "demonstrator" for purposes of
11 provisions relating to manufacturing, importing, and
12 distributing motor vehicles; amending s. 320.64, F.S.;
13 prohibiting specified licensees from failing to pay
14 certain compensation amounts to a motor vehicle dealer
15 after termination of the dealer's franchise agreement;
16 providing exceptions; providing procedures for payment of
17 the compensation amounts; providing for certain remedies,
18 procedures, and rights of recovery; amending s. 320.642,
19 F.S.; deleting a requirement that certain notices be sent
20 by certified mail; revising conditions under which an
21 opening or reopening of the same or a successor dealer
22 within 12 months is not considered an additional dealer
23 subject to protest; prohibiting for a certain time

24 proposals for a dealer of the same line-make after the
25 opening or reopening of the dealer; providing criteria for
26 measurements of distance between dealer locations;
27 providing that the Department of Highway Safety and Motor
28 Vehicles is not obligated to determine the accuracy of any
29 distance submitted in a notice; providing for resolution
30 of disputed distances by a hearing in accordance with
31 specified provisions; providing an effective date.
32
33 Be It Enacted by the Legislature of the State of Florida:
34
35 Section 1. Paragraph (a) of subsection (4) of section
36 320.27, Florida Statutes, is amended to read:
37 320.27 Motor vehicle dealers.--
38 (4) LICENSE CERTIFICATE.--
39 (a) A license certificate shall be issued by the
40 department in accordance with such application when the
41 application is regular in form and in compliance with the
42 provisions of this section. The license certificate may be in
43 the form of a document or a computerized card as determined by
44 the department. The actual cost of each original, additional, or
45 replacement computerized card shall be borne by the licensee and
46 is in addition to the fee for licensure. Such license, when so
47 issued, entitles the licensee to carry on and conduct the
48 business of a motor vehicle dealer. Each license issued to a
49 franchise motor vehicle dealer expires annually on December 31
50 unless revoked or suspended prior to that date. Each license
51 issued to an independent or wholesale dealer or auction expires

52 annually on April 30 unless revoked or suspended prior to that
53 date. Not less than 60 days prior to the license expiration
54 date, the department shall deliver or mail to each licensee the
55 necessary renewal forms. Each independent dealer shall certify
56 that the dealer principal (owner, partner, officer of the
57 corporation, or director) has completed 8 hours of continuing
58 education prior to filing the renewal forms with the department.
59 Such certification shall be filed once every 2 years commencing
60 with the 2006 renewal period. The continuing education shall
61 include at least 2 hours of legal or legislative issues, 1 hour
62 of department issues, and 5 hours of relevant motor vehicle
63 industry topics. Continuing education shall be provided by
64 dealer schools licensed under paragraph (b) either in a
65 classroom setting or by correspondence. Such schools shall
66 provide certificates of completion to the department and the
67 customer which shall be filed with the license renewal form, and
68 such schools may charge a fee for providing continuing
69 education. Any licensee who does not file his or her application
70 and fees and any other requisite documents, as required by law,
71 with the department at least 30 days prior to the license
72 expiration date shall cease to engage in business as a motor
73 vehicle dealer on the license expiration date. A renewal filed
74 with the department within 45 days after the expiration date
75 shall be accompanied by a delinquent fee of $100. Thereafter, a
76 new application is required, accompanied by the initial license
77 fee. A license certificate duly issued by the department may be
78 modified by endorsement to show a change in the name of the
79 licensee, provided, as shown by affidavit of the licensee, the

80 majority ownership interest of the licensee has not changed or
81 the name of the person appearing as franchisee on the sales and
82 service agreement has not changed. Modification of a license
83 certificate to show any name change as herein provided shall not
84 require initial licensure or reissuance of dealer tags; however,
85 any dealer obtaining a name change shall transact all business
86 in and be properly identified by that name. All documents
87 relative to licensure shall reflect the new name. In the case of
88 a franchise dealer, the name change shall be approved by the
89 manufacturer, distributor, or importer. A licensee applying for
90 a name change endorsement shall pay a fee of $25 which fee shall
91 apply to the change in the name of a main location and all
92 additional locations licensed under the provisions of subsection
93 (5). Each initial license application received by the department
94 shall be accompanied by verification that, within the preceding
95 6 months, the applicant, or one or more of his or her designated
96 employees, has attended a training and information seminar
97 conducted by a licensed motor vehicle dealer training school.
98 Any applicant for a new franchised motor vehicle dealer license
99 who has held a valid franchised motor vehicle dealer license
100 continuously for the past 2 years and who remains in good
101 standing with the department is exempt from the prelicensing
102 training requirement. Such seminar shall include, but is not
103 limited to, statutory dealer requirements, which requirements
104 include required bookkeeping and recordkeeping procedures,
105 requirements for the collection of sales and use taxes, and such
106 other information that in the opinion of the department will

107 promote good business practices. No seminar may exceed 8 hours
108 in length.
109 Section 2. Subsection (3) of section 320.60, Florida
110 Statutes, is amended to read:
111 320.60 Definitions for ss. 320.61-320.70.--Whenever used
112 in ss. 320.61-320.70, unless the context otherwise requires, the
113 following words and terms have the following meanings:
114 (3) "Demonstrator" means any new motor vehicle that ~~which~~
115 is carried on the records of the dealer as a demonstrator and is
116 used by, being inspected or driven by the dealer or his or her
117 employees, or driven by prospective customers for the purpose of
118 demonstrating vehicle characteristics in the sale or display of
119 motor vehicles sold by the dealer.
120 Section 3. Subsection (36) is added to section 320.64,
121 Florida Statutes, to read:
122 320.64 Denial, suspension, or revocation of license;
123 grounds.--A license of a licensee under s. 320.61 may be denied,
124 suspended, or revoked within the entire state or at any specific
125 location or locations within the state at which the applicant or
126 licensee engages or proposes to engage in business, upon proof
127 that the section was violated with sufficient frequency to
128 establish a pattern of wrongdoing, and a licensee or applicant
129 shall be liable for claims and remedies provided in ss. 320.695
130 and 320.697 for any violation of any of the following
131 provisions. A licensee is prohibited from committing the
132 following acts:
133 (36)(a) Notwithstanding the terms of any franchise
134 agreement, in addition to any other statutory or contractual

135 rights of recovery after the voluntary or involuntary
136 termination of a franchise, failing to pay the motor vehicle
137 dealer, within 90 days after the effective date of the
138 termination, cancellation, or nonrenewal, the following amounts:
139 1. The net cost paid by the dealer for each new motor
140 vehicle in the dealer's inventory with mileage of 2,000 miles or
141 less, exclusive of mileage placed on the vehicle before it was
142 delivered to the dealer.
143 2. The current price charged for each new, unused,
144 undamaged, or unsold part or accessory that:
145 a. Is in the current parts catalogue and is still in the
146 original, resalable merchandising package and in an unbroken
147 lot, except that sheet metal may be in a comparable substitute
148 for the original package; and
149 b. Was purchased by the dealer directly from the
150 manufacturer or distributor or from an outgoing authorized
151 dealer as a part of the dealer's initial inventory.
152 3. The fair market value of each undamaged sign owned by
153 the dealer which bears a trademark or trade name used or claimed
154 by the applicant or licensee or its representative which was
155 purchased from or at the request of the applicant or licensee or
156 its representative.
157 4. The fair market value of all special tools, data
158 processing equipment, and automotive service equipment owned by
159 the dealer which:
160 a. Were recommended in writing by the applicant or
161 licensee or its representative and designated as special tools
162 and equipment;

163 b. Were purchased from or at the request of the applicant
164 or licensee or its representative; and
165 c. Are in usable and good condition except for reasonable
166 wear and tear.
167 5. The cost of transporting, handling, packing, storing,
168 and loading any property subject to repurchase under this
169 section.
170 (b) This subsection does not apply to a termination,
171 cancellation, or nonrenewal that is implemented as a result of
172 the sale of the assets or stock of the dealer. The dealer shall
173 return the property listed in this subsection to the licensee
174 within 90 days after the effective date of the termination,
175 cancellation, or nonrenewal. The licensee shall supply the
176 dealer with reasonable instructions regarding the method by
177 which the dealer must return the property. The compensation for
178 the property shall be paid by the licensee within 60 days after
179 the tender of inventory and other items, if the dealer has clear
180 title to the inventory and other items and is in a position to
181 convey that title to the manufacturer or distributor. If the
182 inventory or other items are subject to a security interest, the
183 licensee may make payment jointly to the dealer and the holder
184 of the security interest.
185
186 A motor vehicle dealer who can demonstrate that a violation of,
187 or failure to comply with, any of the preceding provisions by an
188 applicant or licensee will or can adversely and pecuniarily
189 affect the complaining dealer, shall be entitled to pursue all

190 of the remedies, procedures, and rights of recovery available
191 under ss. 320.695 and 320.697.
192 Section 4. Subsections (1) and (5) of section 320.642,
193 Florida Statutes, are amended, and subsections (7) and (8) are
194 added to that section, to read:
195 320.642 Dealer licenses in areas previously served;
196 procedure.--
197 (1) Any licensee who proposes to establish an additional
198 motor vehicle dealership or permit the relocation of an existing
199 dealer to a location within a community or territory where the
200 same line-make vehicle is presently represented by a franchised
201 motor vehicle dealer or dealers shall give written notice of its
202 intention ~~by certified mail~~ to the department. Such notice shall
203 state:
204 (a) The specific location at which the additional or
205 relocated motor vehicle dealership will be established.
206 (b) The date on or after which the licensee intends to be
207 engaged in business with the additional or relocated motor
208 vehicle dealer at the proposed location.
209 (c) The identity of all motor vehicle dealers who are
210 franchised to sell the same line-make vehicle with licensed
211 locations in the county or any contiguous county to the county
212 where the additional or relocated motor vehicle dealer is
213 proposed to be located.
214 (d) The names and addresses of the dealer-operator and
215 principal investors in the proposed additional or relocated
216 motor vehicle dealership.
217

218 Immediately upon receipt of such notice the department shall
219 cause a notice to be published in the Florida Administrative
220 Weekly. The published notice shall state that a petition or
221 complaint by any dealer with standing to protest pursuant to
222 subsection (3) must be filed not more than 30 days from the date
223 of publication of the notice in the Florida Administrative
224 Weekly. The published notice shall describe and identify the
225 proposed dealership sought to be licensed, and the department
226 shall cause a copy of the notice to be mailed to those dealers
227 identified in the licensee's notice under paragraph (c).
228 (5)(a) The opening or reopening of the same or a successor
229 motor vehicle dealer within 12 months is ~~shall~~ not ~~be~~ considered
230 an additional motor vehicle dealer subject to protest within the
231 meaning of this section, if:
232 1.~~(a)~~ The opening or reopening is within the same or an
233 adjacent county and~~,~~ is within 2 miles of the former motor
234 vehicle dealer location;~~,~~
235 2.~~(b)~~ There is no dealer within 25 miles of the proposed
236 location or the proposed location is further from each existing
237 dealer of the same line-make than the prior location is from
238 each dealer of the same line-make within 25 miles of the new
239 location;~~,~~
240 3.~~(c)~~ The opening or reopening is within 6 miles of the
241 prior location and, if any existing motor vehicle dealer of the
242 same line-make is located within 15 miles of the former
243 location, the proposed location is no closer to any existing
244 dealer of the same line-make within 15 miles of the proposed
245 location;~~,~~ or

246 4. ~~(d)~~ The opening or reopening is within 6 miles of the
247 prior location and, if all existing motor vehicle dealers of the
248 same line-make are beyond 15 miles of the former location, the
249 proposed location is further than 15 miles from any existing
250 motor vehicle dealer of the same line-make.
251 (b) Any other such opening or reopening shall constitute
252 an additional motor vehicle dealer within the meaning of this
253 section.
254 (c) If a motor vehicle dealer has been opened or reopened
255 pursuant to this subsection, the licensee may not propose a
256 motor vehicle dealer of the same line-make to be located within
257 4 miles of the previous location of such dealer for 2 years
258 after the date the relocated dealership opens.
259 (7) Measurements of the distance between proposed or
260 existing dealer locations required by this section shall be
261 taken from the geometric centroid of the property that
262 encompasses all of the existing or proposed motor vehicle dealer
263 operations.
264 (8) The department shall not be obligated to determine the
265 accuracy of any distance asserted by any party in a notice
266 submitted to it. Any dispute concerning a distance measurement
267 asserted by a party shall be resolved by a hearing conducted in
268 accordance with ss. 120.569 and 120.57.
269 Section 5. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1415 CS Traffic Control
SPONSOR(S): Sansom and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1878(s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N, w/CS	Pugh BJP	Miller
2) State Infrastructure Council		Pugh	Havlicak RH
3)			
4)			
5)			

SUMMARY ANALYSIS

State law generally prohibits activities that obstruct the free flow of traffic on public roadways and pose safety hazards to motorists and pedestrians. Sections 316.2045 and 337.406, F.S., provide some limited exceptions and require state or local authorizations for certain uses. Solicitation of funds by federally-recognized non-profit organizations or by charitable groups registered under chapter 496, F.S., is largely prohibited on state-maintained roads, while local governments have authority to permit such activities on non-state-maintained roads.

HB 1415 CS exempts organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and persons acting on behalf of these organizations, from needing permits from local governments before they can engage in solicitation along non-state-maintained roadways if they meet certain requirements. These requirements include the organization, persons, or organizations acting on their behalf providing the local government with:

- The names and addresses of those conducting the solicitation and of those receiving the contributions;
- A safety plan for persons participating in the solicitation;
- A detailed description of the location of the solicitation activities;
- Proof of a minimum $1 million commercial general liability insurance policy against bodily injury and property damage arising from the solicitation activities; and
- Proof that the organization either is registered with the state Department of Agriculture and Consumer Services, pursuant to s. 496.405, F.S., or is exempt from registration.

The bill further requires that:

- No one under the age of 18 is participating in the solicitation activities;
- All solicitation activities occur during daylight hours;
- No persons participating in the solicitation behave in a persistent, demanding or harassing manner, or use sound or voice-amplifying equipment; and
- Signage advertising the solicitation is posted at least 500 before the location of the solicitation activities, to give motorists adequate notice.

Eligible organizations or persons are limited to 10 cumulative days of solicitation activities each year. Local governments retain the authority to stop solicitation activities if the requirements are not met.

HB 1415 CS may have a minimal fiscal impact on some local governments, and will have no fiscal impact to state government. The bill raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: HB 1415 CS increases the options of private charitable or nonprofit organizations to conduct their fundraising activities without additional government interference.

B. EFFECT OF PROPOSED CHANGES:

Current Situation
Section 316.2045, F.S., generally prohibits the obstruction of public streets, highways, and roads – whether maintained by the state or local governments – and addresses issues of permittable activities, penalties for violators, and an exemption for vehicles collecting solid waste or recyclable or recovered materials.

The section:

- Designates as a pedestrian violation, punishable by a $15 fine plus court costs, when a person willfully obstructs the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining vehicular traffic, by standing or approaching a motor vehicles, or by endangering the safe movement of vehicles or pedestrians.
- Requires permits for the use of any portion of a state-maintained road or right-of-way, pursuant to the conditions in s. 337.406, F.S. Under that section of law, local governments may obtain permits from FDOT for parades and other activities that require closing any road on the State Highway System to normal traffic.
- Further provides that it is unlawful, without proper authorization or a lawful permit, for any person or persons to willfully obstruct the free, convenient, and normal use of any public street, highway, or road in order to solicit. A violation of this provision is a second-degree misdemeanor, punishable by a fine of up to $500 or imprisonment for up to 60 days.
- Organizations qualified under s. 501(c)(3) of the Internal Revenue Code as non-profits and registered pursuant to chapter 496, F.S., or persons or organizations acting on their behalf are exempted from needing a state permit or authorization for activities on non-state-maintained roads. Chapter 496, F.S., regulates charitable solicitation in Florida, and specifies that charities and certain other non-profit organizations register with the Department of Agriculture and Consumer Services, disclose a variety of background and financial information, and pay a registration fee ranging from $10 to $400, depending on the previous year's fundraising amount. The department annually publishes a book listing all of the registered charities and organizations, and their previous year's revenue and expenses. The 2005-2006 edition of the "Gift Givers' Guide" is 932 pages and includes an estimated 10,000 organizations.
- Local governments may require permits for the use of any street, highway, or road that is not maintained by the state. Non-state maintained roadways are defined as either county, municipal, or private roads which a local government has agreed through a contractual arrangement to maintain.

Numerous Florida cities and counties have adopted ordinances that establish permitting requirements for persons and groups that want to solicit charitable donations; the exact number is unavailable. A review of several ordinances indicates the requirements vary from community to community.

Effect of Proposed Changes
HB 1415 CS preempts local governments from requiring permits for the use of non-state-maintained roadways from organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and from persons acting on behalf of these organizations,

For example, the organization, persons, or organizations acting on their behalf must provide the local government with the following information:

- The names and addresses of those conducting the solicitation and of those receiving the contributions, no later than 14 days before the event.
- A safety plan for persons participating in the solicitation.
- A detailed description of the location of the solicitation activities.
- Proof of a commercial general liability insurance policy against bodily injury and property damage arising from the solicitation activities, with a limit of no less than $1 million per occurrence. The insurance certificate must name the local government as a co-insured, and must be filed with the local government no later than 72 hours before the event.
- Proof that the organization either is registered with the state Department of Agriculture and Consumer Services, pursuant to s. 496.405, F.S., or is exempt from registration.

Additional requirements are:

- No one under the age of 18 participates in the solicitation activities.
- All solicitation activities occur during daylight hours.
- The solicitation activities must not interfere with the safe and efficient movement of traffic, nor cause danger to the participants or the public.
- Persons participating in the solicitation shall not persist in asking for donations once they have been turned down, nor may they behave in a demanding or harassing manner, or use sound or voice-amplifying equipment.
- Signs advertising the solicitation activities must be posted at least 500 ahead of the site where the solicitation is occurring.

Eligible organizations or persons are limited to 10 cumulative days of solicitation activities each year.

Local governments have the authority to stop solicitation activities if the requirements are not met.

HB 1415 CS takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 316.2045, F.S., to exempt from local-government permitting certain charitable and non-profit solicitation activities on non-state-maintained roadways as long as certain specified requirements are met.

Section 2: Specifies 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:

Indeterminate, but probably minimal. Local governments that collect a fee for issuing permits to charitable and non-profit organizations wanting to solicit contributions along non-state-maintained roadways could lose that revenue source.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Charitable or non-profit organizations that have not participated in roadside solicitation because they could not meet the permitting requirements of some counties or cities, or because the activity is banned outright, may be able to collect more contributions if HB 1415 CS becomes law. These contributions could benefit persons in the local communities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 1415 CS does not appear to trigger a mandates review because it does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Local governments are exempt from rulemaking under chapter 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Transportation Committee

At its March 28, 2006, meeting, the Transportation Committee adopted an amendment that specified a number of requirements that a charitable or non-profit organization must meet before it can solicit contributions on non-state-maintained highways. Those requirements are listed in detail in the above analysis. The bill as originally filed provided an exemption to charitable or non-profit organizations from local permit requirements without any conditional requirements.

The committee adopted the amendment without objection, then voted 15-0 to report the bill as favorable with a 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 traffic control; amending s. 316.2045, F.S.; exempting certain nonprofit organizations from permit requirements related to obstructing streets or roads for solicitation purposes; establishing conditions certain nonprofit organizations must meet in order to solicit charitable donations on certain streets, roads, and rights-of-way; authorizing local governments to halt solicitation activities if such conditions are not met; providing an effective date.

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

Section 1. Subsection (3) of section 316.2045, Florida Statutes, is amended to read:

316.2045 Obstruction of public streets, highways, and roads.--

(3) Permits for the use of any street, road, or right-of-way not maintained by the state may be issued by the appropriate

24 local government. An organization that is qualified under s.
25 501(c)(3) of the Internal Revenue Code and registered under
26 chapter 496, or a person or organization acting on behalf of
27 that organization, is exempt from local requirements for a
28 permit issued under this subsection for charitable solicitation
29 activities on or along streets or roads that are not maintained
30 by the state under the following conditions:
31 (a) The organization, or the person or organization acting
32 on behalf of the organization, must provide all of the following
33 to the local government:
34 1. No fewer than 14 calendar days prior to the proposed
35 solicitation, the name and address of the person or organization
36 that will perform the solicitation and the name and address of
37 the organization that will receive funds from the solicitation.
38 2. For review and comment, a plan for the safety of all
39 persons participating in the solicitation, as well as the
40 motoring public, at the locations where the solicitation will
41 take place.
42 3. Specific details of the location or locations of the
43 proposed solicitation and the hours during which the
44 solicitation activities will occur.
45 4. Proof of commercial general liability insurance against
46 claims for bodily injury and property damage occurring on
47 streets, roads, or rights-of-way or arising from the solicitor's
48 activities or use of the streets, roads, or rights-of-way by the
49 solicitor or the solicitor's agents, contractors, or employees.
50 The insurance shall have a limit of not less than $1 million per
51 occurrence for the general aggregate. The certificate of

52 insurance shall name the local government as an additional
53 insured and shall be filed with the local government no later
54 than 72 hours before the date of the solicitation.
55 5. Proof of registration with the Department of
56 Agriculture and Consumer Services pursuant to s. 496.405 or
57 proof that the soliciting organization is exempt from the
58 registration requirement.
59 (b) Organizations or persons meeting the requirements of
60 subparagraphs (a)1.-5. may solicit for a period not to exceed 10
61 cumulative days within 1 calendar year.
62 (c) All solicitation shall occur during daylight hours
63 only.
64 (d) Solicitation activities shall not interfere with the
65 safe and efficient movement of traffic and shall not cause
66 danger to the participants or the public.
67 (e) No person engaging in solicitation activities shall
68 persist after solicitation has been denied, act in a demanding
69 or harassing manner, or use any sound or voice-amplifying
70 apparatus or device.
71 (f) All persons participating in the solicitation shall be
72 at least 18 years of age and shall possess picture
73 identification.
74 (g) Signage providing notice of the solicitation shall be
75 posted at least 500 feet before the site of the solicitation.
76 (h) The local government may stop solicitation activities
77 if any conditions or requirements of this subsection are not
78 met.
79 Section 2. This act shall take effect July 1, 2006.

State Infrastructure Council

AMENDMENT PACKET

Tuesday, April 4, 2006
1:00 pm – 1:45 pm
404 House Office Building

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

CS/HB 415

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: State Infrastructure Council
2 Representative(s) Quinones offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 102-158, and insert:
6 5.~~6.~~a. To be eligible to receive the exemption provided by
7 subparagraph 1. or~~,~~ subparagraph 2., ~~or subparagraph 3.,~~ a
8 qualifying business entity shall apply initially to Enterprise
9 Florida, Inc. The original certification shall be valid for a
10 period of 2 years. In lieu of submitting a new application, the
11 original certification may be renewed biennially by submitting
12 to the Office of Tourism, Trade, and Economic Development a
13 statement, certified under oath, that there has been no material
14 change in the conditions or circumstances entitling the business
15 entity to the original certification. The initial application
16 and the certification renewal statement shall be developed by
17 the Office of Tourism, Trade, and Economic Development in
18 consultation with Enterprise Florida, Inc.
19 b. Enterprise Florida, Inc., shall review each submitted
20 initial application and information and determine whether or not
21 the application is complete within 5 working days. Once an

22 application is complete, Enterprise Florida, Inc., shall, within
23 10 working days, evaluate the application and recommend approval
24 or disapproval of the application to the Office of Tourism,
25 Trade, and Economic Development.
26 c. Upon receipt of the initial application and
27 recommendation from Enterprise Florida, Inc., or upon receipt of
28 a certification renewal statement, the Office of Tourism, Trade,
29 and Economic Development shall certify within 5 working days
30 those applicants who are found to meet the requirements of this
31 section and notify the applicant, Enterprise Florida, Inc., and
32 the department of the original certification or certification
33 renewal. If the Office of Tourism, Trade, and Economic
34 Development finds that the applicant does not meet the
35 requirements of this section, it shall notify the applicant and
36 Enterprise Florida, Inc., within 10 working days that the
37 application for certification has been denied and the reasons
38 for denial. The Office of Tourism, Trade, and Economic
39 Development has final approval authority for certification under
40 this section.
41 ~~7.a. A business may apply once each year for the~~
42 ~~exemption.~~
43 d.~~b.~~ The initial application and certification renewal
44 statement must indicate, for program evaluation purposes only,
45 the average number of full-time equivalent employees at the
46 facility over the preceding calendar year, the average wage and
47 benefits paid to those employees over the preceding calendar
48 year, the total investment made in real and tangible personal
49 property over the preceding calendar year, and the total value
50 of tax-exempt purchases and taxes exempted during the previous
51 year. The department shall assist the Office of Tourism, Trade,

52 and Economic Development in evaluating and verifying information
53 provided in the application for exemption.
54 e.~~c.~~ The Office of Tourism, Trade, and Economic
55 Development may use the information reported on the initial
56 application certification renewal statement for evaluation
57 purposes only and shall prepare an annual report on the
58 exemption program and its cost and impact. The annual report for
59 the preceding fiscal year shall be submitted to the Governor,
60 the President of the Senate, and the Speaker of the House of
61 Representatives by September 30 of each fiscal year.
62 6.~~8.~~ A business certified to receive this exemption may
63 elect to designate one or more state universities or community
64 colleges as recipients of up to 100 percent of the amount of the
65 exemption for which they may qualify. To receive these funds,
66 the institution must agree to match the funds so earned with
67 equivalent cash, programs, services, or other in-kind support on
68 a one-to-one basis in the pursuit of research and development
69 projects as requested by the certified business. The rights to
70 any patents, royalties, or real or intellectual property must be
71 vested in the business unless otherwise agreed to by the
72 business and the university or community college.
73 7.~~9.~~ As used in this paragraph, the term:
74
75
76 ========== T I T L E A M E N D M E N T ==========
77 Between lines 11 and 12, insert:
78 revising provisions for application for the exemption;
79 specifying the term of validity of an exemption certification;
80 providing for biennial renewal of certifications; providing

81 criteria; deleting a limitation on number of exemption
82 applications by a business in a year;