2006 PROPOSED TRANSPORTATION LEGISLATION – PCB TR 06-04a
1/27/06

[Shaded areas explain issues incorporated since PCB TR 06-04 was published)

Issue	Current Law	Proposed Changes	Justification
FDOT ISSUES			
Turnpike bond cap	Section 338.2275(1), F.S., caps the Florida Turnpike Enterprise's total bond issuance at $4.5 billion. FDOT says that because of this cap, the Turnpike's ability to raise funds for projects is exhausted after the year 2010.	The draft legislation would: -- Raise the bond cap from $4.5 billion to $6 billion. -- Change the limitation from a maximum amount "issued" to a maximum amount "outstanding." This creates what could be described as a line of credit for the Turnpike Enterprise, because paying off existing debt gives it the ability to issue new bonds, with the approval of the State Board of Administration.	These changes in the law are expected to generate enough money to fund $906 million in various Turnpike projects and to add about 101 lane miles to the Florida Turnpike System.
MPOAC Issues			
Administrative issues	Section 339.175, F.S., creates M.P.O.'s within Florida for the broad purposes of transportation planning, but does not address the internal administrative workings of the entities and their staffs. This has led to lack of administrative uniformity statewide among M.P.O. 's.	The draft legislation would amend ch. 112, F.S., to: -- Clarify that M.P.O.'s are separate legal entities independent from the local governing body; -- Allow M.P.O. staff to participate in the Florida Retirement System; and -- Allow M.P.O.'s to establish per diem and travel reimbursement rates. It also would amend s. 339.175(5), F.S., to clarify that: -- an M.P.O.'s executive director reports directly to his/her M.P.O. Governing Board; -- the executive director and staff are employed by the MPO, or through a staff services agreement between the MPO and another governmental entity; and -- the executive director position is SMS.	These changes are intended to bring uniformity to M.P.O. administration and officially recognize M.P.O. staff as public employees eligible for certain retirement benefits. In addition, the legislation makes it clear that M.P.O. staff work for the M.P.O., and not for any of the member cities or counties.

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Membership issues	M.P.O.'s have raised a number of technical membership issues that need clarity in state law. For example, M.P.O. officers and their duties are not specified; general-purpose, local government voting members are not fully defined; the methodology used to appoint alternate voting members is not clearly provided; and FDOT staff are "non-voting members" when their role is more as advisors. There also is a concern of the lack of non-highway representation on the boards.	The draft bill would amend s. 339.175(1) and (2), F.S., to: -- Direct each M.P.O. to select a chair, vice chair, and clerk; -- Specify the officers' responsibilities; -- Clarify that voting members shall exclude constitutional or charter officers; -- Establish a process by which alternate members are selected; -- Reclassify the FDOT representatives as non-voting members; -- Direct M.P.O.'s to appoint nonvoting representatives of various multi-modal organizations, who are not otherwise represented by voting members; and -- Appoint representatives of major military installations as non-voting advisors if requested by bases.	These changes help eliminate current confusion in statutory construction and lack of uniformity in how M.P.O.'s statewide operate. They also could broaden multi-modal representation from entities other than airport and seaport boards.
Powers and Duties of M.P.O.'s	Current law does not address training opportunities for local elected officials who serve on M.P.O.'s . Nor does current law give M.P.O.'s powers common to many other types of independent boards with budgets.	The draft bill would amend s. 339.175(5), F.S., to: O Require each M.P.O. to provide training on the urbanized transportation planning process to all who serve as members. O Give M.P.O.'s the power to: -- Sell, donate, dedicate, or convey property to other entities; -- Appropriate funds; -- Receive grants-in-aid; -- Enjoy sovereign immunity; -- Incur debt; -- Hire staff, including legal counsel; -- Acquire buildings; and -- Have all powers provided for under federal law.	These additional powers or privileges would significantly expand the current authority of M.P.O.'s beyond their current transportation planning function. One reason the MPOAC is supporting this expansion of authority is to diminish the M.P.O.'s dependence on local governmental entities, and thus encourage broader, more regional planning.

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Reporting requirements	The manner in which contiguous M.P.O.'s should report on their regional planning actions and accomplishments is not specified in current law.	The draft bill would amend s. 339.175(5), F.S., to specify that contiguous M.P.O.'s must develop a report on regional planning actions and accomplishments. This report must be transmitted to each M.P.O.'s local legislative delegation by February of each even-numbered year.	This is intended to document regional planning accomplishments, and improve communication between M.P.O.'s and their local legislative delegations.
Voting requirements	Current law requires roll-call votes of all members present in order to adopt or update certain plans.	The draft bill would amend s. 339.175(12), F.S., to provides for a supermajority roll call vote, or hand count vote of a majority-plus-one, of the membership present to adopt transportation plan amendments affecting projects in the first 3 years of such plans.	This change is related to the provision in s. 339.135(4)(b)3., F.S., that the first 3 years of FDOT's adopted work is the state's commitment to undertake transportation projects that local governments may rely on for planning and concurrency purposes.
EXPRESSWAY AUTHORITIES			
Penalties for toll plaza violations	Section 316.1001, F.S., specifies that persons who use a toll facility without paying a toll (unless otherwise exempted) is guilty of a noncriminal traffic infraction, punishable as a moving violation. If the citation is not paid in a timely fashion, then the matter is forwarded to the courts. Violators are subject to points being assessed on their driver's licenses.	The draft legislation would amend ss. 316.650(3) & 318.14(12), F.S., to clarify that violators must pay the amount of the unpaid toll and a minimum $25 fine to the appropriate expressway authority within a specified time in order to avoid a court hearing and points assessed against their licenses. The draft bill also would amend s. 318.18(7), F.S., to specify that if the violator is found guilty by a judge, then he/she must pay a $50 fine plus the amount of the unpaid toll, to the court which will forward these funds to the appropriate expressway authority.	These changes set in statute the fines for failing to pay tolls on expressway authority facilities, and raises costs for motorists who unsuccessfully challenge expressway citations.

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Expanded uses for transponders	Section 338.161, F.S., allows FDOT/the Turnpike to spend funds for marketing its Sun Pass transponders, and to receive funds from advertising placed on its transponders and promotional materials to defray costs. State law does not give similar authority to the expressway authorities. Nor does current law address potential uses of transponders other than for toll collection – although the Turnpike and the OOCEA allow their customers to pay for parking at the Orlando International Airport from their transponder accounts.	The draft legislation would amend s. 338.161, F.S., to extend to expressway authorities the ability to market and accept advertising on their transponders. It also would specifically allow expressway authorities and FDOT/Turnpike to enter into agreements with private or public entities to expand the uses of SunPass, E-Pass and other electronic toll-collection devices.	The Turnpike and expressway authorities would feel more comfortable with express statutory permission to expand the use of transponder accounts. The Turnpike and several expressway authorities are investigating partnerships with parking lot operations and retail establishments that could allow vehicle-related services, gasoline, and other purchases to be paid from transponder debit accounts.
Obscuring license plates	State law prohibits altering or mutilating license plates so that they can not be read easily by law enforcement. Expressway authorities are noticing more cases of illegible license plates on vehicles using tolled facilities without paying the tolls, and suspect increased use of spray-on film and other products to obscure the plate numbers.	The draft bill would amend s. 320.061, F.S., to also make it illegal to obscure license plates with any substance or coating that restricts their visibility or prevents a legible electronic image recording from being made. Under the bill, the registration of plates so obscured would be revoked. Also, the Florida Attorney General may file suit against any individual or entity selling or marketing products advertised as being able to obscure license plates. Such lawsuit may seek injunctive and monetary relief, punitive damages, attorney's fees, and records of all sales of the product to Floridians.	Supporters expect this provision will ensure better enforcement of toll-payment violations.

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Placement of license plates	Pursuant to s. 316.605(1), F.S., license plates must be attached to vehicles so that they are plainly visible and legible at all times 100 feet from the rear or front, and must be securely attached. Expressway authorities are noticing more cases of license plates being hung too high or too low, or otherwise oddly positioned, for the cameras at toll facilities to snap legible photographs of plates on vehicles whose drivers aren't paying tolls.	The draft bill would amend s. 316.605(1), F.S., to specify that: -- License plates be secured to the main body of a vehicle no higher than 60 inches and no lower than 12 inches from the ground, and -- License plates be affixed to a vehicle so that its letters and numerals shall be read from left to right, parallel to the ground. This means that license plates can't be attached upside down, vertically, or in reverse position.	Supporters expect this provision will ensure better enforcement of toll-payment violations.
Osceola Expressway Authority	There are 10 expressway or regional transportation authorities created in Florida law to address specific transportation needs.	The Osceola County Expressway Authority would be created in Part X of chapter 348, F.S. The 6-member governing board shall be comprised of: 3 residents of Osceola County selected by the County Commission; 2 persons appointed by the Governor; and the FDOT District 5 Secretary, who shall be a non-voting member. The new Authority shall have similar powers as the other existing expressway authorities.	A project discussed by the proposed expressway authority's supporters is a 6.5-mile-long toll road in the western part of the county to serve development and population growth there.

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Miami-Dade Expressway Authority	MDX was created pursuant to Part I of chapter 348, F.S., and has similar powers as the other expressway authorities.	-- Section 348.0003, F.S., would be amended to reduce the MDX board of directors from 13 members to 7 voting and one non-voting members. The voting members would include 3 county commissioners appointed by the commission chair; one mayor appointed by the Miami-Dade County League of Cities; and three governor appointees. The FDOT District 6 secretary would serve as a non-voting member. -- Section 348.0004, F.S., would be amended to require more public notice and meetings for proposed MDX toll increases or construction of new toll-collection points.	
Orlando-Orange County Expressway Authority	Pursuant to s. 255.05, payment and performance bonds may be waived for state projects of $100,000 or less, and by local and other governmental entities for their projects worth $200,000 or less.	Section 348.754, F.S. would be amended to allow the OOCEA to waive payment and performance bonds for its projects of $500,000 or less, as a way to encourage small-business participation in its economic-development program. To qualify for the waiver, the business must meet a number of criteria, including: -- Be an independent business headquartered in the Orange County Standard Metropolitan Statistical Area; -- Have no more than 25 full-time employees; -- Have gross annual sales averaging no more than $3 million in the three previous years, regarding construction projects; and -- Can only apply for the waiver six times.	

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OTHER ISSUES			
Technical; relocating FDOT's recycled materials section	Section 336.044, F.S., created in 1988, directs FDOT to expand its usage of recycled materials, and to revise its rules and bid specs to eliminate any barriers to the use of recycled materials in transportation projects, where appropriate.	The existing section of law is moved to s. 334.70, F.S., without change.	Chapter 334, F.S., deals with FDOT administration issues, and is a more appropriate location for this section than Chapter 336, F.S., which deals with the County Road System.
Florida Transportation Commission personnel	Pursuant to s. 20.23, F.S., the Commission's executive director, assistant executive director, and other staff are exempt from Career Service, and are classified as Selected Service Exempt employees.	The reference to the Commission employees' salaries and benefits set in accordance with the Selected Exempt Service guidelines is deleted.	Commission staff say this will allow the executive positions to be classified as Senior Management Service for purposes of salary and benefits.
General Aviation Airport Funding	State law allows FDOT to provide half of the local share of GAA project costs when federal funding is available. But many small GAAs can't afford even that, so the federal funds are typically rejected and the state pays for 80 percent of the project and the GAA/local government pays 20 percent.	Section 332.007, F.S., is amended to allow FDOT to pay 80 percent of the local match for an eligible federal aviation grant and the GAAs pay 20 percent.	FDOT anticipates this will allow the state to draw down more federal grants for much-needed general aviation improvements.
Other Arterial Road Funding	The share of funding for Other Arterial Roads –which are state roads used mostly by local motorists and aren't part of the Strategic Intermodal System (SIS) – is scheduled to be reduced by FDOT in about 5 years as SIS spending increases.	$400 million in non-recurring general revenue will be appropriated in FY 06-07 to FDOT specifically for use to improve the Other Arterial Roads system.	

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Environmental Permitting for Certain Transportation Projects	Currently, small-scale transportation activities – such as safety improvements -- are required to undergo the same environmental resource permitting requirements and meet the same standards as large-scale projects.	Various sections in Part IV, chapter 373, F.S., related to environmental resource permitting are amended to: -- create exemptions for small-scale state transportation projects or activities; -- specify that state transportation projects of less than 5 acres of wetlands impact may obtain general permits; -- direct FDOT, FDEP, and the WMDs to develop by 1/1/07 an MOU governing the use of sovereign submerged and other state-owned lands for state transportation projects; -- direct FDOT, FDEP, and the WMDs to develop by 1/1/07 an MOU describing a method for determining seasonal high-groundwater table elevation for state transportation projects; and -- direct FDOT, FDEP, and the WMDs to develop by 7/1/08 an MOU containing best management practices (BMPs) to handle roadway stormwater runoff.	Supporters say small-scale transportation projects have been unnecessarily slowed by the existing permitting requirements, even though the projects create minimal, if any, adverse environmental impacts. Also, the statutory requirement for the MOUs will invigorate efforts to address things like BMPs for transportation runoff, which other industries currently have.
FDOT study on impact of gaming facilities on transportation infrastructure	FDOT has broad statutory authority to perform studies on transportation-related issues.	FDOT is directed to conduct a study on the impacts that slot machine gaming at pari-mutuel facilities and Indian reservations is having on public roads and other transportation infrastructure. Among the topics to be included in the study are: an inventory of the access roads to and from these gaming facilities; traffic counts on these roads; the costs to maintain, improve, or widen these impacted roads; and the feasibility of imposing tolls on these roads. The study is due 1/15/07 to the Governor, the House and the Senate.	

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Local-government transportation funding	Section 212.055(1), F.S., allows certain charter counties to levy up to a 1 percent discretionary sales surtax with voter approval. This surtax can be used for road, bridge, public transit, bus systems, and fixed-guideway rapid transit systems. Seven counties are eligible, but only two levy the surtax: Duval and Miami-Dade.	The bill amends 212.055(1), F.S., to delete the requirement that only charter counties can levy the surtax. It also allows the surtax to be levied either after passage of a referendum or by a majority vote of the total membership of a county's governing body. The uses of the surtax are expanded to included construction of bicycle and pedestrian facilities. A new distribution formula also is being proposed so that municipalities can share the funds for transportation needs.	