Transportation Committee

Tuesday, February 7, 2006
1:15 PM - 3:15 PM
404 HOB

Allan G. Bense
Speaker

Ray Sansom
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Transportation Committee

Start Date and Time:	Tuesday, February 07, 2006 01:15 pm
End Date and Time:	Tuesday, February 07, 2006 03:15 pm
Location:	404 HOB
Duration:	2.00 hrs

Consideration of the following proposed committee bill(s):

PCB TR 06-01 -- General Revenue Bonds for Transportation/Resolution & Referendum
PCB TR 06-02 -- General Revenue Bonds for Transportation/Program Implementation
PCB TR 06-03 -- Highway Safety and Motor Vehicles
PCB TR 06-04 -- Transportation
PCB TR 06-05 -- Residential Manufactured Building Regulation

NOTICE FINALIZED on 01/27/2006 15:11 by Rousseau.Tiffany

PCB TR 06-01
General Revenue Bonds
Resolution/Referendum

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-01 General Revenue Bonds for Transportation/Resolution & Referendum
SPONSOR(S): Transportation Committee
TIED BILLS: PCB TR 06-02 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh BJP	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) relies on a variety of state and federal revenue sources to finance its $36 billion Five-Year Work Program. About 2 percent of the agency's funding is derived from general-obligation bonds, specifically for right-of-way acquisition and construction of bridges.

PCB TR 06-01 is a proposed joint resolution seeking voter approval of general obligation bonds to finance state transportation capital projects and right-of-way acquisition. The outstanding amount of general obligation bonds issued for these transportation purposes cannot exceed 25 percent of the state's total tax revenues of the previous two years, pursuant to the proposed section 11(g), Article VII to the state constitution. General obligation bonds (also called "state bonds") pledge the full faith and credit of the State of Florida.

This proposal is being offered as a constitutional amendment because general obligation bonds must be approved by voters, pursuant to Article VII of the state constitution and to s. 215.59, F.S.

PCB TR 06-01 must be approved by a three-fifths vote of the House and the Senate before it can be placed on the next statewide ballot in November 2006.

By itself, the amendment has a minimal fiscal impact because the bonds must be issued "in the manner provided by general law," meaning the Legislature must pass implementing legislation before any bonds can be sold. The state will incur an estimated $40,000 for publication costs.

The joint resolution does not contain a specific effective date. Therefore, if adopted by the voters, it will take effect January 4, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: If the proposed constitutional amendment and implementing legislation become law, FDOT potentially will have access to hundreds of millions of dollars to build more transportation infrastructure. As such, this legislation can be viewed as facilitating growth in government. Viewed from a larger context, the legislation promotes greater government spending on much-needed public infrastructure to energize Florida's economic development.

B. EFFECT OF PROPOSED CHANGES:

Background

Bonds, generally

The most common types of bonds issued by governmental entities are general obligation bonds and revenue bonds. General obligation bonds, also called "state bonds" even though local governmental entities also can issue them, pledge the full faith and credit of the issuing governmental entity. The debt service on these bonds typically is paid with identified revenues within the state or local government's treasury. Schools, highways, and environmental preserves are typical types of public infrastructure purchased with general obligation bonds. On the other hand, the debt service on revenue bonds is paid with funds generated by the infrastructure that built using the bond proceeds. Typical infrastructure projects built with revenue bonds are toll highways and wastewater treatment facilities.

Florida's constitution and statutes include several examples of both types of bond programs. Under Florida law, general obligation bonds must be approved by voters before they can be issued. Revenue bonds do not have that requirement, although there may be instances where local governments have asked their voters whether they support the issuance.

Pursuant to s. 215.59, F.S.:

> *"(1) The issuance of state bonds pledging the full faith and credit of the state, pursuant to s. 11, Art. VII of the State Constitution, is hereby authorized upon approval by vote of the electors, except as otherwise authorized by said s. 11, Art. VII. The amount of such state bonds, other than refunding bonds, the projects to be financed thereby, and the date of such vote of the electors shall be as provided by law.*
>
> *(2) The issuance of revenue bonds payable solely from funds derived directly from sources other than state tax revenues, pursuant to s. 11(d), Art. VII of the State Constitution, is hereby authorized without a vote of the electors in the manner provided by law.*
>
> *(3) All bonds hereby authorized shall be issued in the manner provided by the Constitution or by the division in the manner provided by this act, subject to all other applicable provisions of law."*

Bonds issued by most state governmental entities in Florida must follow the requirements of the State Bond Act, ss. 215.57-215.83, F.S. Even those entities that can issue their own bonds, without assistance of the state Division of Bond Finance (the Division), generally follow the State Bond Act's guidelines and procedures.

According to the Division's *2005 Debt Affordability Study*, [1] state tax-supported debt from general obligation bonds totaled $17.5 billion and the debt from revenue bonds (for which the state is not legally responsible) totaled $5 billion.

[1] Report is available at http://www.sbafla.com/bond/pdf/publications/DARrpt05.pdf

Pursuant to s. 215.98, F.S., the Legislature has expressed as state policy "prudence in undertaking the authorization and issuance of debt." It has established a debt target and a debt cap as thresholds to guide state issuance of general obligation bonds. The debt target is defined as a ratio of debt service to revenue available to pay debt service on tax-supported debt, not to exceed 6 percent. The debt cap is established as a 7-percent ratio. As of June 30, 2005, the state's debt ratio was calculated to be 5.36 percent.

Over the next 10 years, based on projected state revenue growth and the payoff of some bonds, the state's bonding capacity will be $23.6 billion from 2006-2015. Existing bond-financed programs will consume approximately $9.6 billion of that, leaving approximately $16.7 billion in bond capacity available over the next 10 years. That capacity is spread unevenly over the10-year period; for the first four years of the decade, only about $6 billion in available for new bond programs, according to the Division's 2005 study.

Section 215.98, F.S., also requires that if the 6-percent target debt ratio will be exceeded by a proposed bond issuance, the authorization of this debt must be accompanied by a legislative statement of determination that such authorization and issuance is in the state's best interests. The Legislature is prohibited from authorizing the issuance of additional state tax-supported debt that would cause the debt ratio to exceed the 7-percent cap unless the Legislature determines that such additional debt is necessary to address a critical state emergency, which is not defined.

State transportation bonds

FDOT manages one of the state's largest and most uniquely packaged budgets. The Legislature approves an annual operating and capital outlay budget, and a Five-Year Work Program that, for all practical purposes, locks in the agency's primary expenditures over the next five years. For FY 05-06, FDOT's budget was $8.1 billion, about $7 billion of which is the first year of the Work Program's expenditures. Additionally, the Legislature adopted the agency's $34.9 billion 2006-2010 Work Program.

Although bond-financing programs are about 6 percent of FDOT's overall budget, they play important roles in the agency's ability to meet transportation needs. The agency has two programs financed with revenue bonds: the Florida Turnpike Enterprise, and individual bonds supporting transportation and environmental improvements at several non-Turnpike toll facilities operated by FDOT. The agency also contributes $25 million annually to pay debt service on $324 million in bonds issued by the Florida Ports Financing Commission.

FDOT has only one general obligation bond program. In 1988, Florida voters approved a constitutional amendment creating section 17, Article VII of the state constitution, authorizing the issuance of general obligation bonds to acquire right-of-way for roads and to construct bridges. The Legislature approved the use of these bonds for the advance acquisition of right-of-way land beginning in 1991 and bridge construction beginning in 1994. The Legislature also provided that the bonds' debt service was to be paid from the state fuel-tax revenues. About three-fourths of the funds from these bonds are being spent on right-of-way acquisition and one-fourth on bridge construction.

Current law provides that a maximum of 7 percent of state transportation tax collections, not to exceed $275 million, may be used to pay the annual debt service on these general obligation bonds.

As of December 2005, a total of $1.86 billion in right-of-way bonds have been issued. Examples of major projects whose right-of-way has been purchased using these bond funds include: $66.3 million for phase I of the Miami Intermodal Center; a $26.4 million bond fund grant to the Orlando-Orange County Expressway Authority to help purchase right-of-way for the Western Beltway Part A project; $8.5 million in bond funds for the Brannon Field Chaffee project in Duval County; $34.2 million in bond funds for the Seminole Expressway; and $15.9 million for the Polk Parkway project.

During the 20-year period from fiscal years 1990-91 through 2009-10, FDOT estimates that it will have leveraged $2.7 billion in right-of-way bond proceeds to finance approximately $18.1 billion in land acquisition.

Since 1995, approximately $800 million in these bond proceeds have been committed to the replacement of bridges on the State Highway System, according to FDOT staff. With other funding sources considered, this $800 million has been used to leverage $1.6 billion in total project costs. Some of the major bridge projects financed with these bond funds are: the Fuller Warren Bridge in Jacksonville; the Interstate-10 bridge over Blackwater Creek in Northwest Florida; and the Flagler Memorial Bridge.

Transportation infrastructure needs

Several studies in recent years by public and private institutions have concluded that Florida's transportation infrastructure is not keeping pace with its growth in population and number of visitors. These have concluded that Florida has unfunded state transportation needs ranging from $38 billion to $48 billion; this does not include projected transportation needs by cities and counties.

Exacerbating the backlog is the unprecedented growth in the costs associated with transportation construction, due in large part to increased international and regional demand. Recent reports by FDOT indicate that asphalt prices have increased nearly 22 percent per ton; concrete prices have increased nearly 33 percent per cubic yard; and steel prices have increased from 6 percent to nearly 19 percent per pound, depending on the type of steel. Right-of-way costs in Florida also are increasing, by as much as 10 percent annually in some areas, FDOT has reported.

Constitutional amendments

Article XI, sections 1 and 5, of the Florida Constitution provide for amendment to the Constitution by the legislative process. The Legislature proposes amendments to the Constitution by joint resolution passed by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's Office, unless a special election has been scheduled for the express purpose of having the electorate vote on the proposed amendment.

Provisions of PCB TR 06-01

The draft joint resolution would add a subsection (g) to the existing section 11, Article VII of the state Constitution, authorizing issuance of new general obligation bonds for transportation infrastructure and right-of-way acquisition. The bonds' debt service would be paid with state revenues, and would pledge the full faith and credit of the state.

The bonds' outstanding principle could never exceed 25 percent of the total state tax revenues of the previous two fiscal years. According to the Fall 2005 Florida Revenue Estimating Conference, Florida's total tax receipts in FY 05-06 and FY 06-07 total about $40 billion each year. As a rough estimate, the total amount of bonds that could be issued if this amendment passed is about $20 billion. However, the total amount issued would ultimately be decided by the Legislature, when appropriating the debt service.

The bonds also would be issued "in the manner provided by general law," meaning that the issuance would be governed by the State Bond Act procedures and requirements and any implementing legislation the Legislature additionally approved.

The draft joint resolution also includes a ballot summary that is similar to the wording of the proposed subsection.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Minimal. Article XI, Section 5, of the Florida Constitution requires that each proposed amendment to the constitution be published in a newspaper of general circulation in each county two times prior to the election where it will be considered. The state Division of Elections estimated that the cost of placing these advertisements is about $40,000 per amendment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

If PCB TR 06-01 passes the Legislature, then pursuant to s.100.381, F.S., the Revenue Estimating Conference shall prepare a fiscal impact statement as required in s.100.371(6), F.S., no later than 80 days before the election. The fiscal impact statement shall be separately contained and appear on the ballot following the proposed amendment's ballot summary.

No bonds will be issued until implementing statutory language becomes law.

Staff is researching the amount of bonds that could be issued, based on the proposed constitutional amendment's provision that the outstanding principle can not exceed 25 percent of the state's total tax revenues in the previous two years. Volume 21 (Fall 2005) of the Florida Revenue Estimating Conference's Revenue Analysis includes a chart on page 35 estimates that the total state taxation in FY 05-06 will be $39.9 billion, and in FY 06-07 will be $40.236 billion. These figures include revenues from state taxes, fees, licenses, and charges. Twenty-five percent of the total taxation for those two fiscal years is about $20 billion. Whether the constitutional construction of the phrase "state tax revenues" means revenue from only "taxes," or if the definition is broader, is one of the issues being researched

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The provisions of Article VII, Section 18, requiring a mandate analysis of proposed legislation do not apply to proposed amendments to the state Constitution.

2. Other:

Article XI, sections 1 and 5, Florida Constitution, provides that a constitutional amendment may be proposed by joint resolution of the Legislature. Final passage in the House and Senate requires a three-fifths vote in each house; passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, Article XI, section 5, of the Florida Constitution provides that the proposed amendment would be placed before the electorate at the 2006 General Election or at an earlier special election authorized for that purpose.

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in the county in which a newspaper is published. If the proposed amendment or revision is approved by vote of the electors, it will be effective as an amendment to or revision of the state constitution on the first Tuesday after the first Monday in January following the election.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 House Joint Resolution
2 A joint resolution proposing the creation of Subsection
3 11(g) of Article VII of the State Constitution, relating
4 to state bonds, to authorize general obligation bonds for
5 state capital projects for transportation improvements.
6
7 Be It Resolved by the Legislature of the State of Florida:
8
9 That the following creation of Subsection 11(g) of Article
10 VII of the State Constitution is agreed to and shall be submitted
11 to the electors of this state for approval or rejection at the
12 next general election or at an earlier special election
13 specifically authorized by law for that purpose, and shall take
14 effect upon such approval:
15 ARTICLE VII
16 FINANCE AND TAXATION
17 SECTION 11. State bonds; revenue bonds.—
18 (g) Bonds pledging the full faith and credit of the state of
19 Florida may be issued by the state in the manner provided by
20 general law to finance right-of-way and other real property
21 acquisition for highway, rail, public transportation, airport,
22 and seaport projects, and for bridge repair and replacement
23 projects. Bonds issued under this subsection shall be secured by
24 a pledge of and shall be payable primarily from state tax
25 revenues, as provided by general law. The total outstanding
26 principal of state bonds issued pursuant to this subsection shall
27 never exceed twenty-five percent of the total tax revenues of the
28 state for the two preceding fiscal years.
29

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

30 BE IT FURTHER RESOLVED that the following statement be
31 placed on the ballot:
32
33 CONSTITUTIONAL AMENDMENT
34 ARTICLE VII, SECTION 11(g)
35
36 TRANSPORTATION FUNDING.--Proposing an amendment to the State
37 Constitution authorizing the Legislature to provide for the
38 issuance of general obligation bonds by the State of Florida, in
39 an amount not to exceed twenty-five percent of the state's total
40 tax revenues in the two preceding fiscal years. The proceeds of
41 these bonds, which pledge the full faith and credit of the state,
42 shall be used to finance right-of-way and other real property
43 acquisition for transportation improvements to highways, rail,
44 public transportation, airports and seaports, and to finance
45 bridge repair and replacement projects.
46
47

PCB TR 06-02
General Revenue Bonds
Program Implementation

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-02 General Revenue Bonds for Transportation/Program Implementation
SPONSOR(S): Transportation Committee
TIED BILLS: PCB TR 06-01 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh BJP	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Florida Department of Transportation (FDOT) is responsible for managing a $35 billion, Five-Year Work Program of highway, turnpike, aviation, seaport, and public transit projects, financed with state, federal and, in certain instances, advanced local funds. About 2 percent of the agency's funding is derived from general-obligation bonds, specifically for right-of-way acquisition and construction of bridges.

Although FDOT has a well-planned work program, and last year received additional funding over the next decade for transportation infrastructure crucial to implementing new growth management and concurrency requirements, a backlog of between $38 billion and $48 billion remains.

PCB TR 06-02 creates a bond-financing program for transportation right-of-way acquisition and bridge replacement and repair. The general obligation bonds financing the program pledge the full faith and credit of the state, and their debt service will be paid with state revenues transferred from the General Revenue Fund to the State Transportation Trust Fund. The bonds will be issued by the state Division of Bond Finance, pursuant to the State Bond Act.

The proposed committee bill does not specify the amount of bonds to be issued; rather, it limits the total debt service to be appropriated in any one year at $500 million. The term of the bonds also is flexible, ranging from 10 years to 30 years. Based on that range and current interest rates, the amount of bonds that could be issued based on the $500 million debt service cap is between $3.7 billion and $6.7 billion.

The bonds may be issued only upon passage of a constitutional amendment creating the program. Under Florida law, the issuance of general obligation bonds must first be approved by the voters. PCB TR 06-02 is the implementing legislation for the proposed joint resolution PCB TR 06-01 that seeks to amend the state constitution to add this new bond program.

PCB TR 06-02 takes effect upon becoming law. However, the section implementing the bond program becomes effective only if the electorate approves the constitutional amendment providing for the issuance of the general obligation bonds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: If the proposed constitutional amendment and implementing legislation pass, FDOT potentially will have access to hundreds of millions of dollars to build more transportation infrastructure. In the immediate sense, this legislation facilitates a growth in government. Viewed from a larger context, the legislation promotes greater government spending on much-needed public infrastructure to energize economic development.

B. EFFECT OF PROPOSED CHANGES:

Background

Transportation funding in the state of Florida

For FY 05-06, FDOT's budget is $8.1 billion, about $7 billion of which is the first year of the Work Program's expenditures. Additionally, the Legislature adopted the agency's $34.9 billion 2006-2010 Work Program.

The sources of FDOT's current Work Program funding is comprised of: 47 percent fuel tax revenues and other traditional transportation revenue sources; 24 percent federal funds; 20 percent toll revenues and bond proceeds; 8 percent documentary stamp tax revenues; and 1 percent General Revenue.

State transportation bonds

Although bond-financing programs are about 6 percent of FDOT's overall budget, they play important roles in the agency's ability to meet transportation needs. The agency has two programs financed with revenue bonds: the Florida Turnpike Enterprise, and individual bonds supporting transportation and environmental improvements at several non-Turnpike toll facilities operated by FDOT. The agency also contributes $25 million annually to pay debt service on $324 million in bonds issued by the Florida Ports Financing Commission.

FDOT has only one general obligation bond program that comprises about 2 percent of its total budget. In 1988, Florida voters approved a constitutional amendment creating section 17, Article VII of the state constitution, authorizing the issuance of general obligation bonds to acquire right-of-way for roads and to construct bridges. The Legislature approved the use of these bonds for the advance acquisition of right-of-way land beginning in 1991 and bridge construction beginning in 1994. The Legislature also provided that the bonds' debt service was to be paid from state fuel tax revenues. About three-fourths of the funds from these bonds are being spent on right of way acquisition and one-fourth is being spent on bridge construction.

Current law provides that a maximum of 7 percent of state transportation tax collections, not to exceed $275 million, may be used to pay the annual debt service on these general obligation bonds.

As of December 2005, a total of $1.86 billion in right-of-way bonds have been issued. Examples of major projects whose right-of-way has been purchased using these bond funds include: $66.3 million for phase I of the Miami Intermodal Center; a $26.4 million bond fund grant to the Orlando-Orange County Expressway Authority to help purchase right-of-way for the Western Beltway Part A project; $8.5 million in bond funds for the Brannon Field Chaffee project in Duval County; $34.2 million in bond funds for the Seminole Expressway; and $15.9 million for the Polk Parkway project.

During the 20-year period from fiscal years 1990-91 through 2009-10, FDOT estimates that it will have leveraged $2.7 billion in right-of-way bond proceeds to finance approximately $18.1 billion in land acquisition.

Since 1995, approximately $800 million in Right of Way Acquisition and Bridge Construction Bonds have been committed to the replacement of bridges on the State Highway System, according to FDOT staff. With other funding sources considered, this $800 million has been used to leverage $1.6 billion in total project costs. Some of the major bridge projects financed with these bond funds are: the Fuller Warren Bridge; the Interstate-10 bridge over Blackwater Creek; and the Flagler Memorial Bridge.

Backlog of unmet transportation needs

Several studies in recent years by public and private institutions have concluded that Florida's transportation infrastructure is not keeping pace with its growth in population and number of visitors. These have concluded that Florida has unfunded state transportation needs ranging from $38 billion to $48 billion; this does not include projected transportation needs by cities and counties.

FDOT's recent selection of projects for the new growth-management funds made available in the 2005 session also illustrates how transportation needs are outstripping available funding. The 2005 session laid the groundwork for FDOT to receive nearly $6 billion in general revenues to finance a variety of transportation infrastructure programs and is designed to help the state and local governments meet new concurrency requirements. Last year, 273 projects requests totaling $4.6 billion for the growth management funds earmarked for the Strategic Intermodal System were submitted to FDOT's Central Office. FDOT selected 141 projects, totaling $2.2 billion. All but 18 of the projects were not in the current Work Program.

Exacerbating the backlog is the unprecedented growth in the costs associated with transportation construction, due in large part to increased international and regional demand. Recent reports by FDOT indicate that asphalt prices have increased nearly 22 percent per ton; concrete prices have increased nearly 33 percent per cubic yard; and steel prices have increased from 6 percent to nearly 19 percent per pound, depending on the type of steel. Right-of-way costs in Florida also are increasing, by as much as 10 percent annually in some areas, FDOT has reported.

Effect of Proposed Changes

PCB TR 06-02 creates a bond-financing program for transportation right-of-way and real property acquisition, and for bridge replacement and repair. The land acquisition shall be for highway, rail, public transportation, airport, and seaport uses.

The general obligation bonds financing the program pledge the full faith and credit of the state, and their debt service will be paid with state revenues transferred from the General Revenue Fund to the State Transportation Trust Fund. The bonds will be issued by the state Division of Bond Finance, pursuant to the State Bond Act.

The draft bill does not specify the amount of bonds to be issued; rather, it limits the total debt service to be appropriated in any one year at $500 million. The term of the bonds also is flexible, ranging from 10 years to 30 years. Based on that range and current interest rates, the amount of bonds that could be issued based on the $500 million debt service cap is between $3.7 billion and $6.7 billion.

The bonds may be issued only upon passage of a constitutional amendment creating the program. Under Florida law, the issuance of general obligation bonds must first be approved by the voters. PCB TR 06-02 is the implementing legislation for the proposed joint resolution, PCB TR 06-01, seeking to create the bond program in the constitution.

PCB TR 06-02 takes effect upon becoming law; however, the section implementing the bond program becomes effective only if the electorate approves the constitutional amendment providing for the issuance of the general obligation bonds.

C. SECTION DIRECTORY:

Section 1: Creates s. 215.606, F.S., which addresses a new general-obligation bond program to fund certain types of transportation infrastructure. Expresses legislative findings. Lists eligible project categories. Sets debt-service cap for bonds. Sets terms of bonds. Explains role of Division of Bond Finance.

Section 2: Specifies that the general obligation bonds to be utilized under this program may be issued only upon approval by statewide voters of a proposed constitutional amendment at the next general election.

Section 3: Specifies that this act takes effect upon becoming law; except that Section 1 takes effect only if the constitutional amendment referenced in Section 2 is approved by the voters.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt-service. See "II.D. FISCAL COMMENTS" below.

2. Expenditures:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt service. See "II.D. FISCAL COMMENTS" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None, unless the constitutional amendment creating the new general obligation bonds for this program is adopted by the state voters and the Legislature appropriates debt service. Under those circumstances, transportation contractors and supporting industries would likely benefit from the opportunity of bidding for additional FDOT projects.

Indirectly, the state's economy, local governments, and citizens would benefit from the infusion of transportation funding and the resulting infrastructure. An FDOT economic study indicates that for every $1 spent on transportation infrastructure results in a $5.50 economic benefit.

D. FISCAL COMMENTS:

The Division of Bond Finance and FDOT prepared a variety of bonding scenarios for committee staff using a range of debt service caps, terms of maturity for the bonds, and interest rates.[1] At the high

[1] Documents on file with the House Transportation Committee.

end, a $500 million annual limit on debt service on 30-year bonds at 6-percent interest would generate an estimated $6.7 billion in bond proceeds. FDOT could commit those funds to build nearly $8 billion worth of projects. The debt service would be $14.9 billion. In whatever scenario is selected, the source of the debt service would be recurring state general revenue. Pledging general revenue as debt service on transportation bonds will result in these pledged monies not being available to the Legislature to appropriate for other state programs or needs while the bonds are outstanding.

Also, FDOT staff has said that a trust fund should be created for the new bonding program. If the constitutional amendment creating the program is approved by voters in November 2006, no bonds will be sold until the Legislature appropriates the debt service, which at the earliest will be May 2007, during the regular session. At that time, a trust fund could be created, if necessary.

II. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   PCB TR 06-02 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:

FDOT and the state Division of Bond Finance have sufficient existing rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to transportation financing; creating s.
3 215.606, F.S.; describing legislation intent; creating a
4 program to issue general-obligation bonds for certain
5 transportation infrastructure projects; establishing a
6 debt service cap on the bond program; describing the
7 responsibilities of the Department of Transportation and
8 the State Division of Bon Finance; specifying that
9 implementation of this act becomes effective upon passage
10 of constitutional amendment.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Section 215.606, Florida Statutes, is created to
15 read:
16 **215.606 State bonds for financing transportation**
17 **infrastructure. --**
18 (1) LEGISLATIVE FINDINGS. -- Florida's transportation
19 infrastructure is not keeping pace with the state's growth in
20 population and visitors, nor with increased material and labor
21 costs. More than 65 percent of the state's major highways are
22 considered congested, and motorists are spending more hours
23 driving and are driving more miles per day than the state's
24 capacity to add new lane miles. The Legislature also finds that
25 recent increases in transportation funding will not significantly
26 reduce the $38 billion to $48 billion backlog in unfunded state
27 transportation needs. Exacerbating the problem are double-digit
28 increases in the materials used in transportation construction
29 and increased competition, nationwide, for transportation

30 builders. Finally, the Legislature finds that a safe and
31 efficient transportation system is one of Florida's key economic
32 engines. Therefore, the Legislature concludes that an additional,
33 flexible funding source for certain transportation activities and
34 projects is necessary to continue the state's commitment to
35 preserve, maintain, and expand its transportation system in order
36 to keep residents and visitors mobile, effectively move freight
37 and consumer goods, and enhance Florida's economy.
38 (2) The issuance of state bonds to finance or refinance the
39 costs of acquiring real property or the rights to real property
40 for state transportation infrastructure, or to finance or
41 refinance the construction of state transportation
42 infrastructure, and purposes incidental to such property
43 acquisition or construction projects, is hereby authorized
44 pursuant to s. 11(g), Art. VII of the State Constitution and ss.
45 215.57-215.83.
46 (b) Right-of-way and real property acquisition or
47 transportation infrastructure financed by state bonds issued
48 under this section shall first be authorized by the Legislature
49 by an act relating to appropriations or by general law, and shall
50 be issued pursuant to the State Bond Act.
51 (c) Bonds issued pursuant to this section shall be payable
52 primarily from the state's General Revenue Fund, and additionally
53 secured by the full faith and credit of the state. The funds
54 shall be transferred to the State Transportation Trust Fund.
55 (d) The Department of Transportation shall request the
56 Division of Bond Finance to issue the state bonds authorized by
57 this section pursuant to the State Bond Act. The Department of
58 Transportation shall certify that the projects to be financed

59 will comply with the requirements of s. 339.135(4)(b) and (c) and
60 (5).
61 (e) The total amount of bonds to be issued under this
62 section shall be limited by the debt service requirements of the
63 bonds issued. No more than $500 million in debt service for the
64 bonds outstanding shall be appropriated in any fiscal year.
65 (f) The term of the bonds shall be flexible, ranging from 10
66 years to 30 years. The Department of Transportation, in
67 consultation with the Division of Bond Finance, shall determine
68 the term of each bond series, and the timing of each issuance,
69 based on factors to include interest rates, market conditions,
70 and sufficiency of debt service.
71 (3) Bond proceeds available pursuant to this section may be
72 used to finance the following Department of Transportation
73 infrastructure activities or projects:
74 (a) Acquisition of right-of-way and other real property for
75 highway, rail, public transportation, airport, and seaport
76 projects; or
77 (b) Bridge Repair and Replacement Program projects.
78 Section 2. The bonds may be issued only upon approval by a
79 vote of the electors of Florida at the next general election of a
80 proposed constitutional amendment adopted by the Legislature as
81 HJR ___ or similar legislation.
82 Section 3. This act shall take effect immediately upon
83 becoming law; however, Section 1 of this act shall be effective
84 only upon approval by the electors of Florida of the issuance of
85 state bonds pledging the full faith and credit of the state. If
86 the issuance of said bonds is rejected, Section 1 of this act
87 shall be null and void.

88

PCB TR 06-03
Highway Safety & Motor
Vehicles

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-03 Highway Safety
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Thompson J.T.	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB TR 06-03 contains numerous changes to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). Examples of major provisions in the PCB include:

- Grants DHSMV the authority to make their own rules regarding settlement or compromise of taxes, penalties or interests; and authorizes DHSMV to enter into agreements for scheduling payments of taxes and penalties;
- Revises the definitions of driver's license, identification card, and temporary driver license or temporary identification card to comply with federal requirements;
- Clarifies certain law enforcement and judicial procedures for suspension of driver license and the right to review;
- Requires motorcycle riders under 21 years old to display a license plate unique in design and color; requires that the owner must prove when registering a motorcycle that they have obtained a motorcycle endorsement on their driver license; and requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of a motorcycle safety course;
- Changes the minimum age requirement at which ID cards may be issued from 12 years old to 5 years old;
- Allows All Terrain Vehicles (ATV's) to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph;
- Allows a person whose driving record shows no traffic convictions during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the requirements related to minimum vision in both eyes;
- Allows veterans of recent military conflicts to display a tag that shows their service in Operation Iraqi Freedom and Operation Enduring Freedom;
- Allows certain forestry equipment to operate on public roads to move between one point of harvest to another.

Some of the PCB's provisions are technical or administrative in nature and will have no fiscal impacts. Some of the provisions are expected to have an indeterminate fiscal impact on state and local governments and on the private sector. For details, see the FISCAL COMMENTS section of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—PCB TR 03:

- The bill gives DHSMV the authority to make their own rules regarding settlement or compromise of taxes, penalties or interests;
- The bill requires that upon original registration of any motorcycle, motor driven cycle or moped the owner must prove they have obtained necessary endorsement on the DL;
- The bill requires every first time applicant for licensure to operate a motorcycle to provide proof of completion of the motorcycle safety course.
- The bill gives law enforcement agencies the authority to appeal any decision of DHSMV invalidating a driver license suspension by a petition for writ of certiori to the circuit court in the county where a formal review was conducted.

Safeguard Individual Liberty—PCB TR 03:

- The bill provides for the operation of "ATV's" by licensed drivers and minors under the supervision of a licensed driver on unpaved roadways where the speed limit is 35 mph or less;
- The bill would cause employment authorization cards issued by the United States Department of Homeland Security and proof of nonimmigrant classifications provided by the United States Department of Homeland Security to be valid for no more than one year.

B. EFFECT OF PROPOSED CHANGES:

Settlement or Compromise of Taxes, Penalty or Interest

Background

In 1981 the legislature passed HB 439[1] transferring the taxation of motor fuel and special fuel from the Public Service Commission to the Department of Revenue. In 1987 the legislature passed HB 761[2] transferring the fuel use tax functions of the Department of Revenue to DHSMV. Since the transfer of the administration of Chapter 207, F.S., to DHSMV from the Department of Revenue, DHSMV's authority to settle or compromise assessments and enter into stipulation agreements has been uncertain.

Records

Section 207.008, F.S., requires each registered motor carrier to maintain records and papers as required by the Department of Revenue for the administration of the settlement or compromise of taxes, penalty or interest. Motor carriers are to preserve these records until expiration of the time within which the Department of Revenue is able to make an assessment with respect to that tax pursuant to Florida law[3]. The PCB amends s. 207.008, F.S., to provide that records must be maintained for four years.

[1] Chapter 81-151, Laws of Florida
[2] Chapter 87-198, Laws of Florida
[3] S. 95.091(3), F.S.

Informal Conferences

Section 207.021, F.S., only allows DHSMV to settle or compromise penalties or interest imposed under Chapter 207, F.S., using the provisions of Section 213.21, F.S., which relates to the Department of Revenue. There is no specific authority in Chapter 207, F.S. for DHSMV to conduct informal conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.

The PCB grants DHSMV statutory rulemaking authority regarding settlement or compromise of chapter 207, F.S., taxes, penalties or interest. The PCB also specifies that during any proceeding arising under this section, the motor carrier has the right to be represented at and record all procedures at the motor carrier's expense.

The PCB authorizes the executive director of DHSMV or his or her designee to enter into closing agreements with a taxpayer to settle or compromise tax liabilities. These agreements are to be in writing and prohibit further assessments by DHSMV for taxes settled and prohibit the taxpayer from seeking recovery of amounts paid under terms of the agreement. A taxpayer's liability for chapter 207, F.S., tax or interest may be compromised by DHSMV on the grounds of doubt as to liability for or the ability to collect the tax or interest. The PCB specifies that doubt as to the liability of a taxpayer for tax and interest exists if the taxpayer reasonably relied on a written determination of DHSMV. A taxpayer's liability can only be settled or compromised to the extent allowable under International Fuel Tax Agreement (IFTA)[4]. A taxpayer's liability for penalties may be settled or compromised if DHSMV determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. DHSMV is also authorized to enter into agreements for scheduling payments of taxes, penalties, and interest resulting from audit assessments.

The International Registration Plan

The International Registration Plan (IRP) is a program for licensing commercial vehicles in interstate operations among member jurisdictions. The member jurisdictions of IRP are all states (except Alaska and Hawaii), the District of Columbia, and the Canadian provinces (except Yukon and Northwest Territory).

Under this program, an interstate carrier files an apportioned registration application in the state or province where the carrier is based (the base jurisdiction). The fleet vehicles and the miles traveled in each state are listed on the application. The base jurisdiction collects the full license registration fee. They distribute the fees to the other jurisdictions based on the percentage of miles the carrier will travel, or has traveled in each jurisdiction. The base jurisdiction also issues a license plate showing the word "apportioned" and a cab card showing the jurisdictions and weights for which the carrier has paid fees.

Section 320.405, F.S., relating to the IRP, does not authorize DHSMV to enter into agreements for scheduling payments of taxes and penalties due to DHSMV as a result of audit assessments issues. The PCB would allow DHSMV to enter into agreements for scheduling payments of such taxes and penalties due to the department as a result of audit assessments issued under this section.

Driver's Licenses and Identification Cards

Background: The REAL ID Act

The REAL ID Act of 2005, signed into law in May 2005, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and identification (ID) cards to ensure that licensed drivers and persons issued ID cards are U.S. citizens or legal immigrants. Florida has begun the implementation of the Real ID Act to ensure that Florida's driver licenses and ID cards can be used for Federal identification purposes.

[4] S. 207.0281(1), F.S.

Currently the following provisions of the Real ID Act are being enforced in Florida:

- Requiring identity documents which evidences lawful presence;
- Obtaining minimum document requirements of full legal name, date of birth, and gender;
- Capturing and digitizing photographs and signatures;
- Obtaining the address of principle residence;
- Producing licenses and identification cards with three levels of security features – overt, covert, and forensic as well as the security of the equipment and materials;
- Utilizing common machine readable technology with defined minimum data elements;
- Obtaining proof of Social Security Number which is verified through the Social Security Administration;
- Verifying legal presence through the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE);
- Issuing temporary and limited tenure licenses and identification cards for non-citizens based on term of legal presence;
- Digital scanning and storing of identity source documents of non-United States citizens and the use of document authentication equipment;
- Fraudulent document training for our field staff statewide;
- Subjected all persons authorized to manufacture or procedure cards to appropriate security clearances. (Criminal back ground checks for our employees and vendors);
- Maintain a state motor vehicles database that contains all data fields printed on the drivers' licenses and identification cards; and their driving histories; and
- Limited the period of validity of all driver's licenses and identification cards to a period not to exceed eight years.

The PCB contains revisions to definitions and the application process for driver's licenses and ID cards in Chapter 322, Florida Statutes, to ensure compliance with all the provisions of the federal Real ID Act.

Driver's License Definitions

Currently, s. 322.01, F.S., defines "driver's license" as a certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. Currently this section of law does not provide definitions for identification cards or temporary driver licenses.

The bill amends s. 322.01, F.S., to revise the following definitions to comply with federal codes:

- "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301;
- "Identification card" means a personal identification card issued by the department and which conforms to the definition in 18 U.S.C. s. 1028 (D); and
- "Temporary driver license" or "temporary identification card" means a certificate issued by the department, subject to all other requirements of law, which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, or a personal identification card issued by the department, which conforms to the definition in 18 U.S.C. s. 1028(D), and which denotes that the holder is permitted to stay for a short duration of time specified in the document issued and is not a permanent resident of the United States.

Application for Licenses

Currently, s. 322.08, F.S., requires the following information for proof of nonimmigrant classification provided by the Department of Homeland Security, for an original driver's license:

- A notice of hearing from an immigration court scheduling a hearing;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Immigration and Naturalization Service,

- Any official documentation confirming the filing of a petition for asylum status or other relief issued by the Immigration and Naturalization Service;
- A notice of action transferring any pending matter from another jurisdiction to this state issued by the Immigration and Naturalization Service; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The PCB would allow the documentation of refugee status and evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.08, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original driver's license, entitles the applicant to a driver's license for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. The PCB would change the maximum period of entitlement for a driver's license from 2 years to 1 year if these documents are presented by the applicant.

ID Cards

Currently s. 322.051, F.S., relating to ID cards, provides that any person who is 12 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit[5], under Florida law can be issued an ID card by DHSMV upon completion of an application and payment of an application fee. The PCB would amend s. 322.051, F.S., changing the minimum age requirement that ID cards may be issued from 12 years old to 5 years old.

Section 322.051, F.S., also requires the following documents to be presented in order to prove nonimmigrant classification for purposes of obtaining an ID card:

- A notice of hearing from an immigration court scheduling;
- A notice from the Board of Immigration Appeals acknowledging a pending appeal;
- A notice of the approval of an application for adjustment of status issued by the Bureau of Citizenship and Immigration Services;
- Any official documentation confirming the filing of a petition for asylum status or any other relief issued by the Bureau of Citizenship and Immigration Services;
- A notice of action transferring any pending matter from another jurisdiction to Florida, issued by the Bureau of Citizenship and Immigration Services; and
- An order of an immigration judge or immigration officer granting any relief that authorizes the alien to live and work in the United States.

The PCB would allow evidence that an application is pending for adjustment of status to that of an alien or conditional permanent resident status in the United States to be used for proof of non-immigrant classification. To use such evidence a visa number must be available with a current priority date for processing by the Citizenship and Immigration Services.

Also under s. 322.051, F.S., the presentation of an employment authorization card, or proof of nonimmigrant classification, both provided by the Department of Homeland Security, for an original identification card, entitles the applicant to an identification card for a period not to exceed the expiration date of the document presented or 2 years, whichever occurs first. The PCB would change the maximum period of entitlement for driver's identification cards from 2 years to 1 year if these documents are presented by the applicant.

[5] S. 320.0848, F.S.

Suspension of License and Right to Review

Background: Driving Under the Influence (DUI)

Currently, when an individual is arrested for a violation of s. 316.193, F.S., and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest. The PCB revises various provisions to Chapter 322, to provide clarification and consistency between driver license administrative suspension laws, ss. 322.2615 and 322.2616, and also addresses issues raised by courts in cases involving DHSMV's implementation of these sections.

Lawful Arrest

According to a recent Florida case[6], Section 322.2615, F.S., provides that during a formal administrative review of a driver license suspension, the hearing officer must determine whether the person was placed under lawful arrest for a violation of s. 316.193, F.S., if the validity of the traffic stop is challenged. The court's opinion stated, "This provision contemplates that issues relating to the lawfulness of the stop... will be resolved under the issue concerning the lawfulness of the arrest."[7]

The PCB makes the following changes to s. 322.2615, F.S. to negate the need for DHSMV to show during the administrative review of a driver license suspension that a lawful arrest for a violation of s. 316.193, F.S. occurred in order to suspend the driver's license. The PCB:

- Clarifies the following grounds for a suspension of driving privileges by a law enforcement or correctional officer:
  - Driving or in actual physical control of a motor vehicle with an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher,
  - Refusing to submit to a urine test, or a test of his or her breath-alcohol or blood-alcohol level;
- Provides that if a blood test has been administered and the results are not available at the time of arrest, the officer or the agency employing the officer is required to transmit the results to DHSMV within 5 days after receipt of the results.
- Requires the law enforcement officer to forward to DHSMV, within 5 days after issuing the notice of suspension of the driver's license, an affidavit stating the officer's grounds for belief that the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages, or chemical or controlled substances;
- Clarifies the language relating to informal review by changing the word arrested to suspended;
- Clarifies the authority of hearing officer when suspension is under formal review, specifying that the hearing officer may subpoena and question officers and witnesses;
- Clarifies the issues within the scope of review for formal review hearings, specifying the blood and breath alcohol level for suspension, and removing the reference to arrest under s. 316.193, F.S.;
- Provides that materials submitted to DHSMV by law enforcement or correctional agencies are self-authenticating and are part of the record to be considered by the hearing officer;
- Requires the crash report to be considered by the hearing officer notwithstanding the prohibition of s. 316.066(4), F.S., against the use of crash reports in civil or criminal trials;
- Clarifies the language related to DHSMV procedures that follow the hearing officer's determination, specifying that the suspension period commences on the date of issuance of notice of suspension rather than the date of arrest;
- Allows a law enforcement agency to appeal any decision of DHSMV that invalidates the suspension by a petition for writ of certiori to the circuit court; and
- Provides that DHSMV's decision, and any circuit court review of that decision, may not be considered in any DUI trial for a violation of s. 316.193, F.S.

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[6] See Adam Schwartz v. State of Florida, Department of Highway Safety and Motor Vehicles, 2005 WL 3481087 (Fla.App.3 Dist.)
[7] *ID.*

Motorcycle Riders

Equipment

The National Highway Traffic Safety Administration has a legislative mandate under Title 49 of the United States Code, Chapter 301, Motor Vehicle Safety, to issue Federal Motor Vehicle Safety Standards (FMVSS) and Regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance. FMVSS Standard No. 218, establishes minimum performance requirements for helmets designed for use by motorcyclists and other motor vehicle users.

Currently, s. 316.211, F.S., provides the following requirements for motorcycle and moped riders:

- A person is not to operate or ride on a motorcycle unless the person is properly wearing protective headgear which complies with FMVSS Standard 218;
- A person may not operate a motorcycle unless the person is properly wearing an eye-protective device of a type approved by DHSMV;
- These regulations do not apply to persons riding within an enclosed cab or 16 years of age or older and operating or riding a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of 2 brake horsepower and which is not capable of propelling itself at a speed greater than 30 miles per hour on level ground;
- A person over 21 years of age is allowed to operate or ride a motorcycle without wearing protective headgear if they are covered by an insurance policy providing for at least $10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding on a motorcycle.
- A person under 16 years of age may not operate or ride a moped unless the person is properly wearing protective headgear which complies with FMVSS Standard 218; and
- DHSMV must make available a list of approved protective headgear, and the list must be provided on request.

The PCB would amend s. 316.211, F.S., to require that motorcycles registered to persons who have not attained 21 years of age must display a license plate that is unique in design and color. Because the helmet exemption applies to riders over 21, this would allow for better enforcement of the state's helmet law requirements.

Registration

Currently, under s. 320.02, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of this state is required to register the vehicle in this state. The owner or person in charge must apply to DHSMV or to its authorized agent for registration on a form prescribed by DHSMV.

The PCB amends s. 320.02, F.S., to provide that before an original registration of a motorcycle, motor driven cycle or moped can be issued, the owner must present proof of successfully completing a test of his or her knowledge concerning the safe operation of the motorcycle or moped and a test of his or her driving skills on such vehicle. This provision will become effective January 1, 2007.

Examination of Applicants

Currently, s. 322.12, F.S., requires that every first-time applicant for licensure to operate a motorcycle who is under 21 years of age must provide proof of completion of a motorcycle safety course, as provided in 322.0255, F.S., before the applicant is licensed to operate a motorcycle. The PCB amends this provision and would require that regardless of age, all first-time applicants for licensure to operate a motorcycle must provide proof of completion of a motorcycle safety course. This provision will become effective January 1, 2007.

Safety Education Program. These changes to licensing and registration laws are intended to reduce crashes among motorcyclists.

All Terrain Vehicles (ATV's)

Operation

Current law, s. 316.2074, F.S., does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency. All-terrain vehicles are defined in s. 316.2074, F.S., as any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. The definition of "all-terrain vehicle" also includes any "two-rider ATV" as defined in s. 317.0003, F.S.

According to the Division of Forestry the speed limit on all roads within forests is 30 mph unless posted otherwise. These speed limits are based on road design and basic knowledge of maximum safe speeds within each park. The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act, Chapter 261, F.S. provides the State of Florida with a set of guidelines to follow for maintaining and providing state lands for Off-Highway Motorcycle and All-Terrain Vehicle users. This act does not allow all-terrain vehicles to be operated on public roads, streets, or highways, except as permitted by a managing state or federal agency.

Section 316.2074, F.S., also provides the following related to ATV's:

- No person under 16 years of age is allowed to operate, or ride an all-terrain vehicle unless the person wears an approved safety helmet and eye protection;
- If a crash results in the death of any person or injury of any person which results in treatment of the person by a physician, the operator of each all-terrain vehicle involved in the crash must give notice of the crash as required by s. 316.066, F.S.;
- An all-terrain vehicle having four wheels may be used by police officers on public beaches designated as public roadways for the purpose of enforcing the traffic laws of the state. All-terrain vehicles may also be used by the police to travel on public roadways within 5 miles of beach access only when getting to and from the beach;
- An all-terrain vehicle having four wheels may be used by law enforcement officers on public roads within public lands while in the course and scope of their duties; and
- A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318, F.S.

The PCB creates s. 316.2123, F.S., allowing "ATV's" to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The drivers are required to provide proof of ownership if requested by law enforcement.

CDL Vision Exemption

Currently, s. 316.302, F.S., contains a grandfather clause that exempts a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987, and whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under federal law[8], and who operates a commercial vehicle in intrastate commerce only, from requirements of the federal law relating to minimum vision requirements in both eyes. However, such operators are still subject to the requirements of ss. 322.12 and 322.121, F.S., relating to the examination of driver license applicants. As proof of eligibility, such driver is to have in his or her possession a physical examination form dated within the past 24 months.

[8] 49 C.F.R. part 391

The PCB would allow a person with normal vision in only one eye whose driving record shows no traffic convictions, pursuant to s. 322.61, F.S., during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the vision requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10). The driver would have to have in his or her possession a physical examination form dated within the past 24 months. This change would make the state exemption consistent with federal waiver provisions.

Motor Vehicle Dealers

Continuing Education

Currently s. 320.27, F.S., requires all independent motor vehicle dealers to complete 8 hours of continuing education prior to filing the renewal forms to DHSMV. The continuing education is to include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. The education may be provided in a classroom setting or by correspondence.

This change would require only independent motor vehicle dealers who have been in business for less than five years to complete the continuing education listed in s. 320.27, F.S. This change would limit the continuing education course requirement to only those independent dealers who are relatively new to the business.

Low Speed Vehicles

Currently, s. 320.27, F.S., relating to motor vehicle dealers, defines "motor vehicle" as any motor vehicle of the type and kind required to be registered and titled under chapter 319 and this chapter, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.

The bill amends s. 320.27, F.S., by adding low speed vehicles to the list of vehicles excepted from the definition of "motor vehicles" for motor vehicle dealer licensing purposes. Low speed vehicles are defined in s. 320.01, F.S., as any four-wheeled electric vehicle complying with federal safety standards whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.

Sellers of low speed vehicles are required to be licensed as motor vehicle dealers. These same businesses are not required to be licensed to sell golf carts. Low speed vehicles and golf carts are similar in design. This change would eliminate the requirement that sellers of low speed vehicles be licensed as motor vehicle dealers.

Technical Changes

The PCB makes technical changes to s. 320.27(9)(b)18. F.S., of the motor vehicle dealer law to change the word 'owned' to 'owed ' and to correct a cross reference to s. 320.02(17).

Operation Iraqi Freedom and Operation Enduring Freedom License Plates

Currently an owner or lessee of a private vehicle who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active or retired member of any branch of the United States Armed Forces Reserve, may apply to DHSMV and be issued either a "National Guard," "Pearl Harbor Survivor," "Combat-Wounded Veteran," or "U.S. Reserve," license plate.

The bill amends s. 320.089, F.S., to create Operation Iraqi Freedom and Operation Enduring Freedom license plates and qualifies Operation Iraqi Freedom and Operation Enduring Freedom veterans as the exclusive recipients of these plates. There would be no additional charge for the new license plate.

Forestry Equipment

Section 316.515, F.S., currently, only allows the following machinery to operate on public roads from one point of production to another:

- Straight trucks,
- Agricultural tractors,
- Cotton module movers, not exceeding 50 feet in length,
- Any combination of up to and including three implements of husbandry including the towing power unit,
- Any single agricultural trailer with a load thereon,
- Agricultural implements attached to a towing power unit not exceeding 130 inches in width, and
- A self-propelled agricultural implement or an agricultural tractor not exceeding 130 inches in width.

This section only allows the above listed machinery to operate on public roads from one point of production to another for the following purposes:

- Transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage,
- Returning to the point of production,
- Moving the tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler.

The PCB amends s. 316.515, F.S., to allow equipment used exclusively for the purpose of harvesting forestry products, not exceeding 136 inches in width and which is not capable of speeds exceeding 20 miles per hour, to operate on public roads to get from one point of harvest to another point of harvest. These vehicles must be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules.

Police Vehicles

Section 319.14, F.S., prohibits the sale, or exchange of any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681 relating to motor vehicle sales warranties or the "lemon law," until DHSMV has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. According to some law enforcement agencies, branding the title of non-pursuit vehicles as police vehicles reduces the resale value of these vehicles.

The bill amends the definition of "police vehicles" in s. 319.14, F.S., to include the words "marked and outfitted as a pursuit vehicle" so that only pursuit vehicles would have to be issued a title branded as a police vehicle. According to some law enforcement agencies this provision would increase the resale value of non-pursuit vehicles owned by the law enforcement agency.

Dump Trucks

<u>Taillamps</u>

Currently s. 316.221, F.S., relating to taillamps requires taillamps or separate lamps to be constructed and placed to illuminate with a white light the rear registration plate and render it clearly legible from a

distance of 50 feet to the rear. Any taillamp or taillamps, together with any separate lamp or lamps for illuminating the rear registration plate, must be wired to light up whenever the headlamps or auxiliary driving lamps are lighted. The PCB exempts dump trucks and vehicles with dump bodies from the requirements of this section relating to illumination of license plates.

License Plates

Section 320.0706, F.S., requires the owner of any commercial truck of gross vehicle weight of 26,001 pounds or more to display the registration license plate on both the front and rear of the truck in conformance with all the requirements of s. 316.605, F.S. However, the owner of a truck tractor is required to display the registration license plate only on the front of such vehicle. Current law does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.

The bill amends s. 320.0706, F.S., allowing the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches from the ground to the top of the license plate to allow for better visibility.

Technical Changes/Reexamination of Drivers

The PCB makes technical changes to s. 322.121, F.S., related to the periodic reexamination of drivers. This change would correct the cross references to paragraphs (a) through (f) of s. 322.57(1).

Effective Date

Except as specifically provided in various sections of the bill, the act would become effective on October 1, 2006.

C. SECTION DIRECTORY:

Section 1 amends s. 207.008, F.S., to revise the requirements for retention of records by motor carriers as required by DHSMV;

Section 2 amends s. 207.021, F.S., to provide for informal conferences to DHSMV to resolve disputes arising from the assessment of taxes, penalties, or interest;

Section 3 amends s. 320.405, F.S., to provide that DHSMV is authorized to enter into agreements related to the International Registration Plan;

Section 4 amends s. 322.01, F.S., to revise the definition of "driver license"; to define "identification card" and "temporary driver license" or "temporary identification card";

Section 5 amends s. 322.08, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for a driver's license; providing for electronic verification of the documents;

Section 6 amends s. 322.051, F.S., to revise the criteria related to the proof of nonimmigrant classification of an applicant for an identification card; providing for electronic verification of the documents; and to revise the age requirements for the issuance of ID cards from 12 years old to 5;

Section 7 amends s. 322.2615, F.S., to clarify procedures, language and content related to suspension of license and right to review;

Section 8 amends s. 316.211, F.S., to provide an effective date of January 1, 2007; to require motorcycle riders under 21 years old to display a license plate unique in design and color;

Section 9 amends s. 320.02, F.S., to provide an effective date of January 1, 2007; to require that for an original registration of any motorcycle, motor-driven cycle, or moped, the owner is to present proof that he or she has obtained the necessary endorsement as required in s. 322.57, F.S.;

Section 10 amends s. 322.12, F.S., to provide an effective date of January 1, 2007; to revise the requirements for first-time applicants for licensure to operate a motorcycle;

Section 11 amends s. 316.2123, F.S., to allow "ATV's" to be operated by licensed drivers during the daytime on unpaved roads where the posted speed limit is less than 35 miles per hour; requiring proof of ownership by the operator;

Section 12 amends s. 316.302, F.S., to delete the requirement that a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987 from the CDL vision exemption;

Section 13 amends s. 320.27, F.S., to provide that sellers of low speed vehicles do not have to be licensed as motor vehicle dealers; to revise the motor vehicle dealer licensing requirement for independent motor vehicle dealers who have been in business for less than five years to complete 8 hours of continuing education every two years; to change the word owned to owed; to correct a cross reference to s. 320.02(17), F.S.

Section 14 amends s. 320.089, F.S to create the "Operation Iraqi Freedom" and the "Operation Enduring Freedom" license plates;

Section 15 amends s. 316.515, F.S., to allow the operation of certain forestry equipment on public roads;

Section 16 amends s. 319.14, F.S., to revise the definition of police vehicle for the purpose of title branding;

Section 17 amends s. 316.221, F.S., to provide a taillamp exemption for dump trucks;

Section 18 amends s. 320.0706, F.S., to revise the display of license plates on dump trucks;

Section 19 amends s. 322.121, F.S., to revise periodic license examination requirements;

Section 20 This bill takes effect October 1, 2006, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section, below.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See FISCAL COMMENTS section, below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

State Impacts

Police Vehicles

The PCB's changes to s. 319.14, F.S., related to title branding, could have a positive fiscal impact on law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Local Impacts

Police Vehicles

The PCB's changes to s. 319.14, F.S., related to title branding, could have a positive fiscal impact on law enforcement agencies by increasing the resale value of non-pursuit vehicles owned by law enforcement agencies.

Private Sector Impacts

Motorcycle Riders

The PCB amends s. 322.12, F.S., to require all applicants for a motorcycle driver's license endorsement regardless of age to successfully complete a motorcycle safety course. These courses are offered by different vendors throughout the state. The course registration fees vary and will result in an indeterminate negative fiscal impact on motorcycle drivers over 21 and an indeterminate positive fiscal impact for the course providers.

Continuing Education for Motor Vehicle Dealers

The PCB amends s. 320.27, F.S., to only require independent motor vehicle dealers who have been in business for less than five years to successfully complete a continuing education course. This change would result in an indeterminate negative fiscal impact for the continuing education course providers and an indeterminate positive fiscal impact for motor vehicle dealers with more than five years of business experience.

Low Speed Vehicles

The PCB amends s. 320.27, F.S., to eliminate the requirement for sellers of low speed vehicles to be licensed as motor vehicle dealers. This change could have an indeterminate positive fiscal impact on businesses that sell low speed vehicles.

Forestry Equipment

The PCB amends s. 316.515, F.S., to allow certain forestry equipment to operate on public roads to go from one point of harvest to another. This change could have an indeterminate positive fiscal impact on the owners of the equipment being transported.

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:

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB TR 06-03
House Transportation Committee

Highway Safety
and Motor Vehicles

The issues shaded in gray are new issues that have been incorporated into the new draft of PCB TR 06-03.

Issues	Current Situation	Proposed Change	Justification
Settlement of taxes and Penalties or Interest	Section 207.021, F.S., only allows the department to settle or compromise penalties or interest imposed under Chapter 207, F.S. , and the section requires the department to use Section 213.21, F.S., which relates to the Department of Revenue in settling or compromising such penalties or interest. Also, there is no authority in Chapter 207, F.S. for the department to conduct informal conferences for the resolution of disputes arising from the assessment of taxes, penalties, or interest.	This change would delete the reference to Section 213.21, F.S. It would provide the department with the authority to adopt rules for conducting informal conferences in order to resolve taxpayer disputes arising from audit assessments. This change would include taxes in addition to penalties and interest as to what can be settled or compromised by the department. In addition, this change would authorize the executive director of the department or his or her designee to enter into closing agreements with any taxpayer to settle or compromise taxpayer liabilities for any taxes, penalties, or interest imposed under Chapter 207, F.S., and would prohibit the department from imposing an additional assessment upon a taxpayer after a closing agreement has been entered into.	This change would give DHSMV the necessary authority in the correct chapter of law to carry out its duties.

Issues	Current Situation	Proposed Change	Justification
REAL ID Act	The REAL ID Act of 2005, signed into law by President Bush in May, sets a May 2008 deadline for states to add detailed personal information to driver's licenses and guarantee that licensed drivers are U.S. citizens or legal immigrants. • Current Florida law does not have all specifications mentioned in the REAL ID Act. Most of the provisions of the Real ID Act are already being enforced in Florida.	Section 322.01, F.S., revises definitions to comply with federal codes. • "Driver's license" denotes an operator's license as defined in 49 U.S.C. s. 30301 • "Identification card" means a personal identification card issued by the department and which conforms to the federal law. • "Temporary driver license" or "temporary identification card" means a certificate which, subject to all other requirements of law, issued by the department, and which authorizes an individual to drive a motor vehicle, and which denotes an operator's license as defined in 49 U.S.C. s. 30301, or a personal identification card, issued by the department, and which conforms to the definition in 18 U.S.C. s. 1028(D), and which denotes that the holder is permitted to stay for a short duration of time specified in the document so issued and is not a permanent resident of the United States.	Florida law would better mirror the newly enacted federal legislation. Subsequent to the events of September 11, 2001, the requirement for lawful presence to be eligible for a driver license or an ID card by the agency was established, initially through the Governor's Executive Order, and then through statutory amendments. Earlier this year, the US Congress passed the Federal Real ID Act, and provided all states three years to implement the provisions if the state issued driver license or ID was to be accepted by Federal Government as a valid ID for transportation and other purposes. The proposed amendments are to effect the required changes.

Issues	Current Situation	Proposed Change	Justification
DUBAL	When an individual is arrested for a violation of s. 316.193, Florida Statutes, and has an unlawful blood or breath level of .08 or higher or refuses to submit to a breath, blood or urine test when requested by a law enforcement officer, the individual's driving privilege is suspended at the time of arrest.	This change would remove the requirement for an arrest for a violation of s. 316.193, Florida Statutes, clarify what individuals can be subpoenaed to a Formal Review of the suspension, and provide clarification as to blood alcohol and breath alcohol levels.	These changes will provide clarifications to the statute. This will also provide consistency between ss. 322.2615 and 322.26216, Florida Statutes. These changes will also address issues raised by courts in cases involving the department's implementation of this section.
Motorcycle Riders	Currently, Florida law only requires those riders under 21 who seek to obtain a motorcycle endorsement on their license to attend a motorcycle safety education course. Further, drivers under 21 are required to wear helmets while riding their motorcycle.	This proposal would require all applicants for a motorcycle endorsement to attend the motorcycle safety education course. In addition, no original motorcycle license plates could be issued without proof that the registrant has the proper endorsement, as well as require registrants under 21 to obtain a license plate that is unique in color and design.	Due to the rise in popularity of motorcycles, the increase in traffic on Florida's roadways and other mitigating factors fatalities among motorcyclist have risen in Florida. Statistics show that within the last two years, there have been no fatalities among those riders completing the Florida Rider Training Course. These changes are intended to reduce crashes among motorcyclists.

Issues	Current Situation	Proposed Change	Justification
Identification Cards	Florida law only allows children 12 and over to obtain a State of Florida identification card.	This change would allow children five and over to apply for an identification card.	Parents of young children have been encouraged by law enforcement officials to maintain current photographs and identification documents for their children as a precautionary measure. Further, many parents travel with their children utilizing public transportation where having photo identification is encouraged.
All Terrain Vehicles (ATV's)	Currently, s. 316.2074, F.S., does not allow all-terrain vehicles to be operated on the public roads, streets, or highways of this state, except as permitted by a managing state or federal agency.	This change would create s. 316.2123, F.S., allowing "ATV's" to be operated by a licensed driver or a minor under the supervision of a licensed driver on un-paved roadways where the posted speed limit is less than 35 mph. The licensed drivers are still required to provide proof of ownership if requested by law enforcement.	This change is intended to enhance recreational opportunities in rural areas.

Issues	Current Situation	Proposed Change	Justification
CDL Vision Exemption	Currently, s. 316.302, F.S., exempts a person who was a regularly employed driver of a commercial motor vehicle on July 4, 1987 from the CDL vision requirements located in 49 CFR, if certain other state and federal requirements are met.	The provision would allow a person whose driving record shows no traffic convictions, pursuant to s. 322.61, during the 2-year period immediately preceding the application for the commercial driver's license, and who is otherwise qualified as a driver under 49 C.F.R. part 391, and who operates a commercial vehicle in intrastate commerce only, to be exempt from the requirements of 49 C.F.R. part 391, subpart E, s. 391.41(b)(10).	The bill would delete a restrictive grandfather provision from state law and make the state exemption consistent with federal waiver provisions.
Motor Vehicle Dealers: Continuing Education	Currently s. 320.27, F.S., requires all independent motor vehicle dealers to complete 8 hours of continuing education prior to filing the renewal forms to DHSMV. The continuing education is to include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. It is provided in a classroom setting or by correspondence.	This change would require only independent motor vehicle dealers who have been in business for less than five years to complete the continuing education listed in s. 320.27, F.S.	This change would limit the continuing education course requirement to only those independent dealers who are relatively new to the business.

Issues	Current Situation	Proposed Change	Justification
Motor Vehicle Dealers: Low Speed Vehicles	Currently, s. 320.27, F.S., relating to motor vehicle dealers, defines "motor vehicle" as any motor vehicle of the type and kind required to be registered and titled under chapter 319 and this chapter, except a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or mobile home.	The bill adds low speed vehicles to the list of vehicles excepted from the definition of "motor vehicles" for motor vehicle dealer licensing purposes. Low speed vehicles are defined in s. 320.01, F.S., as any four-wheeled electric vehicle complying with federal safety standards whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles.	Sellers of low speed vehicles are required to be licensed as motor vehicle dealers. These same businesses are not required to be licensed to sell golf carts. Low speed vehicles and golf carts are similar in design. This change would eliminate the requirement that sellers of low speed vehicles be licensed as motor vehicle dealers.
Specialty License Plates	Currently s. 320.089, F.S., provides that an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active or retired member of any branch of the United States Armed Forces Reserve be issued a license plate as provided by s. 320.06, with the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve," as appropriate, followed by the serial number of the license plate.	This proposal would create Operation Iraqi Freedom and Operation Enduring Freedom license plates and qualifies Operation Iraqi Freedom and Operation Enduring Freedom veterans as the exclusive recipients of these plates. There would be no additional charge for the new license plate.	This would honor veterans of recent military conflicts and allow them to display a tag that showed that they had served their country in these conflicts.

Issues	Current Situation	Proposed Change	Justification
Forestry Equipment	Section 316.515, F.S., currently, only allows certain tractors, movers, and agricultural implements to operate on public roads to move from one point of agricultural production to another, by a person working these products. Such vehicles must be operated in accordance with Department of Transportation rules.	The bill would allow certain forestry equipment to be transported from one point of harvest to another, by a person harvesting the forestry products. Such vehicles are to be operated in accordance with all safety requirements prescribed by law and Department of Transportation rules.	This change would allow forestry equipment operators the freedom of movement necessary to complete their work.
Police Vehicles	Section 319.14, F.S., relating to the sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles defines "police vehicle" as a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement. The title of such vehicles must be branded to show that the vehicle was used as a police vehicle.	The bill amends the definition of "police vehicles" in s. 319.14, F.S., to include the words "marked and outfitted as a pursuit vehicle."	Law enforcement agencies own non-pursuit vehicles that are not subjected to the same operating conditions as patrol cars. Branding the title of non-pursuit vehicles as police vehicles reduces the resale value of such vehicle.

Issues	Current Situation	Proposed Change	Justification
Dump Truck License Plates	Currently s. 316.221, F.S., requires rear registration plates to be illuminated by taillamps and are to be legible from a distance of 50 feet to the rear and are to be lighted whenever the headlamps or auxiliary driving lamps are lighted. Section 320.0706, F.S., does not provide for a height requirement for the display of license plates on commercial trucks of gross vehicle weight of 26,001 pounds or more.	The bill exempts dump trucks and vehicles with dump bodies from the taillamp requirements of this subsection and allows the bill requires the owners of dump trucks to place the rear license plate on the gate no higher than 60 inches from the ground to the top of the license plate to allow for better visibility.	Currently, dump truck license plates are located in a position on the truck where the visibility of the plate is damaged or defaced during everyday use.
Technical Amendments	Section 320.27 (9)(b) (18), Motor Vehicle Dealer law related to Denial, Suspension, or Revocation Section 322.121 (8), relating to the periodic reexamination of all drivers.	Changes the word 'owned' to 'owed ' and corrected a cross reference to s. 320.02(17). This change would update cross reference to paragraphs in s. 322.57 (1)	

1 A bill to be entitled
2 An act relating to motor vehicles; amending s. 207.008,
3 F.S.; revising requirements for motor carrier to retain
4 certain records as required by the Department of Highway
5 Safety and Motor Vehicles for tax purposes; amending s.
6 207.021, F.S.; providing for informal conferences to
7 resolve disputes arising from the assessment of taxes,
8 penalties, or interest, or the denial of refunds;
9 providing rulemaking authority; providing for settlement
10 of taxpayer liability; amending s. 320.405, F.S.;
11 providing for authorization for certain agreements related
12 to International Registration Plan; amending s. 322.01,
13 F.S.; revising the definition of "driver's license";
14 defining "identification card" and "temporary driver
15 license" or "temporary identification card"; amending s.
16 322.08, F.S.; revising criteria related to proof of
17 identity and status of applicant for a driver's license;
18 providing for electronic verification of documents;
19 amending s. 322.051, F.S.; revising criteria related to
20 proof of identity and status of applicant for an
21 identification card; providing for electronic verification
22 of documents; amending s. 322.2615, F.S.; revising
23 provisions for suspension of driver licenses and review of
24 suspension by the department; amending s. 316.211, F.S.;
25 requiring motorcycles registered to persons who have not
26 attained 21 years of age to display a license plate that
27 is unique in design and color; amending s. 320.02, F.S.;
28 requiring proof of required endorsement on driver license
29 as a condition for original registration of a motorcycle,

30 motor-driven cycle, or moped; amending s. 322.12, F.S.;
31 revising requirements for first-time applicant for
32 licensure to operate a motorcycle; creating s. 316.2123,
33 F.S.; providing for all terrain vehicle operations;
34 amending s.316.302, F.S.; revising an exemption from
35 commercial driver's license requirements; amending s.
36 320.27, F.S.; revising motor vehicle dealer licensing
37 requirement; amending s. 320.089, F.S.; providing for
38 "Operation Iraqi Freedom" and "Operation Enduring Freedom"
39 license plates to qualified military personnel; amending
40 s. 316.515, F.S.; revising requirements for forestry
41 equipment; amending s. 319.14, F.S.; revising definition
42 of police vehicle for purpose of selling; amending s.
43 316.221, F.S.; providing an exemption for dump trucks;
44 amending s. 320.0706, F.S.; revising display of license on
45 dump trucks; amending s. 322.121, F.S.; revising periodic
46 license examination requirements; providing an effective
47 date.
48
49 Be It Enacted by the Legislature of the State of Florida:
50
51 Section 1. Section 207.008, Florida Statutes, is amended to
52 read:
53 207.008 Retention of records by motor carrier.--Each
54 registered motor carrier shall maintain and keep pertinent
55 records and papers as may be required by the department for the
56 reasonable administration of this chapter and shall preserve <u>the</u>
57 <u>records upon which each quarterly tax return is based for 4 years</u>

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

V

58 after the due date or filing date of the return, whichever is
59 later ~~such records as long as required by s. 213.35~~.
60 Section 2. Section 207.021, Florida Statutes, is amended to
61 read:
62 207.021 Informal conferences; settlement or compromise of
63 taxes, penalties, or interest.--~~The department may settle or~~
64 ~~compromise, pursuant to s. 213.21, penalties or interest imposed~~
65 ~~under this chapter.~~
66 (1)(a) The department may adopt rules pursuant to ss.
67 120.536(1) and 120.54 for establishing informal conferences to
68 resolve disputes arising from the assessment of taxes, penalties,
69 or interest, or the denial of refunds.
70 (b) During any proceeding arising under this section, the
71 motor carrier has the right to be represented at and record all
72 procedures at the motor carrier's expense.
73 (2)(a) The executive director or his or her designee is
74 authorized to enter into closing agreements with any taxpayer
75 settling or compromising the taxpayer's liability for any tax,
76 interest, or penalty assessed under this chapter. Such agreements
77 shall be in writing and must be in the form of a closing
78 agreement approved by the department and signed by the executive
79 director or his or her designee. It shall be final and
80 conclusive; except upon a showing of material fraud or
81 misrepresentation of material fact. No additional assessment may
82 be made by the department against the taxpayer for the tax,
83 interest, or penalty specified in the closing agreement for the
84 time specified in the closing agreement, and the taxpayer shall
85 not be entitled to institute any judicial or administrative
86 proceeding to recover any tax, interest, or penalty paid pursuant

87 to the closing agreement. The executive director of the
88 department or his or her designee is authorized to approve any
89 such closing agreement.
90 (b) Notwithstanding the provisions of paragraph (a), for
91 the purpose of settling and compromising the liability of any
92 taxpayer for tax or interest on the grounds of doubt as to
93 liability based on the taxpayer's reasonable reliance on a
94 written determination issued by the department, the department
95 may compromise the amount of such tax or interest resulting from
96 such reasonable reliance.
97 (3) A taxpayer's liability for any tax or interest
98 specified in this chapter may be compromised by the department
99 upon the grounds of doubt as to liability for or the ability
100 collect such tax or interest. Doubt as to the liability of a
101 taxpayer for tax and interest exists if the taxpayer demonstrates
102 that he or she reasonably relied on a written determination of
103 the department.
104 (4) A taxpayer's liability for any tax or interest under
105 this chapter shall be settled or compromised in whole or in part
106 whenever or to the extent allowable under the International Fuel
107 Tax Agreement Articles of Agreement.
108 (5) A taxpayer's liability for penalties under this chapter
109 may be settled or compromised if it is determined by the
110 department that the noncompliance is due to reasonable cause and
111 not to willful negligence, willful neglect, or fraud.
112 (6) The department is authorized to enter into agreements
113 for scheduling payments of taxes, penalties, and interest due to
114 the department as a result of audit assessments issued under this
115 chapter.

116 Section 3. Subsection (5) is added to section 320.405,
117 Florida Statutes, to read:
118 320.405 International Registration Plan; inspection of
119 records; hearings.--
120 (5) The department is authorized to enter into agreements
121 for scheduling payments of taxes and penalties due to the
122 department as a result of audit assessments issued under this
123 section.
124 Section 4. Subsection (16) of section 322.01, Florida
125 Statutes, is amended, and subsections (43) and (44) are added to
126 that section, to read:
127 322.01 Definitions.--As used in this chapter:
128 (16) "Driver's license" means a certificate which, subject
129 to all other requirements of law, authorizes an individual to
130 drive a motor vehicle, and which denotes an operator's license as
131 defined in 49 U.S.C. s. 30301.
132 (43) "Identification card" means a personal identification
133 card issued by the department and which conforms to the
134 definition in 18 U.S.C. s. 1028(D).
135 (44) "Temporary driver license" or "temporary
136 identification card" means a certificate which, subject to all
137 other requirements of law, issued by the department, and which
138 authorizes an individual to drive a motor vehicle, and which
139 denotes an operator's license as defined in 49 U.S.C. s. 30301,
140 or a personal identification card, issued by the department, and
141 which conforms to the definition in 18 U.S.C. s. 1028(D), and
142 which denotes that the holder is permitted to stay for a short
143 duration of time specified in the document so issued and is not a
144 permanent resident of the United States.

145 Section 5. Paragraph (c) of subsection (2) of section
146 322.08, Florida Statutes, is amended to read:
147 322.08 Application for license.--
148 (2) Each such application shall include the following
149 information regarding the applicant:
150 (c) Proof of identity satisfactory to the department. Such
151 proof must include one of the following documents issued to the
152 applicant:
153 1. A driver's license record or identification card record
154 from another jurisdiction that required the applicant to submit a
155 document for identification which is substantially similar to a
156 document required under subparagraph 2., subparagraph 3.,
157 subparagraph 4., subparagraph 5., subparagraph 6., or
158 subparagraph 7.;
159 2. A certified copy of a United States birth certificate;
160 3. A United States passport;
161 4. A naturalization certificate issued by the United States
162 Department of Homeland Security;
163 5. An alien registration receipt card (green card);
164 6. An employment authorization card issued by the United
165 States Department of Homeland Security; or
166 7. Proof of nonimmigrant classification provided by the
167 United States Department of Homeland Security, for an original
168 driver's license. In order to prove nonimmigrant classification,
169 an applicant may produce the following documents, including, but
170 not limited to:
171 a. A notice of hearing from an immigration court scheduling
172 a hearing on any proceeding.

173 b. A notice from the Board of Immigration Appeals
174 acknowledging pendency of an appeal.
175 c. A notice of the approval of an application for
176 adjustment of status issued by the United States Immigration and
177 Naturalization Service.
178 d. Any official documentation confirming the filing of a
179 petition for asylum or refugee status or any other relief issued
180 by the United States Immigration and Naturalization Service.
181 e. A notice of action transferring any pending matter from
182 another jurisdiction to this state issued by the United States
183 Immigration and Naturalization Service.
184 f. An order of an immigration judge or immigration officer
185 granting any relief that authorizes the alien to live and work in
186 the United States, including, but not limited to, asylum.
187 g. Evidence that an application is pending for adjustment of
188 status to that of an alien lawfully admitted for permanent
189 residence in the United States or conditional permanent resident
190 status in the United States, provided a visa number is available
191 with a current priority date for processing by the United States
192 Citizenship and Immigration Services.
193
194 Presentation of any of the documents in subparagraph 6. or
195 subparagraph 7. entitles the applicant to a driver's license or
196 temporary permit for a period not to exceed the expiration date
197 of the document presented or 1 year ~~2 years~~, whichever occurs
198 first.
199 Section 6. Paragraph (a) of subsection (1) of section
200 322.051, Florida Statutes, is amended to read:
201 322.051 Identification cards.--

202 (1) Any person who is 5 ~~12~~ years of age or older, or any
203 person who has a disability, regardless of age, who applies for a
204 disabled parking permit under s. 320.0848, may be issued an
205 identification card by the department upon completion of an
206 application and payment of an application fee.
207 (a) Each such application shall include the following
208 information regarding the applicant:
209 1. Full name (first, middle or maiden, and last), gender,
210 social security card number, county of residence and mailing
211 address, country of birth, and a brief description.
212 2. Proof of birth date satisfactory to the department.
213 3. Proof of identity satisfactory to the department. Such
214 proof must include one of the following documents issued to the
215 applicant:
216 a. A driver's license record or identification card record
217 from another jurisdiction that required the applicant to submit a
218 document for identification which is substantially similar to a
219 document required under sub-subparagraph b., sub-subparagraph c.,
220 sub-subparagraph d., sub-subparagraph e., sub-subparagraph f., or
221 sub-subparagraph g.;
222 b. A certified copy of a United States birth certificate;
223 c. A United States passport;
224 d. A naturalization certificate issued by the United States
225 Department of Homeland Security;
226 e. An alien registration receipt card (green card);
227 f. An employment authorization card issued by the United
228 States Department of Homeland Security; or
229 g. Proof of nonimmigrant classification provided by the
230 United States Department of Homeland Security, for an original

231 identification card. In order to prove such nonimmigrant
232 classification, applicants may produce but are not limited to the
233 following documents:
234 (I) A notice of hearing from an immigration court
235 scheduling a hearing on any proceeding.
236 (II) A notice from the Board of Immigration Appeals
237 acknowledging pendency of an appeal.
238 (III) Notice of the approval of an application for
239 adjustment of status issued by the United States Bureau of
240 Citizenship and Immigration Services.
241 (IV) Any official documentation confirming the filing of a
242 petition for asylum status or any other relief issued by the
243 United States Bureau of Citizenship and Immigration Services.
244 (V) Notice of action transferring any pending matter from
245 another jurisdiction to Florida, issued by the United States
246 Bureau of Citizenship and Immigration Services.
247 (VI) Order of an immigration judge or immigration officer
248 granting any relief that authorizes the alien to live and work in
249 the United States including, but not limited to asylum.
250 <u>(VII) Evidence that an application is pending for</u>
251 <u>adjustment of status to that of an alien lawfully admitted for</u>
252 <u>permanent residence in the United States or conditional permanent</u>
253 <u>resident status in the United States, provided a visa number is</u>
254 <u>available with a current priority date for processing by the</u>
255 <u>United States Citizenship and Immigration Services.</u>
256
257 Presentation of any of the documents described in sub-
258 subparagraph f. or sub-subparagraph g. entitles the applicant to
259 an identification card for a period not to exceed the expiration

260 date of the document presented or 1 year ~~2 years~~, whichever first
261 occurs.
262 Section 7. Section 322.2615, Florida Statutes, is amended
263 to read:
264 322.2615 Suspension of license; right to review.--
265 (1)(a) A law enforcement officer or correctional officer
266 shall, on behalf of the department, suspend the driving privilege
267 of a person who is driving or in actual physical control of a
268 motor vehicle with an ~~has been arrested by a law enforcement~~
269 ~~officer for a violation of s. 316.193, relating to~~ unlawful
270 blood-alcohol level or breath-alcohol level of 0.08 or higher, or
271 of a person who has refused to submit to a ~~breath~~, urine~~, or~~
272 ~~blood~~ test, ~~authorized by s. 316.1932.~~ or a test of his or her
273 breath-alcohol or blood-alcohol level. The officer shall take the
274 person's driver's license and issue the person a 10-day temporary
275 permit if the person is otherwise eligible for the driving
276 privilege and shall issue the person a notice of suspension. If a
277 blood test has been administered, or ~~the results of which are not~~
278 ~~available to~~ the officer ~~at the time of the arrest,~~ the agency
279 employing the officer shall transmit such results to the
280 department within 5 days after receipt of the results. If the
281 department then determines that the person ~~was arrested for a~~
282 ~~violation of s. 316.193 and that the person~~ had a blood-alcohol
283 level or breath-alcohol level of 0.08 or higher, the department
284 shall suspend the person's driver's license pursuant to
285 subsection (3).
286 (b) The suspension under paragraph (a) shall be pursuant
287 to, and the notice of suspension shall inform the driver of, the
288 following:

289 1.a. The driver refused to submit to a lawful breath,
290 blood, or urine test and his or her driving privilege is
291 suspended for a period of 1 year for a first refusal or for a
292 period of 18 months if his or her driving privilege has been
293 previously suspended as a result of a refusal to submit to such a
294 test; or
295 b. The driver was driving or in actual physical control of
296 a motor vehicle ~~violated s. 316.193 by driving~~ with an unlawful
297 blood-alcohol level or breath-alcohol level of 0.08 or higher ~~as~~
298 ~~provided in that section~~ and his or her driving privilege is
299 suspended for a period of 6 months for a first offense or for a
300 period of 1 year if his or her driving privilege has been
301 previously suspended under this section ~~for a violation of s.~~
302 ~~316.193~~.
303 2. The suspension period shall commence on the date of
304 ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~
305 ~~later~~.
306 3. The driver may request a formal or informal review of
307 the suspension by the department within 10 days after the date of
308 ~~arrest or~~ issuance of the notice of suspension~~, whichever is~~
309 ~~later~~.
310 4. The temporary permit issued at the time of arrest will
311 expire at midnight of the 10th day following the date of ~~arrest~~
312 ~~or~~ issuance of the notice of suspension~~, whichever is later~~.
313 5. The driver may submit to the department any materials
314 relevant to the suspension ~~arrest~~.
315 (2) Except as provided in paragraph (1)(a), the law
316 enforcement officer shall forward to the department, within 5
317 days after issuing ~~the date of the arrest, a copy of~~ the notice

318 of suspension, the driver's license ~~of the person arrested~~, ~~and a~~
319 ~~report of the arrest, including~~ an affidavit stating the
320 officer's grounds for belief that the person was driving or in
321 actual physical control of a motor vehicle while under the
322 influence of alcoholic beverages, or chemical or controlled
323 substances ~~arrested was in violation of s. 316.193~~; the results
324 of any breath or blood test or an affidavit stating that a
325 breath, blood, or urine test was requested by a law enforcement
326 officer or correctional officer and that the person ~~arrested~~
327 refused to submit; ~~a copy of the citation issued to the person~~
328 ~~arrested; and~~ the officer's description of the person's field
329 sobriety test, if any, and a copy of the crash report, if any.
330 The failure of the officer to submit materials within the 5-day
331 period specified in this subsection and in subsection (1) shall
332 not affect the department's ability to consider any evidence
333 submitted at or prior to the hearing. The officer may also submit
334 a copy of a videotape of the field sobriety test or the attempt
335 to administer such test. Materials submitted to the department by
336 a law enforcement agency or correctional agency shall be
337 considered self-authenticating and shall be in the record for
338 consideration by the hearing officer. Notwithstanding
339 s.316.066(4), the crash report shall be considered by the hearing
340 officer.
341 (3) If the department determines that the license ~~of the~~
342 ~~person arrested~~ should be suspended pursuant to this section and
343 if the notice of suspension has not already been served upon the
344 person by a law enforcement officer or correctional officer as
345 provided in subsection (1), the department shall issue a notice
346 of suspension and, unless the notice is mailed pursuant to s.

347 322.251, a temporary permit which expires 10 days after the date
348 of issuance if the driver is otherwise eligible.
349 (4) If the person suspended ~~arrested~~ requests an informal
350 review pursuant to subparagraph (1)(b)3., the department shall
351 conduct the informal review by a hearing officer employed by the
352 department. Such informal review hearing shall consist solely of
353 an examination by the department of the materials submitted by a
354 law enforcement officer or correctional officer and by the person
355 suspended ~~arrested~~, and the presence of an officer or witness is
356 not required.
357 (5) After completion of the informal review, notice of the
358 department's decision sustaining, amending, or invalidating the
359 suspension of the driver's license of the person suspended
360 ~~arrested~~ must be provided to such person. Such notice must be
361 mailed to the person at the last known address shown on the
362 department's records, or to the address provided in the law
363 enforcement officer's report if such address differs from the
364 address of record, within 21 days after the expiration of the
365 temporary permit issued pursuant to subsection (1) or subsection
366 (3).
367 (6)(a) If the person suspended ~~arrested~~ requests a formal
368 review, the department must schedule a hearing to be held within
369 30 days after such request is received by the department and must
370 notify the person of the date, time, and place of the hearing.
371 (b) Such formal review hearing shall be held before a
372 hearing officer employed by the department, and the hearing
373 officer shall be authorized to administer oaths, examine
374 witnesses and take testimony, receive relevant evidence, issue
375 subpoenas for the officers and witnesses identified in documents

376 in subsection (2), regulate the course and conduct of the
377 hearing, question witnesses, and make a ruling on the suspension.
378 The ~~department and the person arrested may subpoena witnesses,~~
379 ~~and the~~ party requesting the presence of a witness shall be
380 responsible for the payment of any witness fees and for notifying
381 in writing the state attorney's office in the appropriate circuit
382 of the issuance of the subpoena. If the person who requests a
383 formal review hearing fails to appear and the hearing officer
384 finds such failure to be without just cause, the right to a
385 formal hearing is waived and the suspension shall be sustained.
386 (c) A party may seek enforcement of a subpoena under
387 paragraph (b) by filing a petition for enforcement in the circuit
388 court of the judicial circuit in which the person failing to
389 comply with the subpoena resides. A failure to comply with an
390 order of the court shall result in a finding of contempt of
391 court. However, a person shall not be in contempt while a
392 subpoena is being challenged.
393 (d) The department must, within 7 working days after a
394 formal review hearing, send notice to the person of the hearing
395 officer's decision as to whether sufficient cause exists to
396 sustain, amend, or invalidate the suspension.
397 (7) In a formal review hearing under subsection (6) or an
398 informal review hearing under subsection (4), the hearing officer
399 shall determine by a preponderance of the evidence whether
400 sufficient cause exists to sustain, amend, or invalidate the
401 suspension. The scope of the review shall be limited to the
402 following issues:
403 (a) If the license was suspended for driving with an
404 unlawful blood-alcohol level or breath-alcohol level of 0.08 or

405 higher ~~in violation of s. 316.193~~:
406 1. Whether the ~~arresting~~ law enforcement officer had
407 probable cause to believe that the person suspended was driving
408 or in actual physical control of a motor vehicle in this state
409 while under the influence of alcoholic beverages or chemical or
410 controlled substances.
411 ~~2. Whether the person was placed under lawful arrest for a~~
412 ~~violation of s. 316.193.~~
413 2 ~~3~~. Whether the person suspended had an unlawful blood-
414 alcohol level or breath-alcohol level of 0.08 or higher as
415 provided in s. 316.193.
416 (b) If the license was suspended for refusal to submit to a
417 breath, blood, or urine test:
418 1. Whether the ~~arresting~~ law enforcement officer had
419 probable cause to believe that the person suspended was driving
420 or in actual physical control of a motor vehicle in this state
421 while under the influence of alcoholic beverages or chemical or
422 controlled substances.
423 ~~2. Whether the person was placed under lawful arrest for a~~
424 ~~violation of s. 316.193.~~
425 2.~~3.~~ Whether the person suspended refused to submit to any
426 such test after being requested to do so by a law enforcement
427 officer or correctional officer.
428 3.~~4.~~ Whether the person suspended was told that if he or
429 she refused to submit to such test his or her privilege to
430 operate a motor vehicle would be suspended for a period of 1 year
431 or, in the case of a second or subsequent refusal, for a period
432 of 18 months.
433 (8) Based on the determination of the hearing officer

434 pursuant to subsection (7) for both informal hearings under
435 subsection (4) and formal hearings under subsection (6), the
436 department shall:
437 (a) Sustain the suspension of the person's driving
438 privilege for a period of 1 year for a first refusal, or for a
439 period of 18 months if the driving privilege of such person has
440 been previously suspended as a result of a refusal to submit to
441 such tests, if the ~~arrested~~ person refused to submit to a lawful
442 breath, blood, or urine test. The suspension period commences on
443 the date of ~~the arrest or~~ issuance of the notice of suspension~~,~~
444 ~~whichever is later~~.
445 (b) Sustain the suspension of the person's driving
446 privilege for a period of 6 months for a blood-alcohol level or
447 breath-alcohol level of 0.08 or higher ~~a violation of s. 316.193~~,
448 or for a period of 1 year if the driving privilege of such person
449 has been previously suspended under this section as a result of
450 driving with an unlawful alcohol level ~~a violation of s. 316.193~~.
451 The suspension period commences on the date of ~~the arrest or~~
452 issuance of the notice of suspension~~, whichever is later~~.
453 (9) A request for a formal review hearing or an informal
454 review hearing shall not stay the suspension of the person's
455 driver's license. If the department fails to schedule the formal
456 review hearing to be held within 30 days after receipt of the
457 request therefor, the department shall invalidate the suspension.
458 If the scheduled hearing is continued at the department's
459 initiative, the department shall issue a temporary driving permit
460 which shall be valid until the hearing is conducted if the person
461 is otherwise eligible for the driving privilege. Such permit
462 shall not be issued to a person who sought and obtained a

463 continuance of the hearing. The permit issued under this
464 subsection shall authorize driving for business or employment use
465 only.
466 (10) A person whose driver's license is suspended under
467 subsection (1) or subsection (3) may apply for issuance of a
468 license for business or employment purposes only if the person is
469 otherwise eligible for the driving privilege pursuant to s.
470 322.271.
471 (a) If the suspension of the driver's license of the person
472 for failure to submit to a breath, urine, or blood test is
473 sustained, the person is not eligible to receive a license for
474 business or employment purposes only, pursuant to s. 322.271,
475 until 90 days have elapsed after the expiration of the last
476 temporary permit issued. If the driver is not issued a 10-day
477 permit pursuant to this section or s. 322.64 because he or she is
478 ineligible for the permit and the suspension for failure to
479 submit to a breath, urine, or blood test is not invalidated by
480 the department, the driver is not eligible to receive a business
481 or employment license pursuant to s. 322.271 until 90 days have
482 elapsed from the date of the suspension.
483 (b) If the suspension of the driver's license of the person
484 ~~arrested for a violation of s. 316.193~~, relating to unlawful
485 blood-alcohol level or breath-alcohol level <u>of 0.08 or higher</u>, is
486 sustained, the person is not eligible to receive a license for
487 business or employment purposes only pursuant to s. 322.271 until
488 30 days have elapsed after the expiration of the last temporary
489 permit issued. If the driver is not issued a 10-day permit
490 pursuant to this section or s. 322.64 because he or she is
491 ineligible for the permit and the suspension ~~for a violation of~~

492 ~~s. 316.193,~~ relating to unlawful blood-alcohol level or breath-
493 alcohol level of 0.08 or higher, is not invalidated by the
494 department, the driver is not eligible to receive a business or
495 employment license pursuant to s. 322.271 until 30 days have
496 elapsed from the date of the suspension ~~arrest~~.
497 (11) The formal review hearing may be conducted upon a
498 review of the reports of a law enforcement officer or a
499 correctional officer, including documents relating to the
500 administration of a breath test or blood test or the refusal to
501 take either test or the refusal to take a urine test. However, as
502 provided in subsection (6), the driver may subpoena the officer
503 or any person who administered or analyzed a breath or blood
504 test.
505 (12) The formal review hearing and the informal review
506 hearing are exempt from the provisions of chapter 120. The
507 department is authorized to adopt rules for the conduct of
508 reviews under this section.
509 (13) A person may appeal any decision of the department
510 sustaining a suspension of his or her driver's license by a
511 petition for writ of certiorari to the circuit court in the
512 county wherein such person resides or wherein a formal or
513 informal review was conducted pursuant to s. 322.31. However, an
514 appeal shall not stay the suspension. A law enforcement agency
515 may appeal any decision of the department invalidating a
516 suspension by a petition for writ of certiorari to the circuit
517 court in the county where a formal or informal review was
518 conducted. This subsection shall not be construed to provide for
519 a de novo appeal.
520 (14)(a) The decision of the department under this section

521 or any circuit court review thereof may not be considered in any
522 trial for a violation of s. 316.193, and a written statement
523 submitted by a person in his or her request for departmental
524 review under this section may not be admitted into evidence
525 against him or her in any such trial.
526 (b) The disposition of any related criminal proceedings
527 does not affect a suspension for refusal to submit to a blood,
528 breath, or urine test, ~~authorized by s. 316.1932 or s. 316.1933,~~
529 imposed under this section.
530 (15) If the department suspends a person's license under s.
531 322.2616, it may not also suspend the person's license under this
532 section for the same episode that was the basis for the
533 suspension under s. 322.2616.
534 (16) The department shall invalidate a suspension for
535 driving with an unlawful blood-alcohol level or breath-alcohol
536 level imposed under this section if the suspended person is found
537 not guilty at trial of an underlying violation of s. 316.193.
538 Section 8. Effective January 1, 2007, section 316.211,
539 Florida Statutes, is amended to read:
540 316.211 Equipment for motorcycle and moped riders.--
541 (1) A person may not operate or ride upon a motorcycle
542 unless the person is properly wearing protective headgear
543 securely fastened upon his or her head which complies with
544 Federal Motorcycle Vehicle Safety Standard 218 promulgated by the
545 United States Department of Transportation. The Department of
546 Highway Safety and Motor Vehicles shall adopt this standard by
547 agency rule.

548 (2) A person may not operate a motorcycle unless the person
549 is wearing an eye-protective device over his or her eyes of a
550 type approved by the department.
551 (3)(a) This section does not apply to persons riding within
552 an enclosed cab or to any person 16 years of age or older who is
553 operating or riding upon a motorcycle powered by a motor with a
554 displacement of 50 cubic centimeters or less or is rated not in
555 excess of 2 brake horsepower and which is not capable of
556 propelling such motorcycle at a speed greater than 30 miles per
557 hour on level ground.
558 (b) Notwithstanding subsection (1), a person over 21 years
559 of age may operate or ride upon a motorcycle without wearing
560 protective headgear securely fastened upon his or her head if
561 such person is covered by an insurance policy providing for at
562 least $10,000 in medical benefits for injuries incurred as a
563 result of a crash while operating or riding on a motorcycle.
564 (4) A person under 16 years of age may not operate or ride
565 upon a moped unless the person is properly wearing protective
566 headgear securely fastened upon his or her head which complies
567 with Federal Motorcycle Vehicle Safety Standard 218 promulgated
568 by the United States Department of Transportation.
569 (5) The department shall make available a list of
570 protective headgear approved in this section, and the list shall
571 be provided on request.
572 <u>(6) Motorcycles registered to persons who have not attained</u>
573 <u>21 years of age shall display a license plate that is unique in</u>
574 <u>design and color.</u>

575 (7) ~~(6)~~ A violation of this section is a noncriminal traffic
576 infraction, punishable as a nonmoving violation as provided in
577 chapter 318.
578 Section 9. Effective January 1, 2007, subsection (1) of
579 section 320.02, Florida Statutes, is amended to read:
580 320.02 Registration required; application for registration;
581 forms.--
582 (1) Except as otherwise provided in this chapter, every
583 owner or person in charge of a motor vehicle which is operated or
584 driven on the roads of this state shall register the vehicle in
585 this state. The owner or person in charge shall apply to the
586 department or to its authorized agent for registration of each
587 such vehicle on a form prescribed by the department. Prior to an
588 original registration of any motorcycle, motor-driven cycle, or
589 moped, the owner shall present proof that he or she has obtained
590 the necessary endorsement as required in s. 322.57. No
591 registration is required for any motor vehicle which is not
592 operated on the roads of this state during the registration
593 period.
594 Section 10. Effective January 1, 2007, paragraph (a) of
595 subsection (5) of section 322.12, Florida Statutes, is amended to
596 read:
597 322.12 Examination of applicants.--
598 (5)(a) The department shall formulate a separate
599 examination for applicants for licenses to operate motorcycles.
600 Any applicant for a driver's license who wishes to operate a
601 motorcycle, and who is otherwise qualified, must successfully
602 complete such an examination, which is in addition to the
603 examination administered under subsection (3). The examination

604 must test the applicant's knowledge of the operation of a
605 motorcycle and of any traffic laws specifically relating thereto
606 and must include an actual demonstration of his or her ability to
607 exercise ordinary and reasonable control in the operation of a
608 motorcycle. Any applicant who fails to pass the initial knowledge
609 examination will incur a $5 fee for each subsequent examination,
610 to be deposited into the Highway Safety Operating Trust Fund. Any
611 applicant who fails to pass the initial skills examination will
612 incur a $10 fee for each subsequent examination, to be deposited
613 into the Highway Safety Operating Trust Fund. In the formulation
614 of the examination, the department shall consider the use of the
615 Motorcycle Operator Skills Test and the Motorcycle in Traffic
616 Test offered by the Motorcycle Safety Foundation. The department
617 shall indicate on the license of any person who successfully
618 completes the examination that the licensee is authorized to
619 operate a motorcycle. If the applicant wishes to be licensed to
620 operate a motorcycle only, he or she need not take the skill or
621 road test required under subsection (3) for the operation of a
622 motor vehicle, and the department shall indicate such a
623 limitation on his or her license as a restriction. Every first-
624 time applicant for licensure to operate a motorcycle ~~who is under~~
625 ~~21 years of age~~ must provide proof of completion of a motorcycle
626 safety course, as provided for in s. 322.0255, before the
627 applicant may be licensed to operate a motorcycle.
628 Section 11. Section 316.2123, Florida Statutes, is created
629 to read:
630 316.2123 Operation of an ATV on certain roadways.— The
631 operation of an "ATV" as defined in s. 317.003 upon the public
632 roads or streets of this state is prohibited except that an "ATV"

633 may be operated during the daytime on an un-paved roadway where
634 the posted speed limit is less than 35 miles per hour by a
635 licensed driver or by a minor under the supervision of a licensed
636 driver. The operator must provide proof of ownership pursuant to
637 chapter 317 upon request by a law enforcement officer.
638 Section 12. Paragraph (i) of subsection (2) of section
639 316.302, Florida Statutes, is amended to read:
640 316.302 Commercial motor vehicles; safety regulations;
641 transporters and shippers of hazardous materials; enforcement.--
642 (2)
643 (i) A person ~~who was a regularly employed driver of a~~
644 ~~commercial motor vehicle on July 4, 1987, and~~ whose driving
645 record shows no traffic convictions, pursuant to s. 322.61,
646 during the 2-year period immediately preceding the application
647 for the commercial driver's license, and who is otherwise
648 qualified as a driver under 49 C.F.R. part 391, and who operates
649 a commercial vehicle in intrastate commerce only, shall be exempt
650 from the requirements of 49 C.F.R. part 391, subpart E, s.
651 391.41(b)(10). However, such operators are still subject to the
652 requirements of ss. 322.12 and 322.121. As proof of eligibility
653 such driver shall have in his or her possession a physical
654 examination form dated within the past 24 months.
655 Section 13. Paragraph (b) of subsection (1) and paragraph
656 (a) of subsection (4) and paragraph (b) of subsection (9) of
657 section 320.27, Florida Statutes, are amended to read:
658 320.27 Motor vehicle dealers.—
659
660 (1) DEFINITIONS.--The following words, terms, and phrases when
661 used in this section have the meanings respectively ascribed to

662 them in this subsection, except where the context clearly
663 indicates a different meaning:
664 (b) "Motor vehicle" means any motor vehicle of the type and
665 kind required to be registered and titled under chapter 319 and
666 this chapter, except a recreational vehicle, moped, motorcycle
667 powered by a motor with a displacement of 50 cubic centimeters or
668 less, low speed vehicle as defined in s. 320.01 or mobile home.
669 (4) LICENSE CERTIFICATE.--
670 (a) A license certificate shall be issued by the department
671 in accordance with such application when the application is
672 regular in form and in compliance with the provisions of this
673 section. The license certificate may be in the form of a document
674 or a computerized card as determined by the department. The
675 actual cost of each original, additional, or replacement
676 computerized card shall be borne by the licensee and is in
677 addition to the fee for licensure. Such license, when so issued,
678 entitles the licensee to carry on and conduct the business of a
679 motor vehicle dealer. Each license issued to a franchise motor
680 vehicle dealer expires annually on December 31 unless revoked or
681 suspended prior to that date. Each license issued to an
682 independent or wholesale dealer or auction expires annually on
683 April 30 unless revoked or suspended prior to that date. Not less
684 than 60 days prior to the license expiration date, the department
685 shall deliver or mail to each licensee the necessary renewal
686 forms. Each independent dealer who has been in business for less
687 than 5 years shall certify that the dealer principal (owner,
688 partner, officer of the corporation, or director) has completed 8
689 hours of continuing education prior to filing the renewal forms
690 with the department. Such certification shall be filed once every

691 2 years commencing with the 2006 renewal period. The continuing
692 education shall include at least 2 hours of legal or legislative
693 issues, 1 hour of department issues, and 5 hours of relevant
694 motor vehicle industry topics. Continuing education shall be
695 provided by dealer schools licensed under paragraph (b) either in
696 a classroom setting or by correspondence. Such schools shall
697 provide certificates of completion to the department and the
698 customer which shall be filed with the license renewal form, and
699 such schools may charge a fee for providing continuing education.
700 Any licensee who does not file his or her application and fees
701 and any other requisite documents, as required by law, with the
702 department at least 30 days prior to the license expiration date
703 shall cease to engage in business as a motor vehicle dealer on
704 the license expiration date. A renewal filed with the department
705 within 45 days after the expiration date shall be accompanied by
706 a delinquent fee of $100. Thereafter, a new application is
707 required, accompanied by the initial license fee. A license
708 certificate duly issued by the department may be modified by
709 endorsement to show a change in the name of the licensee,
710 provided, as shown by affidavit of the licensee, the majority
711 ownership interest of the licensee has not changed or the name of
712 the person appearing as franchisee on the sales and service
713 agreement has not changed. Modification of a license certificate
714 to show any name change as herein provided shall not require
715 initial licensure or reissuance of dealer tags; however, any
716 dealer obtaining a name change shall transact all business in and
717 be properly identified by that name. All documents relative to
718 licensure shall reflect the new name. In the case of a franchise
719 dealer, the name change shall be approved by the manufacturer,

720 distributor, or importer. A licensee applying for a name change
721 endorsement shall pay a fee of $25 which fee shall apply to the
722 change in the name of a main location and all additional
723 locations licensed under the provisions of subsection (5). Each
724 initial license application received by the department shall be
725 accompanied by verification that, within the preceding 6 months,
726 the applicant, or one or more of his or her designated employees,
727 has attended a training and information seminar conducted by a
728 licensed motor vehicle dealer training school. Such seminar shall
729 include, but is not limited to, statutory dealer requirements,
730 which requirements include required bookkeeping and recordkeeping
731 procedures, requirements for the collection of sales and use
732 taxes, and such other information that in the opinion of the
733 department will promote good business practices. No seminar may
734 exceed 8 hours in length.
735 (9) DENIAL, SUSPENSION, OR REVOCATION.--
736 (b) The department may deny, suspend, or revoke any license
737 issued hereunder or under the provisions of s. 320.77 or s.
738 320.771 upon proof that a licensee has committed, with sufficient
739 frequency so as to establish a pattern of wrongdoing on the part
740 of a licensee, violations of one or more of the following
741 activities:
742 1. Representation that a demonstrator is a new motor
743 vehicle, or the attempt to sell or the sale of a demonstrator as
744 a new motor vehicle without written notice to the purchaser that
745 the vehicle is a demonstrator. For the purposes of this section,
746 a "demonstrator," a "new motor vehicle," and a "used motor
747 vehicle" shall be defined as under s. 320.60.

748 2. Unjustifiable refusal to comply with a licensee's
749 responsibility under the terms of the new motor vehicle warranty
750 issued by its respective manufacturer, distributor, or importer.
751 However, if such refusal is at the direction of the manufacturer,
752 distributor, or importer, such refusal shall not be a ground
753 under this section.
754 3. Misrepresentation or false, deceptive, or misleading
755 statements with regard to the sale or financing of motor vehicles
756 which any motor vehicle dealer has, or causes to have,
757 advertised, printed, displayed, published, distributed,
758 broadcast, televised, or made in any manner with regard to the
759 sale or financing of motor vehicles.
760 4. Failure by any motor vehicle dealer to provide a
761 customer or purchaser with an odometer disclosure statement and a
762 copy of any bona fide written, executed sales contract or
763 agreement of purchase connected with the purchase of the motor
764 vehicle purchased by the customer or purchaser.
765 5. Failure of any motor vehicle dealer to comply with the
766 terms of any bona fide written, executed agreement, pursuant to
767 the sale of a motor vehicle.
768 6. Failure to apply for transfer of a title as prescribed
769 in s. 319.23(6).
770 7. Use of the dealer license identification number by any
771 person other than the licensed dealer or his or her designee.
772 8. Failure to continually meet the requirements of the
773 licensure law.
774 9. Representation to a customer or any advertisement to the
775 public representing or suggesting that a motor vehicle is a new
776 motor vehicle if such vehicle lawfully cannot be titled in the

777 name of the customer or other member of the public by the seller
778 using a manufacturer's statement of origin as permitted in s.
779 319.23(1).
780 10. Requirement by any motor vehicle dealer that a customer
781 or purchaser accept equipment on his or her motor vehicle which
782 was not ordered by the customer or purchaser.
783 11. Requirement by any motor vehicle dealer that any
784 customer or purchaser finance a motor vehicle with a specific
785 financial institution or company.
786 12. Requirement by any motor vehicle dealer that the
787 purchaser of a motor vehicle contract with the dealer for
788 physical damage insurance.
789 13. Perpetration of a fraud upon any person as a result of
790 dealing in motor vehicles, including, without limitation, the
791 misrepresentation to any person by the licensee of the licensee's
792 relationship to any manufacturer, importer, or distributor.
793 14. Violation of any of the provisions of s. 319.35 by any
794 motor vehicle dealer.
795 15. Sale by a motor vehicle dealer of a vehicle offered in
796 trade by a customer prior to consummation of the sale, exchange,
797 or transfer of a newly acquired vehicle to the customer, unless
798 the customer provides written authorization for the sale of the
799 trade-in vehicle prior to delivery of the newly acquired vehicle.
800 16. Willful failure to comply with any administrative rule
801 adopted by the department or the provisions of s. 320.131(8).
802 17. Violation of chapter 319, this chapter, or ss. 559.901-
803 559.9221, which has to do with dealing in or repairing motor
804 vehicles or mobile homes. Additionally, in the case of used motor
805 vehicles, the willful violation of the federal law and rule in 15

806 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer
807 sales window form.
808 18. Failure to maintain evidence of notification to the
809 owner or coowner of a vehicle regarding registration or titling
810 fees owed ~~owned~~ as required in s. 320.02(17) ~~320.02(19)~~.
811 Section 14. Subsection (4) is added to section 320.089,
812 Florida Statutes, to read:
813 320.089 Members of National Guard and active United States
814 Armed Forces reservists; former prisoners of war; survivors of
815 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
816 Freedom and Operation Enduring Freedom veterans; special license
817 plates; fee.--
818 (4) Each owner or lessee of an automobile or truck for
819 private use, truck weighing not more than 7,999 pounds, or
820 recreational vehicle as specified in s. 320.08(9)(c) or (d),
821 which is not used for hire or commercial use, who is a resident
822 of the state and a current or former member of the United States
823 military who was deployed and served in Iraq during Operation
824 Iraqi Freedom or in Afghanistan during Operation Enduring Freedom
825 shall, upon application to the department, accompanied by proof
826 of active membership or former active duty status during one of
827 these operations, and upon payment of the license tax for the
828 vehicle as provided in s. 320.08, be issued a license plate as
829 provided by s. 320.06, upon which, in lieu of the serial numbers
830 prescribed by s. 320.06, shall be stamped the words "Operation
831 Iraqi Freedom" or "Operation Enduring Freedom," as appropriate,
832 followed by the serial number of the license plate.
833 Section 15. Subsection (5) of section 316.515, Florida
834 Statutes, is amended to read:

835 316.515 Maximum width, height, length.--
836 (5) (a) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
837 SAFETY REQUIREMENTS.--Notwithstanding any other provisions of
838 law, straight trucks, agricultural tractors, and cotton module
839 movers, not exceeding 50 feet in length, or any combination of up
840 to and including three implements of husbandry including the
841 towing power unit, and any single agricultural trailer with a
842 load thereon or any agricultural implements attached to a towing
843 power unit not exceeding 130 inches in width, or a self-propelled
844 agricultural implement or an agricultural tractor not exceeding
845 130 inches in width, is authorized for the purpose of
846 transporting peanuts, grains, soybeans, cotton, hay, straw, or
847 other perishable farm products from their point of production to
848 the first point of change of custody or of long-term storage, and
849 for the purpose of returning to such point of production, or for
850 the purpose of moving such tractors, movers, and implements from
851 one point of agricultural production to another, by a person
852 engaged in the production of any such product or custom hauler,
853 if such vehicle or combination of vehicles otherwise complies
854 with this section. Such vehicles shall be operated in accordance
855 with all safety requirements prescribed by law and Department of
856 Transportation rules. The Department of Transportation may issue
857 overlength permits for cotton module movers greater than 50 feet
858 but not more than 55 feet in overall length.
859 (b) FORESTRY EQUIPMENT.—Notwithstanding any other provisions
860 of law, equipment used exclusively for the purpose of harvesting
861 forestry products, not exceeding 136 inches in width and which is
862 not capable of speeds exceeding 20 miles per hour, is authorized
863 for the purpose of transporting the equipment from one point of

864 harvest to another point of harvest, by a person engaged in the
865 harvesting of forestry products. Such vehicles shall be operated
866 in accordance with all safety requirements prescribed by law and
867 Department of Transportation rules.
868 Section 16. Paragraph (c) of subsection (1) of section
869 319.14, Florida Statutes, is amended to read:
870 319.14 Sale of motor vehicles registered or used as
871 taxicabs, police vehicles, lease vehicles, or rebuilt vehicles
872 and nonconforming vehicles.--
873 (1)
874 (c) As used in this section:
875 1. "Police vehicle" means a motor vehicle owned or leased
876 by the state or a county or municipality, marked and outfitted as
877 a pursuit vehicle, and used in law enforcement.
878 2.a. "Short-term-lease vehicle" means a motor vehicle
879 leased without a driver and under a written agreement to one or
880 more persons from time to time for a period of less than 12
881 months.
882 b. "Long-term-lease vehicle" means a motor vehicle leased
883 without a driver and under a written agreement to one person for
884 a period of 12 months or longer.
885 c. "Lease vehicle" includes both short-term-lease vehicles
886 and long-term-lease vehicles.
887 3. "Rebuilt vehicle" means a motor vehicle or mobile home
888 built from salvage or junk, as defined in s. 319.30(1).
889 4. "Assembled from parts" means a motor vehicle or mobile
890 home assembled from parts or combined from parts of motor
891 vehicles or mobile homes, new or used. "Assembled from parts"
892 does not mean a motor vehicle defined as a "rebuilt vehicle" in

893 subparagraph 3., which has been declared a total loss pursuant to
894 s. 319.30.
895 5. "Kit car" means a motor vehicle assembled with a kit
896 supplied by a manufacturer to rebuild a wrecked or outdated motor
897 vehicle with a new body kit.
898 6. "Glider kit" means a vehicle assembled with a kit
899 supplied by a manufacturer to rebuild a wrecked or outdated truck
900 or truck tractor.
901 7. "Replica" means a complete new motor vehicle
902 manufactured to look like an old vehicle.
903 8. "Flood vehicle" means a motor vehicle or mobile home
904 that has been declared to be a total loss pursuant to s.
905 319.30(3)(a) resulting from damage caused by water.
906 9. "Nonconforming vehicle" means a motor vehicle which has
907 been purchased by a manufacturer pursuant to a settlement,
908 determination, or decision under chapter 681.
909 10. "Settlement" means an agreement entered into between a
910 manufacturer and a consumer that occurs after a dispute is
911 submitted to a program, or an informal dispute settlement
912 procedure established by a manufacturer or is approved for
913 arbitration before the New Motor Vehicle Arbitration Board as
914 defined in s. 681.102.
915 Section 17. Subsection (2) of section 316.221, Florida
916 Statutes, is amended to read:
917 316.221 Taillamps.--
918 (2) Either a taillamp or a separate lamp shall be so
919 constructed and placed as to illuminate with a white light the
920 rear registration plate and render it clearly legible from a
921 distance of 50 feet to the rear. Any taillamp or taillamps,

922 together with any separate lamp or lamps for illuminating the
923 rear registration plate, shall be so wired as to be lighted
924 whenever the headlamps or auxiliary driving lamps are lighted.
925 Dump trucks and vehicles with dump bodies are exempt from the
926 requirements of this subsection.
927 Section 18. Section 320.0706, Florida Statutes, is amended
928 to read:
929 320.0706 Display of license plates on trucks.--The owner of
930 any commercial truck of gross vehicle weight of 26,001 pounds or
931 more shall display the registration license plate on both the
932 front and rear of the truck in conformance with all the
933 requirements of s. 316.605 that do not conflict with this
934 section. The owner of a dump truck may place the rear license
935 plate on the gate no higher than 60 inches from the ground to the
936 top of the license plate to allow for better visibility. However,
937 the owner of a truck tractor shall be required to display the
938 registration license plate only on the front of such vehicle.
939 Section 19. Subsection (8) of section 322.121, Florida
940 Statutes, is amended to read:
941 322.121 Periodic reexamination of all drivers.--
942 (8) In addition to any other examination authorized by this
943 section, an applicant for a renewal of an endorsement issued
944 under s. 322.57(1)(a), (b), (c), (d), ~~or~~ (e), or (f) may be
945 required to complete successfully an examination of his or her
946 knowledge regarding state and federal rules, regulations, and
947 laws, governing the type of vehicle which he or she is seeking an
948 endorsement to operate.
949 Section 20. Except as otherwise provided, this act shall
950 take effect October 1, 2006.

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: Transportation
2 Representative(s) Mealor offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 949-950 and insert:
6 Section 20. Subsection (9) of section 318.14, Florida
7 Statutes, is amended to read:
8 318.14 Noncriminal traffic infractions; exception;
9 procedures.--
10 (9) Any person who does not hold a commercial driver's
11 license and who is cited for an infraction under this section
12 other than a violation of s. 316.183(2), s. 316.187, or s.
13 316.189 when the driver exceeds the posted limit by 30 miles per
14 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,
15 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court
16 appearance, elect to attend in the location of his or her choice
17 within this state a basic driver improvement course approved by
18 the Department of Highway Safety and Motor Vehicles. In such a
19 case, adjudication must be withheld; points, as provided by s.
20 322.27, may not be assessed; and the civil penalty that is
21 imposed by s. 318.18(3) must be reduced by 18 percent; however,

22 a person may not make an election under this subsection if the
23 person has made an election under this subsection in the
24 preceding 12 months. A person may make no more than five
25 elections under this subsection. The requirement for community
26 service under s. 318.18(8) is not waived by a plea of nolo
27 contendere or by the withholding of adjudication of guilt by a
28 court.
29 Section 21. Subsection (3) of section 318.18, Florida
30 Statutes, is amended to read:
31 318.18 Amount of civil penalties.—The penalties required
32 for a noncriminal disposition pursuant to s. 318.14 are as
33 follows:
34 (3)(a) Except as otherwise provided in this section, $60
35 for all moving violations not requiring a mandatory appearance.
36 (b) For moving violations involving unlawful speed, the
37 fines are as follows:
38
39 For speed exceeding the limit by:Fine:
40 1-5 m.p.h.....Warning
41 6-9 m.p.h.....$ 25
42 10-14 m.p.h.....$100
43 15-19 m.p.h.....$125
44 20-29 m.p.h.....$150
45 30 m.p.h. and above....$250
46 (c) Notwithstanding paragraph (b), a person cited for
47 exceeding the speed limit by up to 5 m.p.h. in a legally posted
48 school zone will be fined $50. A person exceeding the speed
49 limit in a school zone shall pay a fine double the amount listed
50 in paragraph (b).

51 (d) A person cited for exceeding the speed limit in a
52 posted construction zone shall pay a fine double the amount
53 listed in paragraph (b). The fine shall be doubled for
54 construction zone violations only if construction personnel are
55 present or operating equipment on the road or immediately
56 adjacent to the road under construction.
57 (e) If a violation of s. 316.1301 or s. 316.1303 results
58 in an injury to the pedestrian or damage to the property of the
59 pedestrian, an additional fine of up to $250 shall be paid. This
60 amount must be distributed pursuant to s. 318.21.
61 (f) A person cited for exceeding the speed limit within a
62 zone posted for any electronic or manual toll collection
63 facility shall pay a fine double the amount listed in paragraph
64 (b). However, no person cited for exceeding the speed limit in
65 any toll collection zone shall be subject to a doubled fine
66 unless the governmental entity or authority controlling the toll
67 collection zone first installs a traffic control device
68 providing warning that speeding fines are doubled. Any such
69 traffic control device must meet the requirements of the uniform
70 system of traffic control devices.
71 (g) A person cited for a second or subsequent conviction of
72 speed exceeding the limit by 30 miles per hour and above within
73 a 12-month period shall pay a fine double the amount listed in
74 paragraph (b). For purposes of this paragraph, the term
75 "conviction" means a finding of guilt, with or without
76 adjudication of guilt, as a result of a jury verdict, nonjury
77 trial, or entry of a plea of guilty or nolo contendere,
78 notwithstanding s. 318.14(11).
79 Section 22. Section 318.19, Florida Statutes, is amended to
80 read:

81 318.19 Infractions requiring a mandatory hearing.--Any
82 person cited for the infractions listed in this section shall
83 not have the provisions of s. 318.14(2), (4), and (9) available
84 to him or her but must appear before the designated official at
85 the time and location of the scheduled hearing:
86 (1) Any infraction which results in a crash that
87 causes the death of another;
88 (2) Any infraction which results in a crash that
89 causes "serious bodily injury" of another as defined in s.
90 316.1933(1);
91 (3) Any infraction of s. 316.172(1)(b); or
92 (4) Any infraction of s. 316.520(1) or (2).
93 (5) Any infraction of s. 316.183(2), s. 316.187, or s.
94 316.189 of exceeding the speed limit by 30 m.p.h. or more.
95 Section 23. Subsection (3) of section 322.27, Florida
96 Statutes, is amended to read:
97 322.27 Authority of department to suspend or revoke
98 license.--
99 (3) There is established a point system for evaluation of
100 convictions of violations of motor vehicle laws or ordinances,
101 and violations of applicable provisions of s. 403.413(6)(b) when
102 such violations involve the use of motor vehicles, for the
103 determination of the continuing qualification of any person to
104 operate a motor vehicle. The department is authorized to suspend
105 the license of any person upon showing of its records or other
106 good and sufficient evidence that the licensee has been
107 convicted of violation of motor vehicle laws or ordinances, or
108 applicable provisions of s. 403.413(6)(b), amounting to 12 or
109 more points as determined by the point system. The suspension
110 shall be for a period of not more than 1 year.

111 (a) When a licensee accumulates 12 points within a
112 12-month period, the period of suspension shall be for not more
113 than 30 days.
114 (b) When a licensee accumulates 18 points, including
115 points upon which suspension action is taken under paragraph
116 (a), within an 18-month period, the suspension shall be for a
117 period of not more than 3 months.
118 (c) When a licensee accumulates 24 points, including
119 points upon which suspension action is taken under paragraphs
120 (a) and (b), within a 36-month period, the suspension shall be
121 for a period of not more than 1 year.
122 (d) The point system shall have as its basic element
123 a graduated scale of points assigning relative values to
124 convictions of the following violations:
125 1. Reckless driving, willful and wanton--4 points.
126 2. Leaving the scene of a crash resulting in property
127 damage of more than $50--6 points.
128 3. Unlawful speed resulting in a crash--6 points.
129 4. Passing a stopped school bus--4 points.
130 5. Unlawful speed:
131 a. Not in excess of 15 miles per hour of lawful or
132 posted speed--3 points.
133 b. In excess of 15 miles per hour <u>but less than 30</u>
134 <u>miles per hour</u> of lawful or posted speed--4 points.
135 <u>c. Thirty miles per hour or more in excess of lawful</u>
136 <u>or posted speed—6 points.</u>
137 6. A violation of a traffic control signal device as
138 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
139 7. All other moving violations (including parking on
140 a highway outside the limits of a municipality)--3 points.

141 However, no points shall be imposed for a violation of s.
142 316.0741 or s. 316.2065(12).
143 8. Any moving violation covered above, excluding
144 unlawful speed, resulting in a crash--4 points.
145 9. Any conviction under s. 403.413(6)(b)--3 points.
146 10. Any conviction under s. 316.0775(2)--4 points.
147 (e) A conviction in another state of a violation
148 therein which, if committed in this state, would be a violation
149 of the traffic laws of this state, or a conviction of an offense
150 under any federal law substantially conforming to the traffic
151 laws of this state, except a violation of s. 322.26, may be
152 recorded against a driver on the basis of the same number of
153 points received had the conviction been made in a court of this
154 state.
155 (f) In computing the total number of points, when the
156 licensee reaches the danger zone, the department is authorized
157 to send the licensee a warning letter advising that any further
158 convictions may result in suspension of his or her driving
159 privilege.
160 (g) The department shall administer and enforce the
161 provisions of this law and may make rules and regulations
162 necessary for its administration.
163 (h) Three points shall be deducted from the driver
164 history record of any person whose driving privilege has been
165 suspended only once pursuant to this subsection and has been
166 reinstated, if such person has complied with all other
167 requirements of this chapter.
168 (i) This subsection shall not apply to persons
169 operating a nonmotorized vehicle for which a driver's license is
170 not required.

171 (j) For purposes of sub-subparagraph (d)5.c., the term
172 "conviction" means a finding of guilt, with or without
173 adjudication of guilt, as a result of a jury verdict, nonjury
174 trial, or entry of a plea of guilty or nolo contendere,
175 notwithstanding s. 318.14(11).
176 Section 24. Except as otherwise provided, this act shall
177 take effect October 1, 2006.
178
179 ========== D I R E C T O R Y A M E N D M E N T ==========
180 Remove line(s) and insert:
181
182
183 ========== T I T L E A M E N D M E N T ==========
184 Remove line(s) 46-47 and insert:
185 license examination requirements; amending s. 318.14, F.S.;
186 providing exceptions to procedures for certain speed limit
187 violations; removing the option for certain offenders to attend
188 driver improvement school; amending s. 318.18, F.S.; providing
189 increased penalties for certain speed limit violations; amending
190 s. 318.19, F.S.; requiring mandatory hearings for certain speed
191 limit violations; amending s. 322.27, F.S.; providing for an
192 increase in driver license points for certain speed limit
193 violations; providing an effective date.

Bill No. **PCB TR 06-03**

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: Transportation
2 Representative(s) Reagan offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 949-950 and insert:
6 Section 20. Subsection (3) of section 322.27, Florida
7 Statutes, is amended to read:
8 322.27 Authority of department to suspend or revoke
9 license.--
10 (3) There is established a point system for evaluation of
11 convictions of violations of motor vehicle laws or ordinances,
12 and violations of applicable provisions of s. 403.413(6)(b) when
13 such violations involve the use of motor vehicles, for the
14 determination of the continuing qualification of any person to
15 operate a motor vehicle. The department is authorized to suspend
16 the license of any person upon showing of its records or other
17 good and sufficient evidence that the licensee has been
18 convicted of violation of motor vehicle laws or ordinances, or
19 applicable provisions of s. 403.413(6)(b), amounting to 12 or
20 more points as determined by the point system. The suspension
21 shall be for a period of not more than 1 year.

22 (a) When a licensee accumulates 12 points within a 12-
23 month period, the period of suspension shall be for not more
24 than 30 days.
25 (b) When a licensee accumulates 18 points, including
26 points upon which suspension action is taken under paragraph
27 (a), within an 18-month period, the suspension shall be for a
28 period of not more than 3 months.
29 (c) When a licensee accumulates 24 points, including
30 points upon which suspension action is taken under paragraphs
31 (a) and (b), within a 36-month period, the suspension shall be
32 for a period of not more than 1 year.
33 (d) The point system shall have as its basic element a
34 graduated scale of points assigning relative values to
35 convictions of the following violations:
36 1. Reckless driving, willful and wanton--4 points.
37 2. Leaving the scene of a crash resulting in property
38 damage of more than $50--6 points.
39 3. Unlawful speed resulting in a crash--6 points.
40 4. Passing a stopped school bus--4 points.
41 5. Unlawful speed:
42 a. Not in excess of 15 miles per hour of lawful or posted
43 speed--3 points.
44 b. In excess of 15 miles per hour of lawful or posted
45 speed--4 points.
46 6. <u>a.</u> A violation of a traffic control signal device as
47 provided in s. 316.074(1) or s. 316.075(1)(c)1.--4 points.
48 <u>b. A violation of a traffic control signal device as</u>
49 <u>provided in s. 316.074(1) or s. 316.075(1)(c)1. resulting in a</u>
50 <u>crash--6 points.</u>

51 7. All other moving violations (including parking on a
52 highway outside the limits of a municipality)--3 points.
53 However, no points shall be imposed for a violation of s.
54 316.0741 or s. 316.2065(12).
55 8. Any moving violation covered above, excluding unlawful
56 speed, resulting in a crash--4 points.
57 9. Any conviction under s. 403.413(6)(b)--3 points.
58 10. Any conviction under s. 316.0775(2)--4 points.
59 (e) A conviction in another state of a violation therein
60 which, if committed in this state, would be a violation of the
61 traffic laws of this state, or a conviction of an offense under
62 any federal law substantially conforming to the traffic laws of
63 this state, except a violation of s. 322.26, may be recorded
64 against a driver on the basis of the same number of points
65 received had the conviction been made in a court of this state.
66 (f) In computing the total number of points, when the
67 licensee reaches the danger zone, the department is authorized
68 to send the licensee a warning letter advising that any further
69 convictions may result in suspension of his or her driving
70 privilege.
71 (g) The department shall administer and enforce the
72 provisions of this law and may make rules and regulations
73 necessary for its administration.
74 (h) Three points shall be deducted from the driver history
75 record of any person whose driving privilege has been suspended
76 only once pursuant to this subsection and has been reinstated,
77 if such person has complied with all other requirements of this
78 chapter.

79 (i) This subsection shall not apply to persons operating a
80 nonmotorized vehicle for which a driver's license is not
81 required.
82 Section 21. Except as otherwise provided, this act shall
83 take effect October 1, 2006.
84
85 ========== T I T L E A M E N D M E N T ==========
86 Remove line(s) 46-47 and insert:
87 license examination requirements; amending s. 322.27, F.S.;
88 revising the point system for certain traffic violations
89 resulting in a crash;
90

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: Transportation
2 Representative(s) Hasner offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between line(s) 949-950 insert:
6 Section 20. Subsection 12 of section 318.18, Florida
7 Statutes, is amended to read:
8 318.18 Amount of civil penalties.—The penalties required
9 for a noncriminal disposition pursuant to s. 318.14 are as
10 follows:
11 (12) Two hundred ~~One hundred~~ dollars for a violation of s.
12 316.520(1) or (2). If, at a hearing, the alleged offender is
13 found to have committed this offense, the court shall impose a
14 minimum civil penalty of $200 ~~$100~~. For a second or subsequent
15 adjudication within a period of 5 years, the department shall
16 suspend the driver's license of the person for not less than 1
17 year ~~180 days~~ and not more than 2 ~~1~~ years.
18 Section 21. Except as otherwise provided, this act shall
19 take effect October 1, 2006.
20
21 ========== D I R E C T O R Y A M E N D M E N T ==========

22 Remove line(s) and insert:
23
24
25 ========== T I T L E A M E N D M E N T ==========
26 Remove line(s) 46-47 and insert:
27 license examination requirements; amending s. 318.18, F.S.;
28 revising the penalties for violation of s. 316.520, F.S.,
29 prohibiting loads on certain vehicles to escape onto the
30 roadway;
31

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: Transportation
2 Representative(s) Robaina offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 949-950 and insert:
6 Section 20. Section 316.2128, Florida Statutes, is created
7 to read:
8 316.2128 Operation of motorized scooters and miniature
9 motorcycles; requirements for sales.—
10 (1) The operation of "motorized scooters" and "miniature
11 motorcycles" as defined in s. 316.003 on the public roads or
12 streets of this state, or on the sidewalks of this state is
13 prohibited, and such vehicles may not be registered pursuant to
14 chapter 320. Except when operating the vehicle on the
15 operator's own private property, the operator of such a vehicle
16 must keep proof of ownership in the form of a receipt, sales
17 invoice, bill of sale, or other written documentation in his or
18 her possession at all times.
19 (2)(a) No person shall cause or knowingly permit his or her
20 child or ward under the age of 16 to drive a motorized scooter
21 or miniature motorcycle in violation of subsection (1) section.

22 (b) No person shall cause or knowingly permit his or her
23 child or ward that is between the ages of 16 to 18 years old and
24 that is not a licensed driver to drive a motorized scooter or
25 miniature motorcycle in violation of subsection (1).
26 (3) A violation of subsections (1) or (2) is a noncriminal
27 traffic infraction, punishable as a moving violation as provided
28 in chapter 318. A minor in violation of any provision in this
29 section is also subject to the additional sanctions of s.
30 318.143.
31 (4) No person shall engage in the business of, serve in the
32 capacity of, or act as a commercial seller of motorized scooters
33 or miniature motorcycles in this state without complying with
34 this subsection. All such persons shall prominently display at
35 their place of business a notice that such vehicles are not
36 legal to operate on public roads or sidewalks, and may not be
37 registered as motor vehicles. The required notice must also
38 appear in all forms of advertising offering motorized scooters
39 or miniature motorcycles for sale. The notice and a copy of
40 this section must also be provided to a consumer prior to the
41 consumer purchasing, or becoming obligated to purchase, a
42 motorized scooter or a miniature motorcycle. Any person selling
43 or offering a motorized scooter or a miniature motorcycle for
44 sale in violation of the requirements of this subsection, shall
45 be deemed guilty of an unfair and deceptive trade practice as
46 defined in part II of chapter 501.
47 Section 21. Subsection (21), subsection (22), subsection
48 (82) of section 316.003, Florida Statutes, are amended, and
49 subsection (86) is added to said section to read:
50 316.003 Definitions.--The following words and phrases,
51 when used in this chapter, shall have the meanings respectively

52 ascribed to them in this section, except where the context
53 otherwise requires:
54 (21) MOTOR VEHICLE.—Any self-propelled vehicle not
55 operated upon rails or guideway, but not including any bicycle,
56 ~~motorized scooter~~, electric personal assistive mobility device,
57 or moped.
58 (22) MOTORCYCLE.--Any motor vehicle having a seat or
59 saddle for the use of the rider and designed to travel on not
60 more than three wheels in contact with the ground, but excluding
61 a tractor, a miniature motorcycle or a moped.
62 (82) MOTORIZED SCOOTER.--Any vehicle not having a seat or
63 saddle for the use of the rider, designed to travel on not more
64 than three wheels, and not capable of propelling the vehicle at
65 a speed greater than 30 miles per hour on level ground, and
66 which because of its small size, its design or lack of required
67 safety equipment, or other non-compliance with federal
68 regulations is not eligible for a manufacturer's certificate of
69 origin and for registration pursuant to chapter 320.
70 (86) MINIATURE MOTORCYCLE.—Any vehicle having a seat or
71 saddle for the use of the rider, designed to travel on not more
72 than three wheels in contact with the ground, and which because
73 of its small size, its design or lack of required safety
74 equipment, or other non-compliance with federal regulations, is
75 not eligible for a manufacturer's certificate of origin and for
76 registration as a motorcycle pursuant to chapter 320. The term
77 does not include off-highway vehicles as defined in chapter 317.
78 Section 22. Except as otherwise provided, this act shall
79 take effect October 1, 2006.
80
81

82 ========== T I T L E A M E N D M E N T ==========
83 Remove line(s) 46-47 and insert:
84 license examination requirements; creating s. 316.2128, F.S.;
85 amending s. 316.003, F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-04 Transportation
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Pugh BJP	Miller P.M.
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB TR 06-04 is an omnibus bill that addresses a variety of transportation financing, planning, and administrative issues. Briefly, the draft legislation:

- Raises the Turnpike Enterprise's revenue bond cap from $4.5 billion in bonds issued to $6 billion in bonds outstanding. This change not only gives the Turnpike Enterprise more immediate bond capacity, but creates a line of credit, so to speak, to issue more bonds as the Turnpike pays down its balance.
- Makes numerous administrative, organizational and technical changes to the metropolitan planning organizations (M.P.O.'s).
- Stiffens penalties for motorists who speed through toll plazas without paying tolls and those who purposely obscure or rearrange their vehicles' license plates.
- Gives express legislative approval to the Turnpike and the expressway authorities to market their electronic toll-collection transponders, and to allow transponder customers to tap into their accounts and pay for parking and potentially other expenditures.
- Creates the Osceola County Expressway Authority.
- Creates environmental permitting exemptions for certain small-scale transportation projects with minimal adverse impacts, and directs the Florida Department of Transportation (FDOT) and the environmental agencies to develop memoranda of understanding to address certain issues.
- Modifies the membership of the Miami-Dade County Expressway Authority (MDX) and imposes new noticing requirements before the authority can set new toll rates.
- Directs FDOT to study the impacts slot-machine gambling at pari-mutuel facilities and Indian reservations may have on nearby access roads and other transportation facilities, with the report due to the Governor and the Legislature by January 15, 2007.
- Modifies the Charter County Transit System Surtax to include all counties; allows the surtax to be levied upon a majority vote of the county commission; broadens the surtax's uses; and provides a formula for counties to share the surtax proceeds with their municipalities.
- Allows the Orlando-Orange County Expressway Authority (OOCEA) to set a performance bond waiver cap of $500,000 for public projects, up from the $200,000 contract cap currently in law, in order to promote its small-business contractor program.
- Appropriates $400 million in non-recurring general revenue in FY 06-07 to FDOT for use in its Other Arterial Highway projects.

PCB TR 06-04 does not raise any apparent constitutional or legal issues. It has an indeterminate fiscal impact. The draft legislation would take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: Several provisions in PCB TR 06-04 implicate this principle, in varying ways. Section 19 creates the Osceola County Expressway Authority, which has the power to issue revenue bonds and to impose tolls. Sections 20-23 reduce regulatory hurdles for certain transportation projects. Sections 24 and 25, respectively, reduce the membership of the Miami-Dade County Expressway Authority and impose new noticing requirements prior to the Authority raising toll fees.

B. EFFECT OF PROPOSED CHANGES:

Florida Turnpike Bond Cap

Current Situation

A part of FDOT, the Florida Turnpike Enterprise is a 450-mile system of limited-access toll highways. The turnpike's 2006-2010 Work Program is funded largely through revenue bonds, backed by toll revenues. According to FDOT staff, every $1 in recurring toll revenues from the Turnpike can be leveraged to generate $14 to pay for project costs.

Section 338.227, F.S., authorizes FDOT to issue bonds to pay all or a part of the legislatively approved turnpike projects, and section 338.2275, F.S., limits the total amount of bonds that may be issued to $4.5 billion. According to FDOT, nearly $2.336 billion in Turnpike bonds have been issued over the years, leaving $2.164 billion within the statutory cap to be authorized. However, the Turnpike's long-range project plan through FY 2010-2011 indicates that the estimated costs of the projects exceed the statutory bond cap by about $950 million.

Section 339.135(3), F.S., requires FDOT to base its Five-Year Work Program on a "complete, balanced financial plan." To comply with the law, the Turnpike will have to either eliminate or scale back proposed projects, adopt a "pay-as-you go" approach to financing future projects, or seek a change in law to raise the bond cap.

Current Turnpike projects include completion of the Western Beltway, Part C; adding 150 lane miles through widening of the Turnpike System at a cost of nearly $1 billion; adding four new interchanges and improving three other interchanges at a cost of $200 million to improve access to the Turnpike System; and converting the Sawgrass Expressway to a fully electronic, open-road tolling facility and adding SunPass Express lanes at other locations.

Projects proposed for the Turnpike's 2007-2011 Work Program – if the bond cap is increased – include nearly $370 million for additional lanes on various sections of the Homestead Extension-Florida Turnpike (HEFT) and $467 million for additional lanes along the Turnpike Mainline and the Veterans Expressway.

Potential future projects under review by Turnpike staff include another phase of the Suncoast Parkway; extensions of the Polk Parkway, State Road 417 in Volusia County, and the Sawgrass Expressway in Broward County to link with I-95; express lanes on the HEFT and the interstates; and the Port of Miami tunnel.

Effect of Program Changes

FDOT proposes raising the cap on Turnpike bonds from $4.5 billion to $6 billion, and changing the limitation to a maximum amount outstanding, thereby providing for a "line of credit" that the Turnpike can utilize for long-term planning.

FDOT staff have said this cap increase will allow the Turnpike to complete currently planned projects and to continue an aggressive approach to building tolled facilities to handle future transportation needs.

Any increase in the bond cap will not impact the state of Florida's debt affordability index, because Turnpike bonds are revenue bonds, backed by toll collections, and do not pledge the full faith and credit of the state.

Florida Turnpike/Expressway Authority Traffic Enforcement Issues

Current Situation

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. Pursuant to chapter 318, F.S., 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.

Florida's uniform traffic code and motor vehicle registration laws also include requirements for proper placement and appearance of vehicle license plates, to make it easier for law enforcement officers to quickly identify tag numbers of vehicles involved in criminal activity.

The Florida Turnpike and the expressway authorities are reporting an upswing in the numbers of motorists – particularly repeat offenders – speeding through toll plazas without paying tolls or without transponders. The Turnpike and the Tampa-Hillsborough County Expressway Authority reported at least $16 million in lost toll revenues in FY 2004-2005, while the Orlando-Orange County Expressway Authority (OOCEA) reported a $6 million loss.

These agencies also reported spending more money last fiscal year to contact and litigate toll-plaza violators than they collected. The Turnpike reported spending more than $2.5 million to collect $721,362 in unpaid toll collections, while the OOCEA spent $1.41 million to collect about $412,000.

While most of the toll plazas are equipped with cameras that photograph the license plates of motorists who speed through without paying tolls, more often these photographs are of little use to enforcement personnel because the plates are purposely obscured or mutilated, or are displayed upside down or out of the cameras' view range. The expressway authorities have learned of websites and retailers selling sprays and other materials that when applied to license tags obscure them just enough to prevent clear photographs by the toll cameras.

In December 2005, the Florida Transportation Commission passed a resolution supporting tougher penalties and fines for motorists who fail to pay tolls or obscure their license plates.

Effect of Proposed Changes

PCB TR 06-04 makes a number of changes to the traffic violation statutes to stiffen penalties and fines for toll-plaza violators and to address loopholes in the current law. For example:

- The draft legislation amends ss. 316.650(3) & 318.14(12), F.S., to clarify that violators must pay the amount of the unpaid toll and a fine imposed by the expressway authority to the governmental entity that issued the citation within 30 days in order to avoid a court hearing and points assessed against their licenses. A motorist who fails to do this has an additional 45 days to request a court hearing or pay the civil penalty and other charges.
- The draft bill also amends s. 318.18(7), F.S., to specify that a violator found guilty by a judge must pay a $150 fine plus the amount of the unpaid toll to the court, which will forward $50 and the amount of the unpaid toll to the appropriate expressway authority. The remaining $100 would be distributed to the General Revenue Fund, local governments, and various trust funds, as provided in s. 318.21, F.S.
- Where adjudication is withheld or the violator pleads out before the case goes to court, the fine is $100, plus the amount of the unpaid toll. The court will forward $50 and the

amount of the unpaid toll to the appropriate expressway authority, with the remaining $50 distributed as provided in s. 318.21, F.S.

- The driver's license of any person who receives 10 convictions of s. 316.1001, F.S., within a 36-month period must be suspended for 60 days.

PCB TR 06-04 also amends s. 320.061, F.S., to 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 draft legislation, 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. These lawsuits may seek injunctive and monetary relief, punitive damages, and attorney's fees. Any lawsuit also must seek records of all sales of the product to Floridians or other entities within Florida.

Finally, the draft legislation clarifies placement of license plates. Section 316.605(1), F.S., would be amended to specify that:

- License plates must 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 must 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.

Osceola Expressway Authority

Current Situation

Nine expressway authorities have been created in chapter 348, F.S., by the Florida Legislature. A tenth, the Miami-Dade County Expressway Authority, was created by the Miami-Dade County Commission pursuant to the process in Part I of Chapter 348, F.S. Their purpose is to construct, maintain, and operate tolled transportation facilities that complement the State Highway System and the Florida Turnpike Enterprise. Bonds issued for expressway projects must comply with state constitutional requirements. The expressway authorities have boards of directors that typically include a combination of local-government officials or residents and Governor appointees who decide on projects and expenditure of funds.

There also are four regional transportation authorities created in chapter 343, F.S., and one local transportation authority, the Jacksonville Transportation Authority, created in chapter 349, F.S.

Osceola County is in one of the fastest-growing regions of the state, and local officials and developers have expressed interest the last two years in partnering to improve transportation infrastructure there. Supporters of creating the expressway authority have mentioned a 6.5-mile-long toll road in the western part of the county as one project. This toll road would link Marigold Avenue in the Poinciana community in Osceola with U.S. 17 and County Road 54 in Polk County.

Effect of Proposed Changes

PCB TR 06-04 proposes creating the "Osceola County Expressway Authority," modeled in many respects to existing authorities with standard "boiler-plate" language about the process to issue bonds, protection of bondholders, and relationships with FDOT.

Pursuant to the legislation:

- The expressway authority would have a six-member governing board, of which five would be voting members. The board's voting members would be comprised of three residents of Osceola County appointed by the Osceola County Commission and two Osceola County residents appointed by the Governor. The FDOT District 5 Secretary would serve as an ex-officio, non-voting member. No Authority member may be an officer or employee of Osceola County.

- The members shall serve 4-year terms, except that the Governor's initial appointees shall serve 2-year terms.
- The board members would serve without compensation, but be eligible to receive per diem and other travel expenses pursuant to 112.061, F.S.
- The board can hire an executive director and other staff.
- The Authority can issue revenue bonds, either on its own or through the state Division of Bond Finance. In both cases, the bonds and the issuance process must conform to State Bond Act requirements. These bonds' term may not exceed 40 years, and can not pledge the full faith and credit of the state of Florida.
- If approved by the Osceola County Commission, the Authority may pledge a portion of county gasoline tax revenues to repay the revenue bonds. The Authority must reimburse the county for any gas tax revenues it spends.
- The Authority is allowed to set and collect tolls, fees, and other charges; acquire land by purchase, donation, or eminent domain; borrow money; to sue and be sued; and enter into contracts, agreements, and partnerships with public and private entities.
- The Authority may construct, operate, and maintain roads, bridges, and other transportation facilities outside of Osceola County with the consent of the county within whose jurisdiction these projects are located.
- Likewise, the Authority may not acquire right-of-way for a project within unincorporated Osceola County until the County Commission has approved the project's route.
- The Authority may enter into lease-purchase agreements with FDOT to manage the system. FDOT also may be appointed by the Authority as its agent to oversee construction of the system's components.
- FDOT is authorized to spend up to $375,000 of its funding for the Authority's operating costs, and to conduct traffic surveys, preliminary engineering studies, and similar initial activities for the expressway system.

Other Turnpike/Expressway Issues

PCB TR 06-04 also proposes a number of changes to the sections of law related to the Miami-Dade County Expressway Authority (MDX); the Orlando-Orange County Expressway Authority (OOCEA); the expanded use of transponders; and the Florida Turnpike budget. The PCB makes the following changes:

MDX:

- Currently, an expressway authority in a county defined in s. 125.11(1), F.S., (which applies only to MDX) can have up to 13 voting members: seven appointed by the County Commission; five appointed by the Governor; and the final member being the FDOT District 6 secretary. MDX has powers similar to those of all the other expressway authorities created in law, including the power to levy tolls on its transportation facilities.

  PCB TR 06-04 would reduce the authority board to a maximum of seven voting members, with the chair of the Miami-Dade legislative delegation, or designee, and the FDOT District 6 secretary as non-voting members. (A scrivener's error omitted changing the district secretary from a voting to a non-voting member; see "III.C. DRAFTING ISSUES and OTHER COMMENTS" section below.) The new voting membership would be comprised of: two Miami-Dade county commissioners appointed by the commission chair; one member may be a mayor of a municipality within the county and appointed by the Miami-Dade County League of Cities; and four Governor appointees.

  The legislation also would require MDX, prior to raising tolls, to publish a notice of intent in a newspaper of general circulation, as defined in s. 97.021(16), F.S., specifying the amount of the increase. The notice shall be published twice, at least seven days apart, with the first notice published no more than 90 days from the effective date of the toll increase and the second

publication not less than 60 days prior to the effective date. These provisions do not apply to toll increases approved by the authority prior to this legislation becoming law.

OOCEA

- Currently, OOCEA has a program that seeks to encourage Orlando-area small-business owners to bid on components of expressway authority projects. In its eight years' of existence, the so-called "micro-contract" program has attracted more than 100 small companies to perform such tasks as erecting guard rails, installing landscaping, and striping toll roads. One of the benefits of the program to small businesses has been the waiver of a performance bond for project contracts of $200,000 or less. This waiver is available to all state agencies, pursuant to s. 255.05, F.S. Persons or entities awarded public contracts greater than $200,000 must post a surety bond to guarantee the work will be performed to the state agency's specifications.

  The recent unprecedented increases in transportation construction materials and labor in Florida has increased the bids for these micro-contracts, according to OOCEA staff.
  As a way to save the popular program, the OOCEA is proposing amending s. 348.754, F.S., which specifies the OOCEA's purposes and powers, to raise to a maximum $500,000 the contract threshold for a performance-bond waiver for OOCEA contractors only.

  The proposal also limits participation in the program to independent businesses principally headquartered in the Orange County Standard Metropolitan Statistical Area and employing a maximum of 25 persons. Eligible businesses also must have gross annual construction sales averaging $3 million or less over the previous three calendar years; be accepted into OOCEA's economic-development program; and participate in OOCEA technical assistance or other educational programs. Any small businesses which has been the successful bidder on six micro-contracts is ineligible to continue participating in the program.

Toll 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. Expressway authorities, which also sell transponders to their customers, do not have similar statutory authority.

  Nor does current law address potential uses of transponders other than for toll collection – although the Turnpike and the OOCEA have been allowing their customers to pay for parking at the Orlando International Airport from their transponder accounts. About 28 percent of all airport parking lot users there pay with a SunPass or E-Pass transponder, according to an OOCEA spokesman.

  PCB TR 06-04 would amend s. 338.161, F.S., to extend to expressway authorities the ability to market 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 their transponders. Attorneys for the Turnpike and expressway authorities have said such express statutory permission is necessary so that future contracts to expand the use of transponder accounts are on firm legal ground. For example, by the fall of 2006, parking fees at the Fort Lauderdale International Airport may be paid with SunPass or E-Pass transponder accounts.

Turnpike Budget

- In 2005 the Legislature and the Governor's Office of Program and Budgeting revised several technical provisions in statute related to state budget requirements and deadlines. One of these revisions changed the roll-forward date of certified undisbursed funds in FDOT's accounts from December 31 of each year to September 30 of each year. Advancing the roll-forward date gives FDOT budget staff more information about these funds as they are preparing the agency's

Legislature Budget Request in the fall. However, the Turnpike's budget process is in a different section of law than is FDOT's, and was overlooked last year.

PCB TR 06-04 amends s. 338.2216, F.S., to correct the oversight and conform the Turnpike's roll-forward budget date to FDOT's budget process.

M.P.O. Issues

Current Situation

As established by 23 U.S.C. s. 134 , Metropolitan Planning Organizations (M.P.O.'s) are directed to develop, in cooperation with state officials, transportation plans and programs for urbanized areas of more than 50,000 persons. The process for developing such plans and programs must provide for the consideration of all modes of transportation and "shall be continuing, cooperative, and comprehensive" to the degree appropriate based on the complexity of the transportation problems. The plans also must emphasize project that serve an important national, state or regional transportation purpose.

Pursuant to s. 339.175, F.S., M.P.O.'s in cooperation with the state and public transit operators develop multi-year "transportation improvement plans," or TIPs, that are the building blocks for FDOT's statewide Five-Year Work Program. Besides the TIPs, the M.P.O.'s also develop long-range transportation plans ranging over 20 years and an annual "unified planning work program" that lists all the planning tasks each M.P.O. will undertake that fiscal year.

An M.P.O. must be designated for each urbanized area of the state. Such designation must be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area. Each M.P.O. must be created and operated pursuant to an interlocal agreement entered into pursuant to s. 163.01, F.S. Currently, Florida has 26 M.P.O.'s. These boards consist of local elected officials and appropriate state agencies, and may also include officials of public agencies that administer major modes of transportation within the metropolitan area.

In recent years, as the Legislature has instituted transportation policy directives focusing on regional planning and transportation infrastructure improvements, the section of law governing M.P.O.'s responsibilities in Florida has been criticized as internally inconsistent and unclear as to the entities' precise responsibilities and their degree of independence. Rewrites of s. 339.175, F.S., have been unsuccessfully attempted the last two years.

Effect of Proposed Changes

PCB TR 06-04 amends s. 339.175, F.S., and other sections of law to bring clarity and uniformity to M.P.O.'s administrative structure, powers and duties, and general responsibilities. For example, one criticism has been that some M.P.O.'s cannot fully embrace regional planning approaches because they, or their staffs, are not as independent as they should be from county and city governments.

The draft legislation would amend chapters 112 and 121, 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; designate each M.P.O.'s executive director or staff director as a member of the Senior Management Service class; 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 or her M.P.O. Governing Board, and that the executive director and staff are employed by the MPO, or through a staff services agreement between the MPO and another governmental entity. 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.

The draft legislation also would amend s. 339.175(1) and (2), F.S., to address a number of membership issues:

- Direct each M.P.O. to select a chair, vice chair, and clerk;
- Specify the officers' responsibilities;
- Require each M.P.O. to provide training on the urbanized transportation planning process to all who serve as members;
- Clarify that voting members shall exclude constitutional or charter officers;
- Establish a process by which alternate members are selected;
- 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 the bases.

Additionally, the draft legislation would give, or at least clarify, M.P.O. powers common to many other types of independent boards with budgets, such as the authority to: sell, donate, dedicate, or convey property; 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.

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 three years of such plans. This change is related to the provision in s. 339.135(4)(b)3., F.S., that the first three 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.

Finally, PCB TR 06-04 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 to improve communication between M.P.O.'s and their local legislative delegations.

Local Transportation Funding Issues

Current Situation

Local governments have been receiving a share of gas tax revenues since 1971. Today, there are several local fuel taxes, some of them optional and requiring either voter approval or majority vote of the local governing board.

Over the years, the Legislature has created opportunities for county and city governments to levy additional sales taxes or surtaxes, upon voter approval, to pay for large or expensive infrastructure projects. One such funding mechanism is the Charter County Transit System Surtax, created in 1976 by the Legislature to finance development, construction, and operation of fixed guideway, rapid transit systems in charter counties. Imposition of the surtax under current law requires voter approval.

This section of law has been amended several times since it was created, so that currently only counties that adopted a charter prior to January 1, 1984, may seek to levy a maximum 1 percent sales surtax, after voter approval, to finance a variety of transportation infrastructure as well as operation and maintenance of public bus systems.

Seven counties are eligible to levy the surtax: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota and Volusia. Only two have levied the surtax: Duval since 1989 and Miami-Dade since 2003. Each county levies a one-half cent sales surtax. According to the state Department of Revenue, in FY 2004 the surtax in those two counties generated $194.3 million.

Some county and city officials in recent years have expressed an interest in having the surtax eligibility broadened beyond charter counties, commenting that a surtax on sales appears more palatable to taxpayers than raising fuel taxes. They also have cited rising costs of transportation construction materials and labor, the state's new emphasis on regional transportation solutions, and required local matches for new state transportation funding programs as reasons they support broadening the surtax.

Effect of Proposed Changes

PCB TR 06-04 amends 212.055(1), F.S., to rename the Charter County Transit System Surtax as the "County Transportation System Surtax." It deletes the requirement that only certain charter counties can levy the surtax. It also expands the surtax revenues' uses to include:

- Funding a regional transportation project identified in regional plans by M.P.O.'s, pursuant to s. 339.155(5), F.S.;
- As the local match for the new Transportation Regional Incentive Program, pursuant to s. 339.2819, F.S.;
- Certain capital improvement projects and concurrency projects identified in local comprehensive plans; and
- Funding bicycle and pedestrian paths.

The maximum 1-percent surtax could be levied either after passage of a referendum or by a majority vote of the total membership of a county's governing body. PCB TR 06-04 also includes a distribution formula, per interlocal agreement, so that counties can share the funds with their municipalities.

Other Transportation Issues

PCB TR 06-04 includes a number of other transportation-related issues. Briefly:

Florida Transportation Commission

Currently, the four employees of the Florida Transportation Commission, the governor-appointed board that provides oversight of FDOT and makes transportation policy recommendations to the Governor and Legislature, are classified as Selected Exempt Service personnel for the purposes of salary and benefits.

The draft legislation would delete the reference to the commission employees as Selected Exempt Service. Commission staff said the intent of this change is to allow the commission's executive director position to be reclassified as Senior Management Service. (See "III. C. DRAFTING ISSUES OR OTHER COMMENTS" section below.)

Transportation Impacts of Slot Machine Gaming

During the 2005 regular and special sessions, legislation implementing a 2004 constitutional amendment allowing slot machine gambling in certain facilities in Broward and Miami-Dade counties included discussions on how to address transportation infrastructure impacts. Amendments proposing a study by FDOT of these impacts were unsuccessful.

PCB TR 06-04 includes a proposal for an FDOT study of slot-machine gaming impacts on public highways and other transportation facilities. The proposal directs FDOT to conduct a study and draft a report of the impacts that slot machine gaming at pari-mutuel facilities and on Indian reservation lands are having on public roads and other transportation facilities, traffic congestion and other mobility issues, facility maintenance and repair costs, emergency evacuation readiness, costs of potential future widening or other improvements, and other impacts on the motoring, non-gaming public.

Due January 15, 2007, the report must include the following information:

- a listing, description, and functional classification of access roads;
- identification of those access roads that are scheduled for improvements within FDOT's Five-Year Work Program or a long-range transportation plan;

- recent traffic counts on the access roads and projected future usage, as well as projections of impacts on secondary, feeder, or connector roads, interstate highway exit and entrance ramps;
- safety and maintenance ratings of each access road and impacts on local and state emergency or evacuation services;
- the estimated infrastructure costs to maintain, improve, or widen access roads, based on future projected needs; and
- the feasibility of implementing or raising tolls on access roads to offset and mitigate traffic impacts and to finance projected future improvements.

FDOT also can include proposed legislation in the report, which must be submitted to the Governor and the Legislature.

Environmental Permitting Process

Part IV of chapter 373, F.S., regulates the management and storage of surface waters and stormwater runoff. The Florida Department of Environmental Protection (FDEP) and the five water management districts (WMDs) representing the state's five major watersheds or basins issue permits regulating public- and private-sector projects that impact wetlands, lakes, and other water bodies. Section 373.406, F.S., lists a number of exemptions from the required permits; typically these exemptions are for activities that have minimal negative impacts to the environment, or whose impacts are being mitigated by best-management practices.

FDOT is not exempt from this permitting process. Currently, even small-scale transportation activities – such as shoring up highway shoulders, adding bike lanes to existing highways, replacing bridges in the same "foot-print," and other safety improvements -- are required to undergo the same environmental permitting requirements and meet many of the same standards as large-scale transportation projects.

PCB TR 06-04 amends several sections in Part IV, chapter 373, F.S., related to surface water permits. The bill creates exemptions for small-scale state transportation projects or activities, as defined in 373.4146, F.S. It also specifies that state transportation projects of less than 5 acres of wetlands impact may obtain general permits, rather than the more time-consuming individual permits.

The legislation also directs FDOT, FDEP, and the WMDs to develop three memoranda of understanding (MOU) within the next 30 months to address specific environmental issues. By January 1, 2007, an MOU governing the use of sovereign submerged and other state-owned lands for state transportation projects must be developed, as well as an MOU directing FDOT, FDEP, and the WMDs to develop a method for determining seasonal high-groundwater table elevation for state transportation projects. By July 1, 2008, the agencies must develop an MOU containing best management practices (BMPs) to handle roadway stormwater runoff.

Use of Recycled Materials

Section 336.044, F.S., created in 1988, directs FDOT to expand its usage of rubber tires, ash residue, recycled plastic, construction steel, and glass in construction projects, and to revise its rules and contract and bid specifications to eliminate any barriers to the use of recycled materials in transportation projects, where appropriate. FDOT is complying with the statute.

Under the bill, the existing section of law is moved to s. 334.70, F.S., without substantive 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.

General Aviation Airport Funding Match

Florida has at least 83 general aviation, or community, airports that provide a number of aviation-related services to their communities, but do not offer scheduled commercial flights.

State law allows FDOT to provide half of the local share of general aviation airport (GAA) project costs when federal funding is available as a 50-percent federal/50-percent local match. But many small GAAs and their local governments can't afford to pay the required 25-percent local match, according to FDOT staff, so the federal grant is rejected. Those funds then are likely spent in another state. If the GAA project is a priority, FDOT pays the majority of the cost from state aviation funds.

PCB TR 06-04 amends s. 332.007, F.S., to allow FDOT to apply federal GAA grant funds to an eligible project, then split the remaining cost on an 80-percent state/20-percent local matching basis. This would enable the state to draw down more federal aviation grant funding, and free up state aviation funding for other projects.

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 being reduced by FDOT in future years as SIS spending increases. In 2004, the Legislature specified that at least 50 percent of new flexible highway capacity funds must be allocated to the SIS/Emerging SIS and $100 million per year was provided to fund SIS/Emerging SIS projects. Eventually, FDOT plans to program as much as 72 percent of its new flexible highway capacity funds to SIS, meaning facilities not part of that network will compete for a smaller percentage of funds. Local governments and the M.P.O.'s have expressed concerns that local taxpayers may, by necessity, be forced to pay for improvements to the state-owned Arterial Roads.

PCB TR 06-04 appropriates $400 million in non-recurring general revenue in FY 06-07 to FDOT specifically for use to improve the Other Arterial Roads system.

Effective date

PCB TR 06-04 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 112.061, F.S., to allow MPO's to set travel, per diem, subsistence, and mileage rates in excess of statutory maximums for non-state travelers.

Section 2: Amends s. 121.021, F.S., to add MPO's to the definitions of "local agency employer" and "regularly established position" for the purpose of ensuring that MPO employees are considered public employees eligible for participation in the Florida Retirement System.

Section 3: Amends s. 121.051, F.S., to add MPO's to the list of local governmental entities that may choose to have its employees participate in the Florida Retirement System.

Section 4: Amends s. 121.055, F.S., to add the executive director or staff director of each MPO to the list of public employees included in the "Senior Management Service Class."

Section 5: Amends s. 121.061, F.S., to add MPO's to the list of governmental entities that may deduct from public funds due a non-state employer any unpaid retirement system contributions. Allows MPO's to file suit to require any employer to remit the required retirement and Social Security contributions.

Section 6: Amends s. 121.081, F.S., to allow MPO employees to claim past service credits for the purposes of participating in the Florida Retirement System.

Section 7: Amends s. 316.605, F.S., to establish placement and display requirements for vehicle license plates.

Section 8: Amends s. 316.650, F.S., to specify that motorists who use tolled highways without paying the required tolls have the option to pay the tolling authority's fine and the unpaid toll, and the traffic citation is dropped and no points are assessed.

Section 9: Amends s. 318.14, F.S., to specify that motorists who use tolled highways without paying the required tolls can elect to pay the unpaid toll and the tolling authority's fine, or if not, have 45 days to either request a court hearing or to pay the specified fines.

Section 10: Amends s. 318.18, F.S., to raise the fine for motorists who fail to pay required tolls from $100 to $150. Specifies that if adjudication is withheld or a plea is entered prior to a court hearing, the fine is $100. Specifies distribution of fine proceeds. Specifies 60-day suspension of driver's license for motorists with 10 toll violations.

Section 11: Amends s. 320.061, F.S., to specify illegality of obscuring license plates with certain substances or products. Prohibits advertising, sale, distribution, purchase and use of such substances or products. Specifies law enforcement officer can issue citations to drivers whose plates are obscured and can confiscate the plates. Specifies that the Florida Attorney General may file suit against an entity or person involved in the sale and marketing of obscuring substances and products. Provides for injunctive relief, fines, and other penalties.

Section 12: Renumbers s. 336.044, F.S., as s. 334.70, F.S., related to FDOT's use of recycled materials in transportation construction projects.

Section 13: Amends s. 338.161, F.S., to allow the Florida Turnpike and other tolling agencies to market their electronic toll-collection devices and to enter into contracts with private or public entities to provide for additional uses of those devices on- or off-system.

Section 14: Amends s. 338.2216, F.S., to change the certified roll-forward date of unexpended Florida Turnpike funds from December 31 to September 30 of each year.

Section 15: Amends s. 338.2275, F.S., to change the Florida Turnpike's bond cap to $6 billion of bonds outstanding.

Section 16: Amends s. 339.175, F.S., related to M.P.O.'s. Establishes officers; clarifies eligibility of certain elected officials to serve on M.P.O.'s; directs M.P.O.'s to appoint non-voting members representatives of transportation modes not otherwise serving on their boards; lists M.P.O.'s powers and duties; requires M.P.O.'s to submit progress report to their local legislative delegations; makes numerous technical changes.

Section 17: Amends s. 20.23, F.S., to delete the reference to Florida Transportation Commission employees as part of the Selected Exempt Service class.

Section 18: Amends s. 332.007, F.S., to give FDOT more flexibility to match federal grants for general aviation airports.

Section 19: Creates the Osceola Expressway Authority with specific powers and duties, membership requirements, and bonding authority.

Sections 20-23: Amends various sections in Part IV of chapter 373, F.S., to exempt certain small-scale transportation projects meeting certain criteria from environmental resource permits or dredge-and-fill permits. Directs FDOT, the Florida Department of Environmental Protection, and the WMDs to

enter into memoranda of understanding on the issues of: use of state-owned lands, determination of seasonal high groundwater table elevation; and highway stormwater runoff.

Section 24: Amends s. 348.0003, F.S., to reduce membership of the Miami-Dade Expressway Authority from 13 to seven members. Specifies composition of the authority.

Section 25: Amends s. 348.0004, F.S., to create new noticing requirements for the Miami-Dade Expressway Authority for proposed toll increases.

Section 26: Amends s. 348.754, F.S., to allow the Orlando-Orange County Expressway Authority to increase the bond-waiver amount for small businesses meeting certain eligibility requirements for its economic-development program. Requires the Authority to conduct bond-eligibility training for qualifying businesses. Requires the Authority to prepare a report on the program every two years and submit it to the Orange County legislative delegation, beginning December 31, 2008.

Section 27: Amends s. 212.055, F.S., to rename the Charter County Transit System Surtax as the "County Transportation System Surtax." Specifies the surtax may be approved by a referendum or a majority vote of the entire membership of a county governing board. Specifies distribution formula of surtax proceeds to a county and its municipalities. Specifies uses of surtax proceeds. Makes technical corrections.

Section 28: Directs FDOT to conduct a study of the impacts of slot-machine gaming at pari-mutuel facilities and Indian reservations on public transportation facilities. Specifies topics to be studied. Requires FDOT to submit its findings and recommendations in a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 15, 2007.

Section 29: Appropriates $400 million in non-recurring General Revenue in FY 2006-2007 to FDOT for construction projects on the state's Other Arterial Highways.

Section 30: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Section 15 of the bill would raise the Florida Turnpike Enterprise's bond cap from an absolute $4.5 billion in bonds to a limit of $6 billion in bonds outstanding. That means as the Turnpike retires bond issues, it can issue more, as long as it doesn't exceed $6 billion owed at any time.

   Section 18 of the bill would give FDOT the flexibility to provide a greater share of the local match required in order to obtain more federal general aviation grant funds.

2. Expenditures:

   Section 29 of the bill directs the Legislature to appropriate $400 million in non-recurring General Revenue in FY 2006-2007 to FDOT for Other Arterial highway construction projects. This special appropriation earmarks general revenue funds for transportation that the Legislature could otherwise spend on education, health, or other statewide needs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Section 27 of the bill gives all 67 counties the opportunity to levy up to 1 percent sales surtax to pay for transportation infrastructure. Additionally, the surtax revenues would be shared with the municipalities within those counties that levied the surtax. The fiscal impact is indeterminate at this time, because it is unknown how many local governments would levy in the surtax.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Legislature last raised the Turnpike bond cap in 2003, from $3 billion to $4.5 billion

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCB TR 06-04 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:

FDOT, FDEP, and the WMDs appear to have sufficient existing rulemaking authority to implement the various provisions in PCB TR 06-04, should they become law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Management Services' Division of Retirement has expressed some concerns about the wording of Section 17, which deletes the reference to the Florida Transportation Commission staff being classified as Selected Exempt Service, in order to make the commission's executive director position eligible for Senior Management Service class. Division staff also offered suggestions on redrafting the provisions adding the M.P.O. executive directors and staff directors to the Senior Management Service class. Amendments will be offered to more accurately address these issues.

Part X of chapter 348, F.S., already exists, so House Bill Drafting will be directed to renumber the Osceola Expressway Authority provisions, in section 19 of PCB TR 06-04, as Part XI and renumber its individual sections as a technical correction.

Section 24 of the bill, relating to the MDX membership, needs to be amended to reflect the drafter's intent that the FDOT District 6 secretary is a non-voting member of the authority.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

2006 PROPOSED TRANSPORTATION LEGISLATION – PCB TR 06-04
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.

Issue	Current Law	Proposed Changes	Justification
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.

Issue	Current Law	Proposed Changes	Justification
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.

Issue	Current Law	Proposed Changes	Justification
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.

Issue	Current Law	Proposed Changes	Justification
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.

Issue	Current Law	Proposed Changes	Justification
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.	

Issue	Current Law	Proposed Changes	Justification
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.	

Issue	Current Law	Proposed Changes	Justification
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.	

Issue	Current Law	Proposed Changes	Justification
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.	

1 A bill to be entitled
2 An act relating to transportation; amending s. 112.061,
3 F.S.; allowing metropolitan planning organizations to establish
4 per diem and travel reimbursement rates; amending s. 121.021,
5 F.S.; adding "metropolitan planning organization" to the
6 definitions of "local agency employer" and "regularly established
7 position" for the purposes of determining their employees'
8 eligibility for the State Retirement System; amending s. 121.051,
9 F.S.; allowing metropolitan planning organizations to participate
10 in the State Retirement System; amending s. 121.055, F.S.; adding
11 certain MPO staff positions to the Senior Management Service
12 classification of the State Retirement System; amending s.
13 121.061, F.S.; adding metropolitan planning organizations to the
14 list of governmental entities involved in the State Retirement
15 System; amending s. 121.081, F.S.; adding metropolitan planning
16 organizations to the list of agencies whose officers and staff
17 are eligible for claiming past service for retirement benefits;
18 amending s. 316.605, F.S., specifying height and placement
19 requirements for vehicle license plates; amending s. 316.650,
20 F.S.; providing conditions by which motorists who fail to pay
21 tolls can escape a citation and points; amending s. 318.14, F.S.;
22 adding provisions related to non-payment of tolls as a
23 noncriminal traffic infraction; amending s. 318.18, F.S.; adding
24 provisions related to civil penalties for non-payment of tolls;
25 amending s. 320.061, F.S.; prohibiting the obscuring of vehicle
26 license plates for the purpose of interfering with their
27 visibility or recording; providing penalties; allowing the
28 Florida Attorney General to file suit against marketers of
29 obscuring products, and to obtain sales records in Florida;

30 renumbering s. 336.044, F.S., related to the Department of
31 Transportation's use of recycled materials; amending s. 338.161,
32 F.S., allowing the department and other toll agencies to enter
33 into agreements with public or private entities for additional
34 uses of transponders; amending s. 338.2216, F.S.; changing the
35 roll-forward date on certain undisbursed Turnpike Enterprise
36 funds; amending s. 338.2275, F.S.; raising the Florida Turnpike
37 Enterprise's bond cap to $6 billion; amending s. 339.175, F.S.;
38 defining metropolitan planning organizations as separate local
39 governmental entities; requiring selection of officers;
40 clarifying voting membership; establishing process for appointing
41 alternate members; clarifying role of non-voting members;
42 requiring independent staff; creating powers and duties for
43 metropolitan planning organizations; directing metropolitan
44 planning organizations to develop coordinated transportation
45 planning processes, under certain conditions; requiring a report;
46 changing voting requirements; amending s. 20.23, F.S.; deleting
47 requirement that the Florida Transportation Commission staff
48 shall be considered in the Selected Exempt Service class;
49 amending s. 332.007, F.S.; allowing the Department of
50 Transportation to provide a state match for certain federal
51 general aviation funds; creating part X of chapter 348, F.S.;
52 creating the "Osceola County Expressway Authority Law;" providing
53 definitions; creating the authority as an agency of the state;
54 providing for membership, terms, organization, personnel, and
55 administration; providing purposes and powers for construction,
56 expansion, maintenance, improvement, and operation of the Osceola
57 County Expressway System; providing for use of certain funds to
58 pay obligations; requiring consent of local and county

59 jurisdiction for agreements that would restrict construction of
60 roads; providing for bond financing of improvements to certain
61 facilities; providing for issuance of bonds; providing for rights
62 and remedies granted to bondholders; providing for appointment of
63 trustee to represent the bondholders; providing for appointment
64 of receiver to take possession of and operate and maintain the
65 system; providing for lease of the system to the Department of
66 Transportation under a lease-purchase agreement; authorizing the
67 department to act in place of the authority under terms of the
68 lease-purchase agreement; requiring approval by the county for
69 certain provisions of the lease-purchase agreement; providing
70 that the system is part of the state road system; authorizing the
71 department to expend a limited amount of funds; providing for the
72 authority to appoint the department as its agent for certain
73 construction purposes; authorizing the authority to acquire
74 property; limiting liability of the authority for contamination
75 existing on an acquired property; providing for remedial acts
76 necessary due to such contamination; authorizing agreements
77 between the authority and other entities; providing pledge of the
78 state to bondholders; exempting the authority from taxation;
79 providing for application and construction of the part;
80 amending s. 373.406, F.S.; creating an exemption from management
81 and storage of surface water requirements for certain
82 transportation projects and activities; amending s. 373.414,
83 F.S.; exempting certain transportation projects and activities
84 from the public-interest test permitting requirements; amending
85 s. 373.4145, F.S.; exempting certain transportation projects and
86 activities from the dredge-and-fill permitting by the Northwest
87 Florida Water Management District; creating s. 373.4146, F.S.;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

88 specifying transportation projects and activities that are exempt
89 from certain permitting requirements; stating conditions under
90 which transportation projects and activities will be presumed to
91 have met the cumulative impact review; directing the Department
92 of Environmental Protection, the water management districts, and
93 the Department of Transportation to develop a memorandum of
94 understanding governing the use of sovereign submerged lands;
95 directing the agencies to develop by July 1, 2007, best
96 management practices for handling highway stormwater runoff;
97 amending s. 348.0003, F.S.; changing the membership of expressway
98 authority governing boards in certain counties; amending s.
99 348.0004, F.S.; requiring notification by certain expressway
100 authorities proposing a toll increase; amending s. 348.754, F.S.
101 authorizing the waiver by the Orlando-Orange County Expressway
102 Authority of payment and performance bonds for the construction
103 of a public building, for the prosecution and completion of a
104 public work, or for repairs upon a public building or public work
105 when the cost of the project is $500,000 or less and the contract
106 for the construction, completion, or repair is awarded pursuant
107 to an economic development program established to encourage local
108 small businesses to participate in certain procurement programs;
109 providing criteria and requirements; providing procedures for
110 waiver of the payment and performance bond; amending s. 212.055,
111 F.S.; changing the Charter County Transit System Tax into the
112 County Transportation System Tax; providing new distribution
113 formula; providing criteria; directing the Department of
114 Transportation to conduct a study on the access roads to pari-
115 mutuel facilities and Indian reservation lands where gaming
116 activities occur; providing for content of the study; requiring a

117 report to the Governor and the Legislature; appropriating $400
118 million in non-recurring general revenue in fiscal years 1006-
119 2007 for the Other Arterials highway system; providing an
120 effective date.
121
122 Be It Enacted by the Legislature of the State of Florida:
123
124 Section 1. Subsection (14) of section 112.061, Florida
125 Statutes, is amended to read:
126 112.061 Per diem and travel expenses of public officers,
127 employees, and authorized persons.--
128 (14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT
129 SCHOOL BOARDS, AND SPECIAL DISTRICTS.--
130 (a) Rates that exceed the maximum travel reimbursement
131 rates for nonstate travelers specified in paragraph (6)(a) for
132 per diem, in paragraph (6)(b) for subsistence, and in
133 subparagraph (7)(d)1. for mileage may be established by:
134 1. The governing body of a county by the enactment of an
135 ordinance or resolution;
136 2. A county constitutional officer, pursuant to s. 1(d),
137 Art. VIII of the State Constitution, by the establishment of
138 written policy;
139 3. The governing body of a district school board by the
140 adoption of rules; ~~or~~
141 4. The governing body of a special district, as defined in
142 s. 189.403(1), except those special districts that are subject to
143 s. 166.021(10), by the enactment of a resolution~~.~~; or
144 5. Any metropolitan planning organization created pursuant
145 to s. 339.175, or any separate legal or administrative entity

146 created pursuant to s. 339.175 of which a metropolitan planning
147 organization is a member by enactment of a resolution.
148 (b) Rates established pursuant to paragraph (a) must apply
149 uniformly to all travel by the county, county constitutional
150 officer and entity governed by that officer, district school
151 board, ~~or~~ special district~~.~~, or metropolitan planning
152 organization.
153 (c) Except as otherwise provided in this subsection,
154 counties, county constitutional officers and entities governed by
155 those officers, district school boards, and special districts,
156 other than those subject to s. 166.021(10), remain subject to the
157 requirements of this section.
158 Section 2. Paragraph (a) of subsection (42) and subsection
159 (52) of section 121.021, Florida Statutes, are amended to read:
160 121.021 Definitions.--The following words and phrases as
161 used in this chapter have the respective meanings set forth
162 unless a different meaning is plainly required by the context:
163 (42)(a) "Local agency employer" means the board of county
164 commissioners or other legislative governing body of a county,
165 however styled, including that of a consolidated or metropolitan
166 government; a clerk of the circuit court, sheriff, property
167 appraiser, tax collector, or supervisor of elections, provided
168 such officer is elected or has been appointed to fill a vacancy
169 in an elective office; a community college board of trustees or
170 district school board; or the governing body of any city,
171 metropolitan planning organization, or special district of the
172 state which participates in the system for the benefit of certain
173 of its employees.

174 (52) "Regularly established position" is defined as
175 follows:
176 (a) In a state agency, the term means a position which is
177 authorized and established pursuant to law and is compensated
178 from a salaries appropriation pursuant to s. 216.011(1)(dd), or
179 an established position which is authorized pursuant to s.
180 216.262(1)(a) and (b) and is compensated from a salaries account
181 as provided by rule.
182 (b) In a local agency (district school board, county
183 agency, community college, city, <u>metropolitan planning</u>
184 <u>organization,</u> or special district), the term means a regularly
185 established position which will be in existence for a period
186 beyond 6 consecutive months, except as provided by rule.
187 Section 3. Paragraph (b) of subsection (2) of section
188 121.051, Florida Statutes, is amended to read:
189 121.051 Participation in the system.--
190 (2) OPTIONAL PARTICIPATION.--
191 (b)1. The governing body of any municipality<u>, metropolitan</u>
192 <u>planning organization,</u> or special district in the state may elect
193 to participate in the system upon proper application to the
194 administrator and may cover all or any of its units as approved
195 by the Secretary of Health and Human Services and the
196 administrator. The department shall adopt rules establishing
197 provisions for the submission of documents necessary for such
198 application. Prior to being approved for participation in the
199 Florida Retirement System, the governing body of any such
200 municipality<u>, metropolitan planning organization,</u> or special
201 district that has a local retirement system shall submit to the
202 administrator a certified financial statement showing the

203 condition of the local retirement system as of a date within 3
204 months prior to the proposed effective date of membership in the
205 Florida Retirement System. The statement must be certified by a
206 recognized accounting firm that is independent of the local
207 retirement system. All required documents necessary for extending
208 Florida Retirement System coverage must be received by the
209 department for consideration at least 15 days prior to the
210 proposed effective date of coverage. If the municipality, <u>,</u>
211 <u>metropolitan planning organization,</u> or special district does not
212 comply with this requirement, the department may require that the
213 effective date of coverage be changed.
214 2. Any city<u>, metropolitan planning organization,</u> or special
215 district that has an existing retirement system covering the
216 employees in the units that are to be brought under the Florida
217 Retirement System may participate only after holding a referendum
218 in which all employees in the affected units have the right to
219 participate. Only those employees electing coverage under the
220 Florida Retirement System by affirmative vote in said referendum
221 shall be eligible for coverage under this chapter, and those not
222 participating or electing not to be covered by the Florida
223 Retirement System shall remain in their present systems and shall
224 not be eligible for coverage under this chapter. After the
225 referendum is held, all future employees shall be compulsory
226 members of the Florida Retirement System.
227 3. The governing body of any city<u>, metropolitan planning</u>
228 <u>organization,</u> or special district complying with subparagraph 1.
229 may elect to provide, or not provide, benefits based on past
230 service of officers and employees as described in s. 121.081(1).
231 However, if such employer elects to provide past service

232 benefits, such benefits must be provided for all officers and
233 employees of its covered group.
234 4. Once this election is made and approved it may not be
235 revoked, except pursuant to subparagraphs 5. and 6., and all
236 present officers and employees electing coverage under this
237 chapter and all future officers and employees shall be compulsory
238 members of the Florida Retirement System.
239 5. Subject to the conditions set forth in subparagraph 6.,
240 the governing body of any hospital licensed under chapter 395
241 which is governed by the board of a special district as defined
242 in s. 189.403(1) or by the board of trustees of a public health
243 trust created under s. 154.07, hereinafter referred to as
244 "hospital district," and which participates in the system, may
245 elect to cease participation in the system with regard to future
246 employees in accordance with the following procedure:
247 a. No more than 30 days and at least 7 days before adopting
248 a resolution to partially withdraw from the Florida Retirement
249 System and establish an alternative retirement plan for future
250 employees, a public hearing must be held on the proposed
251 withdrawal and proposed alternative plan.
252 b. From 7 to 15 days before such hearing, notice of intent
253 to withdraw, specifying the time and place of the hearing, must
254 be provided in writing to employees of the hospital district
255 proposing partial withdrawal and must be published in a newspaper
256 of general circulation in the area affected, as provided by ss.
257 50.011-50.031. Proof of publication of such notice shall be
258 submitted to the Department of Management Services.
259 c. The governing body of any hospital district seeking to
260 partially withdraw from the system must, before such hearing,

261 have an actuarial report prepared and certified by an enrolled
262 actuary, as defined in s. 112.625(3), illustrating the cost to
263 the hospital district of providing, through the retirement plan
264 that the hospital district is to adopt, benefits for new
265 employees comparable to those provided under the Florida
266 Retirement System.
267 d. Upon meeting all applicable requirements of this
268 subparagraph, and subject to the conditions set forth in
269 subparagraph 6., partial withdrawal from the system and adoption
270 of the alternative retirement plan may be accomplished by
271 resolution duly adopted by the hospital district board. The
272 hospital district board must provide written notice of such
273 withdrawal to the division by mailing a copy of the resolution to
274 the division, postmarked no later than December 15, 1995. The
275 withdrawal shall take effect January 1, 1996.
276 6. Following the adoption of a resolution under sub-
277 subparagraph 5.d., all employees of the withdrawing hospital
278 district who were participants in the Florida Retirement System
279 prior to January 1, 1996, shall remain as participants in the
280 system for as long as they are employees of the hospital
281 district, and all rights, duties, and obligations between the
282 hospital district, the system, and the employees shall remain in
283 full force and effect. Any employee who is hired or appointed on
284 or after January 1, 1996, may not participate in the Florida
285 Retirement System, and the withdrawing hospital district shall
286 have no obligation to the system with respect to such employees.
287 Section 4. Paragraph (b) of subsection (1) of section
288 121.055, Florida Statutes, is amended to read:

289 121.055 Senior Management Service Class.--There is hereby
290 established a separate class of membership within the Florida
291 Retirement System to be known as the "Senior Management Service
292 Class," which shall become effective February 1, 1987.
293 (1)(a)
294 (b)1. Except as provided in subparagraph 2., effective
295 January 1, 1990, participation in the Senior Management Service
296 Class shall be compulsory for the president of each community
297 college, the manager of each participating city or county, the
298 executive director or staff director of each metropolitan
299 planning organization, and all appointed district school
300 superintendents. Effective January 1, 1994, additional positions
301 may be designated for inclusion in the Senior Management Service
302 Class of the Florida Retirement System, provided that:
303 a. Positions to be included in the class shall be
304 designated by the local agency employer. Notice of intent to
305 designate positions for inclusion in the class shall be published
306 once a week for 2 consecutive weeks in a newspaper of general
307 circulation published in the county or counties affected, as
308 provided in chapter 50.
309 b. Up to 10 nonelective full-time positions may be
310 designated for each local agency employer reporting to the
311 Department of Management Services; for local agencies with 100 or
312 more regularly established positions, additional nonelective
313 full-time positions may be designated, not to exceed 1 percent of
314 the regularly established positions within the agency.
315 c. Each position added to the class must be a managerial or
316 policymaking position filled by an employee who is not subject to

317 continuing contract and serves at the pleasure of the local
318 agency employer without civil service protection, and who:
319 (I) Heads an organizational unit; or
320 (II) Has responsibility to effect or recommend personnel,
321 budget, expenditure, or policy decisions in his or her areas of
322 responsibility.
323 2. In lieu of participation in the Senior Management
324 Service Class, members of the Senior Management Service Class
325 pursuant to the provisions of subparagraph 1. may withdraw from
326 the Florida Retirement System altogether. The decision to
327 withdraw from the Florida Retirement System shall be irrevocable
328 for as long as the employee holds such a position. Any service
329 creditable under the Senior Management Service Class shall be
330 retained after the member withdraws from the Florida Retirement
331 System; however, additional service credit in the Senior
332 Management Service Class shall not be earned after such
333 withdrawal. Such members shall not be eligible to participate in
334 the Senior Management Service Optional Annuity Program.
335 3. Effective January 1, 2006, through June 30, 2006, an
336 employee who has withdrawn from the Florida Retirement System
337 under subparagraph 2. has one opportunity to elect to participate
338 in either the defined benefit program or the Public Employee
339 Optional Retirement Program of the Florida Retirement System.
340 a. If the employee elects to participate in the Public
341 Employee Optional Retirement Program, membership shall be
342 prospective, and the applicable provisions of s. 121.4501(4)
343 shall govern the election.
344 b. If the employee elects to participate in the defined
345 benefit program of the Florida Retirement System, the employee

346 shall, upon payment to the system trust fund of the amount
347 calculated under sub-sub-subparagraph (I), receive service credit
348 for prior service based upon the time during which the employee
349 had withdrawn from the system.
350 (I) The cost for such credit shall be an amount
351 representing the actuarial accrued liability for the affected
352 period of service. The cost shall be calculated using the
353 discount rate and other relevant actuarial assumptions that were
354 used to value the Florida Retirement System defined benefit plan
355 liabilities in the most recent actuarial valuation. The
356 calculation shall include any service already maintained under
357 the defined benefit plan in addition to the period of withdrawal.
358 The actuarial accrued liability attributable to any service
359 already maintained under the defined benefit plan shall be
360 applied as a credit to the total cost resulting from the
361 calculation. The division shall ensure that the transfer sum is
362 prepared using a formula and methodology certified by an actuary.
363 (II) The employee must transfer a sum representing the net
364 cost owed for the actuarial accrued liability in sub-sub-
365 subparagraph (I) immediately following the time of such movement,
366 determined assuming that attained service equals the sum of
367 service in the defined benefit program and the period of
368 withdrawal.
369 Section 5. Subsection (2) of section 121.061, Florida
370 Statutes, is amended to read:
371 121.061 Funding.--
372 (2)(a) Should any employer other than a state employer fail
373 to make the retirement and social security contributions, both
374 member and employer contributions, required by this chapter,

375 then, upon request by the administrator, the Department of
376 Revenue or the Department of Financial Services, as the case may
377 be, shall deduct the amount owed by the employer from any funds
378 to be distributed by it to the county, city, metropolitan
379 planning organization, special district, or consolidated form of
380 government. The amounts so deducted shall be transferred to the
381 administrator for further distribution to the trust funds in
382 accordance with this chapter.
383 (b) Should any employer for whom the city or county tax
384 collector collects taxes, fail to make the retirement and social
385 security contributions required by this chapter, the tax
386 collector, at the request of the administrator and upon receipt
387 of a certificate from the administrator showing the amount owed
388 by the employer, shall deduct the amount so certified from any
389 taxes collected for the employer and remit the amount to the
390 administrator for further distribution to the trust funds in
391 accordance with this chapter.
392 (c) The governing body of each county, city, metropolitan
393 planning organization, special district, or consolidated form of
394 government participating under this chapter or the administrator,
395 acting individually or jointly, is hereby authorized to file and
396 maintain an action in the courts of the state to require any
397 employer to remit any retirement or social security member
398 contributions or employer matching payments due the retirement or
399 social security trust funds under the provisions of this chapter.
400 (d) Should the income of any constitutional fee officer, in
401 any year, be insufficient to make the matching payments required
402 by this chapter, the board of county commissioners shall provide

403 such fee officer sufficient funds to make these required payments
404 when due.
405 Section 6. Subsection (1) of section 121.081, Florida
406 Statutes, is amended to read:
407 121.081 Past service; prior service;
408 contributions.--Conditions under which past service or prior
409 service may be claimed and credited are:
410 (1)(a) Past service, as defined in s. 121.021(18), may be
411 claimed as creditable service by officers or employees of a city,
412 metropolitan planning organization, or special district that
413 become a covered group under this system. The governing body of a
414 covered group in compliance with s. 121.051(2)(b) may elect to
415 provide benefits with respect to past service earned prior to
416 January 1, 1975, in accordance with this chapter, and the cost
417 for such past service shall be established by applying the
418 following formula: The member contribution for both regular and
419 special risk members shall be 4 percent of the gross annual
420 salary for each year of past service claimed, plus 4-percent
421 employer matching contribution, plus 4 percent interest thereon
422 compounded annually, figured on each year of past service, with
423 interest compounded from date of annual salary earned until July
424 1, 1975, and 6.5 percent interest compounded annually thereafter
425 until date of payment. Once the total cost for a member has been
426 figured to date, then after July 1, 1975, 6.5 percent compounded
427 interest shall be added each June 30 thereafter on any unpaid
428 balance until the cost of such past service liability is paid in
429 full. The following formula shall be used in calculating past
430 service earned prior to January 1, 1975: (Annual gross salary
431 multiplied by 8 percent) multiplied by the 4 percent or 6.5

432 percent compound interest table factor, as may be applicable. The
433 resulting product equals cost to date for each particular year of
434 past service.
435 (b) Past service earned after January 1, 1975, may be
436 claimed by officers or employees of a city, metropolitan planning
437 organization, or special district that becomes a covered group
438 under this system. The governing body of a covered group may
439 elect to provide benefits with respect to past service earned
440 after January 1, 1975, in accordance with this chapter, and the
441 cost for such past service shall be established by applying the
442 following formula: The employer shall contribute an amount equal
443 to the contribution rate in effect at the time the service was
444 earned, multiplied by the employee's gross salary for each year
445 of past service claimed, plus 6.5 percent interest thereon,
446 compounded annually, figured on each year of past service, with
447 interest compounded from date of annual salary earned until date
448 of payment.
449 (c) Should the employer not elect to provide past service
450 for the member, then the member may claim and pay same, based on
451 paragraphs (a) and (b).
452 (d) Employment prior to January 1, 1968, in the Cuban
453 Refugee Assistance Program administered by the Florida State
454 Department of Public Welfare or the Florida State Board of Health
455 shall be deemed to be included in past service as defined in s.
456 121.021(18), for the purposes of the Florida Retirement System,
457 any other provisions of law notwithstanding and regardless of the
458 fund from which such employment was paid. If credit for such
459 service has not been granted under any other state or federal
460 system, any member of the Florida Retirement System or any system

461 consolidated therein shall be entitled to receive past-service
462 credit for his or her period of employment in the Cuban Refugee
463 Assistance Program prior to January 1, 1968, in the manner
464 provided in this subsection. However, in no event will
465 eligibility for past service be established unless required
466 contributions are paid into the Florida Retirement System for
467 such period of past service and such contributions are not paid
468 from general revenue funds of the state.
469 (e) Past service, as defined in s. 121.021(18), may be
470 claimed as creditable service by a member of the Florida
471 Retirement System who formerly was an officer or employee of a
472 city, metropolitan planning organization, or special district,
473 notwithstanding the status or form of the retirement system, if
474 any, of that city, metropolitan planning organization, or special
475 district and irrespective of whether officers or employees of
476 that city, metropolitan planning organization, or special
477 district now or hereafter become a covered group under the
478 Florida Retirement System. Such member may claim creditable
479 service and be entitled to the benefits accruing to the regular
480 class of members as provided for the past service claimed under
481 this paragraph by paying into the retirement trust fund an amount
482 equal to the total actuarial cost of providing the additional
483 benefit resulting from such past-service credit, discounted by
484 the applicable actuarial factors to date of retirement.
485 (f) When any person, either prior to this act or hereafter,
486 becomes entitled to and does participate in one of the retirement
487 systems consolidated within or created by this chapter through
488 the consolidation or merger of governments or the transfer of
489 functions between units of government, either at the state or

490 local level or between state and local units, or through the
491 assumption of functions or activities by a state or local unit
492 from an employing entity which was not an employer under the
493 system, and such person becomes a member of the Florida
494 Retirement System, such person shall be entitled to receive past-
495 service credit as defined in s. 121.021(18) for the time such
496 person performed services for, and was an employee of, such state
497 or local unit or other employing entity prior to the transfer,
498 merger, consolidation, or assumption of functions and activities.
499 Past-service credit allowed by this paragraph shall also be
500 available to any person who becomes a member of an existing
501 system, as defined in s. 121.021(2), prior to December 1, 1970,
502 through the transfer, merger, consolidation, or assumption of
503 functions and activities set forth in this paragraph and who
504 subsequently becomes a member of the Florida Retirement System.
505 However, credit for the past service may not be granted until
506 contributions are made in the manner provided in this subsection.
507 If a person rejected Florida Retirement System membership at the
508 time of the transfer, merger, or consolidation, the required
509 contributions shall be at total actuarial cost as specified in
510 paragraph (e). Such contributions or accrued interest may not be
511 paid from any state funds.
512 (g) Any person who was enrolled on May 15, 1976, in a state
513 retirement system administered under this chapter and who was, on
514 that date, an officer or employee of a consolidated government
515 which by virtue of its charter had elected status as a
516 municipality for purposes of state retirement systems
517 administered under this chapter and who had not withdrawn his or
518 her contributions shall be deemed to have become a member of that

519 system as of the date he or she began to participate therein,
520 whether employed by the consolidated government or a preceding
521 interim government on that date, and shall be entitled to retain
522 membership in that system so long as he or she continues to be an
523 officer or employee of the consolidated government, regardless of
524 the fact that the consolidated government and interim government
525 were not employers as defined in s. 121.021(10). Any person who
526 was enrolled before May 15, 1976, in a state retirement system
527 administered under this chapter and who was, during the period of
528 enrollment, an officer or employee of a consolidated government
529 which by virtue of its charter had elected status as a
530 municipality for purposes of state retirement systems
531 administered under this chapter, who terminated employment with
532 the consolidated government, and who had not withdrawn his or her
533 contributions shall be deemed to have been a member of the
534 retirement system in which he or she was enrolled during the
535 period of such enrollment and employment by that consolidated
536 government and during any period of enrollment and employment by
537 any interim government which performed the functions of the
538 consolidated government prior to its creation, regardless of the
539 fact that the consolidated government and interim government were
540 not employers as defined in s. 121.021(10). However, in no event
541 shall credit be granted for service rendered in such employment
542 prior to May 15, 1976, unless the contributions required for such
543 credit were paid prior to May 15, 1976.
544 (h) The following provisions apply to the purchase of past
545 service:
546 1. Notwithstanding any of the provisions of this
547 subsection, past-service credit may not be purchased under this

548 chapter for any service that is used to obtain a benefit from any
549 local retirement system.
550 2. A member may not receive past service credit under
551 paragraphs (a), (b), (e), or (f) for any leaves of absence
552 without pay, except that credit for active military service
553 leaves of absence may be claimed under paragraphs (a), (b), and
554 (f), in accordance with s. 121.111(1).
555 3. If a member does not desire to receive credit for all of
556 his or her past service, the period the member claims must be the
557 most recent past service prior to his or her participation in the
558 Florida Retirement System.
559 4. The cost of past service purchased by an employing
560 agency for its employees may be amortized over such period of
561 time as is provided in the agreement, but not to exceed 15 years,
562 calculated in accordance with rule 60S-1.007(5)(f), Florida
563 Administrative Code.
564 5. The retirement account of each member for whom past
565 service is being provided by his or her employer shall be
566 credited with all past service the employer agrees to purchase as
567 soon as the agreement between the employer and the department is
568 executed. Pursuant thereto:
569 a. Each such member's account shall also be posted with the
570 total contribution his or her employer agrees to make in the
571 member's behalf for past service earned prior to October 1, 1975,
572 excluding those contributions representing the employer's
573 matching share and the compound interest calculation on the total
574 contribution. However, a portion of any contributions paid by an
575 employer for past service credit earned on and after October 1,
576 1975, may not be posted to a member's account.

577 b. A refund of contributions payable after an employer has
578 made a written agreement to purchase past service for employees
579 of the covered group shall include contributions for past service
580 which are posted to a member's account. However, contributions
581 for past service earned on and after October 1, 1975, are not
582 refundable.
583 (i) An employee of a state agency who was a member of a
584 state-administered retirement system and who was granted
585 educational leave with pay pursuant to a written educational
586 leave-with-pay policy may claim such period of educational leave
587 as past service subject to the following conditions:
588 1. The educational leave must have occurred prior to
589 December 31, 1971;
590 2. The member must have completed at least 6 years of
591 creditable service excluding the period of the educational leave;
592 3. The employee must have returned to employment with a
593 state agency employer who participated in the retirement system,
594 which return was immediately upon termination of the educational
595 leave, and must have remained on the employer's payroll for at
596 least 1 calendar month following the return to employment;
597 4. The employee must be a member of the Florida Retirement
598 System at the time he or she claims such service;
599 5. Not more than 24 months of creditable service may be
600 claimed for such period of educational leave with pay;
601 6. The service must not be claimed under any other state or
602 federal retirement system; and
603 7. The member must pay to the retirement trust fund for
604 claiming such past-service credit an amount equal to 8 percent of
605 his or her gross annual salary immediately prior to the

606 educational leave with pay for each year of past service claimed,
607 plus 4 percent interest thereon compounded annually each June 30
608 from the first year of service claimed until July 1, 1975, and
609 6.5 percent interest thereafter on the unpaid balance compounded
610 annually each June 30 until paid.
611 (j) A member may claim and receive past-service credit
612 under this system for employment in a multiple offender project
613 funded by a grant from the Federal Government to a local
614 government, which local government is not covered by this
615 chapter, if the project was implemented by a state attorney who
616 had the authority for hiring and firing the employees of the
617 project and the member worked under the supervision of the state
618 attorney or his or her subordinate. Creditable service shall be
619 granted upon certification by the state attorney of the preceding
620 conditions and payment by the member or the state attorney's
621 office of the amount due for the period of employment, based on
622 the contribution rates in effect for regular or special risk
623 members, as appropriate, at the time such service is claimed,
624 plus interest compounded annually each June 30 at the rate of 4
625 percent until July 1, 1975, and 6.5 percent thereafter. Such
626 creditable service shall not be available to any member who
627 receives a benefit from another state or local retirement system
628 which is derived in whole or in part from the same service.
629 (k) Employees of the Fourth Judicial Circuit who were in an
630 employee-employer relationship with the City of Jacksonville on
631 June 30, 2004, and who became employees of the State Courts
632 System on July 1, 2004, as a result of implementation of Revision
633 7 to Article V of the State Constitution shall be deemed to be
634 included in past service as defined in s. 121.021(18), for the

635 purposes of the Florida Retirement System, any other provisions
636 of law notwithstanding. If credit for such service has not been
637 granted under any other retirement system, any member of the
638 Florida Retirement System therein shall be entitled to receive
639 past-service credit for his or her period of employment with the
640 City of Jacksonville prior to July 1, 2004, in the manner
641 provided in this subsection. However, in no event will
642 eligibility for past service be established unless required
643 contributions are paid into the Florida Retirement System for
644 such period of past service, and such contributions may be paid
645 by the member or prior employer on behalf of the member.
646 Section 7. Subsection (1) of section 316.605, Florida
647 Statutes, is amended to read:
648 316.605 Licensing of vehicles.--
649 (1) Every vehicle, at all times while driven, stopped, or
650 parked upon any highways, roads, or streets of this state, shall
651 be licensed in the name of the owner thereof in accordance with
652 the laws of this state unless such vehicle is not required by the
653 laws of this state to be licensed in this state and shall, except
654 as otherwise provided in s. 320.0706 for front-end registration
655 license plates on truck tractors and s. 320.086(5) which exempts
656 display of license plates on described former military vehicles,
657 display the license plate or both of the license plates assigned
658 to it by the state, one on the rear and, if two, the other on the
659 front of the vehicle, each to be securely fastened to the vehicle
660 outside the main body of the vehicle <u>not higher than sixty (60)</u>
661 <u>inches and not lower than twelve (12) inches from the ground and</u>
662 in such manner as to prevent the plates from swinging, and all
663 letters, numerals, printing, writing, and other identification

664 marks upon the plates regarding the word "Florida," the
665 registration decal, and the alphanumeric designation shall be
666 clear and distinct and free from defacement, mutilation, grease,
667 and other obscuring matter, so that they will be plainly visible
668 and legible at all times 100 feet from the rear or front. Vehicle
669 license plates shall be affixed and displayed in such a manner
670 that the letters and numerals shall be read from left to right
671 parallel to the ground. No vehicle license plate may be displayed
672 in an inverted or reversed position, or in such a manner that the
673 letters and numbers and their proper sequence are not readily
674 identifiable. Nothing shall be placed upon the face of a Florida
675 plate except as permitted by law or by rule or regulation of a
676 governmental agency. No license plates other than those furnished
677 by the state shall be used. However, if the vehicle is not
678 required to be licensed in this state, the license plates on such
679 vehicle issued by another state, by a territory, possession, or
680 district of the United States, or by a foreign country,
681 substantially complying with the provisions hereof, shall be
682 considered as complying with this chapter. A violation of this
683 subsection is a noncriminal traffic infraction, punishable as a
684 nonmoving violation as provided in chapter 318.
685 Section 8. Paragraph (b) of subsection (3) of section
686 316.650, Florida Statutes, is amended to read:
687 316.650 Traffic citations.--
688 (3)
689 (b) If a traffic citation is issued pursuant to s.
690 316.1001, a traffic enforcement officer may deposit the original
691 and one copy of such traffic citation or, in the case of a
692 traffic enforcement agency that has an automated citation system,

693 may provide an electronic facsimile with a court having
694 jurisdiction over the alleged offense or with its traffic
695 violations bureau within 45 days after the date of issuance of
696 the citation to the violator. If the person cited for the
697 violation of s. 316.001 makes the election provided by s.
698 318.14(12), and pays the fine imposed by the toll authority, plus
699 the amount of the unpaid toll that is shown on the traffic
700 citation, directly to the governmental entity that issued the
701 citation in accordance with s. 318.14(12), the traffic citation
702 will not be submitted to the court, and this disposition will be
703 reported to the department by the governmental entity that issued
704 the citation, and no points will be assessed.
705 Section 9. Subsection (12) of section 318.14, Florida
706 Statutes, is amended to read:
707 318.14 Noncriminal traffic infractions; exception;
708 procedures.--
709 (12) Any person cited for a violation of s. 316.1001 may,
710 in lieu of making an election as set forth in subsection (4) or
711 s. 318.18(7), elect to pay ~~his or her~~ a fine imposed by the toll
712 authority, plus the amount of the unpaid toll that is shown on
713 the traffic citation, directly to the governmental entity that
714 issued the citation, within 30 days after the date of issuance of
715 the citation. Any person cited for a violation of s. 316.1001 who
716 does not elect to pay the fine imposed by the toll authority,
717 plus the amount of the unpaid toll that is shown on the traffic
718 citation, directly to the governmental entity that issued the
719 citation as described in this subsection shall have an additional
720 45 days after the date of the issuance of the citation in which
721 to request a court hearing or to pay the civil penalty and

722 delinquent fee, if applicable, as provided in s. 318.18(7),
723 either by mail or in person, in accordance with subsection (4).
724 Section 10. Subsection (7) of section 318.18, Florida
725 Statutes, is amended to read:
726 318.18 Amount of civil penalties.--The penalties required
727 for a noncriminal disposition pursuant to s. 318.14 are as
728 follows:
729 (7) Mandatory One hundred fifty dollars, plus the amount of
730 the unpaid toll shown on the traffic citation, for each citation
731 issued for a violation of s. 316.1001. The clerk of the court
732 shall forward $50 of the $150 fine received, plus the amount of
733 the unpaid toll that is shown on each citation, to the
734 governmental entity that issued the citation. If adjudication is
735 withheld or there is a plea arrangement prior to a hearing, there
736 shall be a minimum mandatory cost assessed per citation of $100
737 plus the amount of the unpaid toll for each citation issued. The
738 clerk of the court shall forward $50 of the $100 plus the amount
739 of the unpaid toll as shown on each citation to the governmental
740 entity that issued the citation. The court shall have specific
741 authority to consolidate issued citations for the same defendant
742 for the purpose of sentencing and aggregate jurisdiction. In
743 addition, for 10 convictions of s. 316.1001 received by a person
744 within a 36 month period, the department shall suspend the
745 driver's license of the person for 60 days. ~~However, a person may~~
746 ~~elect to pay $30 to the clerk of the court, in which case~~
747 ~~adjudication is withheld, and no points are assessed under s.~~
748 ~~322.27. Upon receipt of the fine, the clerk of the court must~~
749 ~~retain $5 for administrative purposes and must forward the $25 to~~
750 ~~the governmental entity that issued the citation.~~ Any funds

751 received by a governmental entity for this violation may be used
752 for any lawful purpose related to the operation or maintenance of
753 a toll facility.
754 Section 11. Section 320.061, Florida Statutes, is amended
755 to read:
756 320.061 Unlawful to alter or obscure motor vehicle
757 registration certificates, license plates, mobile home stickers,
758 or validation stickers; penalty.--
759 (1) No person shall alter the original appearance of any
760 registration license plate, mobile home sticker, validation
761 sticker, or vehicle registration certificate issued for and
762 assigned to any motor vehicle or mobile home, whether by
763 mutilation, alteration, defacement, or change of color or in any
764 other manner. No person shall apply or attach any substance,
765 reflective matter, illuminated device, spray, coating, covering,
766 or other material onto or around any license plate that
767 interferes with the legibility, angular visibility or
768 detectability of, or ability to photograph or otherwise record,
769 any feature or detail on the license plate. The advertising sale,
770 distribution, purchase, or use of such products made for the
771 purpose of interfering with the legibility, angular visibility or
772 detectability of, or interfering with the ability to photograph
773 or otherwise record, any feature or detail on a license plate is
774 prohibited. Any person who violates the provisions of this
775 section is guilty of a misdemeanor of the second degree,
776 punishable as provided in s. 775.082 or s. 775.083.
777 (2) If a state or local law enforcement officer having
778 jurisdiction observes that a cover or other device or material or
779 substance is obstructing the visibility or electronic image

780 recording of the plate, the officer shall issue a Uniform Traffic
781 Citation and shall confiscate the cover or other device that
782 obstructs the visibility or electronic image recording of the
783 plate. If the state or local law enforcement officer having
784 jurisdiction observes that the plate itself has been physically
785 treated with a substance, reflective matter, spray, coating, or
786 other material that is obstructing the visibility or electronic
787 image recording of the plate, the officer shall issue a Uniform
788 Traffic Citation and shall confiscate the plate. The department
789 shall revoke the registration of any plate that has been found by
790 a court to have been physically altered with any chemical or
791 reflective substance or coating that obstructs the visibility or
792 electronic image recording of the plate.
793 (3) The Florida Attorney General may file suit against any
794 individual or entity offering or marketing the sale, including
795 via the Internet, of any product advertised as having the
796 capacity to obstruct the visibility or electronic image recording
797 of a license plate. In addition to injunctive and monetary
798 relief, punitive damages, and attorneys fees, the suit shall also
799 seek a full accounting of the records of all sales to residents
800 of or entities within the State of Florida.
801 Section 12. Section 336.044, Florida Statutes, is moved and
802 renumbered as section 334.70, Florida Statutes, to read:
803 334.70 Use of recyclable materials in construction.--
804 (1) It is the intent of the Legislature that the Department
805 of Transportation continue to expand its current use of recovered
806 materials in its construction programs.
807 (2) The Legislature declares it to be in the public
808 interest to find alternative ways to use certain recyclable

809 materials that currently are part of the solid waste stream and
810 that contribute to problems of declining space in landfills. To
811 determine the feasibility of using certain recyclable materials
812 for paving materials, the department may undertake demonstration
813 projects using the following materials in road construction:
814 (a) Ground rubber from automobile tires in road resurfacing
815 or subbase materials for roads;
816 (b) Ash residue from coal combustion byproducts for
817 concrete and ash residue from waste incineration facilities and
818 oil combustion byproducts for subbase material;
819 (c) Recycled mixed-plastic material for guardrail posts or
820 right-of-way fence posts;
821 (d) Construction steel, including reinforcing rods and I-
822 beams, manufactured from scrap metals disposed of in the state;
823 and
824 (e) Glass, and glass aggregates.
825 (3) The department shall review and revise existing bid
826 procedures and specifications for the purchase or use of products
827 and materials to eliminate any procedures and specifications that
828 explicitly discriminate against products and materials with
829 recycled content, except where such procedures and specifications
830 are necessary to protect the health, safety, and welfare of the
831 people of this state.
832 (4) The department shall review and revise its bid
833 procedures and specifications on a continuing basis to encourage
834 the use of products and materials with recycled content and
835 shall, in developing new procedures and specifications, encourage
836 the use of products and materials with recycled content.

837 (5) All agencies shall cooperate with the department in
838 carrying out the provisions of this section.
839 Section 13. Subsection (3) is added to section 338.161,
840 Florida Statutes, to read:
841 338.161 Authority of department to advertise and promote
842 electronic toll collection.--
843 (3) The department or any toll agency created by statute is
844 authorized to incur expenses and advertise or promote electronic
845 toll collection through agreements with private or public
846 entities that provide for additional uses of its electronic toll
847 collection products and services on or off the turnpike or toll
848 system, where the Department or toll agency has determined it can
849 increase non-toll revenues or add convenience or other value for
850 its customers.
851 Section 14. Paragraph (b) of subsection (3) of section
852 338.2216, Florida Statutes, is amended to read:
853 338.2216 Florida Turnpike Enterprise; powers and
854 authority.--
855 (3)
856 (b) Notwithstanding the provisions of s. 216.301 to the
857 contrary and in accordance with s. 216.351, the Executive Office
858 of the Governor shall, on July 1 of each year, certify forward
859 all unexpended funds appropriated or provided pursuant to this
860 section for the turnpike enterprise. Of the unexpended funds
861 certified forward, any unencumbered amounts shall be carried
862 forward. Such funds carried forward shall not exceed 5 percent of
863 the total operating budget of the turnpike enterprise. Funds
864 carried forward pursuant to this section may be used for any
865 lawful purpose, including, but not limited to, promotional and

866 market activities, technology, and training. Any certified
867 forward funds remaining undisbursed on September 30 ~~December 31~~
868 of each year shall be carried forward.
869 Section 15. Subsection (1) of section 338.2275, Florida
870 Statutes, is amended to read:
871 338.2275 Approved turnpike projects.--
872 (1) Legislative approval of the department's tentative work
873 program that contains the turnpike project constitutes approval
874 to issue bonds as required by s. 11(f), Art. VII of the State
875 Constitution. No more than $6 billion of bonds may be outstanding
876 to fund approved turnpike projects. ~~Turnpike projects approved to~~
877 ~~be included in future tentative work programs include, but are~~
878 ~~not limited to, projects contained in the 2003-2004 tentative~~
879 ~~work program. A maximum of $4.5 billion of bonds may be issued to~~
880 ~~fund approved turnpike projects.~~
881 Section 16. Subsections (1), (2), (3), and (5) of section
882 339.175, Florida Statutes, are amended to read:
883 339.175 Metropolitan planning organization.--It is the
884 intent of the Legislature to encourage and promote the safe and
885 efficient management, operation, and development of surface
886 transportation systems that will serve the mobility needs of
887 people and freight within and through urbanized areas of this
888 state while minimizing transportation-related fuel consumption
889 and air pollution. To accomplish these objectives, metropolitan
890 planning organizations, referred to in this section as M.P.O.'s,
891 shall develop, in cooperation with the state and public transit
892 operators, transportation plans and programs for metropolitan
893 areas. The plans and programs for each metropolitan area must
894 provide for the development and integrated management and

895 operation of transportation systems and facilities, including
896 pedestrian walkways and bicycle transportation facilities that
897 will function as an intermodal transportation system for the
898 metropolitan area, based upon the prevailing principles provided
899 in s. 334.046(1). The process for developing such plans and
900 programs shall provide for consideration of all modes of
901 transportation and shall be continuing, cooperative, and
902 comprehensive, to the degree appropriate, based on the complexity
903 of the transportation problems to be addressed. To ensure that
904 the process is integrated with the statewide planning process,
905 M.P.O.'s shall develop plans and programs that identify
906 transportation facilities that should function as an integrated
907 metropolitan transportation system, giving emphasis to facilities
908 that serve important national, state, and regional transportation
909 functions. For the purposes of this section, those facilities
910 include the facilities on the Strategic Intermodal System
911 designated under s. 339.63 and facilities for which projects have
912 been identified pursuant to s. 339.2819(4).
913 (1) DESIGNATION.--
914 (a)1. An M.P.O. shall be designated for each urbanized area
915 of the state; however, this does not require that an individual
916 M.P.O. be designated for each such area. Such designation shall
917 be accomplished by agreement between the Governor and units of
918 general-purpose local government representing at least 75 percent
919 of the population of the urbanized area; however, the unit of
920 general-purpose local government that represents the central city
921 or cities within the M.P.O. jurisdiction, as defined by the
922 United States Bureau of the Census, must be a party to such
923 agreement.

924 2. More than one M.P.O. may be designated within an
925 existing metropolitan planning area only if the Governor and the
926 existing M.P.O. determine that the size and complexity of the
927 existing metropolitan planning area makes the designation of more
928 than one M.P.O. for the area appropriate.
929 (b) Each M.P.O. shall be created and operated under the
930 provisions of this section pursuant to an interlocal agreement
931 entered into pursuant to s. 163.01. The signatories to the
932 interlocal agreement shall be the department and the governmental
933 entities designated by the Governor for membership on the M.P.O.
934 If there is a conflict between this section and s. 163.01, this
935 section prevails.
936 (c) The jurisdictional boundaries of an M.P.O. shall be
937 determined by agreement between the Governor and the applicable
938 M.P.O. The boundaries must include at least the metropolitan
939 planning area, which is the existing urbanized area and the
940 contiguous area expected to become urbanized within a 20-year
941 forecast period, and may encompass the entire metropolitan
942 statistical area or the consolidated metropolitan statistical
943 area.
944 (d) In the case of an urbanized area designated as a
945 nonattainment area for ozone or carbon monoxide under the Clean
946 Air Act, 42 U.S.C. ss. 7401 et seq., the boundaries of the
947 metropolitan planning area in existence as of the date of
948 enactment of this paragraph shall be retained, except that the
949 boundaries may be adjusted by agreement of the Governor and
950 affected metropolitan planning organizations in the manner
951 described in this section. If more than one M.P.O. has authority
952 within a metropolitan area or an area that is designated as a

953 nonattainment area, each M.P.O. shall consult with other M.P.O.'s
954 designated for such area and with the state in the coordination
955 of plans and programs required by this section.
956 (e) An M.P.O. is a public body corporate and politic. The
957 members of the governing body shall be the members of the agency,
958 but such members constitute the head of a legal entity, separate,
959 distinct, and independent from the governing body of any county,
960 municipality, or other entity, which is an entity represented on
961 the M.P.O. or a signatory to the interlocal agreement creating
962 the M.P.O. Upon execution of a new interlocal agreement by the
963 governmental entities constituting the M.P.O. after redesignation
964 or reapportionment, the new M.P.O. is subject to all of the
965 responsibilities and liabilities imposed or incurred by the
966 existing agency.
967 (f) The governing body of the M.P.O. shall designate at
968 least a chair, vice-chair, and agency clerk. The chair and vice-
969 chair shall be selected from among the member delegates
970 comprising the governing board. The agency clerk shall be charged
971 with the responsibility of preparing meeting minutes and
972 maintaining agency records. The clerk shall be a member of the
973 M.P.O. governing board, an employee of the M.P.O., or other
974 natural person.
975 Each M.P.O. required under this section must be fully operative
976 no later than 6 months following its designation.
977 (2) VOTING MEMBERSHIP.--
978 (a) The voting membership of an M.P.O. shall consist of not
979 fewer than 5 or more than 19 apportioned members, the exact
980 number to be determined on an equitable geographic-population
981 ratio basis by the Governor, based on an agreement among the

982 affected units of general-purpose local government as required by
983 federal rules and regulations. The Governor, in accordance with
984 23 U.S.C. s. 134, may also provide for M.P.O. members who
985 represent municipalities to alternate with representatives from
986 other municipalities within the metropolitan planning area that
987 do not have members on the M.P.O. County commission members shall
988 compose not less than one-third of the M.P.O. membership, except
989 for an M.P.O. with more than 15 members located in a county with
990 a five-member county commission or an M.P.O. with 19 members
991 located in a county with no more than 6 county commissioners, in
992 which case county commission members may compose less than one-
993 third percent of the M.P.O. membership, but all county
994 commissioners must be members. All voting members shall be
995 elected officials of general-purpose local governments, except
996 that an M.P.O. may include, as part of its apportioned voting
997 members, a member of a statutorily authorized planning board, an
998 official of an agency that operates or administers a major mode
999 of transportation, or an official of the Florida Space Authority.
1000 As used in this section, elected officials of a general-purpose
1001 local government shall exclude constitutional or charter
1002 officers, including sheriff, tax collector, supervisor of
1003 elections, property appraiser, clerk of the court, and similar
1004 types of officials. County commissioners ~~The county commission~~
1005 shall compose not less than 20 percent of the M.P.O. membership
1006 if an official of an agency that operates or administers a major
1007 mode of transportation has been appointed to an M.P.O.
1008 (b) In metropolitan areas in which authorities or other
1009 agencies have been or may be created by law to perform
1010 transportation functions and are performing transportation

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

1011 functions that are not under the jurisdiction of a general-
1012 purpose ~~general purpose~~ local government represented on the
1013 M.P.O., they shall be provided voting membership on the M.P.O. In
1014 all other M.P.O.'s where transportation authorities or agencies
1015 are to be represented by elected officials from general purpose
1016 local governments, the M.P.O. shall establish a process by which
1017 the collective interests of such authorities or other agencies
1018 are expressed and conveyed.
1019 (c) Any other provision of this section to the contrary
1020 notwithstanding, a chartered county with over 1 million
1021 population may elect to reapportion the membership of an M.P.O.
1022 whose jurisdiction is wholly within the county. The charter
1023 county may exercise the provisions of this paragraph if:
1024 1. The M.P.O. approves the reapportionment plan by a three-
1025 fourths vote of its membership;
1026 2. The M.P.O. and the charter county determine that the
1027 reapportionment plan is needed to fulfill specific goals and
1028 policies applicable to that metropolitan planning area; and
1029 3. The charter county determines the reapportionment plan
1030 otherwise complies with all federal requirements pertaining to
1031 M.P.O. membership.
1032
1033 Any charter county that elects to exercise the provisions of this
1034 paragraph shall notify the Governor in writing.
1035 (d) Any other provision of this section to the contrary
1036 notwithstanding, any county chartered under s. 6(e), Art. VIII of
1037 the State Constitution may elect to have its county commission
1038 serve as the M.P.O., if the M.P.O. jurisdiction is wholly
1039 contained within the county. Any charter county that elects to

1040 exercise the provisions of this paragraph shall so notify the
1041 Governor in writing. Upon receipt of such notification, the
1042 Governor must designate the county commission as the M.P.O. The
1043 Governor must appoint four additional voting members to the
1044 M.P.O., one of whom must be an elected official representing a
1045 municipality within the county, one of whom must be an expressway
1046 authority member, one of whom must be a person who does not hold
1047 elected public office and who resides in the unincorporated
1048 portion of the county, and one of whom must be a school board
1049 member.
1050 (3) APPORTIONMENT.--
1051 (a) The Governor shall, with the agreement of the affected
1052 units of general-purpose local government as required by federal
1053 rules and regulations, apportion the membership on the applicable
1054 M.P.O. among the various governmental entities within the area.
1055 ~~and~~ At the request of a majority of the affected units of
1056 general-purpose local government comprising an M.P.O., the
1057 Governor and a majority of units of general-purpose local
1058 governments serving on an M.P.O. shall cooperatively agree upon
1059 and prescribe who may serve as an alternate member, and a method
1060 for appointing alternate members who may vote at any M.P.O.
1061 meeting that an alternate member attends in place of a regular
1062 member. The methodology shall be set forth as a part of the
1063 interlocal agreement describing the M.P.O.'s membership or in the
1064 M.P.O.'s operating procedures and by-laws. ~~An appointed alternate~~
1065 ~~member must be an elected official serving the same governmental~~
1066 ~~entity or a general-purpose local government with jurisdiction~~
1067 ~~within all or part of the area that the regular member serves.~~
1068 The governmental entity so designated shall appoint the

1069 appropriate number of members to the M.P.O. from eligible
1070 officials. Representatives of the department shall serve as
1071 nonvoting members of the M.P.O. governing board. Nonvoting
1072 advisors may be appointed by the M.P.O. as deemed necessary;
1073 provided that to the maximum extent feasible each M.P.O. shall
1074 seek to appoint nonvoting representatives of various multi-modal
1075 forms of transportation not otherwise represented by voting
1076 members of the M.P.O. An M.P.O. shall appoint nonvoting advisors
1077 representing major military installations upon the request of the
1078 major military installations and subject to the agreement of the
1079 M.P.O. All nonvoting advisors may attend and participate fully in
1080 governing board meetings but shall not have a vote and shall not
1081 be members of the governing board. The Governor shall review the
1082 composition of the M.P.O. membership in conjunction with the
1083 decennial census as prepared by the United States Department of
1084 Commerce, Bureau of the Census, and reapportion it as necessary
1085 to comply with subsection (2).
1086 (b) Except for members who represent municipalities on the
1087 basis of alternating with representatives from other
1088 municipalities that do not have members on the M.P.O. as provided
1089 in paragraph (2)(a), the members of an M.P.O. shall serve 4-year
1090 terms. Members who represent municipalities on the basis of
1091 alternating with representatives from other municipalities that
1092 do not have members on the M.P.O. as provided in paragraph (2)(a)
1093 may serve terms of up to 4 years as further provided in the
1094 interlocal agreement described in paragraph (1)(b). The
1095 membership of a member who is a public official automatically
1096 terminates upon the member's leaving his or her elective or
1097 appointive office for any reason, or may be terminated by a

1098 majority vote of the total membership of the entity's governing
1099 board ~~a county or city governing entity~~ represented by the
1100 member. A vacancy shall be filled by the original appointing
1101 entity. A member may be reappointed for one or more additional 4-
1102 year terms.
1103 (c) If a governmental entity fails to fill an assigned
1104 appointment to an M.P.O. within 60 days after notification by the
1105 Governor of its duty to appoint, that appointment shall be made
1106 by the Governor from the eligible representatives of that
1107 governmental entity.
1108 (5) POWERS, DUTIES, AND RESPONSIBILITIES.--The powers,
1109 privileges, and authority of an M.P.O. are those specified in
1110 this section or incorporated in an interlocal agreement
1111 authorized under s. 163.01. Each M.P.O. shall perform all acts
1112 required by federal or state laws or rules, now and subsequently
1113 applicable, which are necessary to qualify for federal aid. It is
1114 the intent of this section that each M.P.O. shall be involved in
1115 the planning and programming of transportation facilities,
1116 including, but not limited to, airports, intercity and high-speed
1117 rail lines, seaports, and intermodal facilities, to the extent
1118 permitted by state or federal law.
1119 (a) Each M.P.O. shall, in cooperation with the department,
1120 develop:
1121 1. A long-range transportation plan pursuant to the
1122 requirements of subsection (6);
1123 2. An annually updated transportation improvement program
1124 pursuant to the requirements of subsection (7); and
1125 3. An annual unified planning work program pursuant to the
1126 requirements of subsection (8).

1127 (b) In developing the long-range transportation plan and
1128 the transportation improvement program required under paragraph
1129 (a), each M.P.O. shall provide for consideration of projects and
1130 strategies that will:
1131 1. Support the economic vitality of the metropolitan area,
1132 especially by enabling global competitiveness, productivity, and
1133 efficiency;
1134 2. Increase the safety and security of the transportation
1135 system for motorized and nonmotorized users;
1136 3. Increase the accessibility and mobility options
1137 available to people and for freight;
1138 4. Protect and enhance the environment, promote energy
1139 conservation, and improve quality of life;
1140 5. Enhance the integration and connectivity of the
1141 transportation system, across and between modes, for people and
1142 freight;
1143 6. Promote efficient system management and operation; and
1144 7. Emphasize the preservation of the existing
1145 transportation system.
1146 (c) In order to provide recommendations to the department
1147 and local governmental entities regarding transportation plans
1148 and programs, each M.P.O. shall:
1149 1. Prepare a congestion management system for the
1150 metropolitan area and cooperate with the department in the
1151 development of all other transportation management systems
1152 required by state or federal law;
1153 2. Assist the department in mapping transportation planning
1154 boundaries required by state or federal law;

1155 3. Assist the department in performing its duties relating
1156 to access management, functional classification of roads, and
1157 data collection;
1158 4. Execute all agreements or certifications necessary to
1159 comply with applicable state or federal law;
1160 5. Represent all the jurisdictional areas within the
1161 metropolitan area in the formulation of transportation plans and
1162 programs required by this section; and
1163 6. Perform all other duties required by state or federal
1164 law.
1165 (d) Each M.P.O. shall appoint a technical advisory
1166 committee that includes planners; engineers; representatives of
1167 local aviation authorities, port authorities, and public transit
1168 authorities or representatives of aviation departments, seaport
1169 departments, and public transit departments of municipal or
1170 county governments, as applicable; the school superintendent of
1171 each county within the jurisdiction of the M.P.O. or the
1172 superintendent's designee; and other appropriate representatives
1173 of affected local governments. In addition to any other duties
1174 assigned to it by the M.P.O. or by state or federal law, the
1175 technical advisory committee is responsible for considering safe
1176 access to schools in its review of transportation project
1177 priorities, long-range transportation plans, and transportation
1178 improvement programs, and shall advise the M.P.O. on such
1179 matters. In addition, the technical advisory committee shall
1180 coordinate its actions with local school boards and other local
1181 programs and organizations within the metropolitan area which
1182 participate in school safety activities, such as locally
1183 established community traffic safety teams. Local school boards

1184 must provide the appropriate M.P.O. with information concerning
1185 future school sites and in the coordination of transportation
1186 service.
1187 (e)1. Each M.P.O. shall appoint a citizens' advisory
1188 committee, the members of which serve at the pleasure of the
1189 M.P.O. The membership on the citizens' advisory committee must
1190 reflect a broad cross section of local residents with an interest
1191 in the development of an efficient, safe, and cost-effective
1192 transportation system. Minorities, the elderly, and the
1193 handicapped must be adequately represented.
1194 2. Notwithstanding the provisions of subparagraph 1., an
1195 M.P.O. may, with the approval of the department and the
1196 applicable federal governmental agency, adopt an alternative
1197 program or mechanism to ensure citizen involvement in the
1198 transportation planning process.
1199 (f) The department shall allocate to each M.P.O., for the
1200 purpose of accomplishing its transportation planning and
1201 programming duties, an appropriate amount of federal
1202 transportation planning funds.
1203 (g) Each M.P.O. shall have an executive or staff director
1204 who reports directly to the M.P.O. governing board for all
1205 matters regarding the administration and operation of the M.P.O.,
1206 and any additional personnel as deemed necessary. The executive
1207 director and any additional personnel may be employed either by
1208 an M.P.O. or by another governmental entity, such as a county,
1209 city, or regional planning council, which has a staff services
1210 agreement signed and in effect between the M.P.O. and that
1211 governmental entity. In addition, an M.P.O. may enter into
1212 contracts with local or state governmental agencies, private

1213 planning or engineering firms, or other private firms, to
1214 accomplish its transportation planning and programming duties and
1215 administrative functions required by state or federal law. ~~Each~~
1216 ~~M.P.O. may employ personnel or may enter into contracts with~~
1217 ~~local or state agencies, private planning firms, or private~~
1218 ~~engineering firms to accomplish its transportation planning and~~
1219 ~~programming duties required by state or federal law.~~
1220 (h) Each M.P.O. shall provide training opportunities for
1221 local elected officials and others who serve on an M.P.O. in
1222 order to enhance their knowledge, effectiveness and participation
1223 in the urbanized area transportation planning process. The
1224 training opportunities may be conducted by an individual M.P.O.
1225 or through statewide and federal training programs and
1226 initiatives that are specifically designed to meet the needs of
1227 M.P.O. board members.
1228 (i) M.P.O.'s shall have the powers set forth in this
1229 statute and the following powers set forth in this subsection.
1230 The enumeration of these powers is not intended to be an
1231 exhaustive list of all M.P.O. powers:
1232 1. To grant, sell, hold, donate, dedicate, lease or
1233 otherwise convey, title, easements, or use rights in real
1234 property, including tax-reverted real property, title to which is
1235 in such public agency or separate legal entity, to any other
1236 public agency or separate legal entity created interlocal
1237 agreement. Real property and interests in real property granted
1238 or conveyed to an M.P.O. shall be for a public purpose which may
1239 not necessarily be contemplated in the interlocal agreement;
1240 2. To appropriate funds and sell, give, or otherwise supply
1241 any party designated to operate the joint or cooperative

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

1242 undertaking such personnel, services, facilities, property,
1243 franchises, or funds thereof;
1244 3. To receive grants-in-aid or other assistance funds from
1245 the United States Government or this state for use in carrying
1246 out transportation related purposes;
1247 4. To have all of the privileges and immunities from
1248 liability, as set forth in the constitution, s.768.28, and
1249 otherwise; to have exemptions from laws, ordinances, and rules
1250 applicable to public agencies of the state. An M.P.O. shall
1251 ascertain whether as a separate and distinct body politic and
1252 corporate entity, it should purchase separate public liability or
1253 workers' compensation insurance;
1254 5. To have and provide pensions and relief, disability,
1255 workers' compensation, employee salary compensation and
1256 reimbursement, and other benefits which apply to the activity of
1257 its officers or employees when performing their respective
1258 functions;
1259 6. To employ agencies or employees;
1260 7. To acquire, construct, manage, maintain, or operate
1261 buildings, works, or improvements;
1262 8. To incur debts, liabilities, or obligations which do not
1263 constitute the debts, liabilities, or obligations of any of the
1264 parties to the agreement, unless specifically and in writing
1265 assumed by any of the parties to the interlocal agreement
1266 creating the M.P.O.;
1267 9. To appoint a legal counsel or legal staff of its choice.
1268 If the legal counsel is also an attorney for an entity which is a
1269 member of the M.P.O., both the M.P.O. governing board and the

1270 member entity's governing body, shall waive any potential for
1271 ethical conflict; and
1272 10. In addition to its other powers as set forth herein and
1273 in s. 163.01, to have such powers as are provided for by federal
1274 law or federal administrative rules.
1275 (j) ~~(h)~~ A chair's coordinating committee is created,
1276 composed of the M.P.O.'s serving Hernando, Hillsborough, Manatee,
1277 Pasco, Pinellas, Polk, and Sarasota Counties. The committee must,
1278 at a minimum:
1279 1. Coordinate transportation projects deemed to be
1280 regionally significant by the committee.
1281 2. Review the impact of regionally significant land use
1282 decisions on the region.
1283 3. Review all proposed regionally significant
1284 transportation projects in the respective transportation
1285 improvement programs which affect more than one of the M.P.O.'s
1286 represented on the committee.
1287 4. Institute a conflict resolution process to address any
1288 conflict that may arise in the planning and programming of such
1289 regionally significant projects.
1290 (k) ~~(i)~~1. The Legislature finds that the state's rapid
1291 growth in recent decades has caused many urbanized areas subject
1292 to M.P.O. jurisdiction to become contiguous to each other. As a
1293 result, various transportation projects may cross from the
1294 jurisdiction of one M.P.O. into the jurisdiction of another
1295 M.P.O. To more fully accomplish the purposes for which M.P.O.'s
1296 have been mandated, M.P.O.'s shall develop coordination
1297 mechanisms with one another to expand and improve transportation
1298 within the state. The appropriate method of coordination between

1299 M.P.O.'s shall vary depending upon the project involved and given
1300 local and regional needs. Consequently, it is appropriate to set
1301 forth a flexible methodology that can be used by M.P.O.'s to
1302 coordinate with other M.P.O.'s and appropriate political
1303 subdivisions as circumstances demand.
1304 2. Any M.P.O. may join with any other M.P.O. or any
1305 individual political subdivision to coordinate activities or to
1306 achieve any federal or state transportation planning or
1307 development goals or purposes consistent with federal or state
1308 law. When an M.P.O. determines that it is appropriate to join
1309 with another M.P.O. or any political subdivision to coordinate
1310 activities, the M.P.O. or political subdivision shall enter into
1311 an interlocal agreement pursuant to s. 163.01, which, at a
1312 minimum, creates a separate legal or administrative entity to
1313 coordinate the transportation planning or development activities
1314 required to achieve the goal or purpose; provides the purpose for
1315 which the entity is created; provides the duration of the
1316 agreement and the entity, and specifies ~~specify~~ how the agreement
1317 may be terminated, modified, or rescinded; describes the precise
1318 organization of the entity, including who has voting rights on
1319 the governing board, whether alternative voting members are
1320 provided for, how voting members are appointed, and what the
1321 relative voting strength is for each constituent M.P.O. or
1322 political subdivision; provides the manner in which the parties
1323 to the agreement will provide for the financial support of the
1324 entity and payment of costs and expenses of the entity; provides
1325 the manner in which funds may be paid to and disbursed from the
1326 entity; and provides how members of the entity will resolve
1327 disagreements regarding interpretation of the interlocal

1328 agreement or disputes relating to the operation of the entity.
1329 Such interlocal agreement shall become effective upon its
1330 recordation in the official public records of each county in
1331 which a member of the entity created by the interlocal agreement
1332 has a voting member. This paragraph does not require any M.P.O.'s
1333 to merge, combine, or otherwise join together as a single M.P.O.
1334 3. Each M.P.O. located within an urbanized area consisting
1335 of more than one M.P.O., or located in an urbanized area that is
1336 immediately adjacent to an M.P.O. serving a different urbanized
1337 area, shall coordinate with other M.P.O.'s in the urbanized area
1338 or in contiguous and adjacent M.P.O.'s in developing a report
1339 demonstrating how a coordinated transportation planning process
1340 is being developed and the results of the coordinated planning
1341 process. The report should include the progress on implementing a
1342 coordinated long-range transportation plan covering the combined
1343 metropolitan planning area that serves as the basis for the
1344 transportation improvement program of each M.P.O., separate and
1345 coordinated long-range transportation plans for the affected
1346 M.P.O.'s, a coordinated priority process for regional projects,
1347 and regional public involvement process. The report shall be
1348 submitted to members of the M.P.O.'s local legislative delegation
1349 by not later than February of each even-numbered year and may be
1350 submitted as a joint report by two or more M.P.O.'s or separate
1351 coordinated reports by individual M.P.O.'s.
1352 (12) VOTING REQUIREMENTS.--Each long-range transportation
1353 plan required pursuant to subsection (6), each annually updated
1354 Transportation Improvement Program required under subsection (7),
1355 and each amendment that affects projects in the first 3 years of
1356 such plans and programs must be approved by each M.P.O. on a

1357 supermajority ~~recorded~~ roll call vote or hand count vote of a
1358 majority plus one of the membership present.
1359 Section 17. Paragraph (h) of subsection (2) of section
1360 20.23, Florida Statutes, is amended to read:
1361 20.23 Department of Transportation. -- There is created a
1362 Department of Transportation which shall be a decentralized
1363 agency.
1364 (2)
1365 (h) The commission shall appoint an executive director and
1366 assistant executive director, who shall serve under the
1367 direction, supervision, and control of the commission. The
1368 executive director, with the consent of the commission, shall
1369 employ such staff as are necessary to perform adequately the
1370 functions of the commission, within budgetary limitations. All
1371 employees of the commission are exempt from part II of chapter
1372 110 and shall serve at the pleasure of the commission. ~~The~~
1373 ~~salaries and benefits of all employees of the commission shall be~~
1374 ~~set in accordance with the Selected Exempt Service; provided,~~
1375 ~~however, that~~ T~~t~~he commission shall have complete authority for
1376 fixing the salary of the executive director and assistant
1377 executive director.
1378 Section 18. Paragraph (c) of subsection (6) of section
1379 332.007, Florida Statutes, is amended to read:
1380 332.007 Administration and financing of aviation and
1381 airport programs and projects; state plan.--
1382 (6) Subject to the availability of appropriated funds, the
1383 department may participate in the capital cost of eligible public
1384 airport and aviation development projects in accordance with the
1385 following rates, unless otherwise provided in the General

1386 Appropriations Act or the substantive bill implementing the
1387 General Appropriations Act:
1388 (c) When federal funds are not available, the department
1389 may fund up to 80 percent of master planning and eligible
1390 aviation development projects at publicly owned, publicly
1391 operated airports. If federal funds are available but
1392 insufficient to meet the maximum authorized federal share, the
1393 department may fund up to 80 percent of the non-federal share of
1394 such projects. Such funding is limited to airports that have no
1395 scheduled commercial service.
1396 Section 19. Part X of chapter 348, Florida Statutes,
1397 consisting of sections 348.9801, 348.9802, 348.9803, 348.9804,
1398 348.9805, 348.9806, 348.9807, 348.9808, 348.9809, 348.9811,
1399 348.9812, 348.9813, 348.9814, 348.9815, 348.9816, and 348.9817,
1400 is created to read:
1401 PART X
1402 OSCEOLA COUNTY EXPRESSWAY AUTHORITY
1403 348.9801 Popular name.--This part shall be cited as the
1404 "Osceola County Expressway Authority Law."
1405 348.9802 Definitions.--The following terms, whenever used
1406 or referred to in this part, shall have the following meanings,
1407 except in those instances where the context clearly indicates
1408 otherwise:
1409 (1) "Agency of the state" means and includes the state and
1410 any department of, or corporation, agency, or instrumentality
1411 heretofore or hereafter created, designated, or established by,
1412 the state.
1413 (2) "Authority" means the body politic and corporate and
1414 agency of the state created by this part.

1415 (3) "Bonds" means and includes the notes, bonds, refunding
1416 bonds, or other evidences of indebtedness or obligations, in
1417 either temporary or definitive form, which the authority is
1418 authorized to issue pursuant to this part.
1419 (4) "County" means Osceola County.
1420 (5) "Department" means the Department of Transportation.
1421 (6) "Expressway" is the same as limited access expressway.
1422 (7) "Federal agency" means and includes the United States,
1423 the President of the United States, and any department of or
1424 corporation, agency, or instrumentality heretofore or hereafter
1425 created, designated, or established by the United States.
1426 (8) "Lease-purchase agreement" means the lease-purchase
1427 agreements which the authority is authorized pursuant to this
1428 part to enter into with the department.
1429 (9) "Limited access expressway" means a street or highway
1430 especially designed for through traffic and over, from, or to
1431 which no person shall have the right of easement, use, or access
1432 except in accordance with the rules and regulations promulgated
1433 and established by the authority for the use of such facility.
1434 Such highways or streets may be parkways from which trucks,
1435 buses, and other commercial vehicles shall be excluded, or they
1436 may be freeways open to use by all customary forms of street and
1437 highway traffic.
1438 (10) "Members" means the governing body of the authority,
1439 and the term "member" means one of the individuals constituting
1440 such governing body.
1441 (11) "Osceola County gasoline tax funds" means all the 80-
1442 percent surplus gasoline tax funds accruing in each year to the
1443 department for use in Osceola County under the provisions of s.

1444 9, Art. XII of the State Constitution after deduction only of any
1445 amounts of said gasoline tax funds heretofore pledged by the
1446 department or the county for outstanding obligations.
1447 (12) "Osceola County Expressway System" means any and all
1448 expressways and appurtenant facilities thereto, including, but
1449 not limited to, all approaches, roads, bridges, and avenues of
1450 access for said expressways that are either built by the
1451 authority or whose ownership is transferred to the authority by
1452 other governmental or private entities.
1453 (13) "State Board of Administration" means the body
1454 corporate existing under the provisions of s. 9, Art. XII of the
1455 State Constitution, or any successor thereto.
1456 348.9803 Osceola County Expressway Authority.--
1457 (1) There is hereby created and established a body politic
1458 and corporate, an agency of the state, to be known as the Osceola
1459 County Expressway Authority, hereinafter referred to as
1460 "authority."
1461 (2)(a) The governing body of the authority shall consist of
1462 six members. Three members shall be citizens of Osceola County,
1463 who shall be appointed by the governing body of the county. Two
1464 members shall be ~~a~~ citizens of Osceola County appointed by the
1465 Governor. The term of each appointed member shall be for 4 years.
1466 However, the members appointed by the Governor for the first time
1467 shall serve a term of 2 years. Each appointed member shall hold
1468 office until his or her successor has been appointed and has
1469 qualified. A vacancy occurring during a term shall be filled only
1470 for the balance of the unexpired term. Each appointed member of
1471 the authority shall be a person of outstanding reputation for
1472 integrity, responsibility, and business ability, but no person

1473 who is an officer or employee of any city or of Osceola County in
1474 any other capacity shall be an appointed member of the authority.
1475 A member of the authority shall be eligible for reappointment.
1476 (b) Members of the authority may be removed from office by
1477 the Governor for misconduct, malfeasance, or nonfeasance in
1478 office.
1479 (c) The district secretary of the department serving in the
1480 district that includes Osceola County shall serve as an ex-
1481 officio, non-voting member.
1482 (3)(a) The authority shall elect one of its members as
1483 chair of the authority. The authority shall also elect a
1484 secretary and a treasurer who may or may not be members of the
1485 authority. The chair, secretary, and treasurer shall hold such
1486 offices at the will of the authority.
1487 (b) Four members of the authority shall constitute a quorum,
1488 and the vote of three members shall be necessary for any action
1489 taken by the authority. No vacancy in the authority shall impair
1490 the right of a quorum of the authority to exercise all of the
1491 rights and perform all of the duties of the authority.
1492 (4)(a) The authority may employ an executive secretary, an
1493 executive director, its own counsel and legal staff, technical
1494 experts, such engineers, and such employees, permanent or
1495 temporary, as it may require; may determine the qualifications
1496 and fix the compensation of such persons, firms, or corporations;
1497 and may employ a fiscal agent or agents. However, the authority
1498 shall solicit sealed proposals from at least three persons,
1499 firms, or corporations for the performance of any services as
1500 fiscal agents. The authority may delegate to one or more of its
1501 agents or employees such of its power as it shall deem necessary

1502 to carry out the purposes of this part, subject always to the
1503 supervision and control of the authority.
1504 (b) Members of the authority shall be entitled to receive
1505 from the authority their travel and other necessary expenses
1506 incurred in connection with the business of the authority as
1507 provided in s. 112.061, but they shall draw no salaries or other
1508 compensation.
1509 348.9804 Purposes and powers.--
1510 (1)(a) The authority created and established by the
1511 provisions of this part is hereby granted and shall have the
1512 right to acquire, hold, construct, improve, maintain, operate,
1513 own, and lease in the capacity of lessor the Osceola County
1514 Expressway System hereinafter referred to as "system."
1515 (b) It is the express intention of this part that said
1516 authority, in the construction of said Osceola County Expressway
1517 System, shall be authorized to construct any extensions,
1518 additions, or improvements to said system or appurtenant
1519 facilities, including all necessary approaches, roads, bridges,
1520 and avenues of access with such changes, modifications, or
1521 revisions of said project as shall be deemed desirable and
1522 proper.
1523 (2) The authority is hereby granted and shall have and may
1524 exercise all powers necessary, appurtenant, convenient, or
1525 incidental to the carrying out of its purposes, including, but
1526 not limited to, the following rights and powers:
1527 (a) To sue and be sued, implead and be impleaded, and
1528 complain and defend in all courts.
1529 (b) To adopt, use, and alter at will a corporate seal.
1530 (c) To acquire by donation or otherwise, purchase, hold,

1531 lease as lessee, and use any franchise, property, real, personal,
1532 or mixed, tangible or intangible, or any options thereof, in its
1533 own name or in conjunction with others, or interest therein,
1534 necessary or desirable for carrying out the purposes of the
1535 authority, and to sell, lease as lessor, transfer, and dispose of
1536 any property or interest therein at any time acquired by it.
1537 (d) To enter into and make leases for terms not exceeding
1538 40 years as either lessee or lessor in order to carry out the
1539 right to lease as set forth in this part.
1540 (e) To enter into and make lease-purchase agreements with
1541 the department for terms not exceeding 40 years, or until any
1542 bonds secured by a pledge of rentals thereunder and any
1543 refundings thereof are fully paid as to both principal and
1544 interest, whichever is longer.
1545 (f) To fix, alter, charge, establish, and collect rates,
1546 fees, rentals, and other charges for the services and facilities
1547 of the Osceola County Expressway System, which rates, fees,
1548 rentals, and other charges shall always be sufficient to comply
1549 with any covenants made with the holders of any bonds issued
1550 pursuant to this part; however, such right and power may be
1551 assigned or delegated by the authority to the department.
1552 (g) To borrow money and make and issue negotiable notes,
1553 bonds, refunding bonds, and other evidences of indebtedness or
1554 obligations, either in temporary or definitive form, hereinafter
1555 in this part sometimes called "bonds" of the authority, for the
1556 purpose of financing all or part of the improvement or extension
1557 of the Osceola County Expressway System and appurtenant
1558 facilities, including all approaches, streets, roads, bridges,
1559 and avenues of access for said Osceola County Expressway System

1560 and for any other purpose authorized by this part, said bonds to
1561 mature in not exceeding 40 years from the date of the issuance
1562 thereof, and to secure the payment of such bonds or any part
1563 thereof by a pledge of any or all of its revenues, rates, fees,
1564 rentals, or other charges, including all or any portion of the
1565 Osceola County gasoline tax funds received by the authority
1566 pursuant to the terms of any lease-purchase agreement between the
1567 authority and the department; and, in general, to provide for the
1568 security of said bonds and the rights and remedies of the holders
1569 thereof. However, no portion of the Osceola County gasoline tax
1570 funds shall be pledged for the construction of any project for
1571 which a toll is to be charged unless the anticipated tolls are
1572 reasonably estimated by the board of county commissioners, at the
1573 date of its resolution pledging said funds, to be sufficient to
1574 cover the principal and interest of such obligations during the
1575 period when said pledge of funds shall be in effect.
1576 1. The authority shall reimburse Osceola County for any
1577 sums expended from said gasoline tax funds used for the payment
1578 of such obligations. Any gasoline tax funds so disbursed shall be
1579 repaid when the authority deems it practicable, together with
1580 interest at the highest rate applicable to any obligations of the
1581 authority.
1582 2. In the event the authority shall determine to fund or
1583 refund any bonds theretofore issued by said authority or by said
1584 commission as aforesaid prior to the maturity thereof, the
1585 proceeds of such funding or refunding bonds shall, pending the
1586 prior redemption of the bonds to be funded or refunded, be
1587 invested in direct obligations of the United States. It is the
1588 express intention of this part that such outstanding bonds may be

1589 funded or refunded by the issuance of bonds pursuant to this
1590 part.
1591 (h) To make contracts of every name and nature, including,
1592 but not limited to, partnerships providing for participation in
1593 ownership and revenues, and to execute all instruments necessary
1594 or convenient for the carrying on of its business.
1595 (i) Without limitation of the foregoing, to borrow money
1596 and accept grants from and to enter into contracts, leases, or
1597 other transactions with any federal agency, the state, any agency
1598 of the state, Osceola County, or with any other public body of
1599 the state.
1600 (j) To have the power of eminent domain, including the
1601 procedural powers granted under both chapters 73 and 74.
1602 (k) To pledge, hypothecate, or otherwise encumber all or
1603 any part of the revenues, rates, fees, rentals, or other charges
1604 or receipts of the authority, including all or any portion of the
1605 Osceola County gasoline tax funds received by the authority
1606 pursuant to the terms of any lease-purchase agreement between the
1607 authority and the department, as security for all or any of the
1608 obligations of the authority.
1609 (l) To enter into partnership and other agreements
1610 respecting ownership and revenue participation in order to
1611 facilitate financing and constructing any project or portions
1612 thereof.
1613 (m) To participate in developer agreements or to receive
1614 developer contributions.
1615 (n) To contract with Osceola County for the operation of a
1616 toll facility within the county.
1617 (o) To do all acts and things necessary or convenient for

1618 the conduct of its business and the general welfare of the
1619 authority in order to carry out the powers granted to it by this
1620 part or any other law.
1621 (p) With the consent of the county within whose
1622 jurisdiction the following activities occur, the authority shall
1623 have the right to construct, operate, and maintain roads,
1624 bridges, avenues of access, thoroughfares, and boulevards outside
1625 the jurisdictional boundaries of Osceola County together with the
1626 right to construct, repair, replace, operate, install, and
1627 maintain electronic toll payment systems thereon with all
1628 necessary and incidental powers to accomplish the foregoing.
1629 (3) The authority shall have no power at any time or in any
1630 manner to pledge the credit or taxing power of the state or any
1631 political subdivision or agency thereof, including Osceola
1632 County, nor shall any of the authority's obligations be deemed to
1633 be obligations of the state or of any political subdivision or
1634 agency thereof, nor shall the state or any political subdivision
1635 or agency thereof, except the authority, be liable for the
1636 payment of the principal of or interest on such obligations.
1637 (4) Anything in this part to the contrary notwithstanding,
1638 acquisition of right-of-way for a project of the authority which
1639 is within the boundaries of any municipality in Osceola County
1640 shall not be started unless and until the route of said project
1641 within said municipality has been given prior approval by the
1642 governing body of said municipality.
1643 (5) Anything in this part to the contrary notwithstanding,
1644 acquisition of right-of-way for a project of the authority which
1645 is within the unincorporated area of Osceola County shall not be
1646 started unless and until the route of said project within the

1647 unincorporated area has been given prior approval by the
1648 governing body of Osceola County.
1649 (6) The authority shall have no power other than by consent
1650 of Osceola County or any affected city to enter into any
1651 agreement which would legally prohibit the construction of any
1652 road by Osceola County or by any municipality within Osceola
1653 County.
1654 348.9805 Improvements, bond financing authority
1655 for.--Pursuant to s. 11(f), Art. VII of the State Constitution,
1656 the Legislature hereby approves for bond financing by the Osceola
1657 County Expressway Authority improvements to toll collection
1658 facilities, interchanges to the legislatively approved expressway
1659 system, and any other facility appurtenant, necessary, or
1660 incidental to the approved system. Subject to terms and
1661 conditions of applicable revenue bond resolutions and covenants,
1662 such costs may be financed in whole or in part by revenue bonds
1663 issued pursuant to s. 348.9806(1)(a) or (b) whether currently
1664 issued or issued in the future, or by a combination of such
1665 bonds.
1666 348.9806 Bonds of the authority.--
1667 (1)(a) Bonds may be issued on behalf of the authority
1668 pursuant to the State Bond Act.
1669 (b) Alternatively, the authority may issue its own bonds
1670 pursuant to this part at such times and in such principal amount
1671 as, in the opinion of the authority, is necessary to provide
1672 sufficient moneys for achieving its purposes; however, such bonds
1673 may not pledge the full faith and credit of the state. Bonds
1674 issued by the authority pursuant to this paragraph or paragraph
1675 (a), whether on original issuance or on refunding, shall be

1676 authorized by resolution of the members thereof and may be either
1677 term or serial bonds, shall bear such date or dates, mature at
1678 such time or times, not exceeding 40 years from their respective
1679 dates, bear interest at such rate or rates, payable semiannually,
1680 be in such denominations, be in such form, either coupon or fully
1681 registered, shall carry such registration, exchangeability and
1682 interchangeability privileges, be payable in such medium of
1683 payment and at such place or places, be subject to such terms of
1684 redemption and be entitled to such priorities on the revenues,
1685 rates, fees, rentals or other charges or receipts of the
1686 authority including the Osceola County gasoline tax funds
1687 received by the authority pursuant to the terms of any lease-
1688 purchase agreement between the authority and the department, as
1689 such resolution or any resolution subsequent thereto may provide.
1690 The bonds shall be executed either by manual or facsimile
1691 signature by such officers as the authority shall determine,
1692 provided that such bonds shall bear at least one signature which
1693 is manually executed thereon, and the coupons attached to such
1694 bonds shall bear the facsimile signature or signatures of such
1695 officer or officers as shall be designated by the authority and
1696 shall have the seal of the authority affixed, imprinted,
1697 reproduced, or lithographed thereon, all as may be prescribed in
1698 such resolution or resolutions.
1699 (c) Bonds issued pursuant to paragraph (a) or paragraph (b)
1700 shall be sold at public sale in the same manner provided by the
1701 State Bond Act. However, if the authority shall, by official
1702 action at a public meeting, determine that a negotiated sale of
1703 such bonds is in the best interest of the authority, the
1704 authority may negotiate the sale of such bonds with the

1705 underwriter designated by the authority and the Division of Bond
1706 Finance of the State Board of Administration with respect to
1707 bonds issued pursuant to paragraph (a) or solely the authority
1708 with respect to bonds issued pursuant to paragraph (b). The
1709 authority's determination to negotiate the sale of such bonds may
1710 be based, in part, upon the written advice of the authority's
1711 financial adviser. Pending the preparation of definitive bonds,
1712 interim certificates may be issued to the purchaser or purchasers
1713 of such bonds and may contain such terms and conditions as the
1714 authority may determine.
1715 (d) The authority may issue bonds pursuant to paragraph (b)
1716 to refund any bonds previously issued regardless of whether the
1717 bonds being refunded were issued by the authority pursuant to
1718 this chapter or on behalf of the authority pursuant to the State
1719 Bond Act.
1720 (2) Any such resolution or resolutions authorizing any
1721 bonds hereunder may contain provisions which shall be part of the
1722 contract with the holders of such bonds, as to:
1723 (a) The pledging of all or any part of the revenues, rates,
1724 fees, rentals (including all or any portion of the Osceola County
1725 gasoline tax funds received by the authority pursuant to the
1726 terms of any lease-purchase agreement between the authority and
1727 the department, or any part thereof), or other charges or
1728 receipts of the authority, derived by the authority, from the
1729 Osceola County Expressway System.
1730 (b) The completion, improvement, operation, extension,
1731 maintenance, repair, lease, or lease-purchase agreement of said
1732 system and the duties of the authority and others, including the
1733 department, with reference thereto.

1734 (c) Limitations on the purposes to which the proceeds of
1735 the bonds, then or thereafter to be issued, or of any loan or
1736 grant by the United States or the state may be applied.
1737 (d) The fixing, charging, establishing, and collecting of
1738 rates, fees, rentals, or other charges for use of the services
1739 and facilities of the Osceola County Expressway System or any
1740 part thereof.
1741 (e) The setting aside of reserves or sinking funds or
1742 repair and replacement funds and the regulation and disposition
1743 thereof.
1744 (f) Limitations on the issuance of additional bonds.
1745 (g) The terms and provisions of any lease-purchase
1746 agreement, deed of trust, or indenture securing the bonds or
1747 under which the same may be issued.
1748 (h) Any other or additional agreements with the holders of
1749 the bonds which the authority may deem desirable and proper.
1750 (3) The authority may employ fiscal agents as provided by
1751 this part or the State Board of Administration may, upon request
1752 of the authority, act as fiscal agent for the authority in the
1753 issuance of any bonds which may be issued pursuant to this part.
1754 The State Board of Administration may, upon request of the
1755 authority, take over the management, control, administration,
1756 custody, and payment of any or all debt services or funds or
1757 assets now or hereafter available for any bonds issued pursuant
1758 to this part. The authority may enter into any deeds of trust,
1759 indentures, or other agreements with its fiscal agent or with any
1760 bank or trust company within or without the state as security for
1761 such bonds and may, under such agreements, sign and pledge all or
1762 any of the revenues, rates, fees, rentals, or other charges or

1763 receipts of the authority, including all or any portion of the
1764 Osceola County gasoline tax funds received by the authority
1765 pursuant to the terms of any lease-purchase agreement between the
1766 authority and the department, thereunder. Such deed of trust,
1767 indenture, or other agreement may contain such provisions as are
1768 customary in such instruments or, as the authority may authorize,
1769 including but without limitation, provisions as to:
1770 (a) The completion, improvement, operation, extension,
1771 maintenance, repair, and lease of or lease-purchase agreement
1772 relating to the Osceola County Expressway System and the duties
1773 of the authority and others including the department with
1774 reference thereto.
1775 (b) The application of funds and the safeguarding of funds
1776 on hand or on deposit.
1777 (c) The rights and remedies of the trustee and the holders
1778 of the bonds.
1779 (d) The terms and provisions of the bonds or the
1780 resolutions authorizing the issuance of same.
1781 (4) Any of the bonds issued pursuant to this part are, and
1782 are hereby declared to be, negotiable instruments and shall have
1783 all the qualities and incidents of negotiable instruments under
1784 the law merchant and the negotiable instruments law of the state.
1785 (5) Notwithstanding any of the provisions of this part,
1786 each project, building, or facility which has been financed by
1787 the issuance of bonds or other evidence of indebtedness under
1788 this part and any refinancing thereof is hereby approved as
1789 provided for in s. 11(f), Art. VII of the State Constitution.
1790 348.9807 Remedies of the bondholders.--
1791 (1) The rights and the remedies herein conferred upon or

1792 granted to the bondholders shall be in addition to and not in
1793 limitation of any rights and remedies lawfully granted to such
1794 bondholders by the resolution or resolutions providing for the
1795 issuance of bonds or by a lease-purchase agreement, deed of
1796 trust, indenture, or other agreement under which the bonds may be
1797 issued or secured. In the event that the authority shall default
1798 in the payment of the principal of or interest on any of the
1799 bonds issued pursuant to the provisions of this part after such
1800 principal of or interest on said bonds shall have become due
1801 whether at maturity or upon call for redemption or in the event
1802 that the department shall default in any payments under or
1803 covenants made in any lease-purchase agreement between the
1804 authority and the department and such default shall continue for
1805 a period of 30 days or in the event that the authority or the
1806 department shall fail or refuse to comply with the provisions of
1807 this part or any agreement made with or for the benefit of the
1808 holders of the bonds, the holders of 25 percent in aggregate
1809 principal amount of the bonds then outstanding shall be entitled
1810 as of right to the appointment of a trustee to represent such
1811 bondholders for the purposes hereof; provided that such holders
1812 of 25 percent in aggregate principal amount of the bonds then
1813 outstanding shall have first given notice to the authority and to
1814 the department of their intention to appoint a trustee. Such
1815 notice shall be deemed to have been given if given in writing,
1816 deposited in a securely sealed postpaid wrapper, mailed at a
1817 regularly maintained United States post office box or station,
1818 and addressed, respectively, to the chair of the authority and to
1819 the Secretary of Transportation at the principal office of the
1820 department.

1821 (2) Such trustee and any trustee under any deed of trust,
1822 indenture, or other agreement may and, upon written request of
1823 the holders of 25 percent or such other percentages as may be
1824 specified in any deed of trust, indenture, or other agreement
1825 aforesaid, in principal amount of the bonds then outstanding,
1826 shall in any court of competent jurisdiction in his, her, or its
1827 own name:
1828 (a) By mandamus or other suit, action, or proceeding at law
1829 or in equity, enforce all rights of the bondholders, including
1830 the right to require the authority to fix, establish, maintain,
1831 collect, and charge rates, fees, rentals, and other charges
1832 adequate to carry out any agreement as to or pledge of the
1833 revenues or receipts of the authority to carry out any other
1834 covenants and agreements with or for the benefit of the
1835 bondholders, and to perform its and their duties under this part.
1836 (b) By mandamus or other suit, action, or proceeding at law
1837 or in equity, enforce all rights of the bondholders under or
1838 pursuant to any lease-purchase agreement between the authority
1839 and the department, including the right to require the department
1840 to make all rental payments required to be made by it under the
1841 provisions of any such lease-purchase agreement, whether from the
1842 Osceola County gasoline tax funds or other funds of the
1843 department so agreed to be paid, and to require the department to
1844 carry out any other covenants and agreements with or for the
1845 benefit of the bondholders and to perform its and their duties
1846 under this part.
1847 (c) Bring suit upon the bonds.
1848 (d) By action or suit in equity, require the authority or
1849 the department to account as if it were the trustee of an express

1850 trust for the bondholders.
1851 (e) By action or suit in equity, enjoin any acts or things
1852 which may be unlawful or in violation of the rights of the
1853 bondholders.
1854 (3) Whether or not all bonds have been declared due and
1855 payable, any trustee, when appointed under this section or acting
1856 under a deed of trust, indenture, or other agreement, shall be
1857 entitled as of right to the appointment of a receiver who may
1858 enter upon and take possession of the Osceola County Expressway
1859 System or the facilities or any part or parts thereof, the rates,
1860 fees, rentals, or other revenues, charges, or receipts from which
1861 are or may be applicable to the payment of the bonds so in
1862 default, and, subject to and in compliance with the provisions of
1863 any lease-purchase agreement between the authority and the
1864 department, operate and maintain the same for and on behalf and
1865 in the name of the authority, the department, and the bondholders
1866 and collect and receive all rates, fees, rentals, and other
1867 charges or receipts or revenues arising therefrom in the same
1868 manner as the authority or the department might do, and shall
1869 deposit all such moneys in a separate account and apply the same
1870 in such manner as the court shall direct. In any suit, action, or
1871 proceeding by the trustee, the fees, counsel fees, and expenses
1872 of the trustee and said receiver, if any, and all costs and
1873 disbursements allowed by the court shall be a first charge on any
1874 rates, fees, rentals, or other charges, revenues, or receipts
1875 derived from the Osceola County Expressway System or the
1876 facilities or services or any part or parts thereof, including
1877 payments under any such lease-purchase agreement as aforesaid
1878 which said rates, fees, rentals, or other charges, revenues, or

1879 receipts shall or may be applicable to the payment of the bonds
1880 so in default. Such trustee shall also have and possess all of
1881 the powers necessary or appropriate for the exercise of any
1882 functions specifically set forth in this part or incident to the
1883 representation of the bondholders in the enforcement and
1884 protection of their rights.
1885 (4) Nothing in this section or any other section of this
1886 part shall authorize any receiver appointed pursuant to this part
1887 for the purpose, subject to and in compliance with the provisions
1888 of any lease-purchase agreement between the authority and the
1889 department, of operating and maintaining the Osceola County
1890 Expressway System or any facilities or part or parts thereof to
1891 sell, assign, mortgage, or otherwise dispose of any of the assets
1892 of whatever kind and character belonging to the authority. It is
1893 the intention of this part to limit the powers of such receiver,
1894 subject to and in compliance with the provisions of any lease-
1895 purchase agreement between the authority and the department, to
1896 the operation and maintenance of the Osceola County Expressway
1897 System or any facility or part or parts thereof, as the court may
1898 direct, in the name and for and on behalf of the authority, the
1899 department, and the bondholders. No holder of bonds on the
1900 authority nor any trustee shall ever have the right in any suit,
1901 action, or proceeding at law or in equity to compel a receiver,
1902 nor shall any receiver be authorized or any court be empowered to
1903 direct the receiver, to sell, assign, mortgage, or otherwise
1904 dispose of any assets of whatever kind or character belonging to
1905 the authority.
1906 348.9808 Lease-purchase agreement.--
1907 (1) In order to effectuate the purposes of this part and as

1908 authorized by this part, the authority may enter into a lease-
1909 purchase agreement with the department relating to and covering
1910 the Osceola County Expressway System.
1911 (2) Such lease-purchase agreement shall provide for the
1912 leasing of the Osceola County Expressway System by the authority
1913 as lessor to the department as lessee, shall prescribe the term
1914 of such lease and the rentals to be paid thereunder, and shall
1915 provide that, upon the completion of the faithful performance
1916 thereunder and the termination of such lease-purchase agreement,
1917 title in fee simple absolute to the Osceola County Expressway
1918 System as then constituted shall be transferred in accordance
1919 with law by the authority to the state and the authority shall
1920 deliver to the department such deeds and conveyances as shall be
1921 necessary or convenient to vest title in fee simple absolute in
1922 the state.
1923 (3) Such lease-purchase agreement may include such other
1924 provisions, agreements, and covenants as the authority and the
1925 department deem advisable or required, including, but not limited
1926 to, provisions as to the bonds to be issued under and for the
1927 purposes of this part; the completion, extension, improvement,
1928 operation, and maintenance of the Osceola County Expressway
1929 System; the expenses and the cost of operation of said authority;
1930 the charging and collection of tolls, rates, fees, and other
1931 charges for the use of the services and facilities thereof; the
1932 application of federal or state grants or aid which may be made
1933 or given to assist the authority in the completion, extension,
1934 improvement, operation, and maintenance of the Orlando Expressway
1935 System which the authority is hereby authorized to accept and
1936 apply to such purposes; the enforcement of payment and collection

1937 of rentals; and any other terms, provisions, or covenants
1938 necessary, incidental, or appurtenant to the making of and full
1939 performance under such lease-purchase agreement.
1940 (4) The department as lessee under such lease-purchase
1941 agreement is hereby authorized to pay as rentals thereunder any
1942 rates, fees, charges, funds, moneys, receipts, or income accruing
1943 to the department from the operation of the Osceola County
1944 Expressway System and the Osceola County gasoline tax funds and
1945 may also pay as rentals any appropriations received by the
1946 department pursuant to any act of the Legislature heretofore or
1947 hereafter enacted. However, nothing herein nor in such lease-
1948 purchase agreement is intended to nor shall this part or such
1949 lease-purchase agreement require the making or continuance of
1950 such appropriations nor shall any holder of bonds issued pursuant
1951 to this part ever have any right to compel the making or
1952 continuance of such appropriations.
1953 (5) No pledge of said Osceola County gasoline tax funds as
1954 rentals under such lease-purchase agreement shall be made without
1955 the consent of Osceola County evidenced by a resolution duly
1956 adopted by the board of county commissioners of said county at a
1957 public hearing held pursuant to due notice thereof published at
1958 least once a week for 3 consecutive weeks before the hearing in a
1959 newspaper of general circulation in Osceola County. In addition
1960 to other provisions, the resolution shall provide that any excess
1961 of said pledged gasoline tax funds which is not required for debt
1962 service or reserves for such debt service for any bonds issued by
1963 said authority shall be returned annually to the department for
1964 distribution to Osceola County as provided by law. Before making
1965 any application for such pledge of gasoline tax funds, the

1966 authority shall present the plan of its proposed project to the
1967 Osceola County Planning and Zoning Commission for its comments
1968 and recommendations.
1969 (6) The department shall have power to covenant in any
1970 lease-purchase agreement that it will pay all or any part of the
1971 cost of the operation, maintenance, repair, renewal, and
1972 replacement of the system and any part of the cost of completing
1973 the system to the extent that the proceeds of bonds issued
1974 therefor are insufficient from sources other than the revenues
1975 derived from the operation of the system and Osceola County
1976 gasoline tax funds. The department may also agree to make such
1977 other payments from any moneys available to the commission or the
1978 county in connection with the construction or completion of the
1979 system as shall be deemed by the department to be fair and proper
1980 under any such covenants heretofore or hereafter entered into.
1981 (7) The system shall be a part of the state road system and
1982 the department is hereby authorized, upon the request of the
1983 authority, to expend out of any funds available for the purpose
1984 such moneys and to use such of its engineering and other forces
1985 as may be necessary and desirable in the judgment of the
1986 department for the operation of the authority and for traffic
1987 surveys, borings, surveys, preparation of plans and
1988 specifications, estimates of cost, and other preliminary
1989 engineering and other studies; however, the aggregate amount of
1990 moneys expended for said purposes by the department shall not
1991 exceed the sum of $375,000.
1992 348.9809 Department may be appointed agent of authority for
1993 construction.--The authority may appoint the department as its
1994 agent for the purpose of constructing improvements and extensions

1995 to the Osceola County Expressway System and for the completion
1996 thereof. In such event, the authority shall provide the
1997 department with complete copies of all documents, agreements,
1998 resolutions, contracts, and instruments relating thereto and
1999 shall request the department to do such construction work,
2000 including the planning, surveying, and actual construction of the
2001 completion, extensions, and improvements to the Osceola County
2002 Expressway System and shall transfer to the credit of an account
2003 of the department in the treasury of the state the necessary
2004 funds therefor and the department shall thereupon be authorized,
2005 empowered, and directed to proceed with such construction and to
2006 use the funds for such purpose in the same manner that it is now
2007 authorized to use the funds otherwise provided by law for its use
2008 in construction of roads and bridges.
2009 348.9811 Acquisition of lands and property.--
2010 (1) For the purposes of this part, the Osceola County
2011 Expressway Authority may acquire private or public property and
2012 property rights, including rights of access, air, view, and light
2013 by gift, devise, purchase, or condemnation by eminent domain
2014 proceedings, as the authority may deem necessary for any of the
2015 purposes of this part, including, but not limited to, any lands
2016 reasonably necessary for securing applicable permits, areas
2017 necessary for management of access, borrow pits, drainage
2018 ditches, water retention areas, rest areas, replacement access
2019 for landowners whose access is impaired due to the construction
2020 of a facility, and replacement rights-of-way for relocated rail
2021 and utility facilities; for existing, proposed, or anticipated
2022 transportation facilities on the Osceola County Expressway System
2023 or in a transportation corridor designated by the authority; or

2024 for the purposes of screening, relocation, removal, or disposal
2025 of junkyards and scrap metal processing facilities. The authority
2026 shall also have the power to condemn any material and property
2027 necessary for such purposes.
2028 (2) The right of eminent domain conferred in this part
2029 shall be exercised by the authority in the manner provided by
2030 law.
2031 (3) When the authority acquires property for a
2032 transportation facility or in a transportation corridor, it is
2033 not subject to any liability imposed by chapter 376 or chapter
2034 403 for preexisting soil or groundwater contamination due solely
2035 to its ownership. This section does not affect the rights or
2036 liabilities of any past or future owners of the acquired property
2037 nor does it affect the liability of any governmental entity for
2038 the results of its actions which create or exacerbate a pollution
2039 source. The authority and the Department of Environmental
2040 Protection may enter into interagency agreements for the
2041 performance, funding, and reimbursement of the investigative and
2042 remedial acts necessary for property acquired by the authority.
2043 348.9812 Cooperation with other units, boards, agencies,
2044 and individuals.--Express authority and power is hereby given and
2045 granted any county, municipality, drainage district, road and
2046 bridge district, school district, or any other political
2047 subdivision, board, commission, or individual in or of the state
2048 to make and enter into with the authority contracts, leases,
2049 conveyances, partnerships, or other agreements within the
2050 provisions and purposes of this part. The authority is hereby
2051 expressly authorized to make and enter into contracts, leases,
2052 conveyances, partnerships, and other agreements with any

2053 political subdivision, agency, or instrumentality of the state
2054 and any and all federal agencies, corporations, and individuals
2055 for the purpose of carrying out the provisions of this part.
2056 348.9813 Covenant of the state.--The state does hereby
2057 pledge to and agrees with any person, firm, or corporation or
2058 federal or state agency subscribing to or acquiring the bonds to
2059 be issued by the authority for the purposes of this part that the
2060 state will not limit or alter the rights hereby vested in the
2061 authority and the department until all bonds at any time issued
2062 together with the interest thereon are fully paid and discharged
2063 insofar as the same affects the rights of the holders of bonds
2064 issued hereunder. The state does further pledge to and agree with
2065 the United States that in the event any federal agency shall
2066 construct or contribute any funds for the completion, extension,
2067 or improvement of the Osceola County Expressway System, or any
2068 part or portion thereof, the state will not alter or limit the
2069 rights and powers of the authority and the department in any
2070 manner which would be inconsistent with the continued maintenance
2071 and operation of the Osceola County Expressway System or the
2072 completion, extension, or improvement thereof or which would be
2073 inconsistent with the due performance of any agreements between
2074 the authority and any such federal agency. The authority and the
2075 department shall continue to have and may exercise all powers
2076 herein granted so long as the same shall be necessary or
2077 desirable for the carrying out of the purposes of this part and
2078 the purposes of the United States in the completion, extension,
2079 or improvement of the Osceola County Expressway System or any
2080 part or portion thereof.
2081 348.9814 Exemption from taxation.--The effectuation of the

2082 authorized purposes of the authority created under this part is,
2083 shall, and will be in all respects for the benefit of the people
2084 of the state, for the increase of their commerce and prosperity,
2085 and for the improvement of their health and living conditions
2086 and, since such authority will be performing essential
2087 governmental functions in effectuating such purposes, such
2088 authority shall not be required to pay any taxes or assessments
2089 of any kind or nature whatsoever upon any property acquired or
2090 used by it for such purposes or upon any rates, fees, rentals,
2091 receipts, income, or charges at any time received by it and the
2092 bonds issued by the authority, their transfer; and the income
2093 therefrom, including any profits made on the sale thereof, shall
2094 at all times be free from taxation of any kind by the state or by
2095 any political subdivision or taxing agency or instrumentality
2096 thereof. The exemption granted by this section shall not be
2097 applicable to any tax imposed by chapter 220 on interest, income,
2098 or profits on debt obligations owned by corporations.
2099 348.9815 Eligibility for investments and security.--Any
2100 bonds or other obligations issued pursuant to this part shall be
2101 and constitute legal investments for banks, savings banks,
2102 trustees, executors, administrators, and all other fiduciaries
2103 and for all state, municipal, and other public funds and shall
2104 also be and constitute securities eligible for deposit as
2105 security for all state, municipal, or other public funds,
2106 notwithstanding the provisions of any other law or laws to the
2107 contrary.
2108 348.9816 Pledges enforceable by bondholders.--It is the
2109 express intention of this part that any pledge by the department
2110 of rates, fees, revenues, Osceola County gasoline tax funds, or

2111 other funds, as rentals, to the authority, or any covenants or
2112 agreements relative thereto, may be enforceable in any court of
2113 competent jurisdiction against the authority or directly against
2114 the department by any holder of bonds issued by the authority.
2115 348.9817 This part complete and additional authority.--
2116 (1) The powers conferred by this part shall be in addition
2117 and supplemental to the existing powers of the board and the
2118 department and this part shall not be construed as repealing any
2119 of the provisions of any other law, general, special, or local,
2120 but to supersede such other laws in the exercise of the powers
2121 provided in this part and to provide a complete method for the
2122 exercise of the powers granted in this part. The extension and
2123 improvement of the Osceola County Expressway System and the
2124 issuance of bonds hereunder to finance all or part of the cost
2125 thereof may be accomplished upon compliance with the provisions
2126 of this part without regard to or necessity for compliance with
2127 the provisions, limitations, or restrictions contained in any
2128 other general, special, or local law, including, but not limited
2129 to, s. 215.821. No approval of any bonds issued under this part
2130 by the qualified electors or qualified electors who are
2131 freeholders in the state or in Osceola County or in any other
2132 political subdivision of the state shall be required for the
2133 issuance of such bonds pursuant to this part.
2134 (2) This part shall not be deemed to repeal, rescind, or
2135 modify the Osceola County Charter. This part shall not be deemed
2136 to repeal, rescind, or modify any other law relating to the State
2137 Board of Administration, the Department of Transportation, or the
2138 Division of Bond Finance of the State Board of Administration but
2139 shall be deemed to and shall supersede such other laws as are

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

2140 inconsistent with the provisions of this part, including, but not
2141 limited to, s. 215.821.
2142 Section 20. Subsection (12) is added to section 373.406,
2143 Florida Statutes, to read:
2144 373.406 Exemptions.-- The following exemptions shall apply:
2145 (12) Department of Transportation projects and activities
2146 described in s. 373.4146(1) are exempt from regulation under this
2147 part, and from any rule, manual, or order adopted under this
2148 part.
2149 Section 21. Paragraphs (b), and (c) of subsection (1) of
2150 section 373.414, Florida Statutes, are redesignated as paragraphs
2151 (c), and (d), respectively, and a paragraph (b) is added to that
2152 subsection, to read:
2153 373.414 Additional criteria for activities in surface
2154 waters and wetlands.--
2155 (1) As part of an applicant's demonstration that an
2156 activity regulated under this part will not be harmful to the
2157 water resources or will not be inconsistent with the overall
2158 objectives of the district, the governing board or the department
2159 shall require the applicant to provide reasonable assurance that
2160 state water quality standards applicable to waters as defined in
2161 s. 403.031(13) will not be violated and reasonable assurance that
2162 such activity in, on, or over surface waters or wetlands, as
2163 delineated in s. 373.421(1), is not contrary to the public
2164 interest. However, if such an activity significantly degrades or
2165 is within an Outstanding Florida Water, as provided by department
2166 rule, the applicant must provide reasonable assurance that the
2167 proposed activity will be clearly in the public interest.
2168 (b) Department of Transportation projects and activities

2169 described in s. 373.4146(1) are exempt from the public-interest
2170 criteria of this subsection.
2171 Section 22. Subsection (7) is added to section 373.4145,
2172 Florida Statutes, to read:
2173 373.4145 Interim part IV permitting program for the
2174 Northwest Florida Water Management District.--
2175 (7) Department of Transportation projects and activities
2176 described in s. 373.4146(1) are exempt from the provisions of
2177 this section, and from any rules, manuals, or orders adopted
2178 under this section.
2179 Section 23. Section 373.4146, Florida Statutes, is created
2180 to read:
2181 373.4146 Permitting exemptions for Department of
2182 Transportation projects; establishment of permit thresholds.--
2183 (1) The following state transportation projects and
2184 activities are exempt from regulation under this part and from
2185 any rule, manual, or order adopted under this part:
2186 (a) resurfacing, restoration and rehabilitation work on
2187 existing highways to extend the service life or enhance highway
2188 safety, including but not limited to widening existing lanes,
2189 improving shoulders, and extending existing culverts or drainage
2190 structures to meet current highway safety standards, but not to
2191 include increasing the number of through travel lanes;
2192 (b) in-kind bridge replacement with the same number of
2193 through travel lanes designed to current safety standards, and
2194 associated approach roadway work;
2195 (c) intersection improvements including the addition or
2196 extension of turn lanes and median crossings; and
2197 (d) addition of pedestrian and bicycle facilities to

2198 existing highways.
2199 (2) The following provisions apply to all state
2200 transportation projects regulated under this part:
2201 (a) As long as the stormwater discharge meets water quality
2202 standards of the receiving waters, the Department of
2203 Transportation is not required to determine or be limited to the
2204 existing discharge rate for discharges to tidally controlled
2205 bodies of water for any state transportation project as long as
2206 the discharge rate post project does not exceed the pre-project
2207 discharge rate by 30percent.
2208 (b) Any state transportation project which has undergone
2209 review pursuant to a process approved under 23 U.S.C. 6002 will
2210 be deemed to have satisfied the cumulative impact review
2211 required pursuant to s. 373.414(8)(a).
2212 (c) State transportation projects are exempt from project
2213 size acreage thresholds for general permits under this part.
2214 (d) State transportation projects with less than 5 acres of
2215 wetland impacts may obtain general permits under this part.
2216 (e) Stormwater treatment facilities for state transportation
2217 projects shall not be subject to minimum width or acreage
2218 restrictions.
2219 (3) By January 1, 2007, the department, the water management
2220 districts, and the Department of Transportation shall develop a
2221 memorandum of understanding governing the use, and the granting
2222 of such use, of sovereign submerged or other state-owned lands
2223 pursuant to chapter 253 or chapter 258 for state transportation
2224 projects. The memorandum of understanding shall address
2225 engineering techniques to minimize the project's environmental
2226 impacts, mitigation of unavoidable environmental impacts, and

2227 other related issues.
2228 (4) By July 1, 2007, the department, the water management
2229 districts, and the Department of Transportation shall jointly
2230 develop memorandum of understanding describing a method for
2231 determining the seasonal high groundwater table elevation to be
2232 used by the department and the water management districts when
2233 permitting state transportation projects under this part.
2234 (5) By July 1, 2008, the department, the water management
2235 districts, and the Department of Transportation shall research
2236 and identify the specific constituents of highway stormwater
2237 runoff and shall jointly develop a memorandum of understanding
2238 containing best management practices to treat or minimize these
2239 identified constituents. These best management practices shall
2240 be deemed sufficient to satisfy water treatment requirements for
2241 permits required by this part.
2242 Section 24. Paragraph (d) of subsection (2) of section
2243 348.0003, Florida Statutes, is amended to read:
2244 348.0003 Expressway authority; formation; membership.--
2245 (2) The governing body of an authority shall consist of not
2246 fewer than five nor more than nine voting members. The district
2247 secretary of the affected department district shall serve as a
2248 nonvoting member of the governing body of each authority located
2249 within the district. Each member of the governing body must at
2250 all times during his or her term of office be a permanent
2251 resident of the county which he or she is appointed to represent.
2252 (d) Notwithstanding any provision to the contrary in this
2253 subsection, in any county as defined in s. 125.011(1), the
2254 governing body of an authority shall consist of seven voting ~~up~~
2255 ~~to 13~~ members and one non-voting member, and the following

2256 provisions of this paragraph shall apply specifically to such
2257 authority. ~~Except for the district secretary of the department,~~
2258 ~~the members must be residents of the county~~. Two ~~Seven~~ voting
2259 members shall be county commissioners appointed by the chair of
2260 the governing body of the county. One voting member shall be a
2261 mayor of a municipality within the county at all times while
2262 serving on the authority and shall be appointed by the Miami-Dade
2263 County League of Cities. Four ~~At the discretion of the governing~~
2264 ~~body of the county, up to two of the members appointed by the~~
2265 ~~governing body of the county may be elected officials residing in~~
2266 ~~the county. Five~~ voting members of the authority shall be
2267 appointed by the Governor and must be residents of the county or
2268 municipality at all times while serving. The governor's
2269 appointees shall not be elected or appointed officials or
2270 employees of the county or of a municipality within the county.
2271 ~~One member shall be~~ T~~t~~he district secretary of the department
2272 serving in the district that contains such county shall be a
2273 voting member of the authority. One member shall be the chair of
2274 the Miami-Dade legislative delegation, or another member of the
2275 delegation appointed by the chair, and shall be a nonvoting
2276 member of the authority. ~~This member shall be an ex officio~~
2277 ~~voting member of the authority. If the governing board of an~~
2278 ~~authority includes any member originally appointed by the~~
2279 ~~governing body of the county as a nonvoting member, when the term~~
2280 ~~of such member expires, that member shall be replaced by a member~~
2281 ~~appointed by the Governor until the governing body of the~~
2282 ~~authority is composed of seven members appointed by the governing~~
2283 ~~body of the county and five members appointed by the Governor.~~
2284 The qualifications, terms of office, and obligations and rights

2285 of members of the authority shall be determined by resolution or
2286 ordinance of the governing body of the county in a manner that is
2287 consistent with subsections (3) and (4).
2288 Section 25. Paragraph (f) of subsection (2) of section
2289 348.0004, Florida Statutes, is amended to read:
2290 348.0004 Purposes and powers.--
2291 (2) Each authority may exercise all powers necessary,
2292 appurtenant, convenient, or incidental to the carrying out of its
2293 purposes, including, but not limited to, the following rights and
2294 powers:
2295 (f)1. To fix, alter, charge, establish, and collect tolls,
2296 rates, fees, rentals, and other charges for the services and
2297 facilities system, which tolls, rates, fees, rentals, and other
2298 charges must always be sufficient to comply with any covenants
2299 made with the holders of any bonds issued pursuant to the Florida
2300 Expressway Authority Act. However, such right and power may be
2301 assigned or delegated by the authority to the department.
2302 Notwithstanding s. 338.165 or any other provision of law to the
2303 contrary, in any county as defined in s. 125.011(1), to the
2304 extent surplus revenues exist, they may be used for purposes
2305 enumerated in subsection (7), provided the expenditures are
2306 consistent with the metropolitan planning organization's adopted
2307 long-range plan. Notwithstanding any other provision of law to
2308 the contrary, but subject to any contractual requirements
2309 contained in documents securing any outstanding indebtedness
2310 payable from tolls, in any county as defined in s. 125.011(1),
2311 the board of county commissioners may, by ordinance adopted on or
2312 before September 30, 1999, alter or abolish existing tolls and
2313 currently approved increases thereto if the board provides a

2314 local source of funding to the county expressway system for
2315 transportation in an amount sufficient to replace revenues
2316 necessary to meet bond obligations secured by such tolls and
2317 increases.
2318 2. Prior to raising tolls, whether paid by cash or
2319 electronic toll collection, an expressway authority in any county
2320 as defined in s. 125.011(1) shall publish a notice of the intent
2321 to raise tolls in a newspaper of general circulation, as defined
2322 in s. 97.021(16), in the county as defined in s. 125.011(1). The
2323 notice shall provide the amount of increase to be implemented for
2324 cash payment, electronic payment, or both if applicable. The
2325 notice also shall provide a postal address, an email or web
2326 address, and a local telephone number for the purpose of
2327 receiving public comment on the issue of the toll increase. The
2328 notice shall be published two times, at least seven days apart,
2329 with the first publication occurring not more than 90 days prior
2330 to the proposed effective of the toll increase and the second
2331 notice shall be published not less than 60 days prior to the
2332 proposed effective date of the toll increase. The provisions of
2333 this subparagraph shall not apply to any change in the toll rate
2334 for the use of any portion of the expressway system that has been
2335 approved by this authority prior to the effective date of this
2336 act.
2337 Section 26. Subsection (6) is added to section 348.754,
2338 Florida Statutes, to read:
2339 348.754 Purposes and powers.--
2340 (6)(a) Notwithstanding section 255.05, the Orlando-Orange
2341 County Expressway Authority may waive payment and performance
2342 bonds on construction contracts for the construction of a public

2343 building, for the prosecution and completion of a public work, or
2344 for repairs on a public building or public work which has a cost
2345 of $500,000 or less and when the project is awarded pursuant to
2346 an economic development program for the encouragement of local
2347 small businesses which has been adopted by the governing body of
2348 the Orlando-Orange County Expressway Authority pursuant to a
2349 resolution or policy.
2350 (b) The Authority's adopted criteria for participation in
2351 the economic development program for local small businesses
2352 requires that a participant:
2353 1. Be an independent business.
2354 2. Be principally domiciled in the Orange County Standard
2355 Metropolitan Statistical Area (SMSA).
2356 3. Employ 25 or fewer full-time employees.
2357 4. Have gross annual sales averaging over the immediately
2358 preceding three (3) calendar years of $3 million or less, with
2359 regard to any construction element of the program.
2360 5. Be accepted as a participant in the Orlando-Orange
2361 County Expressway Authority Micro-Contracts Program or such other
2362 Small Business Program as may be hereinafter enacted by the
2363 Orlando-Orange County Expressway Authority.
2364 6. Participate in an educational curriculum or technical
2365 assistance program for business development which will assist the
2366 small business in becoming eligible for bonding.
2367 (c) The Authority's adopted procedures for waiving payment
2368 and performance bonds on projects with values not less than
2369 $200,000 and not exceeding $500,000 shall provide that payment
2370 and performance bonds may only be waived on projects that have
2371 been set aside to be competitively bid on by participants in an

2372 economic development program for local small businesses. The
2373 Authority's executive director or designee shall determine if
2374 specific construction projects are suitable for (1) bidding under
2375 the Authority's Micro-Contracts Program by registered local small
2376 businesses and (2) waiver of the payment and performance bond.
2377 The decision of the Authority's executive director or deputy
2378 executive director to waive the payment and performance bond
2379 shall be based upon such individual's investigation and
2380 conclusion that there exists sufficient competition so that the
2381 Authority receives a fair price and does not undertake any
2382 unusual risk with respect to such project.
2383 (d) For any contract for which a payment and performance
2384 bond has been waived pursuant to the authority set forth in
2385 Section 1 of this act, the Orlando-Orange County Expressway
2386 Authority shall pay all persons defined in section 713.01 who
2387 furnish labor, services, or materials for the prosecution of the
2388 work provided for in the contract to the same extent and upon the
2389 same conditions that a surety on the payment bond under section
2390 255.05 would have been obligated to pay such persons if the
2391 payment and performance bond had not been waived. The Authority
2392 shall record notice of this obligation in the manner and location
2393 that surety bonds are recorded. The notice shall include the
2394 information describing the contract which s. 255.05(1) requires
2395 be stated on the front page of the bond. Notwithstanding that s.
2396 255.05(9) generally applies when a performance and payment bond
2397 is required, it shall apply under this act to any contract on
2398 which performance or payment bonds are waived, and any claim to
2399 payment under this section shall be treated as a contract claim
2400 pursuant to s. 255.05(9).

2401 (e) A small business that has been the successful bidder on
2402 six projects where the payment and performance bond was waived by
2403 the Authority pursuant to subsection (6)(a) shall be ineligible
2404 to bid on additional projects where the payment and performance
2405 bond is to be waived. The local small business may continue to
2406 participate in other elements of the economic development program
2407 for local small businesses as long as they are eligible.
2408 (f) The Authority shall conduct bond eligibility training
2409 for businesses qualifying for bond waiver under this act, to
2410 encourage and promote bond eligibility for such businesses.
2411 (g) The Authority shall prepare a report on the activities
2412 undertaken pursuant to this act every two years which shall be
2413 provided to The Orange County legislative delegation. The initial
2414 report shall be due December 31, 2008.
2415 Section 27. Subsection (1) of section 212.055, Florida
2416 Statutes, is amended to read:
2417 212.055 Discretionary sales surtaxes; legislative intent;
2418 authorization and use of proceeds.--It is the legislative intent
2419 that any authorization for imposition of a discretionary sales
2420 surtax shall be published in the Florida Statutes as a subsection
2421 of this section, irrespective of the duration of the levy. Each
2422 enactment shall specify the types of counties authorized to levy;
2423 the rate or rates which may be imposed; the maximum length of
2424 time the surtax may be imposed, if any; the procedure which must
2425 be followed to secure voter approval, if required; the purpose
2426 for which the proceeds may be expended; and such other
2427 requirements as the Legislature may provide. Taxable transactions
2428 and administrative procedures shall be as provided in s. 212.054.
2429 (1) ~~CHARTER~~ COUNTY TRANSPORTATION ~~TRANSIT~~ SYSTEM SURTAX.--

2430 (a) 1. Each ~~charter~~ county ~~which adopted a charter prior to~~
2431 ~~January 1, 1984, and each county the government of which is~~
2432 ~~consolidated with that of one or more municipalities,~~ may levy a
2433 discretionary sales surtax, subject to approval by a majority
2434 vote of the electorate of the county voting at an election ~~or by~~
2435 ~~a charter amendment approved by a majority vote of the electorate~~
2436 ~~of the county.~~
2437 2. Each county may levy a discretionary sales surtax
2438 pursuant to this subsection by either a majority affirmative vote
2439 of the total membership of its governing body or by a referendum.
2440 (b) The rate shall be up to 1 percent.
2441 (c) If the proposal to adopt a discretionary sales surtax
2442 is to be adopted by a referendum as provided in this subsection
2443 ~~and to create a trust fund within the county accounts shall~~ such
2444 proposal shall be placed on the ballot in accordance with law at
2445 a time to be set at the discretion of the governing body of the
2446 county.
2447 (d) Proceeds from the surtax shall be distributed to the
2448 county and to each municipality within such county in which the
2449 surtax is collected, according to:
2450 1. A separate interlocal agreement between the county
2451 governing body and the governing body of any municipality within
2452 the county; or
2453 2. If there is no interlocal agreement between the county
2454 governing body and the governing body of any municipality within
2455 the county, then the proceeds shall be distributed according to
2456 an apportionment factor for each eligible local government as
2457 specified herein.
2458 a. The apportionment factor for an eligible county shall be

2459 composed of two equally weighted portions as follows:
2460 I. Each eligible county's population in the unincorporated
2461 areas of the county as a percentage of the total county
2462 population as determined pursuant to s. 186.901.
2463 II. Each eligible county's percentage of center-line lane
2464 miles derived from the combined total number of center-line lane
2465 miles owned and maintained by the county and each municipality
2466 within the county as annually reported in the City/County Mileage
2467 Report promulgated by the Transportation Statistics Office within
2468 the Florida Department of Transportation.
2469 b. The apportionment factor for an eligible municipality
2470 shall be composed of two equally weighted portions as follows:
2471 I. Each eligible municipality's population as a percentage
2472 of the total county population as determined pursuant to s.
2473 186.901.
2474 II. Each eligible municipality's percentage of center-line
2475 lane miles derived from the combined total number of center-line
2476 lane miles owned and maintained by the county and each
2477 municipality within the county as annually reported in the
2478 City/County Mileage Report promulgated by the Transportation
2479 Statistics Office within the Florida Department of
2480 Transportation.
2481 (e) A charter county that has adopted a surtax pursuant to
2482 this subsection by referendum as of the effective date of this
2483 act shall not be required to distribute surtax proceeds pursuant
2484 to (d) but shall follow the procedures established in (f). Each
2485 charter county that adopted a charter prior to January 1, 1984,
2486 and each county the government of which is consolidated with that
2487 of one or more municipalities, which adopts a surtax pursuant to

2488 this subsection by referendum after the effective date of this
2489 act, shall not be required to distribute surtax proceeds pursuant
2490 to (d) but shall follow the procedures established in (f).
2491 Pursuant to an interlocal agreement entered into pursuant to
2492 chapter 163, the governing body of the charter county may
2493 distribute proceeds from the tax to a municipality, or an
2494 expressway or transportation authority created by law to be
2495 expended for the purpose authorized by (f). Interlocal agreements
2496 entered into as of the effective date of this act pursuant to
2497 chapter 163 by the governing body of the county commission to
2498 distribute proceeds from the tax to a municipality or an
2499 expressway or transportation authority created by law shall not
2500 be affected by the enactment of this act.
2501 (f) Proceeds from the surtax shall be applied to as many or
2502 as few of the uses enumerated below in whatever combination the
2503 governing body of the municipality or the county ~~commission~~ deems
2504 appropriate:
2505 1. Deposited by the governing body of the municipality or
2506 the county in the trust fund and shall be used for the purposes
2507 of development, construction, equipment, maintenance, operation,
2508 supportive services, including a ~~countywide~~ bus system, and
2509 related costs of a fixed guideway rapid transit system;
2510 2. Remitted by the governing body of the municipality or
2511 county to an expressway or transportation authority created by
2512 law to be used, at the discretion of such authority, for the
2513 development, construction, operation, or maintenance of roads,
2514 bicycle and pedestrian facilities, or bridges in the county or
2515 municipality, for the operation and maintenance of a bus system,
2516 for the payment of principal and interest on existing bonds

2517 issued for the construction of such roads, bicycle or pedestrian
2518 facilities, or bridges, and, upon approval by the governing body
2519 of the municipality or county ~~commission~~, such proceeds may be
2520 pledged for bonds issued to refinance existing bonds or new bonds
2521 issued for the construction of such roads or bridges;
2522 ~~3. Used by the charter county for the development,~~
2523 ~~construction, operation, and maintenance of roads and bridges in~~
2524 ~~the county; for the expansion, operation, and maintenance of bus~~
2525 ~~and fixed guideway systems; and for the payment of principal and~~
2526 ~~interest on bonds issued for the construction of fixed guideway~~
2527 ~~rapid transit systems, bus systems, roads, or bridges; and such~~
2528 ~~proceeds may be pledged by the governing body of the county for~~
2529 ~~bonds issued to refinance existing bonds or new bonds issued for~~
2530 ~~the construction of such fixed guideway rapid transit systems,~~
2531 ~~bus systems, roads, or bridges and no more than 25 percent used~~
2532 ~~for nontransit uses; and~~
2533 3. ~~4.~~ Used by the governing body of the municipality or
2534 ~~charter~~ county for the planning, development, construction,
2535 operation, and maintenance of roads, bicycle and pedestrian
2536 facilities, and bridges in the county; for the planning,
2537 development, expansion, operation, and maintenance of bus and
2538 fixed guideway systems; and for the payment of principal and
2539 interest on bonds issued for the construction of fixed guideway
2540 rapid transit systems, bus systems, roads, bicycle and pedestrian
2541 facilities, or bridges; and such proceeds may be pledged by the
2542 governing body of the municipality or county for bonds issued to
2543 refinance existing bonds or new bonds issued for the construction
2544 of such fixed guideway rapid transit systems, bus systems, roads,
2545 bicycle and pedestrian facilities, or bridges. ~~Pursuant to an~~

2546 ~~interlocal agreement entered into pursuant to chapter 163, the~~
2547 ~~governing body of the charter county may distribute proceeds from~~
2548 ~~the tax to a municipality, or an expressway or transportation~~
2549 ~~authority created by law to be expended for the purpose~~
2550 ~~authorized by this paragraph.~~
2551 4. Used by the county or municipality to fund regionally-
2552 significant transportation projects identified in a regional
2553 transportation plan developed in accordance with 339.155(5) or to
2554 provide matching funds for the Transportation Regional Incentive
2555 Program in accordance with s. 339.2819; and
2556 5. Used by the county or municipality to fund projects
2557 identified in a capital improvements element of a comprehensive
2558 plan that has been determined to be in compliance with part II of
2559 chapter 163 or to implement a long-term concurrency management
2560 system adopted by a local government in accordance with s.
2561 163.3177(3) or (9).
2562 Section 28. Department of Transportation study of
2563 transportation facilities providing access to pari-mutuel
2564 facilities and Indian reservations; report and recommendations
2565 authorized.--
2566 (1) The Department of Transportation is directed to conduct
2567 a study of the impacts that slot machine gaming at pari-mutuel
2568 facilities and on Indian reservation lands is having on public
2569 roads and other transportation facilities, regarding traffic
2570 congestion and other mobility issues, facility maintenance and
2571 repair costs, emergency evacuation readiness, and costs of
2572 potential future widening or other improvements, and of other
2573 impacts on the motoring, nongaming public.
2574 (2) The study shall include, but is not limited to, the

2575 following information:
2576 (a) A listing, description, and functional classification
2577 of the access roads to and from pari-mutuel facilities and Indian
2578 reservations that conduct slot machine gaming in the state.
2579 (b) An identification of the access roads identified under
2580 paragraph (a) that are either scheduled for improvements within
2581 the Department of Transportation's 5-year work program or are
2582 listed on the 20-year, long-range transportation plan of the
2583 department or a metropolitan planning organization.
2584 (c) The most recent traffic counts on the access roads and
2585 projected future usage, as well as any projections of impacts on
2586 secondary, feeder, or connector roads, interstate highway exit
2587 and entrance ramps, or other area transportation facilities.
2588 (d) The safety and maintenance ratings of each access road
2589 and a detailed review of impacts on local and state emergency
2590 management agencies to provide emergency or evacuation services.
2591 (e) The estimated infrastructure costs to maintain,
2592 improve, or widen these access roads based on future projected
2593 needs.
2594 (f) The feasibility of implementing tolls on these access
2595 roads or, if already tolled, raising the toll to offset and
2596 mitigate the impacts of traffic generated by pari-mutuel facility
2597 and Indian reservation slot machine gaming activities on
2598 nontribal communities in the state and to finance projected
2599 future improvements to the access roads.
2600 (3) The department shall present its findings and
2601 recommendations in a report to be submitted to the Governor, the
2602 President of the Senate, and the Speaker of the House of
2603 Representatives by January 15, 2007. The report may include any

2604 department recommendations for proposed legislation.
2605 Section 29. A sum in the amount of $400 million in non-
2606 recurring general revenue in fiscal year 2006-2007 shall be
2607 appropriated to the Department of Transportation and transferred
2608 to the State Transportation Trust Fund for the express purpose of
2609 financing fixed capital outlay projects for Arterial Highway
2610 Construction, General Appropriations Act line-item 2025.
2611 Section 30. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB TR 06-04**

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: Transportation
2 Representative(s) offered the following:
3
4 Remove line(s) 2434-2439 and insert:
5 vote of the electorate of the county; or ~~by a charter amendment~~
6 ~~approved by a majority vote of the electorate of the county.~~
7 2. Each county may levy a discretionary sales surtax
8 pursuant to this subsection by at least a super-majority
9 affirmative vote of a majority plus one of the total membership
10 of its governing body.
11

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **PCB TR 06-04**

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: Transportation
2 Representative(s) offered the following:
3
4 On line 2555 before the semicolon insert:
5 or the New Starts transit program as provided in s. 341.051
6

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pcb04-002

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **PCB TR 06-04**

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: Transportation
2 Representative(s) offered the following:
3
4 On line 171 after the word organization insert:
5 created pursuant to s. 339.175 or any separate legal or
6 administrative entity created pursuant to s. 339.175
7

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. **PCB TR 06-04**

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: Transportation
2 Representative(s) offered the following:
3
4 Remove line(s) 287-368 and insert:
5 Section 4. Paragraph (l) is added to subsection (1) of
6 section 121.055, Florida Statutes, to read:
7 121.055 Senior Management Service Class.-- There is hereby
8 established a separate class of membership within the Florida
9 Retirement System to be known as the "Senior Management Service
10 Class," which shall become effective February 1, 1987.
11 (1)
12 (l) Effective July 1, 2006, for each metropolitan planning
13 organization that has opted to become part of the Florida
14 Retirement System, participation in the Senior Management Class
15 shall be compulsory for the executive director or staff director
16 of each metropolitan planning organization or similar entity
17 created pursuant to s. 339.175.
18

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 5

Bill No. **PCB TR 06-04**

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: Transportation
2 Representative(s) offered the following:
3
4 Remove line(s) 2255-2273 and insert:
5 ~~to 13~~ members and two non-voting members, and the following
6 provisions of this paragraph shall apply specifically to such
7 authority. ~~Except for the district secretary of the department,~~
8 ~~the members must be residents of the county~~. Two ~~Seven~~ voting
9 members shall be county commissioners appointed by the chair of
10 the governing body of the county. One voting member shall be a
11 mayor of a municipality within the county at all times while
12 serving on the authority and shall be appointed by the Miami-
13 Dade County League of Cities. Four ~~At the discretion of the~~
14 ~~governing body of the county, up to two of the members appointed~~
15 ~~by the governing body of the county may be elected officials~~
16 ~~residing in the county. Five~~ voting members of the authority
17 shall be appointed by the Governor and must be residents of the
18 county or municipality at all times while serving. The
19 governor's appointees shall not be elected or appointed
20 officials or employees of the county or of a municipality within
21 the county. ~~One member shall be~~ T~~t~~he district secretary of the

22 department serving in the district that contains such county
23 shall be a non-voting member of the authority. One member shall
24 be the chair of

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB TR 06-05 Residential Manufactured Building Regulation
SPONSOR(S): Transportation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Transportation Committee		Green	Miller
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB TR 06-05 relates to the regulation of residential manufactured buildings. The powers relating to this regulation are transferred by the bill from the Department of Community Affairs (DCA) to the Department of Highway Safety Motor Vehicles (DHSMV) by a type two transfer, as defined in s. 20.06 (2), F.S.

The 2005 Legislature created the Manufactured Housing Regulatory Study Commission (Commission). The purpose of the Commission was to review the programs regulating manufactured and mobile homes which are currently located within the DHSMV and to review the sources of funding of these programs to determine if the programs are or can be self-sustaining. PCB TR 06-05 implements the legislative changes recommended by the Commission. The authority of the Commission to operate terminates on February 15, 2006.

The DCA and the DHSMV are authorized to enter into interagency agreements with each other regarding the regulation of residential manufactured buildings

The related rules of the DCA and the Florida Building Commission that were in effect on June 30, 2006, must become rules of the DHSMV and must remain in effect until specifically amended or repealed in the manner provided by law.

Any judicial or administrative action involving regulation of residential manufactured buildings by the DCA will not be affected by this act. Should any such action occur the DHSMV must be substituted as a party in interest.

There is an indeterminate fiscal impact to the state for transferring the regulation of residential manufactured buildings from DCA to DHSMV. However, the PCB gives DHSMV the authority to establish fees by rule to pay for the cost of administering the program.

This act will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government:

- PCB TR 05 increases the responsibilities, obligations, and work for the DHSMV by transferring all statutory powers, duties, and functions relating to the regulation of residential manufactured buildings, including, but not limited to, certification of manufacturers and recertification of residential manufactured housing.
- PCB TR 05 gives all statutory authority and responsibility for the enforcement of laws relating to the regulation of residential manufactured buildings to the DHSMV, including, but not limited to, enforcement of requirements under the Florida Building Code through plan review and inspection.
- PCB TR 05 decreases the responsibilities, obligations, and work for the DCA by transferring all power relating to the regulation of residential manufactured buildings to DHSMV as a type two transfer, as defined in s. 20.06 (2), F.S.
- PCB TR 05 Authorizes subcontracting or outsourcing of services or activities to DHSMV. DHSMV may use third party inspectors or its own personnel to inspect residential manufactured building units or systems or the component parts, together with the plans, specifications, and quality control procedures to ensure the units, systems, or component parts comply with the Florida Building Code and to label units complying with those standards. DHSMV inspectors would have to be licensed as under Chapter 468, F.S., which relates to regulation of building code administrators and inspectors.

B. EFFECT OF PROPOSED CHANGES:

PCB TR 05 will transfer all powers and responsibilities relating to residential manufactured buildings from the Department of Community Affairs (DCA) to the Department of Highway Safety Motor Vehicles (DHSMV) by a type two transfer, as defined in s. 20.06 (2), F.S.

Background –

The 2005 Legislature created the Manufactured Housing Regulatory Study Commission (Commission) by enacting s. 21 of ch. 2005-164, Laws of Florida. (See also s. 47 of ch. 2005-147, Laws of Florida.) The purpose of the Commission was to review the programs regulating manufactured and mobile homes which are currently located within the DHSMV and to review the sources of funding of these programs to determine if the programs are or can be self-sustaining. PCB TR 06-05 implements the legislative changes recommended by the Commission. The authority of the Commission to operate terminates on February 15, 2006.

According to the Manufactured Housing Regulatory Study Commission, approximately 1.4 million people live in 900,000 manufactured or mobile homes in Florida and many other people live in modular homes in Florida. Thousands of businesses including manufacturers, retailers, community owners, developers, installers, transporters, suppliers, finance companies, insurance companies and various other service firms are involved in these industries.

Specifically, there are 8 manufacturing companies with 15 locations throughout Florida involved in the building of approximately 18,000 new manufactured homes annually. There are 1,312 licensed retailers, 516 licensed installers and approximately 4,500 manufactured home communities/mobile home parks in Florida. Around 35,000 people are employed by the industry. The manufactured housing industry is responsible for generating in excess of $250 million per year in tax revenues to the State of Florida.

For purposes of this analysis, mobile home, manufactured home, manufactured building and modular home mean the following:

- *Mobile Home* - a structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities. See s. 320.01(2)(a), F.S.
- *Manufactured Home* - a mobile home fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying the section is built in compliance with the National Manufactured Home Construction and Safety Standards Act. See s. 320.01(2)(b), F.S.
- *Manufactured Building* - a closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building, which shall include, but not be limited to, residential (modular home), commercial, institutional, storage, and industrial structures. However, the term does not include mobile homes. See s. 553.36(12), F.S.
- *Modular Home* - a manufactured building constructed as a residential dwelling unit.

Current Situation – Federal and State Law:

Construction and Inspection programs of manufactured homes and modular homes

In 1974, the United States Congress established federal construction and safety standards for manufactured homes in order to:

- Reduce the number of personal injuries and deaths;
- Reduce the amount of insurance costs and property damage resulting from manufactured home accidents; and
- To improve the quality and durability of manufactured homes. See 42 U.S.C. 5401, et seq.

The National Manufactured Home Construction and Safety Standards Act of 1974 (Act) directed the Secretary of the United States Department of Housing and Urban Development (HUD) to establish appropriate manufactured home construction and safety standards. These standards (HUD Code) are found in 24 C.F.R. 3280 and apply to all manufactured homes constructed for sale to purchasers in the United States on or after June 15, 1976 (the effective date of the standards). The State of Florida has statutorily adopted the HUD Code by enacting s. 320.823, F.S.

What the HUD Code does:

- The HUD Code is performance based and specifically designed for compatibility with the factory production process and establishes standards for structural design, construction, fire safety, energy efficiency and transportation from the factory to the customer's home site.
- The HUD Code includes performance standards for heating, plumbing, air conditioning and thermal and electrical systems. Every manufactured home is built in a factory, under controlled conditions, and has a label affixed on the exterior of each section of the home indicating the home has been designed, constructed, tested and inspected to comply with the HUD Code.
- Ensures that no manufactured home may be transported from the factory unless it complies with the HUD Code and each section receives a certification label from an independent third party inspector. The HUD Secretary implements investigations and inspection responsibilities through the use of private and state inspection agencies.
- The HUD Code requires oversight of the manufacturers' engineering design of their homes and their quality assurance manuals for their plants by the Design Approval Primary Inspection Agency (DAPIA) which is a third party inspection agency. In addition, the DAPIA also coordinates with the third party inspection agency known as the Production Inspection Primary Inspection Agency (IPIA). The IPIA:

- Has the responsibility to make sure the production facility programs and procedures are in accordance with the DAPIA approved quality assurance manual.
- Conducts inspections of the homes produced in the factory to assure conformance with the approved design. Every home is inspected during at least one stage of production.
- Makes a complete inspection of every phase of production and every visible part of each home in production.

The policy of HUD is to involve state agencies in the enforcement of the HUD Code to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

Responsibilities of the Department of Highway Safety Motor Vehicles:

While an IPIA may be a private entity, DHSMV serves as HUD's contract IPIA in Florida.

The aforementioned IPIA functions are carried out by DHSMV's Bureau of Mobile Home and Recreational Vehicle Construction (Bureau). If a state chooses not to participate as an IPIA, manufacturers of manufactured homes may contract with HUD approved private IPIA entities.

As the exclusive IPIA in Florida, the Bureau is responsible for the in-plant inspection of all homes manufactured in Florida. The Bureau employs 16 compliance examiners/inspectors assigned to 15 Florida manufacturing plants. These 16 full-time employees perform the following duties:

- All lines of production in the plant are inspected on an ongoing basis to ensure the manufacturer's compliance with design specifications approved in accordance with the HUD Code.
- Inspectors visually observe the manufacturing process in each phase of construction to ensure conformance to the HUD Code. See s. 320.8255, F.S.
- The inspectors also evaluate the plant's quality control system on an ongoing basis to ensure the effectiveness of the system.
- Inspectors ensure all nonconformances are corrected while the home is still in the factory. Deviations from HUD Code are documented and action is taken to correct the deviations and prevent their reoccurrence.

All deviations from the HUD Code are documented and analyzed at Bureau headquarters to determine if further action is required to ensure the plant has rectified the causes of the deviations. HUD provides specific guidelines for IPIA's in this process and performs an annual audit of the IPIAs' effectiveness.

When each home section has been completed and passes final inspection, a HUD label is affixed to the home section attesting the home meets the HUD Code. (A HUD label is required on each section of a multi-sectional home.) No homes are allowed to leave the factory without a HUD label. See s. 320.827, F.S. The Bureau maintains an inventory of HUD labels and receives $32.00 (currently) for each label sold. The manufacturer purchases the labels from the bureau and, in addition, remits $39.00 directly to HUD for each label purchased. The revenue from the sale of HUD labels is intended to cover the expenses of operating the IPIA program. Section 320.8255(4), F.S., authorizes DHSMV to establish and set fees for HUD labels sufficient to cover the cost of administration of the IPIA program.

Florida's construction and inspection programs of modular homes:

Since 1971, Florida has regulated the construction of manufactured buildings to ensure such structures are built to meet minimum safety standards. Current regulations of manufactured buildings are known as the Florida Manufactured Building Act of 1979. See Part I of ch. 553, F.S.

The Florida Building Commission has been created by the Legislature and is, for administrative purposes, housed within DCA. See s. 553.74, F.S. As part of its responsibilities, the Florida Building Code Commission has adopted the Florida Building Code which does the following:

- Applies to the construction and modification of manufactured buildings. See s. 553.37, F.S.
- Establishes minimum standards for the design, construction, erection, alteration, modification, repair and demolition of buildings including modular homes.
- Ensures that no manufactured building (except certain exceptions set forth in s. 553.37(2), F.S.) may be installed in Florida unless the manufactured building is approved and bears an insignia approved by DCA. All manufactured buildings issued and bearing the DCA insignia are deemed to comply with the Florida Building Code and are exempt from local amendments enacted by any local government. See s. 553.37(2) through (6), F.S.

Within the state are two agencies which carry out the rules and responsibilities relating to the regulation of residential manufactured buildings. Those agencies are the Department of Highway Safety Motor Vehicles (DHSMV) and the Department of Community Affairs (DCA).

Responsibilities of the Department of Community Affairs:

The DCA works with the DHSMV to carry out the rules and regulations of residential manufactured buildings. Some of DCA's responsibilities include:

- Responsible for enforcement of the Florida Building Code requirements related to manufactured Buildings
- Authorized to delegate its enforcement responsibilities to a state department having building construction responsibilities or a local government. See s. 553.37(8), F.S.
- The DCA may also delegate its plan review and inspection authority to a state department having:
    - building construction responsibilities,
    - a local government,
    - an approved inspection agency,
    - an approved plan review agency, or
    - an agency of another state. See s. 553.37(8), F.S.

The DCA also:

- Ensures manufactured buildings meet the requirements of the Florida Building Code;
- Utilizes entities authorized by an appropriate licensing board to perform plan reviews and inspections for compliance with the Florida Building Code, certified by the DCA to perform that role, and selected by a manufacturer.

Third party entities are typically engineers or architects qualified and authorized to review plans and inspect buildings for compliance with the Florida Building Code pursuant to Chapters 471 and 481, Florida Statutes. These professionals have been required to take four hours of continuing education regarding the Florida Building Code and have a continuing obligation to take additional courses on the Code as determined by their respective licensing boards. Third party entities pay an initial application fee of $600.00 and an additional $900.00 upon certification and triennial renewal thereof.

Additionally, the DCA requires that the operation of manufacturing facilities is subject to a quality assurance program, and the activities of manufacturers and third-party entities is subject to audit by the Department's contractor.

The DCA has delegated the responsibility for inspection of modular homes to third-party agencies that have been certified by the DCA for that purpose. These agencies are also charged with reviewing the construction plans for the home as well as the manufacturers quality assurance manual. For third-party requirements see s. 428.2.1, Florida Building Code, Building Volume (2004).

Post-Manufacture Installation Inspection:

Installation programs, including regulation and inspection functions of the foundation system for manufactured/mobile homes and modular homes are not directly impacted by the bill. Each county or municipality in Florida is responsible for the onsite inspection of each manufactured/mobile home installation located within the jurisdiction of such entity prior to issuance of the certificate of occupancy. See s. 320.8285, F.S. Inspections for site-related activities are performed by building code enforcement personnel employed by the authority having jurisdiction and licensed by the Florida Building Code Administrators and Inspectors Board as required by Part XII of ch. 468, F.S. Once a modular home leaves the factory certified by the DCA, jurisdiction for enforcement is vested in other governmental agencies. Installation, repair and modification of a manufactured building is a construction activity required to be performed by individuals licensed by the Construction Industry Licensing Board as required in ch. 489, F.S. Plan review and inspection for site-related work is performed by building code enforcement personnel employed by the authority having jurisdiction and licensed by the Florida Building Code Administrators and Inspectors Board pursuant to Part XII of ch. 468, F.S. (The same inspectors who inspect site related activities for manufactured/mobile homes).

Proposed Changes -

PCB TR 06-05 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory authority and rules relating to residential manufactured buildings from DCA to DHSMV. This will provide continuity of regulation during the transition from one agency to the other. Because regulation of residential manufactured buildings is not a distinct unit within DCA, personnel and funds are not included in the transfer. The bill also substitutes DHSMV as a party in interest for any ongoing judicial administrative actions involving the regulation of residential manufactured buildings by DCA pending July 1, 2006.

Sections 320.870 through 320.878, F.S., the "Florida Residential Manufactured Building Act", is created by the bill. Current provisions under which residential manufactured buildings are regulated by DCA are revised and replicated in Chapter 320, F.S., which will authorize DHSMV to regulate residential manufactured buildings that are to be used as single-family dwelling units. DHSMV may use third party inspectors or its own personnel to inspect residential manufactured building units or systems or the component parts, together with the plans, specifications, and quality control procedures to ensure the units, systems, or component parts comply with the Florida Building Code and to label units complying with those standards. DHSMV inspectors would have to be licensed as under Chapter 468, F.S., which relates to regulation of building code administrators and inspectors.

PCB TR 06-05 amends ss. 553.36 and 553.38, F.S. to exclude single-family residential manufactured buildings from the definition of manufactured buildings under from Part I of Chapter 553, F.S., which is DCA's regulatory authority for manufactured buildings. These provisions clarify that except for applying Florida Building Code minimum construction standards to residential manufactured buildings, Chapter 553, F.S., does not apply to manufactured homes and residential manufactured buildings as regulated by DHSMV.

Finally, the bill directs the Division of Statutory Revision upon request, to assist in preparing draft legislation for 2007 Session to conform Florida Statutes to the changes the bill makes. This will assist with any follow-up "glitch" legislation needed.

C. SECTION DIRECTORY:

Section 1 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory authority relating to residential manufactured buildings from the DCA to the DHSMV;

Section 2 initiates a type two transfer, as defined in s. 20.06(2), Florida Statutes, transferring regulatory rules relating to residential manufactured buildings from DCA and the Florida Building Code Commission to the DHSMV;

Section 3 substitutes DHSMV as a party in interest for any ongoing judicial administrative actions involving the regulation of residential manufactured buildings by DCA pending July 1, 2006;

Section 4 creates s. 320.870, F.S., the "Florida Residential Manufactured Building Act";

Section 5 creates s. 320.871, F.S., defining terms used in ss. 320.870-320.878, F.S.;

Section 6 creates s. 320.872, F.S., to adopt minimum construction requirements of the Florida Building Code and the Florida Fire Prevention and Lifesafety Codes;

Section 7 creates s. 320.873, F.S., to establish the duties and responsibilities of DHSMV; and provide rulemaking authority;

Section 8 creates s. 320.874, F.S., to require a manufacturer certification for all residential manufactured buildings in the state;

Section 9 creates s. 320.875, F.S., to establish a recertification process for relocated or modified residential manufactured homes;

Section 10 creates s. 320.876, F.S., which states the department must enforce every provision of ss. 320.870 – 320.878 and rules adopted under ss. 320.870 – 320.878 and the provisions of Florida Building Code governing residential manufactured buildings;

Section 11 creates s. 320.877, F.S., to authorize the department to seek injunctive or other relief;

Section 12 creates s. 320.878, F.S., to establish the penalties for violating any of the provisions of ss. 320.870 – 320.878;

Section 13 transfers and renumbers section 320.865, F.S. related to maintenance of records by DHSMV.

Section 14 amends s. 553.36, F.S., to exclude single-family residential manufactured buildings from the definition of manufactured buildings. S. 553.36 is DCA's regulatory authority for manufactured buildings.

Section 15 amends s. 553.38, F.S., to clarify the application of the Florida Building Code to single-family residential manufactured buildings;

Section 16 directs the Division of Statutory Revision upon request, to assist in preparing draft legislation for 2007 Session to conform Florida Statutes to the changes the bill makes.

Section 17 provides that the act will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See D. Fiscal Comments, below

2. Expenditures:

   See D. Fiscal Comments, below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

PCB TR 06-05 authorizes the DHSMV to establish a schedule of fees to pay the cost incurred for the work relating to the administration and enforcement of ss. 320.870-320.878, F.S.

D. FISCAL COMMENTS:

The DCA has no "modular homes programs" which may be easily identified for accounting purposes. The manufactured buildings program, into which modular homes are integrated, is financially self-sustaining and DCA has reported the modular homes' program is self-sustaining.

PCB TR 06-05 authorizes the DHSMV to establish, by rule, a schedule of fees to pay the cost incurred for administration and enforcement of residential manufactured building regulation required by ss. 320.870-320.878, F.S. See s. 320.873 (7), F.S., created by the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCB TR 06-05 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:

DHSMV, DCA, and the Florida Building Code Commission appear to have sufficient existing rulemaking authority to implement the various provisions in PCB TR 06-05, should they become law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to regulation of residential manufactured
3 buildings; providing for transfer of regulatory authority
4 from the Department of Community Affairs to the Department
5 of Highway Safety and Motor Vehicles; providing for
6 transfer of rules from the Department of Community Affairs
7 and the Florida Building Commission to the Department of
8 Highway Safety and Motor Vehicles; providing for the
9 validity of judicial and administrative actions; creating
10 s. 320.870, F.S.; providing a short title; creating s.
11 320.871, F.S.; providing definitions; creating s. 320.872,
12 F.S.; establishing the Florida Building Code and the
13 Florida Fire Prevention and Lifesafety Codes as the
14 minimum construction requirements governing the
15 manufacture, design, construction, erection, alteration,
16 modification, repair, and demolition of residential
17 manufactured buildings; creating s. 320.873, F.S.;
18 providing duties and responsibilities of the Department of
19 Highway Safety and Motor Vehicles; providing for rules,
20 inspections, and insignia; creating s. 320.874, F.S.;
21 providing for manufacturer certification; creating s.
22 320.875, F.S.; providing for recertification of
23 residential manufactured buildings prior to the
24 relocation, modification, or change of occupancy; creating
25 s. 320.876, F.S.; providing for application and scope of
26 enforcement by the department; creating s. 320.877, F.S.;
27 providing for injunctive relief to compel compliance;
28 creating s. 320.878 providing penalties; transferring and
29 renumbering s. 320.865, F.S., relating to maintenance of

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30 records; amending ss. 553.36 and 553.38, F.S., relating to
31 regulation of manufactured buildings; conforming
32 provisions to changes made by the act; providing an
33 effective date.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Department of Highway Safety and Motor Vehicles;
38 transfers; operations.--
39 (1) All statutory powers, duties, and functions relating to
40 the regulation of residential manufactured buildings, including,
41 but not limited to, certification of manufacturers and
42 recertification of residential manufactured buildings, of the
43 Department of Community Affairs are transferred by a type two
44 transfer, as defined in s. 20.06(2), Florida Statutes, to the
45 Department of Highway Safety and Motor Vehicles.
46 (2) All existing statutory authority and responsibility of
47 the Department of Community Affairs for the enforcement of laws
48 relating to the regulation of residential manufactured buildings,
49 including, but not limited to, enforcement of requirements under
50 the Florida Building Code through plan review and inspection, are
51 transferred by a type two transfer, as defined in s. 20.06(2),
52 Florida Statutes, to the Department of Highway Safety and Motor
53 Vehicles.
54 (3) All existing legal authorities and actions of the
55 Department of Community Affairs relating to the regulation of
56 residential manufactured buildings, including, but not limited
57 to, all pending and completed action on orders and rules, all
58 enforcement matters, and all delegations, interagency agreements,

59 and contracts with federal, state, regional, and local
60 governments and private entities are transferred by a type two
61 transfer, as defined in s. 20.06(2), Florida Statutes, to the
62 Department of Highway Safety and Motor Vehicles.
63 (4) The Department of Community Affairs and Department of
64 Highway Safety and Motor Vehicles are authorized to enter into
65 interagency agreements with each other concerning any matter
66 affected by this section in order to promote the efficient and
67 effective implementation of this section.
68 Section 2. Transfer of rules.--
69 (1) Rules of the Department of Community
70 Affairs.--Effective July 1, 2006, the rules of the Department of
71 Community Affairs that relate to regulation of residential
72 manufactured buildings, including, but not limited to,
73 enforcement of requirements under the Florida Building Code,
74 certification of manufacturers, and recertification of
75 residential manufactured buildings, that were in effect on June
76 30, 2006, shall become rules of the Department of Highway Safety
77 and Motor Vehicles and shall remain in effect until specifically
78 amended or repealed in the manner provided by law.
79 (2) Rules of the Florida Building Commission.--Effective
80 July 1, 2006, the rules of the Florida Building Commission that
81 relate to regulation of residential manufactured buildings,
82 including, but not limited to, rules relating to standards for
83 construction and inspection of residential manufactured
84 buildings, insurance coverage requirements, and fees, that were
85 in effect on June 30, 2006, shall become rules of the Department
86 of Highway Safety and Motor Vehicles and shall remain in effect

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87 until specifically amended or repealed in the manner provided by
88 law.
89 Section 3. Validity; judicial or administrative
90 action.--This act shall not affect the validity of any judicial
91 or administrative action involving regulation of residential
92 manufactured buildings by the Department of Community Affairs
93 pending on July 1, 2006, and the Department of Highway Safety and
94 Motor Vehicles shall be substituted as a party in interest in any
95 such action.
96 Section 4. Section 320.870, Florida Statutes, is created to
97 read:
98 320.870 Short title.--Sections 320.870-320.878 shall be
99 known and may be cited as the "Florida Residential Manufactured
100 Building Act."
101 Section 5. Section 320.871, Florida Statutes, is created to
102 read:
103 320.871 Definitions.-- As used in this ss. 320.870-320.878,
104 the term:
105 (1) "Approved" means conforming to the requirements of the
106 Florida Building Code.
107 (2)(a) "Approved inspection agency" means an organization
108 determined by the department to be especially qualified by reason
109 of facilities, personnel, experience, and demonstrated
110 reliability to investigate, test, and evaluate manufactured
111 building units or systems or the component parts thereof,
112 together with the plans, specifications, and quality control
113 procedures to ensure that such units, systems, or component parts
114 are in full compliance with the Florida Building Code and to
115 label such units complying with those standards.

116 (b) "Approved inspector" means an employee of the
117 department determined by the department to be especially
118 qualified by reason of training, experience, and demonstrated
119 reliability to investigate, test, and evaluate residential
120 manufactured building units or systems or the component parts
121 thereof, together with the plans, specifications, and quality
122 control procedures to ensure that such units, systems, or
123 component parts are in full compliance with the Florida Building
124 Code and to label such units complying with those standards. A
125 department employee performing inspections pursuant to ss.
126 320.870-320.878 must meet the licensure requirements under part
127 XII of chapter 468.
128 (3) "Closed construction" means that condition when any
129 building, component, assembly, subassembly, or system is
130 manufactured in such a manner that all portions cannot be readily
131 inspected at the installation site without disassembly or
132 destruction thereof.
133 (4) "Open construction" means any building, building
134 component, assembly, or system manufactured in such a manner that
135 all portions can be readily inspected at the building site
136 without disassembly thereof, damage thereto, or destruction
137 thereof.
138 (5) "Component" means any assembly, subassembly, or
139 combination of parts for use as a part of a building, which may
140 include structural, electrical, mechanical, and fire protection
141 systems and other systems affecting health and safety. Components
142 that incorporate elements of a building subject to the product
143 approval system adopted under s. 553.842 are subject to approval
144 in accordance with the product approval system upon

145 implementation thereof and are not subject to the rules adopted
146 under ss. 320.870-320.878. Components to which the rules adopted
147 under ss. 320.870-320.878 apply are limited to three-dimensional
148 systems for use as part of a building.
149 (6) "Department" means the Department of Highway Safety and
150 Motor Vehicles.
151 (7) "Insignia" means an approved device or seal issued by
152 the department to indicate compliance with the standards and
153 rules established pursuant to ss. 320.870-320.878.
154 (8) "Install" means the assembly of a manufactured building
155 component or system on site and the process of affixing a
156 manufactured building component or system to land, a foundation,
157 or an existing building, and service connections which are a part
158 thereof.
159 (9) "Local government" means any municipality, county,
160 district, or combination thereof comprising a governmental unit.
161 (10) "Manufacture" means the process of making,
162 fabricating, constructing, forming, or assembling a product from
163 raw, unfinished, semifinished, or finished materials.
164 (11) "Residential manufactured building" means a closed
165 structure, building assembly, or system of subassemblies, which
166 may include structural, electrical, plumbing, heating,
167 ventilating, or other service systems manufactured in
168 manufacturing facilities for installation or erection as a
169 finished single-family residential dwelling unit. Sections
170 320.870-320.878 do not apply to mobile homes, factory-built
171 school shelters, or residential health facilities regulated under
172 chapter 553.

173 (12) "Mobile home" means any residential unit constructed
174 to standards promulgated by the United States Department of
175 Housing and Urban Development.
176 (13) "Module" means a separately transported three-
177 dimensional component of a residential manufactured building
178 which contains all or a portion of structural systems, electrical
179 systems, plumbing systems, mechanical systems, fire systems, and
180 thermal systems.
181 (14) "Site" is the location on which a residential
182 manufactured building is installed or is to be installed.
183 (15) "System" means structural, plumbing, mechanical,
184 heating, electrical, or ventilating elements, materials, or
185 components combined for use in a building.
186 Section 6. Section 320.872, Florida Statutes, is created to
187 read:
188 320.872 Minimum construction requirements established.--The
189 Florida Building Code and the Florida Fire Prevention and
190 Lifesafety Codes shall be the minimum construction requirements
191 governing the manufacture, design, construction, erection,
192 alteration, modification, repair, and demolition of residential
193 manufactured buildings.
194 Section 7. Section 320.873, Florida Statutes, is created to
195 read:
196 320.873 Duties and responsibilities of the department;
197 rules; inspections; and insignia.--
198 (1) The department has the authority and responsibility to
199 assure compliance with the provisions of ss. 320.870-320.878 and
200 requirements of the Florida Building Code adopted under part I of
201 chapter 553 for the construction or modification of residential

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202 manufactured buildings and building modules. The department is
203 authorized to adopt rules necessary to carry out the provisions
204 of ss. 320.870-320.878 and shall adopt by rule requirements to
205 address:
206 (a) Submission to and approval by the department of
207 manufacturers' drawings and specifications, including any
208 amendments.
209 (b) Submission to and approval by the department of
210 manufacturers' internal quality control procedures and manuals,
211 including any amendments.
212 (c) Procedures and qualifications for approval of third-
213 party plan review and inspection entities and of those who
214 perform inspections and plan reviews.
215 (d) Investigation of consumer complaints of noncompliance
216 of residential manufactured buildings with the Florida Building
217 Code and the Florida Fire Prevention Code.
218 (e) Issuance, cancellation, and revocation of any insignia
219 issued by the department and procedures for auditing and
220 accounting for disposition of them.
221 (f) Monitoring the manufacturers', inspection entities',
222 and plan review entities' compliance with ss. 320.870-320.878 and
223 the Florida Building Code. Monitoring may include, but is not
224 limited to, performing audits of plans, inspections of
225 manufacturing facilities and observation of the manufacturing and
226 inspection process, and onsite inspections of buildings.
227 (2) No residential manufactured building, except as
228 provided in subsection (11), may be installed in this state
229 unless it is approved and bears the insignia of approval of the
230 department. Approvals issued by the department under the

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231 provisions of this section shall be deemed to comply with the
232 requirements of ss. 320.870-320.878.
233 (3) All residential manufactured buildings issued and
234 bearing insignia of approval pursuant to subsection (2) shall be
235 deemed to comply with the Florida Building Code and are exempt
236 from local amendments enacted by any local government.
237 (4) No residential manufactured building bearing department
238 insignia of approval pursuant to subsection (2) shall be in any
239 way modified prior to installation, except in conformance with
240 the Florida Building Code.
241 (5) Residential manufactured buildings which have been
242 issued and bear the insignia of approval pursuant to ss. 320.870-
243 320.878 upon manufacture or first sale shall not require an
244 additional approval or insignia by a local government in which
245 they are subsequently sold or installed. Buildings or structures
246 that meet the definition of "open construction" are subject to
247 permitting by the local jurisdiction and are not required to bear
248 insignia.
249 (6) If the department determines that the standards for
250 construction and inspection of residential manufactured buildings
251 prescribed by statute or rule of another state are at least equal
252 to the Florida Building Code and that such standards are actually
253 enforced by such other state, it may provide by rule that the
254 residential manufactured building which has been inspected and
255 approved by such other state shall be deemed to have been
256 approved by the department and shall authorize the affixing of
257 the appropriate insignia of approval.

258 (7) The department shall, by rule, establish a schedule of
259 fees to pay the cost incurred by the department for the work
260 related to administration and enforcement of ss. 320.870-320.878.
261 (8) The department may delegate its enforcement authority
262 to a state department having building construction
263 responsibilities or a local government. The department may
264 delegate its plan review and inspection authority to a state
265 department having building construction responsibilities, a local
266 government, an approved inspection agency, an approved plan
267 review agency, or an agency of another state.
268 (9) If the department delegates its inspection authority to
269 third-party approved inspection agencies, manufacturers must have
270 one, and only one, inspection agency responsible for inspection
271 of a residential manufactured building, module, or component at
272 all times.
273 (10) If the department delegates its inspection authority
274 to third-party approved plan review agencies, manufacturers must
275 have one, and only one, plan review agency responsible for review
276 of plans of a residential manufactured building, module, or
277 component at all times.
278 (11) Custom or one-of-a-kind prototype residential
279 manufactured buildings shall not be required to have state
280 approval but must comply with all local requirements of the
281 governmental agency having jurisdiction at the installation site.
282 Section 8. Section 320.874, Florida Statutes, is created to
283 read:
284 320.874 Manufacturer certification.--
285 (1) Before manufacturing residential buildings to be
286 located within this state or selling residential manufactured

287 buildings within this state, whichever occurs later, a
288 manufacturer must be certified by the department. The department
289 shall certify a manufacturer upon receipt from the manufacturer
290 and approval and verification by the department of the following:
291 (a) The manufacturer's internal quality control procedures
292 and manuals, including any amendments;
293 (b) Evidence that the manufacturer has product liability
294 insurance for the safety and welfare of the public in amounts
295 determined by rule of the department; and
296 (c) The fee established by the department under s.
297 320.873(7).
298 (2) The department may revoke any certification upon the
299 failure of the manufacturer to comply with the Florida Building
300 Code or other requirements of ss. 320.870-320.878.
301 (3) Certification of manufacturers under this section shall
302 be for a period of 3 years, subject to renewal by the
303 manufacturer. Upon application for renewal, the manufacturer must
304 submit the information described in subsection (1) or a sworn
305 statement that there has been no change in the status or content
306 of that information since the manufacturer's last submittal. Fees
307 for renewal of manufacturers' certification shall be established
308 by the department by rule.
309 Section 9. Section 320.875, Florida Statutes, is created to
310 read:
311 320.875 Recertification of residential manufactured
312 buildings.--Prior to the relocation, modification, or change of
313 occupancy of a residential manufactured building within the
314 state, the manufacturer, dealer, or owner thereof may apply to
315 the department for recertification of that residential

316 manufactured building. The department shall, by rule, provide
317 what information the applicant must submit for recertification
318 and for plan review and inspection of such residential
319 manufactured buildings and shall establish fees for
320 recertification. Upon a determination by the department that the
321 residential manufactured building complies with the applicable
322 building codes, the department shall issue a recertification
323 insignia. A residential manufactured building that bears
324 recertification insignia does not require any additional approval
325 by an enforcement jurisdiction in which the building is sold or
326 installed, and is considered to comply with all applicable codes.
327 As an alternative to recertification by the department, the
328 manufacturer, dealer, or owner of a residential manufactured
329 building may seek appropriate permitting and a certificate of
330 occupancy from the local jurisdiction in accordance with
331 procedures generally applicable under the Florida Building Code.
332 Section 10. Section 320.876, Florida Statutes, is created
333 to read:
334 320.876 Application and scope.--The department shall
335 enforce every provision of ss. 320.870-320.878 and rules adopted
336 under ss. 320.870-320.878 and the provisions of Florida Building
337 Code governing residential manufactured buildings, except that
338 local land use and zoning requirements, fire zones, building
339 setback requirements, side and rear yard requirements, site
340 development requirements, property line requirements, subdivision
341 control, and onsite installation requirements, as well as the
342 review and regulation of architectural and aesthetic
343 requirements, are specifically and entirely reserved to local
344 authorities. Such local requirements and rules which may be

345 enacted by local authorities must be reasonable and uniformly
346 applied and enforced without any distinction as to whether a
347 building is a conventionally constructed or residential
348 manufactured building. A local government shall require permit
349 fees only for those inspections actually performed by the local
350 government for the installation of a factory-built structure.
351 Such fees shall be equal to the amount charged for similar
352 inspections on conventionally built housing.
353 Section 11. Section 320.877, Florida Statutes, is created
354 to read:
355 320.877 Injunctive relief.--The department may seek
356 injunctive or other relief from the circuit court of appropriate
357 jurisdiction to compel compliance with the requirements of ss.
358 320.870-320.878 or with the Florida Building Code or to enjoin
359 the sale, delivery, or installation of a residential manufactured
360 building, upon an affidavit specifying the manner in which the
361 building does not conform to the Florida Building Code or other
362 requirements of ss. 320.870-320.878. Noncompliance with the
363 Florida Building Code or ss. 320.870-320.878 shall be considered
364 prima facie evidence of irreparable damage in any cause of action
365 brought under the authority of ss. 320.870-320.878.
366 Section 12. Section 320.878, Florida Statutes, is created
367 to read:
368 320.878 Penalties.--Any person who violates any of the
369 provisions of ss. 320.870-320.878 is guilty of a misdemeanor of
370 the second degree, punishable as provided in s. 775.082 or s.
371 775.083.
372 Section 13. Section 320.865, Florida Statutes, is
373 transferred and renumbered as section 320.93, Florida Statutes.

374 Section 14. Subsection (12) of section 553.36, Florida
375 Statutes, is amended to read:
376 553.36 Definitions.--The definitions contained in this
377 section govern the construction of this part unless the context
378 otherwise requires.
379 (12) "Manufactured building" means a closed structure,
380 building assembly, or system of subassemblies, which may include
381 structural, electrical, plumbing, heating, ventilating, or other
382 service systems manufactured in manufacturing facilities for
383 installation or erection as a finished building or as part of a
384 finished building, which shall include, but not be limited to,
385 residential, commercial, institutional, storage, and industrial
386 structures. The term includes buildings not intended for human
387 habitation such as lawn storage buildings and storage sheds
388 manufactured and assembled offsite by a manufacturer certified in
389 conformance with this part. This part does not apply to
390 manufactured homes or mobile homes as defined in chapter 320 and,
391 except as to applicability of Florida Building Code minimum
392 construction standards, does not apply to single-family
393 residential manufactured buildings as defined in chapter 320.
394 Section 15. Section 553.38, Florida Statutes, is amended to
395 read:
396 553.38 Application and scope.--Except as provided in
397 chapter 320, the department shall enforce every provision of the
398 Florida Building Code adopted pursuant hereto, except that local
399 land use and zoning requirements, fire zones, building setback
400 requirements, side and rear yard requirements, site development
401 requirements, property line requirements, subdivision control,
402 and onsite installation requirements, as well as the review and

403 regulation of architectural and aesthetic requirements, are
404 specifically and entirely reserved to local authorities. Such
405 local requirements and rules which may be enacted by local
406 authorities must be reasonable and uniformly applied and enforced
407 without any distinction as to whether a building is a
408 conventionally constructed or manufactured building. A local
409 government shall require permit fees only for those inspections
410 actually performed by the local government for the installation
411 of a factory-built structure. Such fees shall be equal to the
412 amount charged for similar inspections on conventionally built
413 housing.
414 Section 16. Conforming legislation.--The Legislature
415 recognizes that there is a need to conform the Florida Statutes
416 to the policy decisions reflected in this act and that there is a
417 need to resolve apparent conflicts between any other legislation
418 that has been or may be enacted during 2006 and the transfer of
419 responsibilities to the Department of Highway Safety and Motor
420 Vehicles by this act. Therefore, in the interim between this act
421 becoming a law and the 2007 Regular Session of the Legislature or
422 an earlier special session addressing this issue, the Division of
423 Statutory Revision shall, upon request, provide the relevant
424 substantive committees of the Senate and the House of
425 Representatives with assistance to enable such committees to
426 prepare draft legislation to conform the Florida Statutes and any
427 legislation enacted during 2006 to the provisions of this act.
428 Section 17. This act shall take effect July 1, 2006.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V