

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1301 Department of Transportation

**SPONSOR(S):** Abbott

**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee		Walker	Hinshelwood
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

The bill addresses matters related to transportation. Specifically, the bill:

- Removes obsolete language that requires the Florida Department of Transportation (FDOT) Secretary to appoint FDOT's inspector general.
- Creates flexibility for FDOT by including the use of a tiered system that correlates with the cost of the construction project to meet the required percentage threshold for funding the purchase of plant materials.
- Expressly authorizes FDOT to procure and establish contracts with one or more financial institutions, credit card companies, or other entities for the acceptance and processing of credit cards, charge cards, debit cards, electronic funds transfers, or any other means of electronic payment for the collection of amounts to which the turnpike enterprise is entitled.
- Changes the time period a prepaid toll account can remain dormant from three years to ten.
- Provides circumstances wherein FDOT may not expend any state funds to support a project or program of a public transit provider, authority, public-use airport, or a port.
- Provides that the remainder of the revenues deposited into the State Transportation Trust Fund (STTF) derived from the registration of motor vehicles must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation to fund arterial highway projects.
- Allows FDOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance projects identified in the Moving Florida Forward Infrastructure Initiative in the work program.
- Provides that when developing transportation plans, FDOT and Metropolitan Planning Organizations may not consider any nonpecuniary social, political, or ideological factor.
- Creates a Supply Chain Innovation Grant Program within the Department of Commerce.
- Provides that if no funds are allocated to projects that qualify for the New Starts Transit Program by June 30 of the current fiscal year, then such funds must revert and are appropriated to the STTF.
- Provides that each public transit provider, during a publicly noticed meeting, must annually certify that its budgeted and actual administrative costs are not greater than 10 percent above the annual state average of administrative costs.
- Provides that a public transit provider may not expend state funds directly, indirectly, or through a grant or agreement, for specified marketing or advertising activities.
- Provides that any new wrap, tinting, paint, medium, or advertisement on the passenger windows of a vehicle used by a public transit provider may not be darker than the legally allowed window tinting requirements.

The bill will have an indeterminate fiscal impact on state and local governments and the private sector.

The bill has an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Office of Inspector General**

##### Current Situation

An office of inspector general (IG) is established in each state agency to provide a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government.<sup>1</sup>

For state agencies under the jurisdiction of the Governor, the IG must be appointed by the Chief IG. The agency head or Chief IG must notify the Governor in writing of his or her intention to hire the IG at least 7 days before an offer of employment. The IG must be appointed without regard to political affiliation.<sup>2</sup>

Section 20.23(3), F.S., contains an obsolete provision that requires the Florida Department of Transportation (FDOT) secretary to appoint an IG.<sup>3</sup>

##### Effect of the Bill

The bill removes obsolete language that requires the FDOT secretary to appoint the IG.

#### **Landscape Requirement**

##### Current Situation

One of the many duties of FDOT is to provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.<sup>4</sup> To accomplish these activities, the FDOT may contract with nonprofit organizations having the primary purpose of developing youth employment opportunities.<sup>5</sup>

At least 1.5 percent of the amount contracted for construction projects must be allocated by the FDOT on a statewide basis for the purchase of plant materials.<sup>6</sup>

To the greatest extent practical, at least 50 percent of the funds allocated for the purchase of plant materials must be allocated for large plant materials and the remaining funds for other plant materials. Except as prohibited by applicable federal law or regulation, all plant materials must be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis. The FDOT must develop grades and standards for landscaping materials purchased through this process. FDOT districts may not expend funds for landscaping in connection with any project that is limited to resurfacing existing lanes unless the expenditure has been approved by the FDOT's secretary or the secretary's designee.<sup>7</sup>

##### Effect of the Bill

The bill creates flexibility for FDOT for landscaping; specifically, the bill creates a tiered system that correlates with the cost of the construction project to meet the required percentage threshold for funding the purchase of plant materials. The tiered system is as follows:

- For projects contracted for up to \$50 million: 1.5 percent.

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<sup>1</sup> S. 20.055(2), F.S.

<sup>2</sup> S. 20.055(3)(a), F.S.

<sup>3</sup> S. 20.23(3)(d), F.S.

<sup>4</sup> S. 334.044(26), F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

- For projects contracted for \$50,000,001 through \$100 million: 1 percent.
- For projects contracted for \$100,000,001 through \$250 million: 0.75 percent.
- For projects contracted for \$250,000,001 through \$500 million: 0.5 percent.
- For projects contracted for \$500,000,001 or more, 0 percent.

The bill also makes a technical change on the placement of the provision that allows FDOT, in order to accomplish its duties relating to landscaping, to contract with nonprofit organizations having the primary purpose of developing youth employment opportunities.

## **Florida’s Turnpike Electronic Payments**

### Current Situation

#### *Florida Turnpike and Procurement*

The Florida Turnpike Enterprise, a separate business unit of FDOT, operates and maintains the Florida Turnpike system, with its hundreds of miles of toll roads that provide access to major highways.<sup>8</sup>

Under Florida law, the FDOT has the authority to employ procurement methods available to the Department of Management Services under chapters 255<sup>9</sup> and 287, F.S.<sup>10</sup> and under any rule adopted under such chapters solely for the benefit of the turnpike enterprise.<sup>11</sup>

#### *State Agency Contract Arrangements for Electronic Payment*

A state agency or the judicial branch must use the standard contract established by the Chief Financial Officer (CFO) for acceptance of electronic payments by credit card, charge card, debit card, and electronic check or obtain authorization from the CFO to use another contractor. If an alternative contractor is desired, the state agency or judicial branch must present justification to the CFO as to why the standard contract is not acceptable and receive approval from the CFO before seeking an alternative contractor.<sup>12</sup>

An alternate agreement must meet the terms, conditions, and specifications provided for in the standard contract relative to pricing, reporting, reconciliation, settlement, and funds availability. The CFO will consider unique requirements of a state agency or the judicial branch that are not provided for in the standard contract in making a determination whether to approve an alternative contractor.<sup>13</sup>

### Effect of the Bill

Notwithstanding any other law, the bill expressly authorizes FDOT to procure and establish contracts with one or more financial institutions, credit card companies, or other entities for the acceptance and processing of credit cards, charge cards, debit cards, electronic funds transfers, or any other means of electronic payment for the collection of amounts to which the turnpike enterprise is entitled.

The bill provides that the provisions, found in s. 215.322, F.S., relating to agencies acceptance of credit cards, charge cards, debit cards, or electronic fund transfers, does not apply to electronic payment services procured by FDOT on behalf of the Florida Turnpike Enterprise.<sup>14</sup>

## **Dormant Prepaid Toll Accounts**

<sup>8</sup> S. 338.2216(1)(a), F.S.

<sup>9</sup> Ch. 255, F.S., provides provisions relating to property and publicly owned buildings.

<sup>10</sup> Ch. 287, F.S., provides provisions relating to procurement of personal property and services.

<sup>11</sup> S. 338.2216(2), F.S.

<sup>12</sup> Rule 69C-4.004, F.A.C.

<sup>13</sup> *Id.*

<sup>14</sup> S. 215.322, F.S., provides that the CFO is authorized to adopt rules governing the establishment and acceptance of credit cards, charge cards, debit cards, or electronic funds transfers by state agencies or the judicial branch, including but not limited to, the use of a standardized contract between the financial institution or other appropriate intermediaries.

See also Rule 69C-4.004, F.A.C.

### Current Situation

Under Florida law, any prepaid toll account of any kind which has remained inactive for 3 years must be presumed unclaimed and its disposition must be handled by the Department of Financial Services<sup>15</sup> in accordance with all applicable provisions relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by the FDOT.<sup>16</sup>

### Effect of the Bill

The bill changes the time period a prepaid toll account can remain dormant from three years to ten.

## **Use of Moneys in the State Transportation Trust Fund**

### Current Situation

Florida law establishes the State Transportation Trust Fund (STTF), which is used for transportation purposes, under the direction of the FDOT.<sup>17</sup> Such transportation purposes include maintaining and developing the state highway system and supporting various transportation related projects.<sup>18</sup> STTF's primary revenue sources are from state fuel taxes and fees related to motor vehicle licensing.<sup>19</sup> FDOT must expend moneys in the STTF in accordance with its annual budget.<sup>20</sup>

### Effect of the Bill

The bill provides that FDOT may not expend any state funds approved through the General Appropriation Act (GAA) to support a project or program of a public transit provider<sup>21</sup>, authority<sup>22</sup>, public-use airport<sup>23</sup>, or a port<sup>24</sup> that:

- that violates s. 381.00316, F.S.<sup>25</sup>
- which is found advertising, enforcing, promoting, or displaying a recommendation, requirement, or mandate relating to COVID-19 or any variant thereof which is produced, recommended, or enacted by the Centers for Disease Control and Prevention, the United States Department of Health and Human Services, the Transportation Security Administration, the United States Department of Transportation and any operating administration thereof, or any other governmental entity.

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<sup>15</sup> Until claimed, unclaimed money is deposited into the state school fund, where it is used for public education. There is, however, no statute of limitations, and citizens have the right to claim their property any time at no cost. Florida Department of Financial Services, *Unclaimed Property*, <https://www.myfloridacfo.com/division/unclaimedproperty/home#:~:text=Florida%20Unclaimed%20Property&text=Until%20Unclaimed%20C%20unclaimed%20money%20is.any%20time%20at%20no%20cost.> (Jan. 24, 2024).

<sup>16</sup> S. 338.231(3)(c), F.S.

<sup>17</sup> S. 206.46(1), F.S.

<sup>18</sup> Office of Work Program and Budget Florida Department of Transportation, *Florida's Transportation Tax Sources*, (2023), p. 2,

<https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/prs/Primer.pdf#:~:text=STTF%E2%80%99s%20primary%20revenue%20sources%20from%20state%20taxes%20and,fuel%20taxes%20and%20motor%20vehicle%20license%20related%20fees.> (last visited Jan. 24, 2024).

<sup>19</sup> *Id.*

<sup>20</sup> S. 339.08(1), F.S.

<sup>21</sup> S. 341.031(1), F.S., defines public transit provider as a public agency providing public transit service, including rail authorities.

<sup>22</sup> Authority created pursuant to Ch. 343, 348, or 349.

<sup>23</sup> S. 332.004(14), F.S., defines public-use airport as any publicly owned airport which is used or to be used for public purposes.

<sup>24</sup> S. 311.09(1), F.S., enumerates the following ports: Port of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>25</sup> S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.

The bill provides that FDOT must withhold state funds until a public transit provider, authority, public-use airport, or port are found to be:

- In compliance with s. 381.00316, F.S.
- No longer advertising, enforcing, promoting, or displaying such COVID-19 recommendations, requirements, or mandates aforementioned.

## **Arterial Highway Projects**

### Current Situation

After the revenue derived from the registration of motor vehicles is distributed monthly, as specified and allocated per law, then the remainder of such revenues must be deposited into the STTF.<sup>26</sup> This remainder amount deposited to the STTF must be used to fund arterial highway<sup>27</sup> projects identified by the FDOT and may be used for projects for upgrading arterial highways with controlled access facilities and constructing U.S. 19 controlled access facilities.<sup>28</sup>

### Effect of the Bill

The bill provides that the revenues deposited into the STTF aforementioned must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation<sup>29</sup> to fund arterial highway projects. Furthermore, the bill provides that for the corporation's bonding purposes, two or more of such projects in the FDOT's approved work program may be treated as a single project.

## **Florida Department of Transportation Financing Corporation & Moving Florida Forward**

### Current Situation

#### *Florida Department of Transportation Financing Corporation and Service Contracts*

The Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for the FDOT.<sup>30</sup>

The Florida Department of Transportation Financing Corporation may enter into one or more service contracts with FDOT to provide services to the FDOT in connection with projects approved in the department's work program. The FDOT may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature.<sup>31</sup> The FDOT may enter into a service contract in conjunction with the issuance of debt obligations which provide for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of the Florida Department of Transportation Financing Corporation.<sup>32</sup>

### *Moving Florida Forward Initiative*

During the 2023 Legislative session, the GAA provided \$4 billion from the STTF for the Moving Florida Forward plan with the purpose of accelerating the completion of selected road projects and providing traffic congestion relief in the state. The funds were placed in reserve, contingent upon FDOT submitting a budget amendment for approval by the Legislative Budget Commission (LBC). Such

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<sup>26</sup> S. 320.20(5)(a), F.S.

<sup>27</sup> S. 334.03(1), F.S., defines arterial road as a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

<sup>28</sup> S. 339.0803, F.S.

<sup>29</sup> S. 339.0809(1), F.S., provides that the Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for the FDOT.

<sup>30</sup> *Supra* note 29.

<sup>31</sup> S. 339.0809(4), F.S.

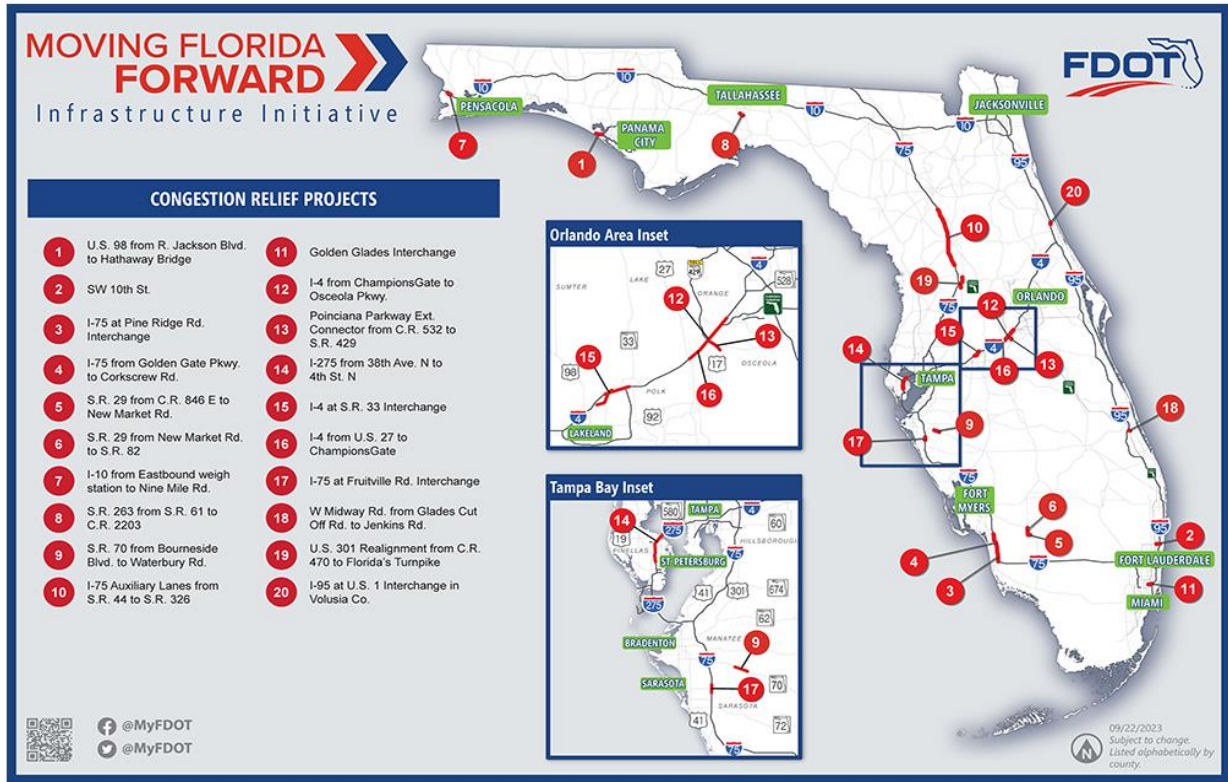
<sup>32</sup> S. 339.0809(13), F.S.

budget amendment must include a project list, implementation schedule, finance plan, and budget authority necessary to implement the initiative.<sup>33</sup>

On September 8, 2023, the LBC approved the appropriation and release of nearly \$1.6 billion of these funds for the first year of the Moving Florida Forward Plan.<sup>34</sup>

As seen below, there are 20 projects identified in the Moving Florida Forward Infrastructure Initiative:

**Figure 1: Moving Florida Forward Project List<sup>35</sup>**



**Effect of the Bill**

The bill provides that funds appropriated for payments under a service contract with the Florida Department of Transportation Financing Corporation must be available after funds pledged to payment on bonds, but before other statutorily required distributions.

Additionally, the bill allows FDOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance those 20 projects identified in the Moving Florida Forward Infrastructure Initiative in the work program. Such service contract payments may not exceed 7 percent of the funds deposited in the STTF in each fiscal year. The annual payments under such service contract must be included in the FDOT's tentative work program<sup>36</sup> and legislative budget

<sup>33</sup> Ch. 2023-239, Laws of Fla.  
<sup>34</sup> State of Florida, Transparency Florida, *Approved Budget Amendment Request B0112, Fiscal Year 2023-24*, <http://www.transparencyflorida.gov/arreports/arreport/55469> (last visited Jan. 24, 2024).  
<sup>35</sup> FDOT, *Moving Florida Forward Infrastructure Initiative*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited Jan. 24, 2024).  
<sup>36</sup> S. 339.135(1)(c), F.S., defines the tentative work program as the 5-year listing of all transportation projects planned for each fiscal year which is developed by FDOT's central office based on the district work programs.  
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request. Finally, FDOT must ensure that the annual payments are programmed for the life of the service contract before execution of the service contract and shall remain programmed until fully paid.

## Transportation Planning

### Current Situation

FDOT and Metropolitan Planning Organization's (M.P.O.s) are partners in the transportation planning, with FDOT responsible for coordinating the state's long-range transportation goals, the Florida Transportation Plan (FTP),<sup>37</sup> and M.P.O.s responsible for coordinating regional long-range transportation plans.<sup>38</sup> The M.P.O.s develop their Long Range Transportation Plan (LRTP) to implement national and state goals for their metropolitan area.<sup>39</sup> Projects are developed and must be included in the LRTP to be considered for funding.<sup>40</sup> An M.P.O. must also develop its List of Priority Projects (LOPP), which must be consistent with the LRTP and is used to inform the development of the Transportation Improvement Program (TIP).<sup>41</sup> An M.P.O.s TIP includes a listing of projects planned for the next five fiscal years.<sup>42</sup> TIPs from all 27 M.P.O.s are combined together, along with FDOT's other non-metropolitan statewide projects to form the Statewide Transportation Improvement Program (STIP).<sup>43</sup> To be eligible for federal funding, projects must be included in the LRTP, TIP, and STIP.<sup>44</sup> The projects included in an M.P.O.'s TIP are funded and completed through the Work Program (WP).<sup>45</sup>

### Effect of the Bill

The bill provides that when developing transportation plans, FDOT and M.P.O.s may not consider any nonpecuniary social, political, or ideological factor. Rather, FDOT and M.P.O.s must consider pecuniary factors including, but not limited to, the material effects on the risk or return of an investment, mitigation against natural hazards, and long-term financial viability.

The bill defines nonpecuniary factor as environmental, social, and corporate governance (ESG) interests; social governance standards, benchmarks, and requirements, including, but not limited to, environmental or social justice; any initiative, action, framework, or target that advances or implements the goals of the Paris Agreement, defined as the resolution adopted by the United Nations Framework Convention on Climate Change's 21st Conference of Parties in Paris, France; or any similar initiative adopted by the Federal Government or any agency thereof to achieve net zero emissions of carbon dioxide.

## Supply Chain Innovation Grant Program

### Current Situation

Efforts have been made by state agencies, such as the Department of Commerce (FloridaCommerce) and FDOT to strengthen Florida's supply chain.

For example, FDOT has an assistant secretary that is directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to

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<sup>37</sup> The FTP is a policy document updated at least once every five years and developed in compliance with requirements in s. 339.155, F.S. The FTP establishes and defines the state's long-range transportation goals and objectives to be accomplished over a period of at least 20 years. S. 339.155(1), F.S. It is based upon the prevailing principles of preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, improving travel choices to ensure mobility, and expanding the state's role as a hub for trade and investment. *Id.* The FTP is the single overarching plan guiding Florida's transportation future. FDOT, *Florida Transportation Plan*, <https://www.fdot.gov/planning/ftp/default.shtm> (last visited Jan. 24, 2024).

<sup>38</sup> FDOT, Metropolitan Planning Organization Subject Brief, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing\\_sheet\\_mpo\\_102720.pdf?sfvrsn=b17ab46b\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheet_mpo_102720.pdf?sfvrsn=b17ab46b_2) (last visited Jan. 24, 2024).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> FDOT, *STIP Information*, <https://www.fdot.gov/workprogram/federal/stip-mpostip.shtm> (last visited Jan. 24, 2024).

<sup>43</sup> FDOT, *supra* note 38.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*



process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America.<sup>46</sup> In addition, FloridaCommerce provides programs, such as the Job Growth Grant Fund, to support Florida's economic growth and supply chain.

The five industry clusters below were identified by the Department of Economic Opportunity (now FloridaCommerce) and Enterprise Florida (now repealed) for economic growth in Florida and each of these industries rely heavily on freight transportation systems and a strong supply chain<sup>47</sup>:

- 1) Cleantech
- 2) Life Sciences
- 3) Aviation/Aerospace
- 4) Logistics and Distribution
- 5) Defense and Homeland Security

#### Effect of the Bill

The bill creates and codifies a Supply Chain Innovation Grant Program within the FloridaCommerce that is subject to appropriation by the Legislature. Awardees under this program must be selected jointly by the FDOT and the FloridaCommerce, and grants awarded under this program must be administered by the FloridaCommerce. FDOT and the FloridaCommerce are authorized to adopt rules to implement this program.

FDOT and FloridaCommerce must annually consider applications submitted under the new program by ports<sup>48</sup>; class I, II, or III freight railroads; public airports, and intermodal logistics centers or inland ports<sup>49</sup> to fund proposed projects that:

- Increase efficiency or demonstrably reduce traffic congestion in the delivery of goods;
- Increase fuel storage and distribution loading rack capacity; or
- Otherwise expand fuel capacity in this state.

Additionally, FloridaCommerce and the FDOT must consider applications for funding submitted by public and private entities seeking to develop and establish vertiports in this state. Each award made for vertiport development must be matched dollar-for-dollar by nonstate funds. For purposes of this section, the bill defines the term "vertiport" to mean a system or infrastructure with supporting services and equipment used for landing, ground handling, and takeoff of manned or unmanned vertical takeoff and landing (VTOL) aircraft.

### **New Starts Transit Program**

#### Current Situation

Under Florida law, funds paid into the STTF for the New Starts Transit Program are annually appropriated for expenditure to support the New Starts Transit Program.<sup>50</sup> The New Starts Transit

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<sup>46</sup> S. 20.23(1)(d), F.S.

<sup>47</sup> FDOT, *Florida Supply Chain Management*, <https://www.fdot.gov/docs/default-source/planning/systems/programs/mspi/pdf/Freight/Florida-Supply-Chain-Management-Exec-Summary.pdf> (last visited Jan. 24, 2024).

<sup>48</sup> S. 311.09(1), F.S., The ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>49</sup> S. 311.101(2), F.S., defines intermodal logistics center or an inland port as a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports.

<sup>50</sup> S. 341.051(6), F.S.



Program assists local governments in the development of fixed guideway and bus rapid transit projects. This program is a matching program to leverage local or federal funds.<sup>51</sup>

#### Effect of the Bill

The bill provides that if no funds are allocated to projects that qualify for the New Starts Transit Program by June 30 of the current fiscal year, then such funds must revert and are appropriated to the STTF.

### **Public Transit Providers and Productivity and Performance Measures**

#### Current Situation

Public transit provider is defined as a public agency providing public transit service, including rail authorities created in chapter 343, F.S.<sup>52</sup>

Each public transit provider must establish productivity and performance measures, which must be approved by the FDOT and which must be selected from measures developed pursuant to s. 341.041(3), F.S.<sup>53</sup>

#### Effect of the Bill

The bill provides that each public transit provider, during a publicly noticed meeting, must annually certify that its budgeted and actual administrative costs are not greater than 10 percent above the annual state average of administrative costs. To support compliance with this measure, the FDOT must determine the annual state average of administrative costs by calculating the annual administrative costs of all the public transit providers in this state.

For the purpose of this provision the bill defines the following terms:

- Administrative costs: includes, but is not limited to, employee salaries and benefits, small business outreach, insurance, professional service contracts not directly related to the operation and maintenance of a transit system, and other overhead costs.
- Public transit provider: a public agency providing public transit service, including an authority created pursuant to chapter 343, F.S.,<sup>55</sup> and chapter 349, F.S.<sup>56</sup>

### **Public Transit Providers and Use of State Funds**

#### Current Situation

FDOT's annual budget is approved by the Legislature and the Governor and contains funding for transportation related projects through the inclusion and adoption of the Five-Year Work Program, which is a list of transportation projects planned for each fiscal year. State taxes and fees, along with federal aid, make up the primary funding sources for the work program. Other funding sources include tolls collected in certain facilities, proceeds from bond issuances, and local taxes and fees.<sup>57</sup>

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<sup>51</sup> Florida Transportation Commission, *New Starts Transit Program*, [http://www.ftc.state.fl.us/documents/Presentations/New\\_Starts\\_Transit\\_Program\\_\(5-23-06\).pdf](http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_(5-23-06).pdf) (last visited Jan. 24, 2024).

<sup>52</sup> S. 341.031(1), F.S.

<sup>53</sup> S. 341.071(2), F.S.

<sup>54</sup> S. 341.041(3), F.S., provides that the FDOT must develop, publish, and administer state measures concerning system management, performance, productivity, cost distribution, and safety of governmentally owned public transit systems and privately owned or operated systems financed wholly or in part by state funding. Such measures must be developed jointly with representatives of affected publicly owned transit systems and in coordination with affected privately owned systems, with full consideration given to nationwide industry norms.

<sup>55</sup> Ch. 343, F.S., relates to the South Florida Regional Transportation Authority and Central Florida Regional Transportation Authority.

<sup>56</sup> Ch. 349, F.S., relates to the Jacksonville Transportation Authority.

<sup>57</sup> Office of Work Program and Budget Florida Department of Transportation, *supra* note 18.

Each fiscal year, a minimum of 15 percent of all state revenues deposited into the STTF are committed annually by FDOT for public transportation projects, including public transit projects.<sup>58</sup>

Public transit is defined in Florida law as the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as paratransit.<sup>59</sup>

#### Effect of the Bill

The bill provides that a public transit provider may not expend state funds directly, indirectly, or through a grant or agreement, for any of the following marketing or advertising activities:

- A marketing or public awareness campaign, whether through a digital or print medium, including the use of any wrap, tinting, or paint on a bus, commercial motor vehicle, or motor vehicle, as in support of any social, political, or ideological interest.
- Use of an asset owned or funded by a public transit provider, including an existing or future asset, which displays, contains, or markets, whether through a digital or print medium, any social, political, or ideological interest.

The activities prohibited include the promotion of ESG interests or any campaign related to environmental or social justice causes. This does not apply to the acknowledgement of recognized holidays.

Additionally, the bill provides that any new wrap, tinting, paint, medium, or advertisement on the passenger windows of a vehicle used by a public transit provider may not be darker than the legally allowed window tinting requirements.<sup>60</sup>

#### **Effective Date**

The bill provides an effective date of July 1, 2024.

#### **B. SECTION DIRECTORY:**

- Section 1** Amends s. 20.23, F.S., relating to Department of Transportation.
- Section 2** Amends s. 334.044, F.S., relating to powers and duties of the department.
- Section 3** Amends s. 338.2216, F.S., relating to Florida Turnpike Enterprise; powers and authority.
- Section 4** Amends s. 338.231, F.S., relating to turnpike tolls, fixing; pledge of tolls and other revenues.
- Section 5** Amends s. 339.08, F.S., relating to use of moneys in State Transportation Trust Fund.
- Section 6** Amends s. 339.0803, F.S., relating to allocation of increased revenues derived from amendments to s. 320.08, F.S., by ch. 2019-43, Laws of Fla.
- Section 7** Amends s. 339.0809, F.S., relating Florida Department of Transportation Financing Corporation.
- Section 8** Amends s. 339.155, F.S., relating to transportation planning.

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<sup>58</sup> S. 206.46(3), F.S. The funding cap minimum is for public transportation projects that are in accordance with ch. 311, ss. 332.003-332.007, ch. 341, and ch. 343 of F.S.

<sup>59</sup> S. 341.031(6), F.S.

<sup>60</sup> S. 316.2954, F.S., provides that a person shall not operate any motor vehicle with any sun screening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance. Specific requirements provided in statute.

- Section 9** Creates s. 339.652, F.S., relating to Supply Chain Innovation Grant Program.
- Section 10** Amends s. 341.051, F.S., relating to administration and financing of public transit and intercity bus service programs and projects.
- Section 11** Amends s. 341.071, F.S., relating to transit productivity and performance measures; reports.
- Section 12** Creates s. 341.072, F.S., relating to prohibited use of state funds by public transit providers.
- Section 13** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
Indeterminate. See “Fiscal Comments” section below.
2. Expenditures:  
Indeterminate. See “Fiscal Comments” section below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
Indeterminate. See “Fiscal Comments” section below.
2. Expenditures:  
Indeterminate. See “Fiscal Comments” section below.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. See “Fiscal Comments” section below.

### D. FISCAL COMMENTS:

The creation of the Supply Chain Innovation Grant Program will have an indeterminate negative fiscal impact on FloridaCommerce and FDOT as it will require the spending of state funds for the grants and administrative resources. However, the new program will support and benefit both the public and private sectors by improving Florida’s supply chain and therefore stimulating economic growth.

The bill may have an indeterminate positive fiscal impact on FDOT, as it:

- Creates flexibility for FDOT by including the use of a tiered system that correlates with the cost of the construction project to meet the required percentage threshold for funding the purchase of plant materials.
- Provides that if no funds are allocated to projects that qualify for the New Starts Transit Program by June 30 of the current fiscal year, then such funds must revert and are appropriated to the STTF.

The bill may have a positive impact on the Florida Department of Transportation Financing Corporation as it:

- Provides that remainder of the revenues deposited into the STTF derived from the registration of motor vehicles must first be available for appropriation for payments under a service contract

entered into with the Florida Department of Transportation Financing Corporation to fund arterial highway projects.

- Allows FDOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance those 20 projects identified in the Moving Florida Forward Infrastructure Initiative in the work program.

The bill may have a positive fiscal impact on entities involved in electronic payments, to the extent that FDOT procures and establishes contracts with such entities for the collection of turnpike toll fees.

The bill may have a negative fiscal impact on public transit providers, to the extent that such providers choose to participate in prohibited marketing or advertising activities as outlined by the bill. Additionally, the bill may have a negative fiscal impact on a public transit provider, authority, public-use airport, or a port, to the extent that such entities violate s. 381.00316, F.S.<sup>61</sup> or advertise, enforce, promote, or display a recommendation, requirement, or mandate relating to COVID-19 or any variant thereof which is produced, recommended, or enacted by, any governmental entity.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

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

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

Rulemaking may be necessary in order to conform to changes made by the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A

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<sup>61</sup> S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.