

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/CS/HB 1301 Department of Transportation
SPONSOR(S): Infrastructure Strategies Committee, Infrastructure & Tourism Appropriations Subcommittee, Transportation & Modals Subcommittee, Abbott, Berfield and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/SB 1226

FINAL HOUSE FLOOR ACTION: 79 Y's 32 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

CS/CS/CS/HB 1301 passed the House on February 28, 2024, as amended. The bill was amended in the Senate on March 6, 2024, and returned to the House. The House concurred in the Senate amendments and subsequently passed the bill as amended on March 7, 2024. The bill includes portions of CS/CS/CS/HB 287, CS/CS/HB 981, and CS/HB 7049.

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

- Revises the means of selecting the Secretary of the Florida Department of Transportation (FDOT) and revises FDOT's areas of program responsibility as well as its overall mission, goals, and objectives.
- Removes obsolete language that requires the FDOT secretary to appoint FDOT's inspector general.
- Provides that an appropriation of \$15 million will be made available for five fiscal years to support FDOT's Intermodal Logistics Center Infrastructure Support Program.
- Revises airport land use compatibility zoning regulations.
- Provides requirements for a governmental entity that proposes to repurpose existing traffic lanes.
- Increases from three years to 10 years the time period that a prepaid toll account can remain dormant before it is presumed unclaimed.
- Amends provisions relating to funding the fire station at mile marker 63 on the Alligator Alley toll road.
- Provides a circumstance 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 for certain prioritization of funding for arterial highway projects.
- Allows FDOT to enter into a service contract to finance projects authorized in the Moving Florida Forward Plan and authorizes FDOT to retain interest earnings on such projects.
- Allows certain local governments to compete for additional project funding under the Small County Outreach Program.
- Provides voting and public meeting requirements for lane elimination or lane repurposing relating to public transit projects and provides public meeting requirements for any action of eminent domain for acquisition of public transit facilities carried out by a public transit provider.
- Redirects remaining funds in the New Starts Transit Program for the Strategic Intermodal System.
- Provides requirements for marketing and advertising by a public transit provider.
- Requires public transit providers to disclose certain information and documentation relating to its budgeted and general administrative costs.
- Revises the powers of the Florida Rail Enterprise.
- Modifies the definition of "streetlight provider" in s. 768.1382, F.S.
- Amends laws relating to railroad-crossing offenses, increases penalties for such offenses, and conforms cross-references.

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

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Secretary of the Florida Department of Transportation (FDOT)

Current Situation

Under Florida law, the FDOT secretary must be appointed by the Governor from among three persons nominated by the Florida Transportation Commission (FTC)¹ and must be subject to confirmation by the Senate. The secretary serves at the pleasure of the Governor.²

Effect of the Bill

The bill removes the requirement that the Secretary of FDOT be nominated by the FTC before being appointed by the Governor and confirmed by the Senate.

FDOT Program Responsibility

Current Situation

FDOT's areas of program responsibility include, but are not limited to:

- Administration;
- Planning;
- Public transportation;
- Design;
- Highway operations;
- Right-of-way;
- Toll operations;
- Information systems;
- Motor carrier weight inspection;
- Management and budget;
- Comptroller;
- Construction;
- Maintenance; and
- Materials.³

The secretary of FDOT may appoint positions at the level of deputy assistant secretary or director which the secretary deems necessary to accomplish the mission and goals of FDOT, including, but not limited to, the areas of program responsibility provided above.⁴

Effect of the Bill

The bill revises FDOT's areas of program responsibility by replacing:

- Public transportation with modal development; and
- Management and budget with work program and budget.

The bill adds the following areas of program responsibility:

- Transportation technology;
- Statewide corridors;

¹ The FTC is assigned to FDOT for administrative and fiscal purposes; otherwise, it functions independently of the control and direction of FDOT. The FTC is composed of nine commissioners appointed by the Governor and confirmed by the Florida Senate for four-year terms. The FTC has many responsibilities, including but not limited to, recommending major transportation policies for the Governor's approval and assuring that approved policies are executed. See FTC, *FTC Overview*, <http://www.ftc.state.fl.us/aboutus.shtm> (last visited Mar. 12, 2024).

² S. 20.23(1)(a), F.S.

³ S. 20.23(3)(b), F.S.

⁴ *Id.*

- Forecasting and performance;
- Emergency management;
- Safety;
- Infrastructure and innovation;
- Permitting; and
- Traffic operations.

Office of Inspector General

Current Situation

An Office of Inspector General (OIG) 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.⁵

For state agencies under the jurisdiction of the Governor, the Inspector General (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.⁶

Section 20.23(3), F.S., contains an obsolete provision that requires the FDOT secretary to appoint an IG.⁷

Effect of the Bill

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

Intermodal Logistics Center Infrastructure Support Program

Current Situation

The purpose of FDOT's Intermodal Logistics Center Infrastructure Support Program is to provide funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport, thereby enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities. FDOT may provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.⁸⁹

Effect of the Bill

The bill provides that, beginning with the 2024-2025 fiscal year through the 2029-2030 fiscal year, a recurring appropriation of \$15 million will be made available from the State Transportation Trust Fund (STTF) to support FDOT's Intermodal Logistics Center Infrastructure Support Program. FDOT must include projects proposed to be funded under this program in the tentative work program developed pursuant to s. 339.135(4), F.S.

Airport Land Use Compatibility Zoning Regulations

Current Situation

⁵ S. 20.055(2), F.S.

⁶ S. 20.055(3)(a), F.S.

⁷ S. 20.23(3)(d), F.S.

⁸ S. 311.101(1), F.S.

⁹ Section 311.101(3), F.S., defines "intermodal logistics center" 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 listed in s. 311.09, F.S.

Political subdivisions must adopt, administer, and enforce airport land use compatibility zoning regulations relating to airport hazard areas. The following are minimum requirements that political subdivisions must consider in their airport land use compatibility zoning regulations:¹⁰

- The prohibition of new landfills and the restriction of existing landfills when such areas are:
 - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbine aircraft.
 - Within 5,000 feet from the nearest point of any runway used by only nonturbine aircraft.
 - Outside the perimeters above, but still within the lateral limits of the civil airport imaginary surfaces. Case-by-case review of such landfills is advised.
- Where any landfill is located and constructed in a manner that attracts or sustains hazardous bird movements from feeding, water, or roosting areas into, or across, the runways or approach and departure patterns of aircraft. The landfill operator must incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft.
- Where an airport authority or other governing body operating a public-use airport has conducted a noise study in accordance with 14 C.F.R. part 150, or where a public-use airport owner has established noise contours pursuant to another public study accepted by the FAA, the prohibition of incompatible uses, as established in the noise study in 14 C.F.R. part 150, Appendix A or as a part of an alternative FAA-accepted public study, within the noise contours established by any of these studies, except if such uses are specifically contemplated by such study with appropriate mitigation or similar techniques described in the study.
- Where an airport authority or other governing body operating a public-use airport has not conducted a noise study, the mitigation of potential incompatible uses associated with residential construction and any educational facility, with the exception of aviation school facilities, within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.
- The restriction of new incompatible uses, activities, or substantial modifications to existing incompatible uses within runway protection zones.

Effect of the Bill

The bill requires airport land use compatibility zoning regulations to “address”, rather than merely “consider”, the list of requirements specified in statute. The bill generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities. Additionally, the bill adds an exception to such buffer zone in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

FDOT’s Mission, Goals, and Objectives

Current Situation

Under Florida law, the prevailing principles to be considered in planning and developing an integrated, balanced statewide transportation system are: preserving the existing transportation infrastructure; enhancing Florida’s economic competitiveness; and improving travel choices to ensure mobility.¹¹

Additionally, Florida law provides that FDOT’s mission is to provide a safe statewide transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.¹²

¹⁰ S. 333.03(2), F.S.

¹¹ S. 334.046(1), F.S.

¹² S. 334.046(2), F.S.

FDOT is required to document in the Florida Transportation Plan (FTP)¹³, in accordance with s. 339.155, F.S., and based upon the prevailing principles of preserving the existing transportation infrastructure, enhancing Florida’s economic competitiveness, and improving travel choices to ensure mobility, the goals and objectives that provide statewide policy guidance for accomplishing FDOT’s mission.¹⁴

At a minimum, FDOT’s goals must address the following prevailing principles:

- “Preservation” which means protecting the state’s transportation infrastructure investment. Preservation includes ensuring that:
 - 80 percent of the pavement on the state highway system meets FDOT standards;
 - 90 percent of FDOT-maintained bridges meet department standards; and
 - FDOT achieves 100 percent of the acceptable maintenance standard on the state highway system.
- “Economic competitiveness” which means ensuring that the state has a clear understanding of the economic consequences of transportation investments, and how such investments affect the state’s economic competitiveness. FDOT must develop a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the district-work-program investments. Such an analysis must analyze:
 - The state’s and district’s economic performance relative to the competition.
 - The business environment as viewed from the perspective of companies evaluating the state as a place in which to do business.
 - The state’s capacity to sustain long-term growth.
- “Mobility” which means ensuring a cost-effective, statewide, interconnected transportation system.¹⁵

Effect of the Bill

The bill revises FDOT’s overall mission, goals and objectives by:

- Replacing the term integrated, balanced, statewide transportation system with the state’s multimodal transportation system.
- Providing that the prevailing principles that FDOT must consider when planning and developing the state’s multimodal transportation system include:
 - Preserving Florida’s transportation infrastructure;
 - Supporting its economic competitiveness;
 - Promoting the efficient movement of people and goods; and
 - Preserving Florida’s quality of life.
- Providing that FDOT’s mission is to provide a safe statewide transportation system that promotes efficient movement of people and goods, supports economic competitiveness, prioritizes Florida’s environment and natural resources, and preserves the quality of life and connectedness of the state’s communities.
- Providing that the prevailing principles must be incorporated into all goals and objectives that provide statewide policy guidance for accomplishing FDOT’s mission, including the FTP.
- Redefining FDOT’s prevailing principle of “economic competitiveness” as ensuring that the state has a clear understanding of the return on investment and economic impacts of transportation infrastructure investments and how such investments affect the state’s economic competitiveness.

¹³ 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. The FTP is the single overarching plan guiding Florida’s transportation future. See FDOT, *Florida Transportation Plan*, <https://www.fdot.gov/planning/ftp/default.shtm> (last visited Mar. 11, 2024).

¹⁴ S. 334.046(3), F.S.

¹⁵ S. 334.046(4), F.S.

- Removing FDOT’s prevailing principle of “mobility” and replacing it with “connected transportation system” which ensures a cost-effective, statewide, interconnected transportation system that provides the most efficient and effective multimodality and mobility.
- Providing “preserving Florida’s natural resources and quality of life” as a new prevailing principle and defining such principle to mean prioritizing Florida’s natural resources and the quality of life of its communities.

Traffic Lane Repurposing

Current Situation

To balance the needs of the statewide transportation network and local roadways, FDOT has developed a process for allowing local and regional agencies to repurpose parts of FDOT-owned roadways in their jurisdiction for other purposes such as a dedicated transit lane or to make the area more pedestrian friendly. To do this, the relevant local government develops a lane repurposing application and conceptual plan that is be sent to the appropriate FDOT district’s lane repurposing coordinator for approval based on certain criteria.¹⁶

FDOT’s *Lane Repurposing Guidebook* provides information regarding lane repurposing, including the application process, concept report, public involvement, and examples of such projects.

Effect of the Bill

The bill provides that whenever a governmental entity¹⁷ proposes any project that will repurpose one or more existing traffic lanes, the governmental entity must include a traffic study to address any potential adverse impacts of the project, including, but not limited to, changes in traffic congestion and impacts on safety.

If, following the study, the governmental entity elects to continue with the design of the project, it must notify all affected property owners, impacted municipalities, and the counties in which the project is located at least 180 days before the design phase of the project is completed. The notice must provide a written explanation regarding the need for the project, provide information on how to review the required traffic study, and indicate that all affected parties will be given an opportunity to provide comments to the proposing entity regarding potential impacts of the change.

The governmental entity must hold at least one public meeting, with at least 30 days prior notice, before completing the design phase of the project in the jurisdiction where the project is located. At the public meeting, the governmental entity must explain the purpose of the project and receive public input, including possible alternatives, to determine the manner in which the project will affect the community.

The governmental entity must review all comments from the public meeting and take the comments and any alternatives presented during the meeting into consideration in the final design of the project.

Dormant Prepaid Toll Accounts

Current Situation

Under Florida law, any prepaid toll account of any kind which has remained inactive for three years must be presumed unclaimed; its disposition must be handled by the Department of Financial

¹⁶ FDOT, *Lane Repurposing Guidebook* (Aug. 2020), Section 1.1, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/systems/systems-management/document-repository/lane-repurposing/lr_guidebook-2020.pdf?sfvrsn=b4 (last visited Mar. 12, 2024).

¹⁷ Section 334.044(11), F.S., defines “governmental entity” as a unit of government, or any officially designated public agency or authority of a unit of government, that has the responsibility for planning, construction, operation, or maintenance or jurisdiction over transportation facilities; the term includes the federal government, the state government, a county, an incorporated municipality, a metropolitan planning organization, an expressway or transportation authority, a road and bridge district, a special road and bridge district, and a regional governmental unit.

Services¹⁸ in accordance with all applicable provisions relating to the disposition of unclaimed property; and the prepaid toll account must be closed by FDOT.¹⁹

Effect of the Bill

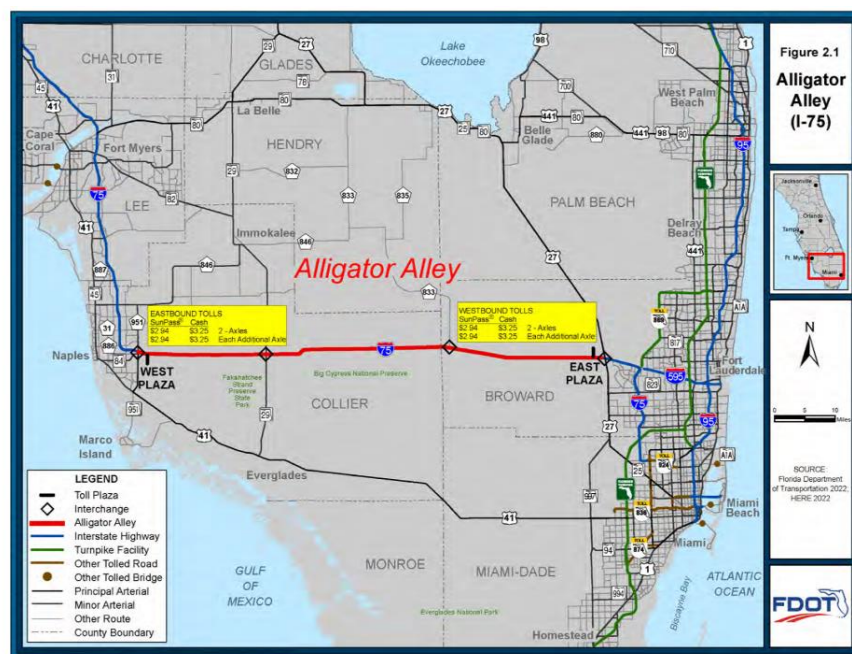
The bill increases from three years to 10 years the time period that a prepaid toll account can remain dormant before it is presumed unclaimed.

Alligator Alley Toll Road

Current Situation

Alligator Alley is a 78-mile toll road connecting Naples and Fort Lauderdale. It is established as a toll road because the construction of the road contributed to the alteration of water flows in the Everglades and affected ecological patterns of the historical southern Everglades.²⁰ Collier County provides fire, rescue, and emergency management services along Alligator Alley through a fire station located at mile marker 63 on Alligator Alley. A map of the Alligator Alley toll road is below.²¹

Figure 1: Alligator Alley Toll Road Map



Florida law sets forth required uses of the revenues generated from tolls collected on Alligator Alley as follows:²²

- To reimburse outstanding contractual obligations;
- To operate and maintain the highway and toll facilities, including reconstruction and restoration; and

¹⁸ 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%20Claimed%2C%20unclaimed%20money%20is,any%20time%20at%20no%20cost.> (last visited Mar. 12, 2024).

¹⁹ S. 338.231(3)(c), F.S.

²⁰ S. 338.26(1), F.S.

²¹ FDOT, *Enterprise Toll Operations (FY 2022)*, p.20, <https://floridasturnpike.com/wp-content/uploads/2023/02/2022-Department-owned-Facilities.pdf> (last visited Mar. 12, 2024).

²² S. 338.26(3)(a), F.S.

- By interlocal agreement effective July 1, 2019, through no later than June 30, 2027, to reimburse a local governmental entity for the direct actual costs of operating the fire station at mile marker 63 on Alligator Alley, which shall be used by the local governmental entity to provide fire, rescue, and emergency management services exclusively to the public on Alligator Alley. The local governmental entity must contribute 10 percent of the direct actual operating costs. The amount of reimbursement to the local governmental entity may not exceed \$1.4 million in any state fiscal year. At the end of the term of the interlocal agreement, the ownership and title of all fire, rescue, and emergency equipment used at the fire station during the term of the interlocal agreement transfers to the state.

Revenues generated annually in excess of those required to pay the above-described expenses may be transferred to the Everglades Trust Fund and used for certain environmental projects.²³

Effect of the Bill

The bill makes permanent the requirement that revenues generated from tolls collected on Alligator Alley be used to reimburse, by interlocal agreement, a local governmental entity (i.e., Collier County) for the direct actual costs of operating the fire station at mile marker 63.

The bill provides that the interlocal agreement effective July 1, 2019, through June 20, 2027, controls until such time that the local governmental entity and FDOT enter into a new agreement or agree to extend the existing agreement. For the 2024-2025 fiscal year, the amount of reimbursement may not exceed \$2 million, which is an increase from \$1.4 million.

By December 31, 2024, and every five years thereafter, the local governmental entity must provide to FDOT a maintenance and operations comprehensive plan. The comprehensive plan must include a current inventory of assets, including their projected service life, and area service needs; the call and response history for emergency services provided in the preceding 5 years on Alligator Alley, including costs; and future projects for assets and equipment, including replacement or purchase needs, and operating costs.

The local governmental entity and FDOT must review and adopt the comprehensive plan as part of the interlocal agreement.

In accordance with projected incoming toll revenues for Alligator Alley, FDOT must include the corresponding funding needs of the comprehensive plan into FDOT's work program, and the local government entity must include the same in its capital comprehensive plan and the appropriate fiscal year budget.

Lastly, regarding the requirement that ownership and title of all fire, rescue, and emergency equipment transfers to the state at the termination of the interlocal agreement, the bill provides that such transfer only applies to such equipment that was *purchased with state funds* and used at the fire station during the term of the interlocal agreement.

Use of Moneys in the STTF

Current Situation

Florida law establishes the STTF, which is used for transportation purposes, under the direction of FDOT.²⁴ Such transportation purposes include maintaining and developing the state highway system and supporting various transportation related projects.²⁵ STTF's primary revenue sources are from

²³ S. 338.26(3)(b), F.S.

²⁴ S. 206.46(1), F.S.

²⁵ Office of Work Program and Budget Florida Department of Transportation, *Florida's Transportation Tax Sources*, (2023), p. 2,

<https://fdotwp1.dot.state.fl.us/FMSupportApps/Documents/prs/Primer.pdf#:~:text=STTF%E2%80%99s%20primary%20re>

state fuel taxes and fees related to motor vehicle licensing.²⁶ FDOT must expend moneys in the STTF in accordance with its annual budget.²⁷

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 provider²⁸, certain transportation authorities²⁹, public-use airport³⁰, or a port³¹ which is found in violation of s. 381.00316, F.S.³² 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.

Arterial Highway Projects

Current Situation

After the revenue derived from the registration of motor vehicles is distributed monthly, as specified and allocated per law, the remainder of such revenues must be deposited into the STTF.³³ This remainder deposited in the STTF must be used to fund arterial highway³⁴ projects identified by FDOT and may be used for projects for upgrading arterial highways with controlled access facilities and constructing U.S. 19 controlled access facilities.³⁵

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 Corporation³⁶ to fund arterial highway projects. Furthermore, the bill provides that for the corporation's bonding purposes, two or more of such projects in FDOT's approved work program may be treated as a single project.

Florida Department of Transportation Financing Corporation and 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

[venue%20sources%20from%20state%20taxes%20and%20fuel%20taxes%20and%20motor%20vehicle%20license%20related%20fees.](#) (last visited Mar. 12, 2024).

²⁶ *Id.*

²⁷ S. 339.08(1), F.S.

²⁸ Section 341.031(1), F.S., defines "public transit provider" as a public agency providing public transit service, including rail authorities.

²⁹ Authority created pursuant to ch. 343, 348, or 349, F.S.

³⁰ Section 332.004(14), F.S., defines "public-use airport" as any publicly owned airport which is used or to be used for public purposes.

³¹ Section 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.

³² Section 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.

³³ S. 320.20(5)(a), F.S.

³⁴ Section 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.

³⁵ S. 339.0803, F.S.

³⁶ Section 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 FDOT.

for the purpose of financing or refinancing projects for FDOT.³⁷

The Florida Department of Transportation Financing Corporation may enter into one or more service contracts with FDOT to provide services to FDOT in connection with projects approved in its work program. 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.³⁸ 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.³⁹

Moving Florida Forward Initiative

During the 2023 Legislative session, the GAA transferred \$4 billion from the General Revenue Fund to 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 budget amendment must include a project list, implementation schedule, finance plan, and budget authority necessary to implement the initiative.⁴⁰

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.⁴¹

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

Figure 2: Moving Florida Forward Project List⁴²

³⁷ S. 339.0809(1), F.S.

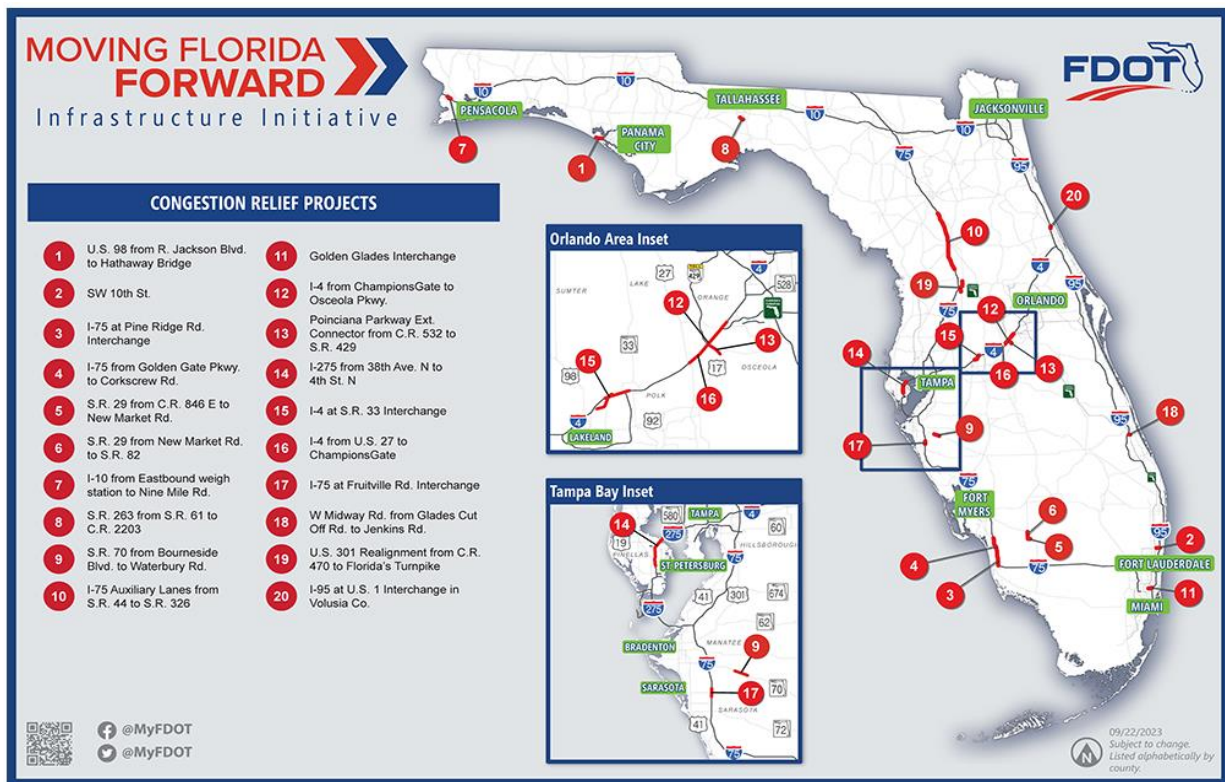
³⁸ S. 339.0809(4), F.S.

³⁹ S. 339.0809(13), F.S.

⁴⁰ Ch. 2023-239, Laws of Fla.

⁴¹ State of Florida, Transparency Florida, *Approved Budget Amendment Request B0112, Fiscal Year 2023-24*, <http://www.transparencyflorida.gov/arreports/arreport/55469> (last visited Mar. 12, 2024).

⁴² FDOT, *Moving Florida Forward Infrastructure Initiative*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited Mar. 12, 2024).



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 to finance the Moving Florida Forward Plan projects authorized in s. 215 of chapter 2023-239, Laws of Florida, and in budget amendment EOG #2024-B0112, and subsequently adopted 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 FDOT's tentative work program⁴³ and legislative budget request. FDOT must ensure that the annual payments are programmed for the life of the service contract before execution of the service contract and must remain programmed until fully paid. Finally, notwithstanding chapter 2023-239, s. 215, Laws of Florida, the bill authorizes FDOT to retain the interest earnings on funds appropriated to finance the Moving Florida Forward Plan and subsequently adopted in the five-year work program. The interest earnings must be used by FDOT to implement such projects.

Small County Outreach Program

Current Situation

The Small County Outreach Program, within FDOT, assists small county⁴⁴ governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads.⁴⁵

⁴³ Section 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.

⁴⁴ Section 339.2818(2), F.S., defines "small county" as any county that has a population of 200,000 or less as determined by the most recent official estimate pursuant to s. 186.901, F.S.

⁴⁵ S. 339.2818(1), F.S.

Small counties are eligible to compete for funds that have been designated for the Small County Outreach Program for projects on county roads. FDOT funds 75 percent of the cost of projects on county roads funded under the program.⁴⁶

In determining a county's eligibility for assistance under this program, FDOT may consider whether the county has attempted to keep county roads in satisfactory condition, which may be evidenced through an established pavement management plan.⁴⁷ Additionally, the following criteria is used to prioritize road projects for funding under the program:

- The primary criterion is the physical condition of the road as measured by FDOT.
- As secondary criteria FDOT may consider:
 - Whether a road is used as an evacuation route.
 - Whether a road has high levels of agricultural travel.
 - Whether a road is considered a major arterial route.
 - Whether a road is considered a feeder road.
 - Information as evidenced to FDOT through an established pavement management plan.
 - Other criteria related to the impact of a project on the public road system or on the state or local economy as determined by FDOT.⁴⁸

Under this program, certain counties may compete for additional project funding. For example, a municipality within a rural area of opportunity or a rural area of opportunity community designated under s. 288.0656(7)(a) may compete for the additional project funding using the criteria aforementioned at up to 100 percent of project costs, excluding capacity improvement projects.⁴⁹

Effect of the Bill

The bill provides that, subject to a specific appropriation, a local government either wholly or partially within the Everglades Agricultural Area as defined in s. 373.4592(15), F.S., the Peace River Basin, or the Suwannee River Basin may compete for additional funding using the project criteria at up to 100 percent of project costs on state or county roads used primarily as farm-to-market connections between rural agricultural areas and market distribution centers, excluding capacity improvement projects.

Public Transit Plan

Current Situation

FDOT must prepare a public transit plan which must be included in FDOT's tentative work program.⁵⁰ The public transit plan must be consistent with the local plans developed in accordance with the comprehensive transportation planning process. Projects that involve funds administered by FDOT and that will be undertaken and implemented by another public agency must be included in the public transit plan upon the request of that public agency, providing such project is eligible. Projects so included in the plan must not be altered or removed from priority status without notice to the public agency or local governmental entities involved.⁵¹

Effect of the Bill

The bill requires that any lane elimination or lane repurposing, recommendation, or application relating to public transit projects must be approved by a two-thirds vote of the transit authority board in a public meeting to be held after a 30-day public notice. The bill also requires that any action of eminent

⁴⁶ S. 339.2818(4)(a), F.S.

⁴⁷ S. 339.2818(4)(b), F.S.

⁴⁸ S. 339.2818(4)(c), F.S.

⁴⁹ S. 339.2818(7), F.S.

⁵⁰ See *supra* note 43.

⁵¹ S. 341.051(2), F.S.

domain⁵² for acquisition of public transit facilities carried out by a public transit provider must be discussed by the public transit provider at a public meeting to be held after a 30-day public notice.

New Starts Transit Program

Current Situation

The New Starts Transit Program assists local governments in the development of fixed guideway and bus rapid transit projects. After required distributions, ten percent of the amount credited to the STTF must be allocated for capital funding for the New Starts Transit Program in accordance with Florida law. Those funds are annually appropriated for expenditure to support the New Starts Transit Program.⁵³

This program is a matching program to leverage local or federal funds.⁵⁴ However, according to FDOT, due to local governments' inability at times to meet state and federal eligibility requirements or provide a funding commitment for the required matching funds, projects identified for the New Starts Transit Program may not always be programmed into the work program, which results in the annually appropriated funds not being obligated and carried forward to the next fiscal year.

Effect of the Bill

The bill provides that the remaining unallocated New Starts Transit Program funds as of June 30, 2024, must be reallocated for the purpose of the Strategic Intermodal System⁵⁵ within the STTF. This law expires June 30, 2026.

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 the next five fiscal years. State taxes and fees, along with federal aid, make up the primary funding sources for the work program. Other funding sources include tolls collected from certain facilities, proceeds from bond issuances, and local taxes and fees.⁵⁶

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.⁵⁷

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.⁵⁸

Effect of the Bill

The bill provides that, as a condition of receiving funds from FDOT, a public transit provider may not expend FDOT funds for marketing or advertising activities, including any wrap, tinting, paint, or other

⁵² Eminent domain refers to the power of the government to take private property and convert it into public use. See Cornell Law School, *Eminent Domain*, https://www.law.cornell.edu/wex/eminent_domain (last visited Mar. 12, 2024). See also ch. 73, F.S., relating to eminent domain.

⁵³ S. 341.051(6), F.S.

⁵⁴ FTC, *New Starts Transit Program*, [http://www.fc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_\(5-23-06\).pdf](http://www.fc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_(5-23-06).pdf) (last visited Mar. 12, 2024).

⁵⁵ The Strategic Intermodal System is Florida's high priority network of transportation facilities important to the state's economy and mobility. See FDOT, *Florida's Strategic Intermodal System (SIS)*, <https://www.fdot.gov/planning/systems/sis> (last visited Mar. 12, 2024).

⁵⁶ Office of Work Program and Budget Florida Department of Transportation, *supra* note 25.

⁵⁷ Section 206.46(3), F.S., provides that the funding cap minimum is for public transportation projects that are in accordance with chs. 311, 341, and 343, F.S., and ss. 332.003-332.007, F.S.

⁵⁸ S. 341.031(6), F.S.

medium displayed, attached, or affixed on a bus, commercial motor vehicle, or motor vehicle that is owned, leased, or operated by the public transit provider. Such vehicles are limited to displaying a brand or logo of the public transit provider, the official seal of the jurisdictional governmental entity, or a state agency public service announcement. FDOT must incorporate guidelines for the marketing or advertising activities allowed in the public transportation grant agreement entered into with each public transit provider.

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.⁵⁹

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.⁶⁰ Each public transit provider must establish productivity and performance measures, which must be approved by FDOT and which must be selected from measures developed pursuant to s. 341.041(3), F.S.^{61 62}

Effect of the Bill

The bill provides that, beginning November 1, 2024, and annually thereafter, each public transit provider, during a publicly noticed meeting must:

- Certify that its budgeted and general administration costs are not greater than 20 percent above the annual state average of administrative costs for its respective tier;
- Present a line-item budget report of its budgeted and actual general administration costs; and
- Disclose all salaried executive and management level employees' total compensation packages, ridership performance and metrics, and any gift accepted in exchange for contracts. This disclosure must be posted annually on the transit provider's website.

To support compliance with the requirements above, FDOT must determine, by tier, the annual state average of general administrative costs by determining the percentage of the total operating budget which is expended on general administrative costs in this state annually by March 31 to inform the public transit provider's budget for the following Fiscal Year. Upon review and certification by FDOT, costs budgeted and expended in association with nontransit-related engineering and construction services may be excluded. Additionally, a year-over-year cumulative increase of 5 percent or more in general administration costs must be reviewed before the start of the next fiscal year and must be reviewed and approved by the FTC⁶³ before approval by the public transportation provider's governing board.

For the purpose of this provision, the bill defines the terms as follows:

- "General Administrative costs" includes, but is not limited to, costs related to transit service development, injuries and damages, safety, personnel administration, legal services, data processing, finance and accounting, purchasing and stores, engineering, real estate

⁵⁹ Section 316.2954, F.S., provides that a person may 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, except as otherwise provided in statute.

⁶⁰ S. 341.031(1), F.S.

⁶¹ S. 341.071(2), F.S.

⁶² Section 341.041(3), F.S., provides that 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.

⁶³ See *supra* note 1.

management, office management and services, customer service, promotion, market research, and planning. The term does not include insurance costs.

- “Public transit provider” means a public agency providing public transit service, including an authority created pursuant to part II of chapter 343, F.S.,⁶⁴ or chapter 349, F.S.⁶⁵
- “Tier I provider” means a recipient that owns, operates, or manages either 101 or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode; or rail transit.⁶⁶
- “Tier II provider” means a recipient that owns, operates, or manages 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed routes modes or in any one non-fixed route mode; a subrecipient under the 5311 Rural Area Formula Program; or any American Indian tribe.⁶⁷

This provision does not apply to Central Florida Commuter Rail Commission or the South Florida Regional Transportation Authority.

Florida Rail Enterprise

Current Situation

The Florida Rail Enterprise locates, plans, designs, finances, constructs, maintains, owns, operates, administers, and manages the high-speed rail system in the state.⁶⁸ Florida Rail Enterprise’s powers include, but are not limited to, the ability to plan, construct, maintain, repair, and operate a high-speed rail system, acquire corridors, and coordinate the development and operation of publicly funded passenger rail systems in the state.⁶⁹

Effect of the Bill

The bill revises Florida Rail Enterprise’s powers by adding that the enterprise also has the power to preserve and acquire future rail corridors and rights-of-way in coordination with FDOT’s planning of the state highway system.

Streetlight Provider

Current Situation

In Florida law relating to liability of streetlight providers, the term “streetlight provider” means the state or any of the state’s officers, agencies, or instrumentalities, any political subdivision as defined in s.

⁶⁴ Chapter 343, part II, F.S., relates to the Central Florida Regional Transportation Authority.

⁶⁵ Chapter 349, F.S., relates to the Jacksonville Transportation Authority.

⁶⁶ 49 C.F.R. § 625.5.

⁶⁷ *Id.*

⁶⁸ S. 341.822(1), F.S.

⁶⁹ S. 341.822(2)(a), F.S.

1.01, F.S.;⁷⁰ any public utility as defined in s. 366.02(8), F.S.;⁷¹ or any electric utility as defined in s. 366.02(4), F.S.⁷²

Effect of the Bill

The bill modifies the definition of “street light provider” by specifying that an electric utility includes subsidiaries of an electric utility, regardless of whether the electric utility or subsidiary is providing electric street light service inside or outside of its regulated territory.

Railroad-Highway Grade Crossing Traffic Laws and Penalties

Current Situation

Railroad-Highway Grade Crossing

Collisions between highway vehicles and trains have been one of the greatest sources of injuries and fatalities in the railroad industry in the United States.⁷³ During 2016-2020, there were 516 incidents at 408 highway-railroad grade crossings in Florida, accounting for 219 injuries and 89 fatalities.⁷⁴ Figure 3 provides a snapshot of the user action that caused such incidents.

⁷⁰ Section 1.01(8), F.S., provides that “political subdivision” includes counties, cities, towns, villages, special tax school districts, special road and bridge districts, bridge districts, and all other districts in this state.

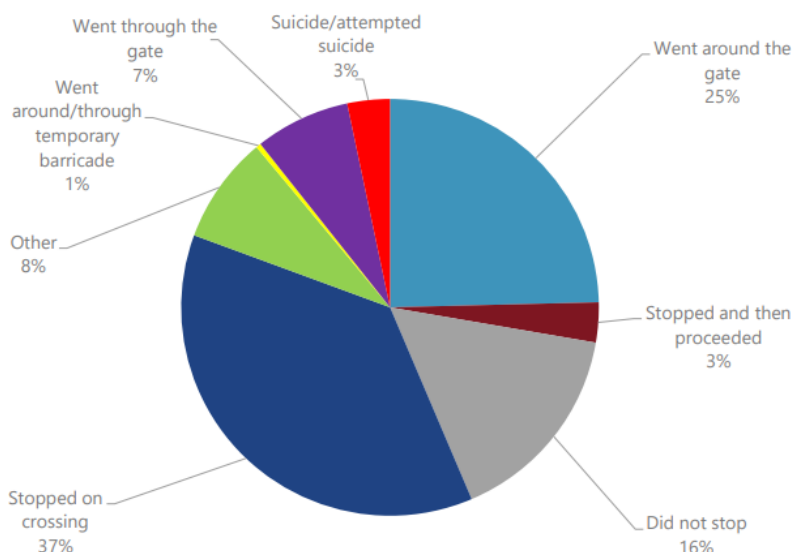
⁷¹ Section 366.02(8), F.S., defines “public utility” as every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state. The term “public utility” does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

⁷² Section 366.02(4), F.S., defines “electric utility” as any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.

⁷³ Highway-railroad grade crossings are intersections where a highway crosses a railroad at-grade. Warning or control devices are required at grade crossings just like intersecting roads need stop signs or traffic signals. See U.S. Department of Transportation, *Highway-Rail Grade Crossings Overview*, <https://railroads.dot.gov/program-areas/highway-rail-grade-crossing/highway-rail-grade-crossings-overview> (last visited Mar. 12, 2024).

⁷⁴ Florida Department of Transportation, *Overview of Florida’s Highway Railroad Grade State Action Plan*, https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/safety-action-plan/florida's-state-action-plan-public-webinar.pdf?sfvrsn=e4cc7d82_2 (last visited Mar. 12, 2024).

Figure 3: Railroad-Highway Grade Crossing Incidents by Highway User Action, 2016-2020⁷⁵



Obedience to Traffic Control Devices at Railroad-Highway Grade Crossings

Florida law requires any person walking or driving a vehicle and approaching a railroad-highway grade crossing under any of the circumstances stated below to stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and to not proceed until he or she can do so safely:

- A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- A crossing gate is lowered or a law enforcement officer or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
- An approaching railroad train emits an audible signal or the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard; or
- An approaching railroad train is plainly visible and is in hazardous proximity to the railroad-highway grade crossing, regardless of the type of traffic control devices installed at the crossing.⁷⁶

Florida law prohibits a person from driving any vehicle through, around, or under any crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or is being opened or closed.⁷⁷

A violation of the above law is a noncriminal traffic infraction, punishable pursuant to ch. 318, F.S., as either a pedestrian violation⁷⁸ or, if the infraction resulted from the operation of a vehicle, as a moving violation.⁷⁹

⁷⁵ *Id.*

⁷⁶ S. 316.1575(1), F.S.

⁷⁷ S. 316.1575(2), F.S.

⁷⁸ Section 318.18(1)(a), F.S., provides that all infractions of pedestrian regulations have a statutory base fine of \$15. With additional fees and surcharges, the total penalty may be up to \$56.50. See also Florida Association of Clerk of Courts, *2023 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording*, p. 38, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/publicationsanddocuments/2023_Distribution_Schedule_e.pdf (last visited Mar. 12, 2024)

⁷⁹ S. 316.1575(3), F.S. Section 318.18, F.S., provides a fine of \$100 for a violation of s. 316.1575, F.S., relating to obedience to traffic control devices at railroad-highway grade crossings. Section 318.18(3)(a), F.S., provides that a noncriminal traffic infraction, punishable as a moving violation has a statutory base fine of \$60. With additional fees and surcharges, the total penalty may be up to \$158. See also Florida Association of Clerk of Courts, *2023 Distribution*

Insufficient Clearance at Railroad-Highway Grade Crossings

Florida law prohibits a person from driving any vehicle through a railroad-highway grade crossing that does not have sufficient:

- Space to drive completely through the crossing without stopping;⁸⁰ and
- Undercarriage clearance to drive completely through the crossing without stopping.⁸¹

A violation of the above law is a noncriminal traffic infraction, punishable as a moving violation.⁸² The statutory base fine is \$60,⁸³ but with additional fees and surcharges, the total penalty may be up to \$158.⁸⁴

Effect of the Bill

Obedience to Traffic Control Devices at Railroad-Highway Grade Crossings

The bill adds that a person cycling is also subject to the law relating to obedience to traffic control devices at rail-road highway grade crossings. Additionally, the bill clarifies that a person may not proceed until *the railroad tracks are clear* after stopping within 50 feet but not less than 15 feet from a railroad-highway grade crossing under the specified circumstances aforementioned. The bill adds that railroad track equipment must be treated as a railroad train in such circumstances.

The bill revises the penalties of violating the law relating to obedience to traffic control devices at crossings by providing that for a:

- First violation, the person must pay a fine of \$500 or perform 35 hours of community service and have 6 points assessed against his or her driver license; and
- Second or subsequent violation, the person must pay a fine of \$1,000 and have 6 points assessed against his or her driver license.

Insufficient Clearance at Railroad-Highway Grade Crossings

The bill adds that a person may not drive a vehicle through a railroad-highway grade crossing that does not have sufficient:

- Space to drive completely through the crossing without obstructing the passage of other vehicles, pedestrians, railroad trains, or other railroad equipment, notwithstanding any traffic control signal indication to proceed; and
- Undercarriage clearance to drive completely through the crossing without obstructing the passage of a railroad train or other railroad equipment.

The bill revises the penalties of violating the law relating to insufficient clearance at a railroad-highway grade crossing by providing that for a:

- First violation, the person must pay a fine of \$500 or perform 25 hours of community service and have 6 points assessed against his or her driver license; and
- Second or subsequent violation, the person must:

Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording, p. 42, https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/publicationsanddocuments/2023_Distribution_Schedule_e.pdf

(last visited Mar. 12, 2024)

⁸⁰ S. 316.1576(1), F.S.

⁸¹ S. 316.1576(2), F.S.

⁸² S. 316.1576(3), F.S.

⁸³ S. 318.18(3)(a), F.S.

⁸⁴ Florida Association of Clerk of Courts, *2023 Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs and Fines, Including a Fee Schedule for Recording*, p. 42,

https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/publicationsanddocuments/2023_Distribution_Schedule_e.pdf

(last visited Mar. 12, 2024)

- Pay a fine of \$1,000;
- Have 6 points assessed against his or her driver license; and
- Have his or her driving privilege suspended for not more than 6 months.

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 bill will have a negative fiscal impact on state expenditures and may have a positive fiscal impact on the private sector as, beginning with the 2024-2025 fiscal year through the 2029-2030 fiscal year, a recurring appropriation of \$15 million will be made available from the STTF to support FDOT’s Intermodal Logistics Center Infrastructure Support Program.

Due to the increase in the costs that must be reimbursed to support the fire station at mile marker 63 on the Alligator Alley toll road, the bill may have an indeterminate negative fiscal impact on FDOT, specifically the Turnpike Authority, and certain environmental projects funded through the Everglades Trust Fund.

The bill may have a negative fiscal impact on a public transit provider, authority, public-use airport, or a port that is found to be in violation of s. 381.00316, F.S.⁸⁵ FDOT must withhold state funds from any entity found violating such provision until such time that the entity is found to be in compliance with s. 381.00316, F.S.

The bill will have a positive fiscal impact on FDOT as it allows FDOT to retain interest on funds appropriated to finance the projects authorized via the Moving Florida Forward Plan.

⁸⁵ Section 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 will have a negative fiscal impact on FDOT and a positive fiscal impact on the local governments that are allowed to compete for additional project funding under the Small County Outreach Program.

The bill appears to have a neutral fiscal impact on FDOT expenditures as it relates to the New Starts Transit Program. As the bill is written, it appears that any remaining unallocated funds from the New Starts Transit Program must be reallocated for the purpose of the Strategic Intermodal System.

The provisions relating to railroad-crossing offenses will increase penalties for anyone committing specified violations; however, those same provisions may result in greater safety at railroad crossings.