

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 1385 Department of Transportation

**SPONSOR(S):** LaMarca

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

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**FINAL HOUSE FLOOR ACTION:** 115 Y's 0 N's **GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

HB 1385 passed the House on April 28, 2021, as CS/SB 1126. The bill includes all of CS/SB 100.

The bill addresses several matters related to the Department of Transportation (DOT). In summary, the bill:

- Clarifies that the Department of Revenue is responsible for transferring a portion of documentary stamp tax revenues distributed to the General Revenue Fund.
- Removes obsolete references to the general revenue service charge in relation to specified transportation-related state revenues.
- Increases the authorized dollar amount of the alternative debt service cap on Right-of-Way Acquisition and Bridge Construction bonds to \$350 million.
- Requires motorists to move over for road and bridge maintenance or construction vehicles displaying warning lights.
- Authorizes persons to appear before the Commercial Motor Vehicle Review Board via communications media technology, including video conference technologies.
- Restores DOT's rulemaking authority relating to airport licensing, registration, and airspace protection.
- Clarifies provisions relating to the notice and hearing that DOT is required to provide when a transportation project on the State Highway System modifies an existing access to an abutting property.
- Revises from October 1 to August 1, the date for metropolitan planning organizations to submit project priorities to DOT's districts for inclusion in DOT's work program.
- Extends the authority of the Legislative Budget Commission chair and vice chair to approve amendments to DOT's work program transferring fixed capital outlay appropriations between categories or increasing an appropriations category.

The bill also repeals the Multi-use Corridors of Regional Economic Significance (M-CORES) program within DOT and related provisions and instead creates programs related to arterial highway projects. More specifically, the bill:

- Authorizes DOT to upgrade existing arterial roadways with targeted improvements.
- Prohibits a reduction in any non-tolled general use lanes of an existing facility, requires maintenance of existing access points, and limits the location of any tolling points.
- Directs DOT to develop and construct of controlled access facilities on U.S. 19.
- Directs DOT to identify and include projects in its work program to widen certain two lane arterial rural roads serving high volumes of truck traffic to four lanes.
- Directs DOT to begin the project development and environmental phase for a project to extend the Florida Turnpike.

The portion of the bill repealing the M-CORES program is expected to have a minimal impact on state revenues or expenditures as it does not change the amount of revenue distributed to the State Transportation Trust Fund (STTF), but revises the authorized uses of such funding. The revenue redirected to the STTF as a result of the 2019 M-CORES legislation is retained in the STTF and is dedicated for purposes of funding the authorized controlled access facility projects and widening projects on arterial rural highways.

The remainder of the bill may have an indeterminate, positive impact on state and local government revenues and an insignificant negative impact on state government expenditures.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2021, except as otherwise expressly provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1385z.DOCX

**DATE:** 6/2/2021

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Documentary Stamp Tax/General Revenue Fund Transfer**

##### Current Situation

Chapter 201, F.S., imposes an excise tax on certain documents, known as the documentary stamp tax. The Department of Revenue (DOR) administers ch. 201, F.S.,<sup>1</sup> including the collection of documentary stamp taxes, which are distributed each fiscal year to the General Revenue Fund and various state trust funds.<sup>2</sup>

After certain required payments to the Land Acquisition Trust Fund<sup>3</sup> and the deduction of the General Revenue service charge,<sup>4</sup> the lesser of 24.18442 percent of the remainder or \$541.75 million is allocated to the State Transportation Trust Fund (STTF) in each fiscal year. Of such funds, \$75 million must be transferred to the General Revenue Fund in each fiscal year. The remaining amount is credited to the STTF and must be used for the following programs: New Starts Transit Program, the Small County Outreach Program, the Strategic Intermodal System, the Transportation Regional Incentive Program, and the Florida Rail Enterprise.<sup>5</sup>

While ch. 201, F.S., specifies that DOR administers the documentary stamp tax, DOR is not expressly identified as the entity responsible for making the \$75 million transfer to the General Revenue Fund each fiscal year.

##### Effect of the Bill

The bill clarifies that DOR is the entity responsible for transferring the \$75 million each fiscal year to the General Revenue Fund.

#### **Obsolete General Revenue Surcharge References**

##### Current Situation

Section 215.20(1), F.S., establishes an eight percent service charge to the General Revenue Fund from all revenues deposited into most state trust funds,<sup>6</sup> representing the estimated pro rata share of the cost of general government.

Section 215.211, F.S., eliminates or reduces the general revenue service charge for specified proceeds. Effective July 1, 2002, the service charge for taxes distributed under s. 206.606(1), F.S., relating to the distribution of motor fuel taxes, s. 212.0501(6), F.S., relating to taxes on diesel fuel for business purposes, and s. 319.32(5), F.S., providing for the disposition of fees from certificate of title transactions, were eliminated.<sup>7</sup> Additionally, the service charge was eliminated beginning July 1, 2001, on taxes distributed under s. 206.608, F.S., relating to the State Comprehensive Enhanced Transportation System Tax.<sup>8</sup> While the service charge on the specified taxes was eliminated, obsolete references to the service charge remain in statute.<sup>9</sup>

##### Effect of the Bill

The bill amends ss. 206.606(1), 206.608, 212.0501(6), and 319.32(5), F.S., to remove obsolete references to the general revenue service charge.

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<sup>1</sup> S. 201.11, F.S.

<sup>2</sup> S. 201.15, F.S.

<sup>3</sup> S. 201.15(1) and (2), F.S.

<sup>4</sup> The General Revenue service charge is imposed by s. 215.20(1), F.S.

<sup>5</sup> S. 201.15(4)(a), F.S.

<sup>6</sup> Exceptions are enumerated in s. 215.22, F.S., including trust funds administered by the Department of Transportation.

<sup>7</sup> S. 215.211(1), F.S.

<sup>8</sup> S. 215.211(2), F.S.

<sup>9</sup> DOT 2020 Legislative Proposal, *Remove Obsolete Language Relating to Service Charge*.

## Right-of-Way Acquisition and Bridge Construction Bonds-Debt Service Cap

### Current Situation

The Department of Transportation (DOT) is authorized to issue Right-of-Way Acquisition and Bridge Construction bonds to finance or refinance the cost of acquiring real property for state roads or the cost of state bridge construction. Except for bonds issued to refinance previously issued bonds, bonds must be authorized by the Legislature and must be issued pursuant to the State Bond Act.<sup>10,11</sup>

Section 206.46, F.S., authorizes DOT to transfer up to seven percent of the revenues deposited into the STTF in each fiscal year to the Right-of-Way Acquisition and Bridge Construction Trust Fund, to meet the requirements of outstanding or proposed bond obligations. Notwithstanding this authorized annual transfer, the annual amount transferred may not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service of \$275 million,<sup>12</sup> which was last set in 2005.<sup>13</sup>

Section 339.139, F.S., requires DOT to manage all levels of debt to ensure that no more than 20 percent of total projected available state and federal revenues from the STTF, together with any local funds committed to DOT projects, are committed to certain obligations in any year. Right-of-Way Acquisition and Bridge Construction Bonds are included in DOT's overall debt assessment.

In 2020, based on DOT's most recent bond sale and Revenue Estimating Conference projections at the time, the limit on debt service based on the seven-percent threshold would have been \$287 million in Fiscal Year 2019-2020 (based on revenues of \$4.1 billion), growing to \$350 million in Fiscal Year 2028-2029 (based on revenues of \$5 billion).<sup>14</sup>

Under the current statutory limit, the \$275 million cap leaves DOT with about \$100 million of available bonding capacity.<sup>15</sup>

### Effect of the Bill

The bill amends s. 206.46, F.S., to increase DOT's maximum debt service coverage level from \$275 million to \$350 million. Under the bill, debt service may not exceed seven percent of the revenues deposited into the STTF or \$350 million, whichever is less. The increase of the debt service cap will provide DOT with additional bonding capacity, offering it more flexibility in financing certain projects.

## Move Over Law

### Current Situation

Under Florida's Move Over Law, if an emergency vehicle, a sanitation vehicle, a utility service vehicle, or a wrecker is working along the side of the road, every other driver must vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle. If such movement cannot be safely accomplished, the driver must reduce his or her speed to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater, or travel at 5 miles per hour when the posted speed limit is 20 miles per hour or less.<sup>16</sup> The purpose of the Move Over Law is to protect workers stopped along the road performing their jobs.<sup>17</sup>

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<sup>10</sup> The State Bond Act is codified in ss. 215.57-215.83, F.S.

<sup>11</sup> S. 215.605, F.S.

<sup>12</sup> S. 206.46(2), F.S.

<sup>13</sup> Ch. 2005-290, L.O.F.

<sup>14</sup> DOT 2020 Legislative Proposals, *Change in the Right-of-Way Acquisition and Bridge Construction Bonds Debt Service Cap*.

<sup>15</sup> *Id.*

<sup>16</sup> S. 316.126(1)(b), F.S.

<sup>17</sup> Florida Driver Handbook, 2020, p. 44, available at <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited Feb. 17, 2021).

A violation of the Move Over Law is a noncriminal traffic infraction, punishable as a moving violation.<sup>18</sup> The statutory base fine for a moving violation is \$60, but with additional fees assessed by the state and local governments, the total fine increases to up to \$158.<sup>19</sup>

According to DOT, for the safety of both workers and the public, temporary traffic control<sup>20</sup> is required for maintenance and construction activities. However, due to the risks associated with setting up temporary traffic controls for short duration work activities, such as fence repair, ditch repair, or tree trimming, such controls may be omitted. This places road and bridge maintenance or construction vehicles in situations similar to vehicles identified in the Move Over Law, where they are working along the road without protection from adjacent traffic.

Section 316.2397, F.S., prohibits certain lights on vehicles and provides certain exceptions. With regard to road and bridge construction or maintenance vehicles, the statute provides that:

- Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles may show or display amber lights when in operation or a hazard exists.
- Road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.<sup>21</sup>

### Effect of the Bill

The bill amends the Move Over Law to include road and bridge maintenance or construction vehicles displaying warning lights consistent with s. 316.2397, F.S., and operating on the roadside without advance signs and channelizing devices (such as traffic cones or barricades). This will require drivers to move over to a different lane or decrease their speed when road and bridge maintenance or construction vehicles are displaying warning lights on the roadside.

## **Commercial Motor Vehicle Review Board**

### Current Situation

Section 316.545(7), F.S., creates the Commercial Motor Vehicle Review Board (board) within DOT, consisting of three permanent members who are the Secretary of Transportation, the executive director of the Department of Highway Safety and Motor Vehicles, and the Commissioner of Agriculture, or their authorized representatives, and four additional members appointed by the Governor or the Commissioner of Agriculture representing various industries. The board may review any penalty imposed upon any vehicle or person relating to the weight imposed on the roads by the axles and wheels of motor vehicles, to special fuel and motor fuel tax compliance, or to violations of safety regulations. The board is authorized to hold sessions and conduct proceedings at any place.<sup>22</sup> According to DOT's website, the board meets in Tallahassee.<sup>23</sup>

Any person against whom a penalty is imposed may apply to the board for a modification, cancellation, or revocation of the penalty. A written explanation provided within a letter protesting a penalty is acceptable in lieu of physical attendance by a person requesting a hearing before the board, but attendance "will provide the petitioner the opportunity to respond to board inquiries into subjects that the petitioner may have overlooked when drafting his letter of protest."<sup>24</sup> Appearance by telephone is

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<sup>18</sup> S. 316.126(6), F.S.

<sup>19</sup> Florida Court Clerks and Comptrollers Association, *2020 Distribution of Court Related Filing Fees, Service Charges, and Fines*, p. 23, available at [https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories\\_2021/21bull005\\_Attach\\_2\\_2020\\_Dist.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf) (last visited Feb. 17, 2021).

<sup>20</sup> Temporary traffic control refers to the devices and personnel that change road conditions for a work zone or following an incident. Email from John Kotyk, Deputy Director Legislative Affairs, Department of Transportation, RE: Questions, January 31, 2020.

<sup>21</sup> Ss. 316.2397(4) and (5), F.S.

<sup>22</sup> S. 316.545(8), F.S.

<sup>23</sup> Commercial Motor Vehicle Review Board, <https://www.fdot.gov/traffic/reviewboard.shtml> (last visited March 11, 2021).

<sup>24</sup> See DOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*, for more details on the Board, as well as its 2021 meeting schedule, available at Commercial Motor Vehicle Review Board <https://www.fdot.gov/traffic/reviewboard.shtml> (last visited March 11, 2021).

not available, but DOT is required to provide space and video conference capability at each of its seven district offices<sup>25</sup> to enable a person requesting a hearing to appear remotely before the board, provided the requester notifies the board at least 14 calendar days before the hearing date.<sup>26</sup>

By rule of the Administration Commission, agencies are currently authorized to conduct proceedings using communications media technology, *i.e.*, the electronic transmission of printed matter, audio, full-motion video, freeze frame video, compressed video, and digital video by any method available.<sup>27</sup> This definition appears to include commonly available video conferencing programs.

### Effect of the Bill

The bill authorizes a person appearing before the board to appear remotely via communications media technology. The bill also removes the requirement that DOT provide space in its district offices for persons to appear via video conference.

## **Airport Zoning-Rulemaking**

### Current Situation

In 2016, the Legislature amended<sup>28</sup> ch. 333, F.S., which contains airport zoning provisions relating to the management of airspace and land use at or near airports. In general, the 2016 law:

- Updated statutory definitions and terms in accordance with federal regulations.
- Streamlined the local airport protection zoning process to a simpler permitting model.
- Provided local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repealed duplicative requirements for obtaining a variance.

DOT has a long-standing rule<sup>29</sup> “*Airport Licensing, Registration, and Airspace Protection*,” the purpose of which is “to promote safe civil aviation by eliminating hazards; to provide airfield standards for airports; to provide standards for airport marking and lighting; to license and register airports, pursuant to the licensing and registration requirements of chapter 330, F.S., and to promote flight safety by providing for airspace protection, pursuant to the requirements of chapter 333, F.S.” However, the 2016 amendments to ch. 333, F.S., eliminated this authority.

### Effect of the Bill

The bill creates s. 333.15, F.S., to require DOT to adopt rules to implement ch. 333, F.S.

## **Transportation Projects Modifying Access to Adjacent Property**

### Current Situation

Whenever DOT proposes any project on the State Highway System which will divide a state highway, erect median barriers modifying currently available vehicle turning movements, or have the effect of closing or modifying an existing access to an abutting property owner, DOT must notify all affected property owners, municipalities, and counties at least 180 days before the design of the project is finalized. DOT’s notice must provide a written explanation regarding the need for the project and indicate that all affected parties will be given an opportunity to provide comments to DOT regarding potential impacts of the change.<sup>30</sup>

DOT must also consult with the applicable local government on its final design proposal if the department intends to divide a state highway, erect median barriers, or close or modify existing access

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<sup>25</sup> DOT’s district offices are located in Bartow, Lake City, Chipley, Ft. Lauderdale, Deland, Miami, and Tampa.

<sup>26</sup> See DOT, Traffic Engineering and Operations Office, *Commercial Motor Vehicle Review Board*, <https://www.fdot.gov/traffic/reviewboard.shtml> (last visited March 29, 2021).

<sup>27</sup> Fla. Admin. Code R. 28-109, F.A.C.

<sup>28</sup> Ch. 2016-239, L.O.F.

<sup>29</sup> R. 14-60, F.A.C.

<sup>30</sup> S. 335.199(1), F.S.

to abutting commercial business properties. The local government may present DOT with alternatives that relieve impacts to such business properties.<sup>31</sup>

DOT must hold at least one public hearing in the jurisdiction where the project is located and receive public input to determine how the project will affect access to businesses and the potential economic impact of the project on the local business community.<sup>32</sup> DOT must review all comments from the public hearing and take the comments and any alternatives presented by a local government into consideration in the final design of the highway project.<sup>33</sup>

#### Effect of the Bill

The bill clarifies that DOT must provide the required notice at least 180 days before the design *phase* of the project is *completed*, rather than finalized.

The bill revises all occurrences of the word “hearing” to “meeting.” The bill also clarifies that DOT must hold at least one public meeting prior to completing the design phase of a project, so that they can review all comments from the public meeting and take the comments and any alternatives presented by a local government into consideration in the final design of the project.

### **Work Program Submission Deadline**

#### Current Situation

As part of its budgeting process, DOT prepares a tentative work program, based on the district<sup>34</sup> work programs.<sup>35</sup> Each district’s work program is developed cooperatively with the state’s metropolitan planning organizations (MPOs)<sup>36</sup> and includes, to the maximum extent feasible, the project priorities of MPOs that have been submitted to the district by October 1 of each year.<sup>37</sup> However, DOT and an MPO may agree, in writing, to vary this submittal date.<sup>38</sup>

Prior to submitting the district work program to the central office, each district holds public hearings and makes a presentation to each MPO to determine the necessity of making any changes to the district work program.<sup>39</sup> Following submission of each district’s work program to the central office, DOT develops its tentative work program based on the district work programs.<sup>40</sup>

DOT’s central office submits a preliminary copy of its tentative work program to the Executive Office of the Governor, the legislative appropriations committees, the Florida Transportation Commission, and the Department of Economic Opportunity (DEO) at least 14 days prior to the convening of the regular legislative session.<sup>41</sup> Following a public hearing and evaluation by the Florida Transportation Commission, DOT submits the tentative work program to the Executive Office of the Governor and the legislative appropriations committees no later than 14 days after the regular legislative session begins.<sup>42</sup>

According to DOT, because the Legislature begins its annual session in January in even-numbered years, the period for DOT to complete its work program process has accelerated. DOT has requested

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<sup>31</sup> S. 335.199(2)(b), F.S.

<sup>32</sup> S. 335.199(3), F.S.

<sup>33</sup> S. 335.199(4), F.S.

<sup>34</sup> DOT is a decentralized agency, and most of its project development and operations are done through its seven geographic districts.

<sup>35</sup> Section 339.135(4)(b)1, F.S.

<sup>36</sup> MPOs are federally-required regional transportation planning entities in urbanized areas with populations of 50,000 or more persons.

<sup>37</sup> This is pursuant to s. 339.175(8)(b), F.S.

<sup>38</sup> S. 339.135(4)(c)2., F.S.

<sup>39</sup> S. 339.135(4)(d), F.S.

<sup>40</sup> S. 339.135(4)(e), F.S.

<sup>41</sup> S. 339.135(4)(f), F.S.

<sup>42</sup> S. 339.135(4)(h), F.S.

that MPOs submit their project priorities sooner than October 1 in order for DOT to have ample time to complete its required processes.<sup>43</sup>

#### Effect of the Bill

The bill changes the deadline by which MPOs must submit their project priorities to DOT from October 1 to August 1. The change will provide DOT with additional time to complete its work program process prior to the beginning of the annual legislative session.

### **Work Program Amendments**

#### Current Situation

Current law authorizes DOT to amend its adopted work program and provides procedures for such amendments.<sup>44</sup> However, any work program amendment that transfers fixed capital outlay appropriations between categories or increases an appropriation category is subject to approval by the Legislative Budget Commission (LBC).

Prior to 2016, if an LBC meeting could not be held within 30 days after DOT submitted an amendment, the chair and vice chair of the LBC could approve the amendment.<sup>45</sup> In 2016, the Legislature repealed this authorization.<sup>46</sup> In 2019, this authorization was reinstated with an expiration date of July 1, 2020.<sup>47</sup> In 2020, the authorization was reinstated with an expiration date of July 1, 2021.<sup>48</sup>

#### Effect of the Bill

The bill removes the expiration of authorization for LBC chair and vice chair approval of amendments to DOT's adopted work program, thereby making the provision permanent.

### **Multi-Use Corridors of Regional Economic Significance (M-CORES)**

#### Current Situation

In 2019, the Legislature established the Multi-Use Corridors of Regional Economic Significance (M-CORES) Program within DOT.<sup>49</sup> M-CORES was designed to advance construction of regional corridors accommodating multiple modes of transportation and multiple types of infrastructure to revitalize rural communities, encourage job creation in those communities, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The goals of the program include "non-traditional" approaches to transportation, such as providing within the three corridors infrastructure to facilitate expansion of broadband, water, and sewer connectivity in rural areas. Construction of the projects must begin no later than December 31, 2022, and be open to traffic no later than December 31, 2030.<sup>50</sup>

The Legislature identified three corridors comprising the program<sup>51</sup> and directed DOT, for each corridor, to convene a task force comprised of representatives from state agencies and other stakeholders to evaluate and coordinate corridor analysis, environmental and land use impacts, and other pertinent impacts of the corridors.

#### *M-CORES Task Force Reports*

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<sup>43</sup> Department of Transportation 2020 Legislative Proposal, *Advance MPO Deadline to Submit Project Priorities*

<sup>44</sup> S. 339.135(7), F.S.

<sup>45</sup> S. 339.135(7)(g), F.S. (2015).

<sup>46</sup> S. 16, Ch. 2016-181, L.O.F.

<sup>47</sup> S. 101, Ch. 2019-116, L.O.F.

<sup>48</sup> S. 93, Ch. 2020-144, L.O.F.

<sup>49</sup> Ch. 2019-43, Laws of Fla., creating s. 338.2278, F.S.

<sup>50</sup> S. 338.2278, F.S.

<sup>51</sup> The Southwest-Central Florida Connector, extending from Collier County to Polk County; the Suncoast Connector, extending from Citrus County to Jefferson County; and the Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway. Section 338.2278(2), F.S.

After numerous task force meetings, community open houses, webinars, as well as opportunities for public comment, each task force issued its final report in November 2020.

Key findings and recommendations of the task forces include:

- Among the responsibilities assigned to the task forces was a charge to evaluate the need for and the impacts of each corridor. Each task force identified an inability to complete this charge, “due to the early stage of planning for [each] corridor and the limited data and analysis on potential needs and impacts available at this time,” and directed DOT to establish at least a preliminary determination of transportation need and initial financial feasibility before proceeding with the project development and environment (PD&E) phase.
- The task forces did develop high-level needs that require further evaluation by DOT, and project-level needs will be evaluated consistent with the task force recommendations. Each task force *expressed a preference, if specific needs are identified, for improvement or expansion of existing major highway corridors* and acknowledged the process for DOT to consider a “no build” alternative in future project development activities until a final recommendation about each specific project is made.
- Each task force also recommended guiding principles, instructions, and an action plan, based on the data and analysis provided, as a “set of directions to DOT and other partners for future planning, project development, and implementation activities.” Each report was submitted “with a qualifier that DOT must still develop project-specific needs, environmental feasibility, and economic feasibility for future projects.”<sup>52</sup>

#### *Current DOT M-CORES Status*

According to DOT, the corridors are being evaluated in a five-step process:

- Task Force;
- Alternative Corridor Evaluation;
- Project Development & Environment and Design;
- Right-of-Way; and
- Construction.

All three corridors are currently undergoing alternative corridor evaluation. DOT notes “[t]he Task Force Guiding Principles, in collaboration with federal, state, and local partners, will be used to conduct the preliminary needs and financial analysis and evaluation of potential corridors, including opportunities for linear infrastructure (broadband, sewer, and water) and co-location with existing corridors.” Further, “[a] final report will identify which sections and which corridor(s), if any, are carried forward for further evaluation.”<sup>53</sup>

Section 338.2278, F.S., establishes the M-CORES Program within DOT. If projects in the corridors are determined to be economically and environmentally feasible<sup>54</sup> and are consistent to the maximum extent feasible with the appropriate approved local government comprehensive plans, the projects will be included in DOT’s tentative work program. Funding for M-CORES projects through turnpike revenue bonds, right-of-way and bridge construction bonds, DOT Financing Corporation, the use of public-private partnerships, or by any combination thereof is authorized. DOT may also accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

The 2019 legislation redirected motor vehicle license tax revenues from the General Revenue Fund taxes to the STTF, with transfers from STTF to the General Revenue Fund in Fiscal Years 2019-2020

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<sup>52</sup> See DOT, *Final Task Force Reports*, for all three task force reports, available at <https://floridamcores.com/> (last visited Apr. 21, 2021.)

<sup>53</sup> See DOT’s M-CORES Program Overview. (On file with the Tourism, Infrastructure & Energy Subcommittee).

<sup>54</sup> Economic and environmental feasibility is as determined by s. 338.223, F.S., relating to proposed turnpike projects.



and 2020-2021.<sup>55</sup> Beginning Fiscal Year 2021-2022 and thereafter, the General Revenue Fund receives no further transfers, and the estimated \$132 million is retained in the STTF.

The redirected motor vehicle license tax proceeds are directed to the M-CORES program with additional funding directed the Small County Road Assistance Program (SCRAP),<sup>56</sup> the Small County Outreach Program (SCOP),<sup>57</sup> the Transportation Disadvantaged Trust Fund (TDTF),<sup>58</sup> and to DOT's workforce development program, as revised by the law. These funds are in addition to any other statutory funding allocations provided by law.

For the 2019-2020 fiscal year and annually thereafter, from the amounts retained in the STTF, SCRAP, SCOP, and TDTF each receive \$10 million annually and the workforce development program receives \$2.5 million annually ending in the 2021-2022 fiscal year.

#### Effect of the Bill

The bill repeals the M-CORES program and the motor vehicle license tax proceeds directed to other programs. Beginning in Fiscal Year 2021-2022, the annual allocation to M-CORES, the additional annual allocations over current statutory funding for SCRAP, SCOP, and TDTF, as well as the last year of funding for workforce development are repealed. However, under the bill, the increased revenues derived from redirecting to the STTF portions of motor vehicle license taxes remain in the STTF.

The bill repeals s. 163.3168(4), F.S., removing an M-CORES-related provision relating to local applications for technical assistance from DEO. This provision requires DEO to give preference to a county with a population of 200,000 or less, and to a municipality located within such a county, for assistance in determining whether the area in and around a proposed M-CORES interchange contains appropriate land uses and natural resource protections. This provision also requires DEO to aid in the development or amendment of a local government's comprehensive plan to provide for such uses, protections, and intended benefits under the M-CORES program.

The bill amends s. 334.044(35), F.S., removing M-CORES-related revisions enacted in 2019 with respect to workforce development, including authorization for DOT to enter into contracts with consultants and non-profit entities for the provisions of workforce recruitment, training curriculum, and support services, and a requirement for a report DOT has already completed. Current funding for the program would expire on July 1, 2021, instead of continuing through the end of the 2021-2022 fiscal year. DOT's authorization for the workforce development program is not repealed; therefore DOT may continue administration of the program to the extent that future funding resources are available.

The bill repeals an M-CORES-related provision in s. 338.236, F.S., relating to staging areas to be activated during a declared state of emergency on the turnpike system. This provision requires DOT to give priority consideration to placement of such staging areas in counties with a population of 200,000 or less and in which an M-CORES corridor is located.

The bill amends s. 339.0801(2), F.S., removing an M-CORES-related allocation and restoring that subsection as it existed prior to enactment of the M-CORES program. This provision provides \$35 million in annual funding to the Florida Turnpike Enterprise (FTE)<sup>59</sup> to be used in accordance with turnpike requirements and to the maximum extent feasible for feeder roads, structures, interchanges, and appurtenances to create or facilitate access to the existing turnpike system, and beginning in Fiscal Year 2022-2023 the funds must be used for similar access to M-CORES corridors.<sup>60</sup>

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<sup>55</sup> The transfer in Fiscal Year 2019-2020 was \$65.7 million and the transfer for Fiscal Year 2020-2021 is estimated to be \$38.6 million.

<sup>56</sup> The Small County Road Assistance Program is created in s. 339.2816, F.S.

<sup>57</sup> The Small County Outreach Program is created in s. 339.2818, F.S.

<sup>58</sup> The Transportation Disadvantaged Program established in Part I of ch. 427, F.S., coordinates a network of local and state programs providing transportation services for elderly, disabled, and low-income citizens.

<sup>59</sup> The Florida Turnpike Enterprise is part of the Department of Transportation.

<sup>60</sup> The \$35 million is from increased revenues to the STTF due to changes enacted in 2012.

The bill repeals s. 339.1373, F.S., relating to M-CORES-specific financing and planning requirements of DOT.

Effective July 1, 2023, the bill amends s. 339.0801, F.S., repealing the annual transfer from the STTF to the FTE of the \$35 million for feeder roads, etc. In effect, the annual \$35 million remains in the STTF to be used annually for existing or planned strategic transportation projects, as required under current law.

The bill creates s. 339.0803, F.S., allocating the increased motor vehicle license tax revenues to the STTF from the 2019 M-CORES law. These funds must be used to fund arterial highway projects identified by DOT under s. 339.65, F.S., relating to the Strategic Intermodal System (SIS),<sup>61</sup> and may be used for controlled access facility projects specified in ss. 339.66 and 339.67, F.S., created by the bill. DOT must prioritize use of existing facilities when upgrading arterial highways to limited or controlled access facilities, but DOT is not precluded from use of such funding for projects that enhance the capacity of an arterial highway. These funds are in addition to any other statutorily required funding allocations.

The bill creates s. 339.66, F.S., relating to upgrading arterial highways with controlled access facilities. The bill provides Legislative findings that provision and maintenance of safe, reliable, and predictably free-flowing facilities to support the movement of people and freight and to enhance hurricane evacuation efficiency is important; and that planning now for population growth and technology changes while prudently making timely improvements to address demand is in the best interest of the state.

The bill directs DOT, in coordination with the FTE, to evaluate existing or portions of existing roadways for development of specific controlled access facilities and include such projects as identified in the work program. DOT may upgrade roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting existing roadway with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic. Such improvements must enhance the economic prosperity and preserve the character of impacted communities.

DOT may *not* reduce any non-tolled general use lanes of an existing facility and *must*:

- Maintain existing access points to the roadway provided by designated streets, graded roads, or driveways, avoiding community impact.
- After construction is completed, provide property owners of land with no existing access the right to one access point and provide owners with more than one mile of roadway frontage along the facility with one access point for each mile owned.
- Locate any tolling points so that a non-tolled alternative exists for local traffic.

Under the bill, any portions of a controlled access facility to be tolled are approved turnpike projects that are part of the turnpike system, and a controlled-access portion of a roadway constructed under the new section of law is considered a SIS facility. All existing applicable requirements relating DOT or turnpike projects, including environmental review, also apply to any projects undertaken to upgrade the arterial roadways with controlled access facilities. Further, DOT and FTE must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects, including previous task force reports.<sup>62</sup>

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<sup>61</sup> Created in 2003, in s. 339.61, F.S., DOT's Strategic Intermodal System (SIS) is composed of transportation facilities and services of statewide and interregional significance. DOT describes the SIS as representing "an effort to link Florida's transportation policies and investments to the state's economic development strategy." The SIS consists of all major limited access federal and state highways, ports, major rail facilities, intermodal facilities, and other corridors that serve a statewide or interregional purpose. DOT, *Work Program Instructions FY 21/22-25/26*, Sept. 18, 2020, p. 378, available at <https://fdotewp1.dot.state.fl.us/fmsupportapps/Documents/development/WorkProgramInstructions.pdf> (last visited June 1, 2021).

<sup>62</sup> The bill also applies this requirement to ss. 339.67 and 339.68, F.S., created by the bill in relation to U.S. 19 controlled access facilities and arterial rural highway projects, respectively.

The bill also requires DOT to consider innovative concepts to combine right-of-way acquisition with the acquisition of lands or easements to facilitate environmental mitigation or the protection or restoration of ecosystems, wildlife habitat, or water quality. Further, to the greatest extent practical, DOT must design roadway alignments, project alignment, and any interchange locations so that project rights-of-way are not located within conservation lands acquired under the Florida Preservation 2000 Act<sup>63</sup> and the Florida Forever Act.<sup>64</sup>

The bill authorizes funding for projects to upgrade arterial highways with controlled access facilities through turnpike revenue bonds, right-of-way and bridge construction bonds, DOT Financing Corporation, the use of public-private partnerships, or by any combination thereof, as applicable. However, project construction is not eligible for funding until completion of 30 percent of the design phase, except for projects that are under construction or for which project alignment has been determined. DOT is also authorized to accept donations of land for use as transportation rights-of-way or to secure or use transportation rights-of-way for such projects.

To the extent legally available, any toll revenues from the turnpike system not required for payment of principal, interest, reserves, and other required deposits for bonds; costs of operations and maintenance; other contractual obligations; or system improvement project costs must be used to repay to the STTF advances made from that fund. In accordance with existing authority, the Division of Bond finance is authorized to issue right-of-way and bridge construction bonds, turnpike revenue bonds, and DOT financing corporation bonds to finance controlled access facilities as provided in the State Bond Act.

The bill creates s. 339.67, F.S., relating to U.S. 19 controlled access facilities. The bill directs DOT to develop and include in the work program, construction of controlled access facilities necessary to achieve free flow of traffic on U.S. 19, beginning at the terminus of the Suncoast Parkway 2 Phase 3 north predominantly along U.S. 19 to a logical terminus on I-10 in Madison County. The bill deems the project as a SIS facility, which must be developed using existing or portions of existing roadway to ensure the free flow of traffic by improvements. DOT must develop the project no later than December 31, 2035.

The bill creates s. 339.68, F.S., relating to arterial rural highway projects. The bill directs DOT to identify and include in its work program projects to increase capacity by widening existing two-lane arterial rural roads to four lanes. To be included in a program project, the road must be classified as an arterial rural road and truck traffic using the road must amount to at least 15 percent of all such traffic, as determined by DOT. The bill directs DOT to fund at least \$20 million annually for such projects.

The bill directs DOT to begin the project development and environmental (PD&E) phase of the extension of the Florida Turnpike from its northerly terminus in Wildwood to a logical and appropriate terminus determined by DOT. DOT must submit a status report to the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the result of the PD&E phase, including consideration of project configuration, alignment, cost, and schedule, by December 31, 2022. The bill does not authorize construction of the extension.

### **Effective Date**

The bill has an effective date of July 1, 2021.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>63</sup> S. 259.101, F.S.

<sup>64</sup> S. 259.105, F.S.

1. Revenues:

The bill may have an indeterminate, positive impact on state government revenues due to additional penalties associated with adding road and bridge construction and maintenance vehicles to the Move Over Law.

2. Expenditures:

Costs associated with enforcement and public awareness of the change to the Move Over Law would be insignificant. The Department of Highway Safety and Motor Vehicles already enforces the current law and has an existing awareness campaign.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate, positive impact on local government revenues due to additional penalties associated with adding road and bridge construction and maintenance vehicles to the Move Over Law.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals that appear before the Commercial Motor Vehicle Review Board remotely via communications media technology will likely see a savings in expenditures associated with not being required to travel to a DOT district office.

D. FISCAL COMMENTS:

Increasing the \$275 million debt cap to \$350 million on Right-of-Way and Bridge Construction Bonds will provide DOT with additional flexibility to utilize that program to meet future bridge replacement needs with minimal disruption to capacity projects in DOT's work program.<sup>65</sup>

The portion of the bill relating to the M-CORES program does not change the collection of motor vehicle license tax revenues, nor the amount of revenue distributed to the STTF, but changes the authorized uses of these revenues within the STTF. The bill repeals the funding for M-CORES, the workforce development program, and the additional funds dedicated to SCRAP, SCOP, and TDTF. Instead, these revenues will be used for arterial roads in the SIS.

The bill repeals the future change in use of \$35 million of funds transferred to the FTE to conform to the repeal of the M-CORES law, and on July 1, 2023, the bill repeals the transfer of those funds to the FTE. Instead, the funds will be retained in the STTF. Any impact to FTE programming is mitigated by the delayed effective date of the elimination of the transfer.

The impact to DOT's 5-year Work Program is expected to be minimal. The funds remain in the STTF for use by DOT on arterial roads in the SIS. The bill does require DOT to incorporate projects into the work program related to upgrades of existing facilities with controlled access roads and expansion of certain two-lane arterial rural roadways.

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<sup>65</sup> Department of Transportation, 2020 Legislative Proposal, *Change in Right-of-Way Acquisition and Bridge Construction Bond Debt Service Cap*.

