



Transportation & Tourism Appropriations Subcommittee

**Monday, April 3, 2017
11:30 AM –2:30 PM
Sumner Hall (404 HOB)**

Meeting Packet



The Florida House of Representatives

Appropriations Committee

Transportation & Tourism Appropriations Subcommittee

Richard Corcoran
Speaker

Clay Ingram
Chair


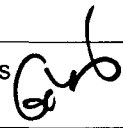
AGENDA

Monday, April 3, 2017
Sumner Hall (404 HOB)
11:30 AM – 2:30 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Ingram
- III. Consideration of the following bills:
 - CS/HB 179** Veteran Identification by Local, Federal & Veterans Affairs Subcommittee, Combee
 - CS/HB 695** South Florida Regional Transportation Authority by Transportation & Infrastructure Subcommittee, Santiago
 - CS/HB 707** Voter Registration List Maintenance by Oversight, Transparency & Administration Subcommittee, Spano
 - HB 1169** Transportation Facility Designations by Sprowls
 - CS/HB 6519** Relief/Amie Draiemann O'Brien, Hailey Morgan Stephenson, and Christian Darby Stephenson II/Department of Transportation by Civil Justice & Claims Subcommittee, Cortes, B.
- IV. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 179 Veteran Identification
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Combee & others
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 444

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	15 Y, 0 N, As CS	Renner	Miller
2) Transportation & Tourism Appropriations Subcommittee		Cobb 	Davis 
3) Government Accountability Committee			

SUMMARY ANALYSIS

For the roughly 1.5 million veterans living in Florida, there is no uniform veteran identification card that can be used as proof of veteran status for the purpose of obtaining discounts or waivers from various license and registration fees. Rather, veterans rely on a number of Department of Defense (DoD) or U.S. Veterans Affairs (VA) issued cards as proof. In Florida, a driver license or identification card with the "V" designation issued by the Department of Highway Safety and Motor Vehicles (DHSMV) or a Florida Department of Veterans' Affairs (DVA) card for veterans with certain disabilities may be used as proof of veteran status.

Currently, the Department of Agriculture and Consumer Services (DACS) and the Department of Financial Services (DFS) will waive various license and registration fees for the following businesses and professions if a veteran provides a copy of the DD Form 214 or another acceptable form of identification as specified by DVA:

- Land surveying and mapping;
- Private investigation, security, and repossession services;
- Health studios;
- Telephone salespersons;
- Movers and moving brokers;
- The sale of liquefied petroleum gas;
- Pawnbrokers;
- Motor vehicle repair shops;
- Sellers of travel;
- Insurance representatives; and
- The carrying of concealed weapons or firearms.

The bill directs DHSMV to create a veteran identification card to be used as proof of veteran status for the purpose of obtaining discounts. The card must be issued to any honorably discharged veteran of any branch of the U.S. Armed Forces and who provides the following:

- A copy of the veteran's DD Form 214;
- A copy of a valid, unexpired driver license or identification card; and
- Payment of \$10.

Additionally, the bill adds the identification card as proof of veteran status in order for a veteran to obtain a waiver for license and registration fees for the above businesses and professions.

According to DHSMV, the bill will have a significant, negative fiscal impact to state expenditures, and an indeterminate, positive impact to state and local government revenues. See Fiscal Comments.

The bill has an effective date of July 1, 2017.

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

STORAGE NAME: h0179b.TTA.DOCX

DATE: 3/31/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Proof of Veteran status

Federal level

Many veterans want a veteran identification card proving their military service so they can receive discounts, fee waivers, or other benefits. However, there is no uniform veteran identification card that is available to all veterans.

The “Veterans Identification Card Act 2015,”¹ was enacted by Congress on July 20, 2015. The Act directs the VA to issue a veteran’s identification card to a requesting veteran who is neither entitled to military retired pay nor enrolled in the VA system of patient enrollment. The card is required to display the veteran’s name and photograph and serve as proof that the veteran has a DD Form 214² or other official document in his or her military personnel file that describes the veteran’s military service.³ The identification card cannot be used as proof of eligibility for any federal benefits and does not grant access to military installations. It is estimated that the cards will be implemented in 2017 at the earliest, and the price for the identification card is not yet determined.

Until the card becomes available, there are a few types of federal identification cards a veteran can use as proof of veteran status depending on factors such as status, disability, and health benefits. These cards include, but are not limited to, the following:

- **Veterans Identification Card**⁴ – Veterans can use this card at VA medical facilities. The card, issued by the VA, is free and is issued only to veterans who are eligible for VA medical benefits and only for the purpose of identification and check-in for VA medical appointments. The design of the card includes a picture of the veteran, their member ID, Plan ID, branch of service, and Service Connected, POW and Purple Heart indicators, if applicable. The card does not show a veteran’s Social Security Number or date of birth.
- **DD Form 2 (Retired) U.S. Uniformed Services ID**⁵ – This card is issued to retired Uniform Service⁶ members entitled to pay, members on the temporary disability retired list, and members on the permanent disability retired list.
- **DD Form 1173 U.S. Uniformed Services ID and Privilege Card**⁷ – This card is issued to Medal of Honor recipients, former members in receipt of retired pay, 100 percent disabled veterans, and other benefits-eligible categories as described in DoD policy.

¹ Veterans Identification Card Act 2015, Pub. L. No. 114-31, H.R. 91, 114th Cong. (July 20, 2015).

² Each veteran is issued a Department of Defense DD Form 214. This form contains information normally needed to verify military service of benefits, retirement, employment, membership in veterans’ organizations, and the veteran’s condition of discharge. See <http://www.dd214.us/> (last visited January 30, 2017).

³ Congress.gov, *H.R. 91-Veterans Identification Card Act 2015*, available at: <https://www.congress.gov/bill/114th-congress/house-bill/91> (last viewed January 27, 2017).

⁴ U.S. Department of Veterans Affairs site on *Veteran Identification Cards*, available at: https://iris.custhelp.com/app/answers/detail/a_id/911 (last viewed January 27, 2017).

⁵ Department of Defense Common Access Card site on *Uniformed Services ID Card*, available at: www.cac.mil/uniformed-services-id-card/ (last viewed January 29, 2017).

⁶ 10 U.S.C. §101(a)(5) defines the uniformed services as consisting of the Army, Marines, Navy, Air Force, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

⁷ *Id.*

- **DD Form 2765 Department of Defense/Uniformed Services ID and Privilege Card⁸** – This card is issued to Medal of Honor recipients, 100 percent disabled veterans, former members in receipt of retired pay, other benefits-eligible categories as described in DoD policy.

The design of the Uniformed Services ID cards includes a picture, branch affiliation, expiration date, DoD Identification Number, date of birth, benefits number, blood type, Geneva Convention category, and date of issue.

Florida

Much like the federal government, Florida does not have a uniform veteran identification card. Rather, veterans can show proof of status by having a “V” designation on either their Florida identification card⁹ or their Florida driver license¹⁰ for an additional \$1 fee plus the renewal fee, or a \$2 fee if the veteran wants to purchase a replacement credential for the sole purpose of adding the “V” designation. The designation can be obtained when a veteran submits a copy of his or her DD Form 214 or another acceptable form specified by the DVA to the DHSMV.¹¹

Additionally, DVA may issue an identification card to any veteran who is a permanent resident of Florida and who has been determined by the VA to have a 100 percent service-connected permanent and total disability rating, or who has been determined to have a service-connected total and permanent disability rating of 100 percent and is receiving disability retirement pay from any branch of the U.S. Armed Forces.¹²

Virginia

Virginia is the only state that currently offers a veteran identification card.¹³ The card is issued by the Virginia Department of Motor Vehicles (DMV) and provides proof of veteran status in order for a veteran to receive discounts from retailers and restaurants. The design of the card shows the veteran’s photo, name, branch of service, and signature. To be eligible, the veteran must:

- Be a Virginia resident;
- Hold an unexpired Virginia commercial driver’s license, driver’s license, learner’s permit or DMV-issued ID card;
- Have served either in the active U.S. Armed Forces or for more than 180 days in the Virginia National Guard or U.S. Reserves;
- Have received an honorable discharge;
- Present a photocopy of a veteran service proof document that provides the branch of service, discharge date and discharge status (e.g. DD Form 214);
- Consent that the information on the application will be shared with the Virginia Department of Veteran Services; and,
- Pay \$10.

⁸ Id.

⁹ Section 322.051, F.S.

¹⁰ Section 322.14(1)(d), F.S.

¹¹ A “veteran” designation will replace the “V” designation when the new driver license and identification card design comes out at the end of 2017.

¹² Section 295.17, F.S.

¹³ Virginia Department of Motor Vehicles website on *Veteran Identification Cards*, available at https://www.dmv.virginia.gov/drivers/#id/vet_id.asp (last visited January 31, 2017).

Registration and License Fee Waivers

Department of Agriculture and Consumer Services (DACS)

Chapter 2016-166, Laws of Florida, among other matters, implemented various registration and license fee waivers for veterans, their spouses, and their businesses for several professions regulated by DACS.

The first-time application fee for a specified veteran of the U.S. Armed Forces, his or her spouse, or a business entity in which he or she has a majority ownership is waived for the following classes of licenses:

- Land surveyor and mapper;¹⁴
- Health studio;¹⁵
- Commercial Telephone seller;¹⁶
- Telemarketing salesperson;¹⁷
- Movers and moving broker;¹⁸
- Liquefied petroleum gas related license;¹⁹
- Pawnbroker;²⁰
- Motor vehicle repair shop; and,²¹
- Sellers of travel.²²

To qualify for the above fee waiver, the veteran, his or her spouse, or his or her business must submit an application within 60 months after the date of the veteran's discharge from the U.S. Armed Forces and provide a copy of his or her DD Form 214, or another form of identification as specified by the DVA; a valid marriage license when applicable; and proof of ownership interest, where applicable.

The initial application fee for licensure, for veterans who apply within 24 months of their honorable discharge from the armed forces, is waived for the following licenses:²³

- Private investigator, private investigator intern, private investigative/security agency manager, or private investigative agency manager;
- Security officer instructor, or security manager;
- Recovery agent, recovery agent intern, recovery agent manager, or recovery agent instructor; and,
- Firearms instructor.

The veteran must submit a copy of his or her DD Form 214 or another form of identification as specified by the DVA in order to receive the waiver.

The initial fee for licensure, for veterans who apply within 24 months of their honorable discharge from the armed forces, is waived for the following licenses:

- Private investigative/security agency manager or a firearms instructor;²⁴

¹⁴ Section 472.015(3), F.S.

¹⁵ Section 501.015(2), F.S.

¹⁶ Section 501.605(5)(b)

¹⁷ Section 501.607(2)(b), F.S.

¹⁸ Section 507.03(3)(b), F.S.

¹⁹ Section 527.02(3)(b), F.S.

²⁰ Section 539.001(3)(c), F.S.

²¹ Section 559.904(3)(b), F.S.

²² Section 559.928(2)(c), F.S.

²³ Section 493.6105(1)(c), F.S.

- Private investigator, private investigator intern, or private investigative agency manager;²⁵
- Security officer, security officer instructor, or a security manager;²⁶ and
- Recovery agent, recovery agent intern, recovery agent manager, or recovery agent instructor.²⁷

The veteran must submit a copy of his or her DD Form 214 or another form of identification as specified by the DVA in order to receive the waiver.

Lastly, in order to receive an expedited processing of an application for a license to carry concealed weapons or firearms, a veteran must submit a copy of the DD Form 214, or another acceptable form of identification as specified by DVA.²⁸

Department of Financial Services (DFS)

Veterans who have retired within 24 months are exempt from the application filing fee for licensure as an insurance agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary. The applicant must submit a military service record, military personnel file, veteran record, discharge paper, or separation document, or a separation document that indicates the veteran was honorably discharged.²⁹

Effect of Proposed Changes

The bill requires DHSMV to create a veteran identification card to be used as proof of veteran status in order to obtain discounts or waivers offered to veterans for the exchange of goods and services. The card would be separate from a DHSMV-issued driver license or personal identification card. The bill provides criteria for the design of the card which includes:

- A photograph of the veteran;
- The veteran's full name;
- Branch of service;
- Signature;
- The words "Proof of veteran status only. Not for official government use or identification;" and
- An image of a DoD style military dog tag in the background.

The DHSMV must issue the card to any honorably discharged veteran of any branch of the U.S. Armed Forces who provides the following:

- A copy of the veteran's DD Form 214 as issued by the DoD;
- A copy of the veteran's valid, unexpired Florida driver license or identification card or another form of photographic identification that is acceptable to the DHSMV; and
- Payment of a \$10 fee.

The bill prohibits the use of the veteran identification card as an identification card for a veteran with a 100 percent, service-connected permanent and total disability rating for compensation, or who has a service-connected total and permanent disability rating of 100 percent and receives disability retirement pay pursuant to s. 295.17, F.S., or as an identification card pursuant to s. 322.051, F.S.

In addition to showing a DD Form 214 or another acceptable form of identification specified by DVA as proof of veteran status, the bill adds the veteran identification card to be used as proof of veteran status

²⁴ Section 493.6107(6), F.S.

²⁵ Section 493.6202(4), F.S.

²⁶ Section 493.6302(4), F.S.

²⁷ Section 493.6402(4), F.S.

²⁸ Section 790.06(5)(f), F.S.

²⁹ Section 626.171(6), F.S.

in order to receive waivers of registration or license fees for the following DACS and DFS businesses and occupations:

- Land surveying and mapping;
- Private investigation, security, and repossession services;
- Health studios;
- Telephone salespersons;
- Movers and moving brokers;
- The sale of liquefied petroleum gas;
- Pawnbrokers;
- Motor vehicle repair shops;
- Sellers of travel; and,
- Insurance representatives.

Lastly, the veteran identification card may be used as proof of veteran status for the expedited processing of an application for a license to carry concealed weapons or firearms.

B. SECTION DIRECTORY:

- | | |
|------------|--|
| Section 1 | Creates s. 322.0511, F.S., relating to veteran identification cards. |
| Section 2 | Amends s. 472.015, F.S., relating to DACS licensure for land surveying and mapping. |
| Section 3 | Amends s. 493.6105, F.S., relating to DACS initial application for licensure for private investigation, security, and repossession services. |
| Section 4 | Amends s. 493.6107, F.S., relating to DACS initial license fees for private investigation, security, and repossession services. |
| Section 5 | Amends s. 493.6202, F.S., relating to DACS fees for private investigation, security, and repossession services. |
| Section 6 | Amends s. 493.6302, F.S., relating to DACS fees for private investigation, security, and repossession services. |
| Section 7 | Amends s. 493.6402, F.S., relating to DACS fees for private investigation, security, and repossession services. |
| Section 8 | Amends s. 501.015, F.S., relating to DACS health studios registration requirements. |
| Section 9 | Amends s. 501.605, F.S., relating to DACS licensure of commercial telephone sellers. |
| Section 10 | Amends s. 501.607, F.S., relating to DACS licensure of salespersons. |
| Section 11 | Amends s. 507.03, F.S., relating to DACS registration for movers and moving brokers. |
| Section 12 | Amends s. 527.02, F.S., relating to DACS and the regulation of the sale of liquefied petroleum gas. |
| Section 13 | Amends s. 539.001, F.S., relating to DACS pawnbroker licenses. |
| Section 14 | Amends s. 559.904, F.S., relating to DACS registration for motor vehicle repair shops. |
| Section 15 | Amends s. 559.928, F.S., relating to DACS registration for sellers of travel. |
| Section 16 | Amends s. 626.171, F.S., relating to DFS insurance representative applications for licensure. |
| Section 17 | Amends s. 790.06, F.S., relating to DACS licenses to carry concealed weapons or firearms. |
| Section 18 | Provides an effective date of July 1, 2017. |

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DHSMV estimates approximately 65,000 individuals will purchase the new identification card in the first year. At a rate of \$10 per transaction, the bill would have a positive fiscal impact to state revenue totaling \$650,000; however, the bill does not specify where this revenue will be deposited.³⁰

2. Expenditures:

DHSMV estimates that approximately 4,560 programming hours, or \$313,440 in FTE and contracted resources, will be required to implement the bill. Additionally, because the current card printers are incapable of printing a newly designed identification card, DHSMV would be required to purchase an additional 320 printers, totaling approximately \$2,448,000, dedicated exclusively to the printing of the new card.³¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

DHSMV estimates approximately 65,000 individuals will purchase the new identification card in the first year. Tax collectors are permitted to collect a \$6.25 service charge on license and identification card transactions; therefore, there will likely be a positive impact to local government revenues totaling approximately \$406,250.³²

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Veterans who choose to obtain the voter identification card could receive license and registration fee waivers, resulting in a positive fiscal impact for those veterans.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

³⁰ DHSMV draft analysis on file with staff. The information is subject to revision or correction in the final draft.

³¹ Id.

³² Id.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removes the following personal identification information that would go on the front of the veteran identification card:

- DoD identification number
- Date of discharge
- The words "U.S. Armed Forces Veteran-Honorably Discharged"

This analysis is drafted to the committee substitute as passed by the Local, Federal & Veterans Affairs Subcommittee.

1 A bill to be entitled
 2 An act relating to veteran identification; creating s.
 3 322.0511, F.S.; requiring the Department of Highway
 4 Safety and Motor Vehicles to create a veteran
 5 identification card for certain purposes; providing
 6 for the design of the card; providing veteran
 7 eligibility requirements; prohibiting use of the card
 8 for certain purposes; amending ss. 472.015, 493.6105,
 9 493.6107, 493.6202, 493.6302, 493.6402, 501.015,
 10 501.605, 501.607, 507.03, 527.02, 539.001, 559.904,
 11 559.928, 626.171, and 790.06, F.S.; authorizing use of
 12 the card as proof of veteran status for obtaining
 13 waivers of license or registration fees relating to
 14 land surveying and mapping, private investigation,
 15 security, and repossession services, health studios,
 16 telephone salespersons, movers and moving brokers, the
 17 sale of liquefied petroleum gas, pawnbrokers, motor
 18 vehicle repair shops, sellers of travel, insurance
 19 representatives, and the carrying of concealed weapons
 20 or firearms; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 322.0511, Florida Statutes, is created
 25 to read:

26 322.0511 Veteran identification cards.—

27 (1) The department shall create a veteran identification
 28 card to be used as proof of veteran status for the purpose of
 29 obtaining discounts or waivers offered to veterans for the
 30 exchange of goods and services and for other purposes authorized
 31 by law, except as provided in subsection (3). The veteran
 32 identification card must bear the colors and design approved by
 33 the department, including, but not limited to:

34 (a) In the foreground, a full-face photograph of the
 35 veteran and his or her full name, branch of service, and
 36 signature. The words "Proof of veteran status only. Not for
 37 official government use or identification" must appear at the
 38 bottom of the card.

39 (b) In the background, an image of a military
 40 identification "dog" tag.

41 (2) The department shall issue a veteran identification
 42 card to a veteran of any branch of the United States Armed
 43 Forces who has been honorably discharged and who provides to the
 44 department:

45 (a) A copy of the veteran's DD Form 214 as issued by the
 46 United States Department of Defense.

47 (b) A copy of the veteran's valid, unexpired driver
 48 license or identification card as issued under this chapter or
 49 another form of photographic identification acceptable to the
 50 department.

51 (c) Payment of a \$10 fee.
 52 (3) A veteran identification card issued pursuant to this
 53 section is not considered an identification card for the
 54 purposes of s. 295.17 or s. 322.051 and may not be used for the
 55 determination of any federal benefit.

56 Section 2. Paragraph (b) of subsection (3) of section
 57 472.015, Florida Statutes, is amended to read:

58 472.015 Licensure.—

59 (3)

60 (b) The department shall waive the initial license fee for
 61 an honorably discharged veteran of the United States Armed
 62 Forces, the spouse of such a veteran, or a business entity that
 63 has a majority ownership held by such a veteran or spouse if the
 64 department receives an application, in a format prescribed by
 65 the department, within 60 months after the date of the veteran's
 66 discharge from any branch of the United States Armed Forces. To
 67 qualify for the waiver:7

68 1. A veteran must provide to the department a copy of his
 69 or her DD Form 214, as issued by the United States Department of
 70 Defense, his or her veteran identification card issued pursuant
 71 to s. 322.0511, or another acceptable form of identification as
 72 specified by the Department of Veterans' Affairs;

73 2. The spouse of a veteran must provide to the department
 74 a copy of the veteran's DD Form 214, as issued by the United
 75 States Department of Defense, the veteran's veteran

76 identification card issued pursuant to s. 322.0511, or another
 77 acceptable form of identification as specified by the Department
 78 of Veterans' Affairs, and a copy of a valid marriage license or
 79 certificate verifying that he or she was lawfully married to the
 80 veteran at the time of discharge; or

81 3. A business entity must provide to the department proof
 82 that a veteran or the spouse of a veteran holds a majority
 83 ownership in the business, a copy of the veteran's DD Form 214,
 84 as issued by the United States Department of Defense, the
 85 veteran's veteran identification card issued pursuant to s.
 86 322.0511, or another acceptable form of identification as
 87 specified by the Department of Veterans' Affairs, and, if
 88 applicable, a copy of a valid marriage license or certificate
 89 verifying that the spouse of the veteran was lawfully married to
 90 the veteran at the time of discharge.

91 Section 3. Paragraph (c) of subsection (1) of section
 92 493.6105, Florida Statutes, is amended to read:

93 493.6105 Initial application for license.—

94 (1) Each individual, partner, or principal officer in a
 95 corporation, shall file with the department a complete
 96 application accompanied by an application fee not to exceed \$60,
 97 except that the applicant for a Class "D" or Class "G" license
 98 is not required to submit an application fee. The application
 99 fee is not refundable.

100 (c) The initial application fee for a veteran, as defined

101 in s. 1.01, shall be waived if he or she applies for a Class
 102 "C," Class "CC," Class "DI," Class "E," Class "EE," Class "K,"
 103 Class "M," Class "MA," Class "MB," Class "MR," or Class "RI"
 104 license within 24 months after being discharged from a branch of
 105 the United States Armed Forces. An eligible veteran must include
 106 a copy of his or her DD Form 214, as issued by the United States
 107 Department of Defense, his or her veteran identification card
 108 issued pursuant to s. 322.0511, or another acceptable form of
 109 identification as specified by the Department of Veterans'
 110 Affairs with his or her application in order to obtain a waiver.

111 Section 4. Subsection (6) of section 493.6107, Florida
 112 Statutes, is amended to read:

113 493.6107 Fees.—

114 (6) The initial license fee for a veteran, as defined in
 115 s. 1.01, shall be waived if he or she applies for a Class "M" or
 116 Class "K" license within 24 months after being discharged from
 117 any branch of the United States Armed Forces. An eligible
 118 veteran must include a copy of his or her DD Form 214, as issued
 119 by the United States Department of Defense, his or her veteran
 120 identification card issued pursuant to s. 322.0511, or another
 121 acceptable form of identification as specified by the Department
 122 of Veterans' Affairs with his or her application in order to
 123 obtain a waiver.

124 Section 5. Subsection (4) of section 493.6202, Florida
 125 Statutes, is amended to read:

126 493.6202 Fees.—

127 (4) The initial license fee for a veteran, as defined in
 128 s. 1.01, shall be waived if he or she applies for a Class "C,"
 129 Class "CC," or Class "MA" license within 24 months after being
 130 discharged from any branch of the United States Armed Forces. An
 131 eligible veteran must include a copy of his or her DD Form 214,
 132 as issued by the United States Department of Defense, his or her
 133 veteran identification card issued pursuant to s. 322.0511, or
 134 another acceptable form of identification as specified by the
 135 Department of Veterans' Affairs with his or her application in
 136 order to obtain a waiver.

137 Section 6. Subsection (4) of section 493.6302, Florida
 138 Statutes, is amended to read:

139 493.6302 Fees.—

140 (4) The initial license fee for a veteran, as defined in
 141 s. 1.01, shall be waived if he or she applies for a Class "D,"
 142 Class "DI," or Class "MB" license within 24 months after being
 143 discharged from any branch of the United States Armed Forces. An
 144 eligible veteran must include a copy of his or her DD Form 214,
 145 as issued by the United States Department of Defense, his or her
 146 veteran identification card issued pursuant to s. 322.0511, or
 147 another acceptable form of identification as specified by the
 148 Department of Veterans' Affairs with his or her application in
 149 order to obtain a waiver.

150 Section 7. Subsection (4) of section 493.6402, Florida

151 Statutes, is amended to read:

152 493.6402 Fees.—

153 (4) The initial license fee for a veteran, as defined in
 154 s. 1.01, shall be waived if he or she applies for a Class "E,"
 155 Class "EE," Class "MR," or Class "RI" license within 24 months
 156 after being discharged from any branch of the United States
 157 Armed Forces. An eligible veteran must include a copy of his or
 158 her DD Form 214, as issued by the United States Department of
 159 Defense, his or her veteran identification card issued pursuant
 160 to s. 322.0511, or another acceptable form of identification as
 161 specified by the Department of Veterans' Affairs with his or her
 162 application in order to obtain a waiver.

163 Section 8. Subsection (2) of section 501.015, Florida
 164 Statutes, is amended to read:

165 501.015 Health studios; registration requirements and
 166 fees.—Each health studio shall:

167 (2) Remit an annual registration fee of \$300 to the
 168 department at the time of registration for each of the health
 169 studio's business locations. The department shall waive the
 170 initial registration fee for an honorably discharged veteran of
 171 the United States Armed Forces, the spouse of such a veteran, or
 172 a business entity that has a majority ownership held by such a
 173 veteran or spouse if the department receives an application, in
 174 a format prescribed by the department, within 60 months after
 175 the date of the veteran's discharge from any branch of the

176 United States Armed Forces. To qualify for the waiver:7

177 (a) A veteran must provide to the department a copy of his
 178 or her DD Form 214, as issued by the United States Department of
 179 Defense, his or her veteran identification card issued pursuant
 180 to s. 322.0511, or another acceptable form of identification as
 181 specified by the Department of Veterans' Affairs;

182 (b) The spouse of a veteran must provide to the department
 183 a copy of the veteran's DD Form 214, as issued by the United
 184 States Department of Defense, the veteran's veteran
 185 identification card issued pursuant to s. 322.0511, or another
 186 acceptable form of identification as specified by the Department
 187 of Veterans' Affairs, and a copy of a valid marriage license or
 188 certificate verifying that he or she was lawfully married to the
 189 veteran at the time of discharge; or

190 (c) A business entity must provide to the department proof
 191 that a veteran or the spouse of a veteran holds a majority
 192 ownership in the business, a copy of the veteran's DD Form 214,
 193 as issued by the United States Department of Defense, the
 194 veteran's veteran identification card issued pursuant to s.
 195 322.0511, or another acceptable form of identification as
 196 specified by the Department of Veterans' Affairs, and, if
 197 applicable, a copy of a valid marriage license or certificate
 198 verifying that the spouse of the veteran was lawfully married to
 199 the veteran at the time of discharge.

200 Section 9. Paragraph (b) of subsection (5) of section

201 501.605, Florida Statutes, is amended to read:

202 501.605 Licensure of commercial telephone sellers.—

203 (5) An application filed pursuant to this part must be
 204 verified and accompanied by:

205 (b) A fee for licensing in the amount of \$1,500. The fee
 206 shall be deposited into the General Inspection Trust Fund. The
 207 department shall waive the initial license fee for an honorably
 208 discharged veteran of the United States Armed Forces, the spouse
 209 of such a veteran, or a business entity that has a majority
 210 ownership held by such a veteran or spouse if the department
 211 receives an application, in a format prescribed by the
 212 department, within 60 months after the date of the veteran's
 213 discharge from any branch of the United States Armed Forces. To
 214 qualify for the waiver:~~7~~

215 1. A veteran must provide to the department a copy of his
 216 or her DD Form 214, as issued by the United States Department of
 217 Defense, his or her veteran identification card issued pursuant
 218 to s. 322.0511, or another acceptable form of identification as
 219 specified by the Department of Veterans' Affairs;

220 2. The spouse of a veteran must provide to the department
 221 a copy of the veteran's DD Form 214, as issued by the United
 222 States Department of Defense, the veteran's veteran
 223 identification card issued pursuant to s. 322.0511, or another
 224 acceptable form of identification as specified by the Department
 225 of Veterans' Affairs, and a copy of a valid marriage license or

226 certificate verifying that he or she was lawfully married to the
 227 veteran at the time of discharge; or

228 3. A business entity must provide to the department proof
 229 that a veteran or the spouse of a veteran holds a majority
 230 ownership in the business, a copy of the veteran's DD Form 214,
 231 as issued by the United States Department of Defense, the
 232 veteran's veteran identification card issued pursuant to s.
 233 322.0511, or another acceptable form of identification as
 234 specified by the Department of Veterans' Affairs, and, if
 235 applicable, a copy of a valid marriage license or certificate
 236 verifying that the spouse of the veteran was lawfully married to
 237 the veteran at the time of discharge.

238 Section 10. Paragraph (b) of subsection (2) of section
 239 501.607, Florida Statutes, is amended to read:

240 501.607 Licensure of salespersons.—

241 (2) An application filed pursuant to this section must be
 242 verified and be accompanied by:

243 (b) A fee for licensing in the amount of \$50 per
 244 salesperson. The fee shall be deposited into the General
 245 Inspection Trust Fund. The fee for licensing may be paid after
 246 the application is filed, but must be paid within 14 days after
 247 the applicant begins work as a salesperson. The department shall
 248 waive the initial license fee for an honorably discharged
 249 veteran of the United States Armed Forces, the spouse of such a
 250 veteran, or a business entity that has a majority ownership held

251 by such a veteran or spouse if the department receives an
 252 application, in a format prescribed by the department, within 60
 253 months after the date of the veteran's discharge from any branch
 254 of the United States Armed Forces. To qualify for the waiver:7

255 1. A veteran must provide to the department a copy of his
 256 or her DD Form 214, as issued by the United States Department of
 257 Defense, his or her veteran identification card issued pursuant
 258 to s. 322.0511, or another acceptable form of identification as
 259 specified by the Department of Veterans' Affairs;

260 2. The spouse of a veteran must provide to the department
 261 a copy of the veteran's DD Form 214, as issued by the United
 262 States Department of Defense, the veteran's veteran
 263 identification card issued pursuant to s. 322.0511, or another
 264 acceptable form of identification as specified by the Department
 265 of Veterans' Affairs, and a copy of a valid marriage license or
 266 certificate verifying that he or she was lawfully married to the
 267 veteran at the time of discharge; or

268 3. A business entity must provide to the department proof
 269 that a veteran or the spouse of a veteran holds a majority
 270 ownership in the business, a copy of the veteran's DD Form 214,
 271 as issued by the United States Department of Defense, the
 272 veteran's veteran identification card issued pursuant to s.
 273 322.0511, or another acceptable form of identification as
 274 specified by the Department of Veterans' Affairs, and, if
 275 applicable, a copy of a valid marriage license or certificate

276 | verifying that the spouse of the veteran was lawfully married to
 277 | the veteran at the time of discharge.

278 | Section 11. Paragraph (b) of subsection (3) of section
 279 | 507.03, Florida Statutes, is amended to read:

280 | 507.03 Registration.—

281 | (3)

282 | (b) The department shall waive the initial registration
 283 | fee for an honorably discharged veteran of the United States
 284 | Armed Forces, the spouse of such a veteran, or a business entity
 285 | that has a majority ownership held by such a veteran or spouse
 286 | if the department receives an application, in a format
 287 | prescribed by the department, within 60 months after the date of
 288 | the veteran's discharge from any branch of the United States
 289 | Armed Forces. To qualify for the waiver:7

290 | 1. A veteran must provide to the department a copy of his
 291 | or her DD Form 214, as issued by the United States Department of
 292 | Defense, his or her veteran identification card issued pursuant
 293 | to s. 322.0511, or another acceptable form of identification as
 294 | specified by the Department of Veterans' Affairs;

295 | 2. The spouse of a veteran must provide to the department
 296 | a copy of the veteran's DD Form 214, as issued by the United
 297 | States Department of Defense, the veteran's veteran
 298 | identification card issued pursuant to s. 322.0511, or another
 299 | acceptable form of identification as specified by the Department
 300 | of Veterans' Affairs, and a copy of a valid marriage license or

301 certificate verifying that he or she was lawfully married to the
 302 veteran at the time of discharge; or

303 3. A business entity must provide to the department proof
 304 that a veteran or the spouse of a veteran holds a majority
 305 ownership in the business, a copy of the veteran's DD Form 214,
 306 as issued by the United States Department of Defense, the
 307 veteran's veteran identification card issued pursuant to s.
 308 322.0511, or another acceptable form of identification as
 309 specified by the Department of Veterans' Affairs, and, if
 310 applicable, a copy of a valid marriage license or certificate
 311 verifying that the spouse of the veteran was lawfully married to
 312 the veteran at the time of discharge.

313 Section 12. Paragraph (b) of subsection (3) of section
 314 527.02, Florida Statutes, is amended to read:

315 527.02 License; penalty; fees.—

316 (3)

317 (b) The department shall waive the initial license fee for
 318 an honorably discharged veteran of the United States Armed
 319 Forces, the spouse of such a veteran, or a business entity that
 320 has a majority ownership held by such a veteran or spouse if the
 321 department receives an application, in a format prescribed by
 322 the department, within 60 months after the date of the veteran's
 323 discharge from any branch of the United States Armed Forces. To
 324 qualify for the waiver:7

325 1. A veteran must provide to the department a copy of his

326 or her DD Form 214, as issued by the United States Department of
 327 Defense, his or her veteran identification card issued pursuant
 328 to s. 322.0511, or another acceptable form of identification as
 329 specified by the Department of Veterans' Affairs;

330 2. The spouse of a veteran must provide to the department
 331 a copy of the veteran's DD Form 214, as issued by the United
 332 States Department of Defense, the veteran's veteran
 333 identification card issued pursuant to s. 322.0511, or another
 334 acceptable form of identification as specified by the Department
 335 of Veterans' Affairs, and a copy of a valid marriage license or
 336 certificate verifying that he or she was lawfully married to the
 337 veteran at the time of discharge; or

338 3. A business entity must provide to the department proof
 339 that a veteran or the spouse of a veteran holds a majority
 340 ownership in the business, a copy of the veteran's DD Form 214,
 341 as issued by the United States Department of Defense, the
 342 veteran's veteran identification card issued pursuant to s.
 343 322.0511, or another acceptable form of identification as
 344 specified by the Department of Veterans' Affairs, and, if
 345 applicable, a copy of a valid marriage license or certificate
 346 verifying that the spouse of the veteran was lawfully married to
 347 the veteran at the time of discharge.

348 Section 13. Paragraph (c) of subsection (3) of section
 349 539.001, Florida Statutes, is amended to read:

350 539.001 The Florida Pawnbroking Act.—

351 (3) LICENSE REQUIRED.—
 352 (c) Each license is valid for a period of 1 year unless it
 353 is earlier relinquished, suspended, or revoked. Each license
 354 shall be renewed annually, and each licensee shall, initially
 355 and annually thereafter, pay to the agency a license fee of \$300
 356 for each license held. The agency shall waive the initial
 357 license fee for an honorably discharged veteran of the United
 358 States Armed Forces, the spouse of such a veteran, or a business
 359 entity that has a majority ownership held by such a veteran or
 360 spouse if the agency receives an application, in a format
 361 prescribed by the agency, within 60 months after the date of the
 362 veteran's discharge from any branch of the United States Armed
 363 Forces. To qualify for the waiver:7

364 1. A veteran must provide to the agency a copy of his or
 365 her DD Form 214, as issued by the United States Department of
 366 Defense, his or her veteran identification card issued pursuant
 367 to s. 322.0511, or another acceptable form of identification as
 368 specified by the Department of Veterans' Affairs;

369 2. The spouse of a veteran must provide to the agency a
 370 copy of the veteran's DD Form 214, as issued by the United
 371 States Department of Defense, the veteran's veteran
 372 identification card issued pursuant to s. 322.0511, or another
 373 acceptable form of identification as specified by the Department
 374 of Veterans' Affairs, and a copy of a valid marriage license or
 375 certificate verifying that he or she was lawfully married to the

376 | veteran at the time of discharge; or

377 | 3. A business entity must provide to the agency proof that
 378 | a veteran or the spouse of a veteran holds a majority ownership
 379 | in the business, a copy of the veteran's DD Form 214, as issued
 380 | by the United States Department of Defense, the veteran's
 381 | veteran identification card issued pursuant to s. 322.0511, or
 382 | another acceptable form of identification as specified by the
 383 | Department of Veterans' Affairs, and, if applicable, a copy of a
 384 | valid marriage license or certificate verifying that the spouse
 385 | of the veteran was lawfully married to the veteran at the time
 386 | of discharge.

387 | Section 14. Paragraph (b) of subsection (3) of section
 388 | 559.904, Florida Statutes, is amended to read:

389 | 559.904 Motor vehicle repair shop registration;
 390 | application; exemption.-

391 | (3)

392 | (b) The department shall waive the initial registration
 393 | fee for an honorably discharged veteran of the United States
 394 | Armed Forces, the spouse of such a veteran, or a business entity
 395 | that has a majority ownership held by such a veteran or spouse
 396 | if the department receives an application, in a format
 397 | prescribed by the department, within 60 months after the date of
 398 | the veteran's discharge from any branch of the United States
 399 | Armed Forces. To qualify for the waiver:7

400 | 1. A veteran must provide to the department a copy of his

401 or her DD Form 214, as issued by the United States Department of
 402 Defense, his or her veteran identification card issued pursuant
 403 to s. 322.0511, or another acceptable form of identification as
 404 specified by the Department of Veterans' Affairs;

405 2. The spouse of a veteran must provide to the department
 406 a copy of the veteran's DD Form 214, as issued by the United
 407 States Department of Defense, the veteran's veteran
 408 identification card issued pursuant to s. 322.0511, or another
 409 acceptable form of identification as specified by the Department
 410 of Veterans' Affairs, and a copy of a valid marriage license or
 411 certificate verifying that he or she was lawfully married to the
 412 veteran at the time of discharge; or

413 3. A business entity must provide to the department proof
 414 that a veteran or the spouse of a veteran holds a majority
 415 ownership in the business, a copy of the veteran's DD Form 214,
 416 as issued by the United States Department of Defense, the
 417 veteran's veteran identification card issued pursuant to s.
 418 322.0511, or another acceptable form of identification as
 419 specified by the Department of Veterans' Affairs, and, if
 420 applicable, a copy of a valid marriage license or certificate
 421 verifying that the spouse of the veteran was lawfully married to
 422 the veteran at the time of discharge.

423 Section 15. Paragraph (c) of subsection (2) of section
 424 559.928, Florida Statutes, is amended to read:

425 559.928 Registration.—

426 (2)
 427 (c) The department shall waive the initial registration
 428 fee for an honorably discharged veteran of the United States
 429 Armed Forces, the spouse of such a veteran, or a business entity
 430 that has a majority ownership held by such a veteran or spouse
 431 if the department receives an application, in a format
 432 prescribed by the department, within 60 months after the date of
 433 the veteran's discharge from any branch of the United States
 434 Armed Forces. To qualify for the waiver:r

435 1. A veteran must provide to the department a copy of his
 436 or her DD Form 214, as issued by the United States Department of
 437 Defense, his or her veteran identification card issued pursuant
 438 to s. 322.0511, or another acceptable form of identification as
 439 specified by the Department of Veterans' Affairs;

440 2. The spouse of a veteran must provide to the department
 441 a copy of the veteran's DD Form 214, as issued by the United
 442 States Department of Defense, the veteran's veteran
 443 identification card issued pursuant to s. 322.0511, or another
 444 acceptable form of identification as specified by the Department
 445 of Veterans' Affairs, and a copy of a valid marriage license or
 446 certificate verifying that he or she was lawfully married to the
 447 veteran at the time of discharge; or

448 3. A business entity must provide to the department proof
 449 that a veteran or the spouse of a veteran holds a majority
 450 ownership in the business, a copy of the veteran's DD Form 214,

451 as issued by the United States Department of Defense, the
 452 veteran's veteran identification card issued pursuant to s.
 453 322.0511, or another acceptable form of identification as
 454 specified by the Department of Veterans' Affairs, and, if
 455 applicable, a copy of a valid marriage license or certificate
 456 verifying that the spouse of the veteran was lawfully married to
 457 the veteran at the time of discharge.

458 Section 16. Subsection (6) of section 626.171, Florida
 459 Statutes, is amended to read:

460 626.171 Application for license as an agent, customer
 461 representative, adjuster, service representative, managing
 462 general agent, or reinsurance intermediary.—

463 (6) Members of the United States Armed Forces and their
 464 spouses, and veterans of the United States Armed Forces who have
 465 retired within 24 months before application for licensure, are
 466 exempt from the application filing fee prescribed in s. 624.501.
 467 Qualified individuals must provide a copy of a military
 468 identification card, military dependent identification card,
 469 military service record, military personnel file, veteran
 470 identification card, veteran record, discharge paper, or
 471 separation document, or a separation document that indicates
 472 such members of the United States Armed Forces are currently in
 473 good standing or were honorably discharged.

474 Section 17. Paragraph (f) of subsection (5) of section
 475 790.06, Florida Statutes, is amended to read:

476 790.06 License to carry concealed weapon or firearm.—

477 (5) The applicant shall submit to the Department of
478 Agriculture and Consumer Services or an approved tax collector
479 pursuant to s. 790.0625:

480 (f) For expedited processing of an application:

481 1. A servicemember shall submit a copy of the Common
482 Access Card, United States Uniformed Services Identification
483 Card, or current deployment orders.

484 2. A veteran shall submit a copy of the DD Form 214,
485 issued by the United States Department of Defense, the veteran
486 identification card issued pursuant to s. 322.0511, or another
487 acceptable form of identification as specified by the Department
488 of Veterans' Affairs.

489 Section 18. This act shall take effect July 1, 2017.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Tourism
 2 Appropriations Subcommittee
 3 Representative Combee offered the following:

Amendment (with title amendment)

Remove lines 26-55 and insert:

322.0511 Veteran identification cards.-

8 (1) The department, in cooperation with the Department of
 9 Veterans' Affairs, shall create a veteran identification card to
 10 be used as proof of veteran status for the purpose of obtaining
 11 discounts or waivers offered to veterans for the exchange of
 12 goods and services and for other purposes authorized by law,
 13 except as provided in subsection (3). Veteran identification
 14 cards shall be issued by the department by mail. The veteran
 15 identification card must bear the colors and design approved by
 16 the department, including, but not limited to:

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Published On: 3/31/2017 7:25:39 PM

Amendment No. 1

17 (a) In the foreground, a full-face photograph of the
18 veteran and his or her full name, branch of service, and date of
19 discharge. The words "Proof of veteran status" must appear at
20 the bottom of the card.

21 (2) The department shall issue a veteran identification
22 card to a veteran of any branch of the United States Armed
23 Forces who has been honorably discharged and who provides to the
24 department:

25 (a) A copy of the veteran's DD Form 214 as issued by the
26 United States Department of Defense.

27 (b) A copy of the veteran's valid, unexpired driver
28 license or identification card as issued under this chapter or
29 another form of photographic identification acceptable to the
30 department.

31 (c) Payment of a \$10 fee to be deposited into the Highway
32 Safety Operating Trust Fund.

33 (3) A veteran identification card issued pursuant to this
34 section is not considered an identification card for the
35 purposes of s. 295.17 or s. 322.051 and may not be used for the
36 determination of any federal benefit.

37 (4) A veteran identification card shall be terminated upon
38 death of the applicant.

39 (5) REPEAL. -This section is repealed August 31, 2022.
40
41

Amendment No. 1

42

43

T I T L E A M E N D M E N T

44

Remove line 8 and insert:

45

for certain purposes; providing for future repeal; amending ss.

46

472.015, 493.6105,

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Tourism
 2 Appropriations Subcommittee
 3 Representative Combee offered the following:

4

5 **Amendment**

6 Remove line 489 and insert:

7 Section 18. This act shall take effect January 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 695 South Florida Regional Transportation Authority
SPONSOR(S): Transportation & Infrastructure Subcommittee; Santiago
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 842

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee		Cobb <i>PC</i>	Davis <i>GVB</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill addresses insurance liability issues related to the South Florida Regional Transportation Authority (SFRTA) which operates commuter rail service in Palm Beach, Broward, and Miami-Dade counties.

The bill primarily addresses liability regarding the use of a rail corridor. The bill provides SFRTA's ability to indemnify the Florida East Coast Railway (FECR) and All Aboard Florida (AAF) under certain circumstances. The bill provides who is responsible for property damage and injury to certain persons associated with several scenarios involving rail accidents. The bill also provides an allocation of risk between the parties and includes provisions for passengers and other rail corridor invitees.

The bill authorizes SFRTA to purchase railroad liability insurance of \$295 million per occurrence, and allows it to adjust the limit in accordance with applicable law. The bill also requires SFRTA to maintain a \$5 million self-insurance retention account. To compare, current Florida law authorizes the Department of Transportation (DOT) to purchase railroad liability insurance for an amount not to exceed \$200 million, and establish a self-insurance retention fund not to exceed \$10 million.

The bill authorizes the DOT to indemnify and insure certain rail services on DOT-owned rail corridors.

The bill is not expected to have a significant fiscal impact on state government. SFRTA may incur costs related to the purchase of liability insurance and the creation of a self-insurance retention fund. See Fiscal Comments for detail.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Commuter Rail in Florida

In 1988, DOT and CSX Transportation, Inc., (CSX) entered into an agreement where DOT purchased approximately 81 miles of CSX track and right-of-way¹ in order to operate commuter rail in South Florida.² The commuter rail system (Tri-Rail) serves Miami-Dade, Broward, and Palm Beach counties.³ Pursuant to the agreement between DOT and CSX, the parties agreed to a no-fault allocation of liability. Specifically, CSX pays 100 percent of all freight damages, DOT pays 100 percent of all commuter rail damages, and both parties equally share the liability for third-party damages outside the corridor when both parties are involved.⁴ The agreement also required DOT to establish a \$5 million self-insurance fund and to obtain \$120 million of insurance, including punitive damage coverage.⁵

The Legislature authorized DOT to enter into the agreement through proviso language in the 1988 General Appropriations Act.⁶ While implementing the agreement, DOT realized that procuring the requisite insurance coverage posed some challenges. The Department of Management Services purchases insurance for state agencies.⁷ However, commuter rail liability insurance is a specialized offering available from relatively few insurance providers. In 1990, due to difficulties in obtaining this insurance domestically, the Legislature exempted the purchase of insurance for Tri-Rail (currently operated by SFRTA)⁸ from the statutory requirements for procuring insurance and contractual services.⁹ This allowed Tri-Rail to obtain insurance from international insurers. Subsequently, coverage was purchased from a variety of providers primarily located in London and Bermuda.¹⁰

Liability on Rail Corridors

Commuter rail is defined as “a type of public transit that is characterized by passenger trains operating on railroad tracks and providing regional service.”¹¹ Commuter rail operators often seek to use existing track or right-of-way, which is primarily owned by freight rail operators, due to the high cost of building new infrastructure.¹² Consequently, commuter rail operators need to enter into agreements with the freight rail operators regarding how commuter rail operators will access the right-of-way. The most common challenge that occurs during negotiations between the commuter rail operator and the freight rail operator is determining liability.¹³

¹ Commonly known as the South Florida Rail Corridor. Florida Department of Transportation, 2006 Florida Freight & Passenger Rail Plan, 2-1 n. 1, <http://www.fdot.gov/rail/Publications/Plans/2006/flrail06.pdf>.

² Florida Department of Transportation, 2006 Florida Freight & Passenger Rail Plan, 5-34 <http://www.fdot.gov/rail/Publications/Plans/2006/flrail06.pdf>.

³ Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/broward-county/>; Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/miami-dade-county/>; Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/palm-beach-county/>.

⁴ *CSX Liability Issues*.

⁵ *CSX Liability Issues*.

⁶ See Chapter 87-98, Laws of Fla. (proviso accompanying Specific Appropriation 1700B).

⁷ FLA. STAT. § 287.022 (2017).

⁸ See Chapter 2003-159, Laws of Fla.

⁹ Chapter 90-136, s. 88, Laws of Fla.

¹⁰ *CSX Liability Issues*.

¹¹ U.S. General Accounting Office, *Commuter Rail: Information and Guidance Could Help Facilitate Commuter and Freight Rail Access Negotiations*, Report GAO-04-240, 5 (Jan. 2004), available at <http://www.gao.gov/new.items/d04240.pdf> (last visited March 5, 2009).

¹² *Id.* at 1.

¹³ *Id.* at 17.

Introducing commuter trains onto freight rail corridors inherently raises the freight operators' risk of liability due to the increased number of persons and trains present within the rail corridor. Accordingly, most freight rail operators want the commuter rail operator to assume all risks associated with the presence of the commuter rail service. Freight rail operators refer to this as the "but for" argument – "but for the presence of the commuter rail service, the freight railroad would not be exposed to certain risks; therefore, the freight railroads should be held harmless."¹⁴

South Florida Regional Transportation Authority (SFRTA)

In January 1989, the Tri-Rail was established to provide commuter rail service along a 67-mile corridor between the West Palm Beach Station in Palm Beach County and the Hialeah Market Station in Miami-Dade County. Between 1997 and 1998, Tri-Rail service was extended to the Mangonia Park Station in Palm Beach County and to the Miami Airport Station in Miami-Dade County.

In 2003, the Legislature created SFRTA, a tri-county federal public transit authority.¹⁵ SFRTA operates Tri-Rail in South Florida.¹⁶ The purpose for creating SFRTA was to expand cooperation between Tri-Rail commuter rail services and county transit operators and planning agencies within Miami-Dade, Broward, and Palm Beach counties.

SFRTA has plans to extend Tri-Rail service to the MiamiCentral station which will serve as downtown Miami's multimodal hub.¹⁷ At MiamiCentral, Tri-Rail passengers will be able to connect to All Aboard Florida (AAF), the Miami-Dade County bus system, Metrorail and Metromover.¹⁸

DOT Rail Liability

DOT is authorized to implement a statewide rail program.¹⁹ In the event of an accident in a DOT-owned rail corridor, DOT may assume detailed obligations to specific parties who may be involved.²⁰ The provisions relate to DOT trains, the National Railroad Passenger Corporation (AMTRAK) trains, and freight trains.²¹

DOT's duty to indemnify a freight rail operator or Amtrak is capped at \$200 million.²² DOT is required to purchase up to \$200 million in liability insurance and establish a self-insurance retention fund to cover any deductible, provided that any parties covered under the insurance must pay a reasonable monetary contribution to cover the cost of the insurance.²³ The self-insurance fund or deductible is capped at \$10 million.²⁴ Neither the purchase of insurance nor the establishment of a self-insurance retention fund shall constitute a waiver of sovereign immunity.²⁵

Proposed Changes

¹⁴ *Id.* at 18.

¹⁵ South Florida Regional Transportation Authority Act, FLA. STAT. § 343 (2017).

¹⁶ South Florida Regional Transportation Authority Act, FLA. STAT. § 343 (2017); *see also* Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/broward-county/>; Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/miami-dade-county/>; Tri-Rail, *Destinations*, <http://www.tri-rail.com/destinations/palm-beach-county/>.

¹⁷ Tri-Rail, *Tri-Rail Downtown Miami Link*, <http://tri-raildowntownmiamilink.com/>.

¹⁸ *Id.*

¹⁹ FLA. STAT. § 341.302 (2017).

²⁰ FLA. STAT. § 341.302(17) (2017).

²¹ FLA. STAT. § 341.302(17) (2017).

²² FLA. STAT. § 341.302(17)(a)6. (2017).

²³ FLA. STAT. § 341.302(17)(a)6. (2017).

²⁴ FLA. STAT. § 341.302(17)(b) (2017).

²⁵ FLA. STAT. § 341.302(17) (2017).

The bill creates s. 343.545, F.S., allowing SFRTA to assume indemnification and insurance obligations in certain circumstances.

Definitions

The bill defines various terms, including the following:

AAF intercity rail passenger - Means any person, ticketed or unticketed, using the AAF intercity passenger rail service on the rail corridor:

- On board trains, locomotives, rail cars, or rail equipment employed in AAF intercity passenger rail service or entraining thereon and detraining therefrom;
- On or about the rail corridor for any purpose related to the AAF intercity passenger rail service, including parking or purchasing tickets therefor and coming to, waiting for, and leaving from locomotives, rail cars, or rail equipment; or
- Meeting, assisting, or in the company of any person described above.

AAF rail corridor invitee - Any rail corridor invitee who is an AAF intercity rail passenger or is otherwise present on the rail corridor at the request of, pursuant to a contract with, or otherwise for the purpose of doing business with or at the behest of AAF, including persons who are vendors or employees of vendors at the MiamiCentral²⁶ station or any other station that AAF may construct on the rail corridor. The term does not include patrons at any station, except those patrons who are also AAF's intercity rail passengers; commercial or residential tenants of the developments in and around the stations or their invitees; or any third parties performing work at a station or in the rail corridor, such as employees and invitees of PI²⁷ or related entities, utilities, and fiber optic companies, or invitees or employees of the department or any county or municipality.

Commuter rail passenger - Any person, ticketed or unticketed, using the commuter rail service on the rail corridor:

- On board trains, locomotives, rail cars, or rail equipment employed in commuter rail service or entraining thereon and detraining therefrom;
- On or about the rail corridor for any purpose related to the commuter rail service, including parking or purchasing tickets therefor and coming to, waiting for, and leaving from locomotives, rail cars, or rail equipment; or
- Meeting, assisting, or in the company of any person described above.

Commuter rail service - The operation of the authority's trains transporting passengers and making frequent stops within urban areas and their immediate suburbs along the rail corridor for the purpose of passengers entraining and detraining, and including the nonrevenue movement of trains for storage or maintenance. The term does not include the operation of trains by AAF transporting passengers in intercity passenger rail service between passenger rail stations established by AAF at Miami-Dade, Fort Lauderdale, West Palm Beach, or future stations but shall include the provision of non-SFRTA commuter rail service by AAF or a third party designated by AAF, including SFRTA.

FECR rail corridor invitee - Any rail corridor invitee who is present on the rail corridor at the request of, pursuant to a contract with, or otherwise for the purpose of doing business with or at the behest of FECR. The term does not include patrons at any station; commercial or residential tenants of the developments in and around the stations or their invitees; or any third parties performing work at a station or in the rail corridor, such as employees and invitees of PI or related entities, utilities, and fiber optic companies or others, or invitees or employees of the department or any county or municipality.

²⁶ The bill defines "MiamiCentral" as the primary AAF station located in downtown Miami, which includes exclusive areas used by the authority for commuter rail service.

²⁷ The bill defines "PI" as FDG Flagler Station II, LLC, which has an easement on the rail corridor for nonrail uses.

Freight rail service - Any and all uses and purposes that are related to or ancillary to current and future freight rail operations on, along, over, under, and across the rail corridor, including operating trains, rail cars, business cars, locomotives, hi-rail vehicles, and other rail equipment for the movement of freight in overhead and local service; interchanging rail cars with other freight railroads; providing pickups, setoffs, transloading services, or storage in transit; and any and all other activities that are ancillary or related to the transportation of freight on or along the rail corridor.

Intercity passenger rail service - All passenger service on the rail corridor other than commuter rail service and is characterized by trains making less frequent stops along the rail corridor than the commuter rail service makes.

Joint infrastructure - Any portion or segment of the rail corridor which does not contain tracks or infrastructure designated for the exclusive use of the authority, AAF, or FECR and portions of the MiamiCentral station used by both AAF and SFRTA, including, but not limited to, stairs, elevators, and escalators.

Limited covered accident:

- A collision directly between the trains, locomotives, rail cars, or rail equipment of SFRTA and FECR only, where the collision is caused by or arising from the willful misconduct of FECR or its subsidiaries, agents, licensees, employees, officers, or directors, as adjudicated pursuant to a final and unappealable court order, or if punitive damages or exemplary damages are awarded due to the conduct of FECR or its subsidiaries, agents, licensees, employees, officers, or directors, as adjudicated pursuant to a final and unappealable court order; or
- A collision directly between the trains, locomotives, rail cars, or rail equipment of SFRTA and AAF only, if the collision is caused by or arising from the willful misconduct of AAF or its subsidiaries, agents, licensees, employees, officers, or directors, as adjudicated pursuant to a final and unappealable court order, or if punitive damages or exemplary damages are awarded due to the conduct of AAF or its subsidiaries, agents, licensees, employees, officers, or directors, as adjudicated pursuant to a final and unappealable court order.²⁸

Non-SFRTA commuter rail service - AAF's operation, or an AAF third-party designee's operation, of trains in any commuter rail service on the rail corridor which is not SFRTA's commuter rail service. The term does not include:

- Any service operated by the authority between the MiamiCentral station and any stations in Miami-Dade County, Broward County, Palm Beach County, or points north on the FECR rail corridor; and
- SFRTA's commuter rail service on the South Florida Rail Corridor owned by the department.

Other train - A train that is not SFRTA's train, FECR's train, AAF's train, a train of a non-SFRTA commuter rail service operator,²⁹ or a train of any other operator of intercity rail passenger service and must be treated as a train of the entity that made the initial request for the train to operate on the rail corridor.

Passenger easement - A permanent, perpetual, and exclusive easement on, along, over, under, or across the rail corridor for commuter rail service.

Rail corridor - The portion of a linear contiguous strip of real property which is used for rail service and owned by FECR or owned or controlled by AAF. The term applies only when the authority has, by contract, assumed the obligation to forever protect, defend, indemnify, and hold harmless FECR, AAF, or their successors, in accordance with the provisions below and acquired an easement interest, a lease, a right to operate, or a right of access. The term includes structures essential to railroad

²⁸ DOT notes in its bill analysis that section 341.302, F.S., contains no requirement that willful misconduct be adjudicated. Department of Transportation, DOT House Bill 695 Bill Analysis, 7.

²⁹ The bill defines "non-SFRTA commuter rail service operator" as the operator of any non-SFRTA commuter rail service.

operations, including the land, structures, improvements, rights-of-way, easements, rail lines, rail beds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary development, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

Rail corridor invitee - Any person who is on or about the rail corridor in which the AAF, SFRTA, or non-SFRTA commuter rail service operator has an easement interest, a lease, a right to operate, or a right of access and who is:

- Present at the behest of an AAF, an SFRTA, an FECR, or the non-SFRTA commuter rail service operator for any purpose;
- Otherwise entitled to be on or about the rail corridor; or
- Meeting, assisting, or in the company of a person described above.

SFRTA rail corridor invitee - Any rail corridor invitee who is SFRTA's commuter rail passenger or is otherwise present on the rail corridor at the request of, pursuant to a contract with, for the purpose of doing business with, or at the behest of SFRTA. The term does not include patrons at any station, except those patrons who are also SFRTA's commuter rail passengers; any person present on the rail corridor who is a patron of the non-SFRTA commuter rail service or is meeting or assisting a person who is a patron of the non-SFRTA commuter rail service; commercial or residential tenants of the developments in and around the stations or their invitees; or any third parties performing work at a station or in the rail corridor, such as employees and invitees of PI or related entities, utilities, and fiber optic companies or others or invitees or employees of the department or any county or municipality.

Rail Liability

The bill creates s. 343.545, F.S., authorizing SFRTA to enter into contractual indemnification agreements with AAF and FECR on a rail corridor owned by AAF or FECR and in which all three entities operate rail service. The bill provides for the creation of the type of no-fault allocation of liability similar to what currently is provided in s. 341.302, F.S., between DOT, freight rail operators, and Amtrak.

SFRTA may indemnify FECR and AAF for any loss, injury, or damage to passengers or invitees, regardless of circumstances or cause, including negligence, misconduct, nonfeasance, or misfeasance. SFRTA's indemnification is capped at \$295 million. SFRTA must purchase up to \$295 million in liability insurance and establish a \$5 million self-insurance retention fund. The insurance policy must name FECR and AAF as insureds at no cost to FECR and AFF, and it must have a waiver of exclusion for punitive damages and the Federal Employers Liability Act.

The SFRTA's indemnification, however, is subject to the following parameters and exceptions:

- SFRTA is solely responsible for any loss, injury, or damage to its passengers, or to SFRTA rail corridor invitees, or trespassers, regardless of circumstances or cause.
- With respect to a limited covered accident, FECR and AAF are required to protect, defend, and indemnify SFRTA for the amount of the self-insurance retention account.

Single Train Incidents:

- When only one train is involved in an incident, and that train is an SFRTA train, SFRTA is solely responsible for any loss, injury, or damage.
- When an incident occurs with only FECR's train or only AAF's train, the train owner is solely responsible for any loss, injury, or damage. However, SFRTA's must pay for loss, injury, or damage to its commuter rail passengers, employees, and invitees.
- Any train that is neither SFRTA's train nor FECR's or AAF's train is considered an "other train." An incident involving only an "other train" is treated as an SFRTA train solely for purposes of allocation of liability between SFRTA and FECR or AAF, as long as SFRTA and FECR or AAF share responsibility equally as to third-parties injured outside the rail corridor.

Multi-Train Incidents:

- If only an SFRTA train (or an "other train" that is considered an SFRTA) and an FECR or an AAF train are involved in an incident, each entity is responsible for its own property, passengers, employees, and invitees. SFRTA and FECR or AAF, as the case may be, will share one-half responsibility as to the joint infrastructure and rail corridor invitees who are not SFRTA, FECR, or AAF rail corridor invitees.
- If an FECR train, an SFRTA train, and an AAF train are involved in an incident, each entity is responsible for its own property, passengers, employees, and invitees. SFRTA, FECR, and AAF will each share one-third responsibility as to the joint infrastructure and rail corridor invitees who are not SFRTA, AAF, or FECR rail corridor.

DOT Rail Liability

The bill amends DOT's rail liability provisions in s. 341.302(17), F.S., by creating s. 341.302(17)(d), F.S., providing that without altering any of the rights granted to DOT under s. 341.302, F.S., the obligations to indemnify and insure, pursuant to s. 343.545, F.S., freight rail service, intercity passenger rail service, and commuter rail service on a DOT-owned rail corridor, whether the ownership is in fee or by easement, or on a rail corridor where DOT has the right to operate.

B. SECTION DIRECTORY:

Section 1. Creates s. 343.545, F.S., authorizes the SFRTA to assume indemnification and insurance obligations.

Section 2. Amends s. 341.302, F.S., relating to rail programs; authorizes the Department of Transportation to assume certain indemnification and insurance obligations.

Section 3. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill authorizes SFRTA to purchase rail liability insurance of \$295 million per occurrence and a self-insurance retention fund of up to \$5 million. The cost of this insurance is not known at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill addresses liability issues regarding the use of a rail corridor by multiple parties.

D. FISCAL COMMENTS:

The bill does not appear to impact or change the amount of damages an injured person would receive, but provides which party is liable and responsible for damages in certain circumstances.

This bill does not appear to impact or change the amount each county served by SFRTA must transfer to SFRTA.³⁰ These funds may be used for operations and maintenance.³¹

According to DOT, the bill amends s. 341.302(17), F.S., providing that, without altering the rights of DOT, DOT agrees to assume and obligates to indemnify and ensure freight rail, intercity passenger rail, and commuter rail service on a DOT-owned rail corridor. Assuming the premium for their liability insurance is an arbitrary increase in state subsidization of SFRTA, it provides a financial advantage not offered to other authorities or transit operators. This may create a significant, indeterminate impact on DOT and sets a precedent for other passenger rail services owned and operated by regional transportation authorities.³²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill defines the term "existing IRIS crossing," "Passenger easement," and "SFRC." These terms are either not used, or used in the definition of terms that are not used.

Additionally, SFRTA is currently defined in Florida statutes³³ and redefined in the bill.

The bill's language relating to the "self-insurance retention account" parallels similar Florida Statutes relating to railroad insurance. However, the bill's language providing SFRTA's authority to indemnify other entities is not as explicit as the current statutory language providing DOT's authority to indemnify other entities.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed Section 2 of the bill, which required DOT to provide SFRTA with its statutorily required funding on a quarterly basis and provided that state funds provided to SFRTA are not state financial assistance subject to certain provisions of Ch. 215, F.S., relating to state financial matters, including the Single Audit Act.

³⁰ FLA. STAT. § 343.58(1) (2017).

³¹ FLA. STAT. § 343.58(1) (2017).

³² Department of Transportation, DOT House Bill 695 Bill Analysis, 7.

³³ FLA. STAT. § 343.52 (2017).

This analysis is written to the Committee Substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

1 A bill to be entitled
 2 An act relating to the South Florida Regional
 3 Transportation Authority; creating s. 343.545, F.S.;
 4 defining terms; authorizing the South Florida Regional
 5 Transportation Authority, in conjunction with the
 6 operation of a certain commuter rail service, to have
 7 the power to assume specified indemnification and
 8 insurance obligations, subject to certain
 9 requirements; amending s. 341.302, F.S.; authorizing
 10 the Department of Transportation to agree to assume
 11 certain indemnification and insurance obligations
 12 under certain circumstances; providing an effective
 13 date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 343.545, Florida Statutes, is created
 18 to read:

19 343.545 Power to assume indemnification and insurance
 20 obligations; definitions.—

21 (1) As used in this section, the term:

22 (a) "All Aboard Florida" or "AAF" means All Aboard Florida
 23 Operations, LLC, or its successors and assigns.

24 (b) "AAF intercity rail passenger" means any person,
 25 ticketed or unticketed, using the AAF intercity passenger rail

26 service on the rail corridor:

27 1. On board trains, locomotives, rail cars, or rail
 28 equipment employed in AAF intercity passenger rail service or
 29 entraining thereon and detraining therefrom;

30 2. On or about the rail corridor for any purpose related
 31 to the AAF intercity passenger rail service, including parking
 32 or purchasing tickets therefor and coming to, waiting for, and
 33 leaving from locomotives, rail cars, or rail equipment; or

34 3. Meeting, assisting, or in the company of any person
 35 described in subparagraph 1. or subparagraph 2.

36 (c) "AAF rail corridor invitee" means any rail corridor
 37 invitee who is an AAF intercity rail passenger or is otherwise
 38 present on the rail corridor at the request of, pursuant to a
 39 contract with, or otherwise for the purpose of doing business
 40 with or at the behest of AAF, including persons who are vendors
 41 or employees of vendors at the MiamiCentral station or any other
 42 station that AAF may construct on the rail corridor. The term
 43 does not include patrons at any station, except those patrons
 44 who are also AAF's intercity rail passengers; commercial or
 45 residential tenants of the developments in and around the
 46 stations or their invitees; or any third parties performing work
 47 at a station or in the rail corridor, such as employees and
 48 invitees of PI or related entities, utilities, and fiber optic
 49 companies, or invitees or employees of the department or any
 50 county or municipality.

51 (d) "Authority" or "SFRTA" means the South Florida
 52 Regional Transportation Authority.

53 (e) "Commuter rail passenger" means any person, ticketed
 54 or unticketed, using the commuter rail service on the rail
 55 corridor:

56 1. On board trains, locomotives, rail cars, or rail
 57 equipment employed in commuter rail service or entraining
 58 thereon and detraining therefrom;

59 2. On or about the rail corridor for any purpose related
 60 to the commuter rail service, including parking or purchasing
 61 tickets therefor and coming to, waiting for, and leaving from
 62 locomotives, rail cars, or rail equipment; or

63 3. Meeting, assisting, or in the company of any person
 64 described in subparagraph 1. or subparagraph 2.

65 (f) "Commuter rail service" means the operation of the
 66 authority's trains transporting passengers and making frequent
 67 stops within urban areas and their immediate suburbs along the
 68 rail corridor for the purpose of passengers entraining and
 69 detraining, and including the nonrevenue movement of trains for
 70 storage or maintenance. The term does not include the operation
 71 of trains by AAF transporting passengers in intercity passenger
 72 rail service between passenger rail stations established by AAF
 73 at Miami-Dade, Fort Lauderdale, West Palm Beach, or future
 74 stations but shall include the provision of non-SFRTA commuter
 75 rail service by AAF or a third party designated by AAF,

76 including SFRTA.

77 (g) "Existing IRIS crossing" means the existing, at-grade
 78 railroad crossing between the SFRC and the rail corridor located
 79 in Miami-Dade County.

80 (h) "Florida East Coast Railway" or "FECR" means Florida
 81 East Coast Railway, LLC, or its successors and assigns.

82 (i) "FECR rail corridor invitee" means any rail corridor
 83 invitee who is present on the rail corridor at the request of,
 84 pursuant to a contract with, or otherwise for the purpose of
 85 doing business with or at the behest of FECR. The term does not
 86 include patrons at any station; commercial or residential
 87 tenants of the developments in and around the stations or their
 88 invitees; or any third parties performing work at a station or
 89 in the rail corridor, such as employees and invitees of PI or
 90 related entities, utilities, and fiber optic companies or
 91 others, or invitees or employees of the department or any county
 92 or municipality.

93 (j) "Freight rail service" means any and all uses and
 94 purposes that are related to or ancillary to current and future
 95 freight rail operations on, along, over, under, and across the
 96 rail corridor, including operating trains, rail cars, business
 97 cars, locomotives, hi-rail vehicles, and other rail equipment
 98 for the movement of freight in overhead and local service;
 99 interchanging rail cars with other freight railroads; providing
 100 pickups, setoffs, transloading services, or storage in transit;

101 and any and all other activities that are ancillary or related
 102 to the transportation of freight on or along the rail corridor.

103 (k) "Intercity passenger rail service" means all passenger
 104 service on the rail corridor other than commuter rail service
 105 and is characterized by trains making less frequent stops along
 106 the rail corridor than the commuter rail service makes.

107 (l) "Joint infrastructure" means any portion or segment of
 108 the rail corridor which does not contain tracks or
 109 infrastructure designated for the exclusive use of the
 110 authority, AAF, or FECR and portions of the MiamiCentral station
 111 used by both AAF and SFRTA, including, but not limited to,
 112 stairs, elevators, and escalators.

113 (m) "Limited covered accident" means:

114 1. A collision directly between the trains, locomotives,
 115 rail cars, or rail equipment of SFRTA and FECR only, where the
 116 collision is caused by or arising from the willful misconduct of
 117 FECR or its subsidiaries, agents, licensees, employees,
 118 officers, or directors, as adjudicated pursuant to a final and
 119 unappealable court order, or if punitive damages or exemplary
 120 damages are awarded due to the conduct of FECR or its
 121 subsidiaries, agents, licensees, employees, officers, or
 122 directors, as adjudicated pursuant to a final and unappealable
 123 court order; or

124 2. A collision directly between the trains, locomotives,
 125 rail cars, or rail equipment of SFRTA and AAF only, if the

126 | collision is caused by or arising from the willful misconduct of
 127 | AAF or its subsidiaries, agents, licensees, employees, officers,
 128 | or directors, as adjudicated pursuant to a final and
 129 | unappealable court order, or if punitive damages or exemplary
 130 | damages are awarded due to the conduct of AAF or its
 131 | subsidiaries, agents, licensees, employees, officers, or
 132 | directors, as adjudicated pursuant to a final and unappealable
 133 | court order.

134 | (n) "MiamiCentral" means the primary All Aboard Florida
 135 | station located in downtown Miami, which includes exclusive
 136 | areas used by the authority for commuter rail service.

137 | (o) "Non-SFRTA commuter rail service" means AAF's
 138 | operation, or an AAF third-party designee's operation, of trains
 139 | in any commuter rail service on the rail corridor which is not
 140 | SFRTA's commuter rail service. The term does not include:

141 | 1. Any service operated by the authority between the
 142 | MiamiCentral station and any stations in Miami-Dade County,
 143 | Broward County, Palm Beach County, or points north on the FECR
 144 | rail corridor; and

145 | 2. SFRTA's commuter rail service on the South Florida Rail
 146 | Corridor owned by the department.

147 | (p) "Non-SFRTA commuter rail service operator" means the
 148 | operator of any non-SFRTA commuter rail service.

149 | (q) "Other train" means a train that is not SFRTA's train,
 150 | FECR's train, AAF's train, a train of a non-SFRTA commuter rail

151 service operator, or a train of any other operator of intercity
 152 rail passenger service and must be treated as a train of the
 153 entity that made the initial request for the train to operate on
 154 the rail corridor.

155 (r) "Passenger easement" means a permanent, perpetual, and
 156 exclusive easement on, along, over, under, or across the rail
 157 corridor for commuter rail service.

158 (s) "PI" means FDG Flagler Station II, LLC, which has an
 159 easement on the rail corridor for nonrail uses.

160 (t) "Rail corridor" means the portion of a linear
 161 contiguous strip of real property which is used for rail service
 162 and owned by FECR or owned or controlled by AAF. The term
 163 applies only when the authority has, by contract, assumed the
 164 obligation to forever protect, defend, indemnify, and hold
 165 harmless FECR, AAF, or their successors, in accordance with
 166 subsection (2), and acquired an easement interest, a lease, a
 167 right to operate, or a right of access. The term includes
 168 structures essential to railroad operations, including the land,
 169 structures, improvements, rights-of-way, easements, rail lines,
 170 rail beds, guideway structures, switches, yards, parking
 171 facilities, power relays, switching houses, rail stations, any
 172 ancillary development, and any other facilities or equipment
 173 used for the purposes of construction, operation, or maintenance
 174 of a railroad that provides rail service.

175 (u) "Rail corridor invitee" means any person who is on or

176 about the rail corridor in which the AAF, SFRTA, or non-SFRTA
 177 commuter rail service operator has an easement interest, a
 178 lease, a right to operate, or a right of access and who is:
 179 1. Present at the behest of an AAF, an SFRTA, an FECR, or
 180 the non-SFRTA commuter rail service operator for any purpose;
 181 2. Otherwise entitled to be on or about the rail corridor;
 182 or
 183 3. Meeting, assisting, or in the company of a person
 184 described in subparagraph 1. or subparagraph 2.
 185 (v) "SFRC" means South Florida Rail Corridor.
 186 (w) "SFRTA rail corridor invitee" means any rail corridor
 187 invitee who is SFRTA's commuter rail passenger or is otherwise
 188 present on the rail corridor at the request of, pursuant to a
 189 contract with, for the purpose of doing business with, or at the
 190 behest of SFRTA. The term does not include patrons at any
 191 station, except those patrons who are also SFRTA's commuter rail
 192 passengers; any person present on the rail corridor who is a
 193 patron of the non-SFRTA commuter rail service or is meeting or
 194 assisting a person who is a patron of the non-SFRTA commuter
 195 rail service; commercial or residential tenants of the
 196 developments in and around the stations or their invitees; or
 197 any third parties performing work at a station or in the rail
 198 corridor, such as employees and invitees of PI or related
 199 entities, utilities, and fiber optic companies or others or
 200 invitees or employees of the department or any county or

201 municipality.

202 (2) The authority, in conjunction with the operation of a
 203 commuter rail service on a rail corridor, has the power to
 204 assume the following obligations:

205 (a) To indemnify AAF and FECR in accordance with the terms
 206 specified in this paragraph for so long as AAF and FECR or their
 207 successors in interest agree to indemnify the authority in
 208 accordance with the terms specified in this paragraph.

209 1. Except as specifically provided in this paragraph, the
 210 authority shall protect, defend, indemnify, and hold harmless
 211 FECR and its officers, agents, employees, successors, and
 212 assigns from and against any liability, cost, and expense,
 213 including, but not limited to, SFRTA's commuter rail passengers
 214 and rail corridor invitees in, on, or about the rail corridor,
 215 regardless of whether the loss, damage, destruction, injury, or
 216 death giving rise to any such liability, cost, or expense is
 217 caused in whole or in part, and to whatever nature or degree, by
 218 the fault, failure, negligence, misconduct, nonfeasance, or
 219 misfeasance of FECR or its officers, agents, employees,
 220 successors, and assigns;

221 2. Except as specifically provided in this paragraph, the
 222 authority shall protect, defend, indemnify, and hold harmless
 223 AAF and its officers, agents, employees, successors, and assigns
 224 from and against any liability, cost, and expense, including,
 225 but not limited to, SFRTA commuter rail passengers and SFRTA

226 rail corridor invitees in, on, or about the rail corridor,
 227 regardless of whether the loss, damage, destruction, injury, or
 228 death giving rise to any such liability, cost, or expense is
 229 caused in whole or in part, and to whatever nature or degree, by
 230 the fault, failure, negligence, misconduct, nonfeasance, or
 231 misfeasance of AAF or its officers, agents, employees,
 232 successors, and assigns; and

233 3. The assumption of liability by the authority may not in
 234 any instance exceed the following parameters of allocation of
 235 risk:

236 a. The authority shall be solely responsible for any loss,
 237 injury, or damage to SFRTA commuter rail passengers, or to SFRTA
 238 rail corridor invitees, or trespassers, other than passengers or
 239 invitees of the non-SFRTA commuter rail service, regardless of
 240 circumstances or cause, subject to the terms and provisions of
 241 this paragraph.

242 b. FECR shall, with respect to a limited covered accident,
 243 protect, defend, and indemnify SFRTA for the amount of the self-
 244 insurance retention account.

245 c. AAF shall, with respect to a limited covered accident,
 246 protect, defend, and indemnify SFRTA for the amount of the self-
 247 insurance retention account.

248 d. When only one train is involved in an incident,
 249 including incidents with trespassers or at at-grade crossings,
 250 the authority shall be solely responsible for any loss, injury,

251 or damage if the train is an SFRTA train.

252 e. When an incident occurs with only FECR's train
 253 involved, including incidents with trespassers or at at-grade
 254 crossings, FECR shall be solely responsible for any loss,
 255 injury, or damage, except for SFRTA's commuter rail passengers,
 256 SFRTA employees, and SFRTA rail corridor invitees.

257 f. When an incident occurs with only AAF's train involved,
 258 including incidents with trespassers or at at-grade crossings,
 259 AAF shall be solely responsible for any loss, injury, or damage,
 260 except for SFRTA's commuter rail passengers, SFRTA employees,
 261 and SFRTA rail corridor invitees.

262 g. For the purposes of this paragraph:

263 (I) An "other train" shall be treated as the train of the
 264 entity that made the initial request for the train to operate on
 265 the rail corridor.

266 (II) In an incident involving any other train that is not
 267 an SFRTA train, the other train shall be treated as an SFRTA
 268 train solely for purposes of any allocation of liability
 269 between:

270 (A) SFRTA and FECR. SFRTA and FECR shall share
 271 responsibility equally as to third parties outside the rail
 272 corridor who incur loss, injury, or damage as a result of any
 273 incident involving both SFRTA's train and FECR's train, and the
 274 allocation as between SFRTA and FECR, regardless of whether the
 275 other train is treated as an SFRTA train, shall remain one-half

276 each as to third parties outside the rail corridor who incur
 277 loss, injury, or damage as a result of the incident. The
 278 involvement of any other train shall not alter the sharing of
 279 equal responsibility as to third parties outside the rail
 280 corridor who incur loss, injury, or damage as a result of the
 281 incident.

282 (B) SFRTA and AAF. SFRTA and AAF shall share
 283 responsibility equally as to third parties outside the rail
 284 corridor who incur loss, injury, or damage as a result of any
 285 incident involving both SFRTA's train and AAF's train, and the
 286 allocation as between SFRTA and AAF, regardless of whether the
 287 other train is treated as an SFRTA train, shall remain one-half
 288 each as to third parties outside the rail corridor who incur
 289 loss, injury, or damage as a result of the incident. The
 290 involvement of any other train shall not alter the sharing of
 291 equal responsibility as to third parties outside the rail
 292 corridor who incur loss, injury, or damage as a result of the
 293 incident.

294 h. When more than one train is involved in an incident:

295 (I) If only an SFRTA train and an FECR train, or only an
 296 other train that is an SFRTA train by definition and an FECR
 297 train, are involved in an incident, SFRTA shall be responsible
 298 for its property and all SFRTA's commuter rail passengers, SFRTA
 299 employees, and SFRTA rail corridor invitees. FECR shall be
 300 responsible for its property and all of its employees and FECR

301 rail corridor invitees. SFRTA and FECR shall each share one-half
 302 responsibility as to the joint infrastructure and rail corridor
 303 invitees who are not SFRTA rail corridor invitees or FECR rail
 304 corridor invitees, including, but not limited to, trespassers or
 305 third parties outside the rail corridor who incur loss, injury,
 306 or damage as a result of the incident.

307 (II) If only an SFRTA train and an AAF train, or only an
 308 other train that is by definition an SFRTA train and an AAF
 309 train, are involved in an incident, SFRTA shall be responsible
 310 for its property and all SFRTA's commuter rail passengers, SFRTA
 311 employees, and SFRTA rail corridor invitees. AAF shall be
 312 responsible for its property and all of its employees, AAF's
 313 intercity rail passengers, and AAF rail corridor invitees. SFRTA
 314 and AAF shall each share one-half responsibility as to the joint
 315 infrastructure and rail corridor invitees who are not SFRTA rail
 316 corridor invitees or AAF rail corridor invitees, including, but
 317 not limited to, trespassers or third parties outside the rail
 318 corridor who incur loss, injury, or damage as a result of the
 319 incident.

320 (III) If an FECR train, an SFRTA train, and an AAF train
 321 are involved in an incident, SFRTA shall be responsible for its
 322 property and all SFRTA's commuter rail passengers, SFRTA
 323 employees, and SFRTA rail corridor invitees. AAF shall be
 324 responsible for its property and all of its employees, AAF's
 325 intercity rail passengers, and AAF rail corridor invitees. FECR

326 shall be responsible for its property and all of its employees
 327 and FECR rail corridor invitees. SFRTA, FECR, and AAF shall each
 328 share one-third responsibility as to the joint infrastructure
 329 and rail corridor invitees who are not SFRTA rail corridor
 330 invitees, AAF rail corridor invitees, or FECR rail corridor
 331 invitees, including, but not limited to, trespassers or third
 332 parties outside the rail corridor who incur loss, injury, or
 333 damage as a result of the incident.

334 (IV) If an SFRTA train, an FECR train, and an AAF train
 335 are involved in an incident, the allocation of liability among
 336 SFRTA, FECR, and AAF shall be one-third each as to third parties
 337 outside the rail corridor who incur loss, injury, or damage as a
 338 result of the incident.

339 (V) If an SFRTA train, an FECR train, and any other train
 340 are involved in an incident, the allocation of liability among
 341 SFRTA, FECR, and the other train shall be one-third each as to
 342 third parties outside the rail corridor who incur loss, injury,
 343 or damage as a result of the incident.

344 (VI) If an SFRTA train, an AAF train, and any other train
 345 are involved in an incident, the allocation of liability among
 346 SFRTA, AAF, and the other train shall be one-third each as to
 347 third parties outside the rail corridor who incur loss, injury,
 348 or damage as a result of the incident.

349 i. Notwithstanding anything to the contrary set forth in
 350 this paragraph, SFRTA is not obligated to indemnify FECR and AAF

351 for any amount in excess of the insurance coverage limit.
 352 Regardless of whether SFRTA maintains the insurance coverage
 353 required pursuant to paragraph (b) to cover the indemnification
 354 obligations of this paragraph, SFRTA shall remain responsible
 355 for the indemnification obligations set forth in this paragraph
 356 up to the insurance coverage limit.

357 j. If the non-SFRTA commuter rail service is provided by
 358 an entity under contract with AAF, SFRTA may elect, at its sole
 359 discretion, to provide the same insurance coverage and to
 360 indemnify and hold harmless any non-SFRTA commuter rail service
 361 operator to the same extent that it provides such insurance or
 362 indemnification to AAF pursuant to this section.

363 (b) To purchase railroad liability insurance of \$295
 364 million per occurrence, which amount shall be adjusted in
 365 accordance with applicable law up to the insurance coverage
 366 limit, with a \$5 million self-insurance retention account that
 367 shall be composed of and defined as the "SFRTA insurance
 368 program." The SFRTA insurance program may, at SFRTA's sole
 369 discretion, cover the obligations described in this section or
 370 any other service operated by SFRTA on a rail corridor. Because
 371 the self-insurance retention account is a part of the SFRTA
 372 insurance program, all definitions, terms, conditions,
 373 restrictions, exclusions, obligations, and duties included in
 374 any and all of the policies of insurance procured by SFRTA for
 375 the SFRTA insurance program shall apply to the self-insurance

376 retention account and its application to claims against the
 377 applicable insureds. SFRTA shall name FECR and AAF as insureds
 378 on any policies it procures pursuant to this section at no cost
 379 to AAF and FECR and ensure that all policies shall have a waiver
 380 of exclusion for punitive damages and coverage for claims made
 381 pursuant to the Federal Employers Liability Act, 45 U.S.C. ss.
 382 51 et seq. Such policies must also include terrorism coverage,
 383 pollution coverage, including, but not limited to, coverage
 384 applicable in the event of a railroad accident, a derailment, or
 385 an overturn, and evacuation expense coverage.

386 Section 2. Paragraph (d) is added to subsection (17) of
 387 section 341.302, Florida Statutes, to read:

388 341.302 Rail program; duties and responsibilities of the
 389 department.—The department, in conjunction with other
 390 governmental entities, including the rail enterprise and the
 391 private sector, shall develop and implement a rail program of
 392 statewide application designed to ensure the proper maintenance,
 393 safety, revitalization, and expansion of the rail system to
 394 assure its continued and increased availability to respond to
 395 statewide mobility needs. Within the resources provided pursuant
 396 to chapter 216, and as authorized under federal law, the
 397 department shall:

398 (17) In conjunction with the acquisition, ownership,
 399 construction, operation, maintenance, and management of a rail
 400 corridor, have the authority to:

401 (d) Without altering any of the rights granted to the
 402 department under this section, agree to assume the obligations
 403 to indemnify and insure, pursuant to s. 343.545, freight rail
 404 service, intercity passenger rail service, and commuter rail
 405 service on a department-owned rail corridor, whether ownership
 406 is in fee or by easement, or on a rail corridor where the
 407 department has the right to operate.

408
 409 Neither the assumption by contract to protect, defend,
 410 indemnify, and hold harmless; the purchase of insurance; nor the
 411 establishment of a self-insurance retention fund shall be deemed
 412 to be a waiver of any defense of sovereign immunity for torts
 413 nor deemed to increase the limits of the department's or the
 414 governmental entity's liability for torts as provided in s.
 415 768.28. The requirements of s. 287.022(1) shall not apply to the
 416 purchase of any insurance under this subsection. The provisions
 417 of this subsection shall apply and inure fully as to any other
 418 governmental entity providing commuter rail service and
 419 constructing, operating, maintaining, or managing a rail
 420 corridor on publicly owned right-of-way under contract by the
 421 governmental entity with the department or a governmental entity
 422 designated by the department. Notwithstanding any law to the
 423 contrary, procurement for the construction, operation,
 424 maintenance, and management of any rail corridor described in
 425 this subsection, whether by the department, a governmental

426 | entity under contract with the department, or a governmental
427 | entity designated by the department, shall be pursuant to s.
428 | 287.057 and shall include, but not be limited to, criteria for
429 | the consideration of qualifications, technical aspects of the
430 | proposal, and price. Further, any such contract for design-build
431 | shall be procured pursuant to the criteria in s. 337.11(7).

432 | Section 3. This act shall take effect July 1, 2017.

433 |

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Tourism
 2 Appropriations Subcommittee
 3 Representative Santiago offered the following:

Amendment (with title amendment)

Between lines 431 and 432, insert:

7 Section 3. Section 343.52, Florida Statutes, is amended to
8 read:

9 343.52 Definitions.—As used in this part, the term:

10 (1)~~(3)~~ "Area served" means Miami-Dade, Broward, and Palm
 11 Beach Counties. However, this area may be expanded by mutual
 12 consent of the authority and the board of county commissioners
 13 of Monroe County. The authority may not expand into any
 14 additional counties without the department's prior written
 15 approval.

Amendment No. 1

16 (2)~~(1)~~ "Authority" means the South Florida Regional
17 Transportation Authority.

18 (3)~~(2)~~ "Board" means the governing body of the authority.

19 (4) "Department" means the Department of Transportation.

20 (5)~~(7)~~ "Feeder transit services" means a transit system
21 that transports passengers to or from stations within or across
22 counties.

23 (6) "Member" means the individuals constituting the board.

24 (7)~~(5)~~ "Transit facilities" means property, avenues of
25 access, equipment, or buildings built and installed in Miami-
26 Dade, Broward, and Palm Beach Counties which are required to
27 support a transit system.

28 (8)~~(4)~~ "Transit system" means a system used for the
29 transportation of people and goods by means of, without
30 limitation, a street railway, an elevated railway having a fixed
31 guideway, a commuter railroad, a subway, motor vehicles, or
32 motor buses, and includes a complete system of tracks, stations,
33 and rolling stock necessary to effectuate passenger service to
34 or from the surrounding regional municipalities.

35 Section 4. Paragraph (d) of subsection (2) of section
36 343.53, Florida Statutes, is amended to read:

37 343.53 South Florida Regional Transportation Authority.—

38 (2) The governing board of the authority shall consist of
39 10 voting members, as follows:

Amendment No. 1

40 (d) If the authority's service area is expanded pursuant
41 to s. 343.54(6) ~~343.54(5)~~, the county containing the new service
42 area shall have two members appointed to the board as follows:

43 1. The county commission of the county shall elect a
44 commissioner as that commission's representative on the board.
45 The commissioner must be a member of the county commission when
46 elected and for the full extent of his or her term.

47 2. The Governor shall appoint a citizen member to the
48 board who is not a member of the county commission but who is a
49 resident and a qualified elector of that county.

50 Section 5. Subsections (4) and (5) of section 343.54,
51 Florida Statutes, are renumbered as subsections (5) and (6),
52 respectively, and a new subsection (4) is added to that section
53 to read:

54 343.54 Powers and duties.—

55 (4) Notwithstanding any other provision of this part, the
56 authority may not enter into, extend, or renew any contract or
57 other agreement that may be funded, in whole or in part, with
58 funds provided by the department without the prior review and
59 written approval by the department of the authority's proposed
60 expenditures.

61 Section 6. Paragraph (c) of subsection (4) of section
62 343.58, Florida Statutes, is amended to read:

63 343.58 County funding for the South Florida Regional
64 Transportation Authority.—

Amendment No. 1

65 (4) Notwithstanding any other provision of law to the
66 contrary and effective July 1, 2010, until as provided in
67 paragraph (d), the department shall transfer annually from the
68 State Transportation Trust Fund to the South Florida Regional
69 Transportation Authority the amounts specified in subparagraph
70 (a)1. or subparagraph (a)2.

71 (c)1. Funds provided to the authority by the department
72 under this subsection constitute state financial assistance
73 provided to a nonstate entity to carry out a state project
74 subject to the provisions of s. 215.97 and s. 215.971. The
75 department shall provide the funds in accordance with the terms
76 of a written agreement to be entered into between the authority
77 and the department which shall provide for department review,
78 approval and audit of authority expenditure of such funds, and
79 shall include such other provisions as are required by
80 applicable law. The department is specifically authorized to
81 agree to advance the authority one-fourth of the total funding
82 provided under this subsection for a state fiscal year at the
83 beginning of each state fiscal year, with monthly payments over
84 the fiscal year on a reimbursement basis as supported by
85 invoices and such additional documentation and information as
86 the department may reasonably require, and a reconciliation of
87 the advance against remaining invoices in the last quarter of
88 the fiscal year may not be committed by the authority without
89 the approval of the department, which may not be unreasonably

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Amendment No. 1

90 ~~withheld. At least 90 days before advertising any procurement or~~
91 ~~renewing any existing contract that will rely on state funds for~~
92 ~~payment, the authority shall notify the department of the~~
93 ~~proposed procurement or renewal and the proposed terms thereof.~~
94 ~~If the department, within 60 days after receipt of notice,~~
95 ~~objects in writing to the proposed procurement or renewal,~~
96 ~~specifying its reasons for objection, the authority may not~~
97 ~~proceed with the proposed procurement or renewal. Failure of the~~
98 ~~department to object in writing within 60 days after notice~~
99 ~~shall be deemed consent. This requirement does not impair or~~
100 ~~cause the authority to cancel contracts that exist as of June~~
101 ~~30, 2012.~~

102 2. To enable the department to evaluate the authority's
103 proposed uses of state funds, the authority shall annually
104 provide the department with its proposed budget for the
105 following authority fiscal year and shall promptly provide the
106 department with any additional documentation or information
107 required by the department for its evaluation of the proposed
108 uses of the state funds.

109

110

111 T I T L E A M E N D M E N T

112 Remove line 12 and insert:

113 under certain circumstances; amending s. 343.52, F.S.; defining
114 the term "department"; amending s. 343.53, F.S.; conforming a

Amendment No. 1

115 cross-reference; amending s. 343.54, F.S.; prohibiting the South
116 Florida Regional Transportation Authority from entering into
117 certain contracts or agreements without department approval of
118 the authority's expenditures; amending s. 343.58, F.S.; defining
119 funds provided to the authority as state financial assistance;
120 authorizing the advance of funding and the reimbursement of
121 invoices; providing an effective

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 707 Voter Registration List Maintenance
SPONSOR(S): Oversight, Transparency & Administration; Spano
TIED BILLS: CS/HB 709 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	13 Y, 0 N, As CS	Toliver	Harrington
2) Transportation & Tourism Appropriations Subcommittee		Cobb <i>PC</i>	Davis <i>GD</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Department of State (Department) is headed by the Secretary of State (Secretary), who serves as Florida's chief election officer. Current law charges the Secretary with a variety of responsibilities in his or her capacity as Florida's chief election officer, including obtaining and maintaining uniformity in the interpretation and implementation of the election laws and creating and administering a statewide voter registration system. The voter registration system is the official list of registered voters in the state and contains the name and registration information of every legally registered voter in Florida. Voter registration officials, such as Supervisors of Elections (Supervisors), are provided secure access to the system and may update the voter registration information contained in the system. Current law requires the Supervisors to conduct voter registration list maintenance at least every odd-numbered year to protect the integrity of the electoral process. The program must be uniform, nondiscriminatory, and in compliance with federal election law.

The bill allows the Department to enter into interstate agreements to share and exchange information with other states for the purpose of maintaining the statewide voter registration system. The Department must provide the information to Supervisors for the purpose of conducting voter registration list maintenance. The bill also provides that the Department may only enter into an interstate agreement that is controlled or operated by participant states. The interstate agreement may not be operated or controlled by the Federal Government or any entity acting on behalf of the Federal Government. The Department must also retain the ability to withdraw from any interstate agreement at any time.

If the Department enters into an interstate agreement, it must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year. The report must describe the agreement and provide information on the total number of voters removed from the voter registration system as a result of the agreement and the reasons for their removal.

According to the Department of State, the bill may have an indeterminate, though likely insignificant negative fiscal impact on state and local government expenditures.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Department of State

The Department of State (Department)¹ is headed by the Secretary of State (Secretary) who serves as Florida's chief election officer. The Secretary is charged with a variety of responsibilities in his or her capacity as Florida's chief election officer, including obtaining and maintaining uniformity in the interpretation and implementation of the election laws; providing uniform standards for the proper and equitable implementation of the registration laws; providing technical assistance to the Supervisors of Elections (Supervisors) on voter education, election personnel training services, and voting systems; and creating and administering a statewide voter registration system as required by the Help America Vote Act of 2002.²

Voter Registration System

The Secretary implements, operates, and maintains the statewide voter registration system (system).³ The system is the official list of registered voters in the state and is required to contain the name and registration information of every legally registered voter in Florida.⁴ Voter registration officials, such as Supervisors, are provided secure access to the system and may update the voter registration information contained in the system.⁵ The Department is prohibited from contracting with any other entity for the operation of the system.⁶

Voter Registration List Maintenance

Florida law requires the Supervisors to conduct voter registration list maintenance at least every odd-numbered year to protect the integrity of the electoral process.⁷ The program must be uniform, nondiscriminatory,⁸ and in compliance with federal election law.⁹ Each Supervisor must incorporate one of the following methods in his or her list maintenance program:

- Use of change of address information given by the United States Postal Service through its licensees to identify registered voters whose addresses might have changed;
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable mail sent to all registered voters in the county; or
- Use of change of address information that is known from returned nonforwardable return-if-undeliverable address confirmation requests mailed to every registered voter who has not voted in the last two years and who did not make any written request to update his or her registration record during that two-year period.¹⁰

The program must be completed at least 90 days before any federal election, and all actions must be entered, tracked, and maintained in the system.¹¹

¹ Section 20.10(1), F.S.

² Section 97.012, F.S.

³ Section 98.035(1), F.S.

⁴ Section 98.035(2), F.S.

⁵ *Id.*

⁶ Section 98.035(3), F.S.

⁷ Section 98.065(3), F.S.

⁸ The term "nondiscriminatory" applies to and includes persons with disabilities. Section 98.065(1), F.S.

⁹ Section 98.065(1), F.S.

¹⁰ Section 98.065(2), F.S.

¹¹ Section 98.065(3), F.S.

If a Supervisor receives change of address information from one of the methods listed above, jury notices, the Department of Highway Safety and Motor Vehicles, or from other sources which reveal that a registered voter's legal address might have changed, the Supervisor must change the registration records to reflect the new address.¹² The Supervisor must then send the registered voter an address change notice.¹³ If the Supervisor receives information that a registered voter has moved his or her legal residence outside the state, the Supervisor must send an address confirmation final notice by to the registered voter at his or her new address.¹⁴ Voters who are sent an address confirmation final notice who do not return the prepaid, preaddressed return form within 30 days or for whom the notice is returned as undeliverable are designated as inactive.¹⁵

Voter Registration Ineligibility Determinations

Currently, the Department identifies deceased persons, persons adjudicated of mental incapacity, persons convicted of a felony, and other ineligible voters contained in the system.¹⁶ The Supervisor¹⁷ is then notified of this finding and, after notifying the voter and giving him or her a chance to respond,¹⁸ makes a final determination regarding their eligibility.¹⁹ A person determined to be ineligible by a Supervisor may appeal the determination in circuit court.²⁰

Effect of the Bill

The bill allows the Department to enter into interstate agreements to share and exchange information with other states for the purpose of maintaining the statewide voter registration system. The bill directs the Department to provide the information to Supervisors for the purpose of conducting voter registration list maintenance. The bill also provides that the Department may only enter into an interstate agreement that is controlled or operated by participant states. The interstate agreement may not be operated or controlled by the Federal Government or any entity acting on behalf of the Federal Government. The Department must retain the ability to withdraw from any interstate agreement at any time.

If the Department enters into an interstate agreement, it must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year. The report must describe the agreement and provide information on the total number of voters removed from the voter registration system as a result of the agreement and the reasons for their removal.

B. SECTION DIRECTORY:

Section 1 amends s. 98.075, F.S., relating to voter registration list maintenance.

Section 2 provides an effective date of July 1, 2017.

¹² Section 98.065(4)(a), F.S.

¹³ *Id.*

¹⁴ Section 98.065(4)(b), F.S.

¹⁵ Section 98.065(4)(c), F.S.

¹⁶ Section 98.075, F.S.

¹⁷ The Supervisors are also able to remove the name of a voter based on evidence without the Department having notified them in some circumstances. Section 98.075, F.S.

¹⁸ No notification is given to those determined to be deceased. Section 98.075(3), F.S.

¹⁹ Section 98.075(7), F.S.

²⁰ Section 98.0755, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate, though likely insignificant fiscal impact on state expenditures. If the Department chooses to enter into an agreement to share information with other states, there may be a fiscal impact associated with the exchange of information as well as additional costs associated with removing the voters determined to be ineligible.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate, though likely insignificant fiscal impact on local government expenditures. The Supervisors are charged with certain responsibilities associated with removing names from the voter registration system. If the Department enters into an agreement to share information, the arrangement may lead to an increase in the determinations of voter ineligibility and, therefore, might increase the workload of Supervisors and their staff.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the State Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2017, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably with a committee substitute. The strike-all amendment allows the Department to enter into interstate agreements to share and exchange information with other states for the purpose of maintaining the statewide voter registration system. The amendment also directs the Department to provide that information to Supervisors for the purpose of conducting voter registration list maintenance. The Department may only enter into an interstate agreement that is controlled or operated by participant states and the agreement may not be operated or controlled by the Federal Government or any entity acting on behalf of the Federal Government. The amendment requires the Department to retain the ability to withdraw from any interstate agreement at any time. The amendment requires the Department to report specified information if it enters into an interstate agreement.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee.

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A bill to be entitled
 An act relating to voter registration list
 maintenance; amending s. 98.075, F.S.; authorizing the
 Department of State to enter into certain interstate
 agreements to verify voter registration information;
 requiring the department to share certain information
 with the supervisors of elections; establishing
 requirements for participation in such agreements;
 establishing reporting requirements; providing an
 effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 98.075, Florida
 Statutes, is amended to read:

98.075 Registration records maintenance activities;
 ineligibility determinations.—

(2) DUPLICATE REGISTRATION.—

(a) The department shall identify those voters who are
 registered more than once within the state or those applicants
 whose registration applications within the state would result in
 duplicate registrations. The most recent application shall be
 deemed an update to the voter registration record.

(b)1. The department may enter into interstate agreements
 to share and exchange information in order to verify voter

26 registration information. The department shall provide such
 27 information to the supervisors to conduct registration list
 28 maintenance activities.

29 2. The department may only participate in an interstate
 30 agreement that is controlled and operated by the participating
 31 states. The interstate agreement may not be operated or
 32 controlled by the Federal Government or any other entity acting
 33 on behalf of the Federal Government. The department must be able
 34 to withdraw from any interstate agreement entered into at any
 35 time.

36 3. If the department enters into an interstate agreement,
 37 the department must submit a report to the Governor, the
 38 President of the Senate, and the Speaker of the House of
 39 Representatives by December 1 of each year. The report must
 40 describe the agreement and provide information on the total
 41 number of voters removed from the voter registration system as a
 42 result of the agreement and the reasons for their removal.

43 Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1169 Transportation Facility Designations
SPONSOR(S): Sprowls
TIED BILLS: **IDEN./SIM. BILLS:** SB 1390

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Johnson (Vickers
2) Transportation & Tourism Appropriations Subcommittee		Davis <i>6/22</i>	Davis
3) Government Accountability Committee			

SUMMARY ANALYSIS

State law provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings.

The bill creates the honorary designation of the Officer Charles "Charlie K" Kondek, Jr., Memorial Highway in Pinellas County and directs the Department of Transportation (DOT) to erect suitable markers designating the Officer Charles "Charlie K" Kondek, Jr., Memorial Highway.

DOT estimates a negative \$1,000 fiscal impact to the State Transportation Trust Fund associated with erecting the markers for the above designation. The cost can be absorbed within existing department resources.

The bill has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires DOT to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Proposed Changes

The bill creates an honorary designation for the "Officer Charles 'Charlie K' Kondek, Jr., Memorial Highway" on that portion of U.S. 19A/S.R. 595 between Tarpon Avenue and the Pasco County Line in Pinellas County.

Officer Charles "Charlie K" Kondek served on the Tarpon Springs Police Department for 17 years. He previously served on the New York City Police Department for five years. He was killed in the line of duty on December 21, 2014.

The bill directs DOT to erect suitable markers designating the Officer Charles "Charlie K" Kondek, Jr., Memorial Highway.

B. SECTION DIRECTORY:

Section 1 provides for an honorary designation of the "Officer Charles 'Charlie K' Kondek, Jr., Memorial Highway" and directs DOT to erect suitable markers.

Section 2 provides an effective date of July, 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT estimates a cost of \$1,000 for erecting appropriate markers, which provides for two signs at \$500 per sign. This cost can be absorbed within existing DOT resources.¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹ DOT HB 225 Bill Analysis
STORAGE NAME: h1169b.TTA.DOCX
DATE: 3/31/2017

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to transportation facility
 3 designations; providing honorary designation of a
 4 certain transportation facility in a specified county;
 5 directing the Department of Transportation to erect
 6 suitable markers; providing an effective date.

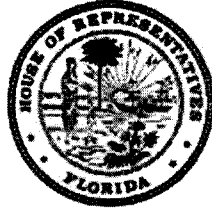
7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Officer Charles "Charlie K" Kondek, Jr.,
 11 Memorial Highway designated; Department of Transportation to
 12 erect suitable markers.-

13 (1) That portion of U.S. 19A/S.R. 595 between Tarpon
 14 Avenue and the Pasco County line in Pinellas County is
 15 designated as "Officer Charles 'Charlie K' Kondek, Jr., Memorial
 16 Highway."

17 (2) The Department of Transportation is directed to erect
 18 suitable markers designating Officer Charles "Charlie K" Kondek,
 19 Jr., Memorial Highway as described in subsection (1).

20 Section 2. This act shall take effect July 1, 2017.



STORAGE NAME: h6519.CJC
DATE: 3/16/2017

March 16, 2017

SPECIAL MASTER'S FINAL REPORT

The Honorable Richard Corcoran
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 6519 - Representative Cortes
Relief/Amie Draiemann O'Brien, Hailey Morgan Stephenson, and Christian Darby
Stephenson II/Department of Transportation

THIS IS A CLAIM FOR \$1,116,940 PAYABLE TO AMIE STEPHENSON FOR NEGLIGENCE OF THE DEPARTMENT OF TRANSPORTATION (DOT) IN FAILING TO MAINTAIN A DRAIN. THE CLAIM IS SUPPORTED BY A JURY VERDICT WHICH ASSESSED 36% OF THE FAULT TO DOT FOR THE DEATH OF CHRISTIAN DARBY STEPHENSON WHILE DRIVING HIS TANKER TRUCK OVER THE HART BRIDGE EXPRESSWAY IN JACKSONVILLE.

FINDING OF FACT:

The Road

The Hart Bridge Expressway is a four-lane, divided roadway which makes a sharp curve to the left at the base of the bridge in the eastbound lanes. There is no shoulder on the left side of the roadway, and the eastbound and westbound lanes are separated by a concrete median. To the right is an exit for Atlantic Boulevard (State Road 10). Between the two expressway lanes and the exit is an area called the "gore," which is a striped 'safety zone' which was formerly used for a toll plaza. The toll booth has been removed and the area is flat and triangular-shaped with stripes.

The drain in question is a curb inlet located in the curve on the

left side of the left lane. The drain is part of a catch basin covered with a metal grate that is approximately 3 feet long, 18 – 24 inches wide, and 6 inches thick. Below the grate is a basin that is approximately 5 feet deep. A sump pump is located approximately 18-24 inches from the bottom of the basin, which drains into an 18-inch pipe. This drain is one of 11,786 maintained by the Florida Department of Transportation (DOT) in the Jacksonville maintenance area.

The particular drain in question was clogged, which caused ponding of water in the left hand lane of the east bound lane of the expressway. The pond measured 269 feet long, 11 feet wide, and 8 inches deep at the curb when measured by the Jacksonville Sheriff's Officer who investigated the crash. The Officer also reported that the pond was larger at the time of the crash and had receded prior to his investigation. The ponding water could not be seen by vehicles traveling down the bridge.

Alex Slaughter, the DOT maintenance officer responsible for clearing the clog, testified that it took a vacuum truck and three men two hours to remove the debris in the basin. Mr. Slaughter believed that the debris had been in the basin for approximately 6-8 months. He also found that the drain pipe was obstructed by a large piece of rubberized plastic which he couldn't describe and which was lost prior to trial.

DOT stipulates that it has an operational level duty to maintain the expressway and the drain. This duty was implemented by having a maintenance officer on call 24 hours a day to respond to maintenance requests from law enforcement, citizens, and other DOT employees. DOT also monitors accident reports to ascertain whether maintenance is needed at particular accident sites (either as a cause of an accident or as a result of an accident.) No evidence was presented that DOT had actual knowledge of this clogged drain prior to the accident.

Evidence was presented, however, that DOT should have known about the ponding due to the clogged drain at base of the Hart Bridge Expressway. There had been two accidents at the same site involving vehicles that hydroplaned in a pool of water at the same spot (one in July 2000, and one in June 1999). Witness testimony was also submitted attesting that water pooled at the spot in question at the base of the Hart Bridge if it rained for more than 30-45 minutes.

The Accident

On August 12, 2000, Christian Darby Stephenson was traveling in his tanker truck across the Hart Bridge Expressway at approximately 6 p.m. He worked for Infinger Transportation and had just filled the tanker with 8,799 gallons of fuel. It had been raining and the road was wet.

Ahead of Mr. Stephenson, a blue Saturn driven by Shana

Williams drove down the bridge, into the ponding water and hydroplaned. She hit the left guardrail and then pulled into the safety zone, or gore. Behind her a Channel 12 news truck driven by Doug Lockwood also drove into the ponding water, hydroplaned, hit the guardrail, and pulled into the safety zone and stopped. Lieutenant Vanaman was alerted to the two accidents, and arrived at the scene and pulled up in the safety zone. The next car over the bridge was a black jeep driven by Justin Keiffer, with Christian Stephenson's tanker truck behind the jeep. The jeep hit the ponding water in the left lane and hydroplaned but did not hit the wall. The jeep pulled through the right lane attempting to get into the safety zone.

At this point, Christian Stephenson was faced with running into the jeep that was changing lanes in front of him, running over the cars and people parked in the safety zone, or trying to make the exit onto Atlantic Boulevard. He chose the latter.

In an effort to make the exit, Christian Stephenson swerved suddenly to the right, skidded across the safety zone, swerved back to the left to avoid leaving the roadway, jackknifed, struck the guardrail, overturned, and exploded. Christian Stephenson died in the explosion.

The posted speed limit on the Hart Bridge Expressway was 45 miles per hour. Officer Vanaman, who was the officer stopped in the safety zone and who witnessed this accident, testified that the tanker was going 55-60 m.p.h., and traveling way too fast for the rainy conditions. Mr. Lockwood who was in the Channel 12 vehicle in the safety zone, testified that the tanker was going 60 m.p.h. A witness who was traveling behind Mr. Stephenson, Mr. Wagner, testified that Stephenson was going between 55-60 m.p.h. The experts testified that Stephenson was traveling anywhere ranging from a low of 46 m.p.h. (claimant's expert, Charles Benedict) to a high of 70 m.p.h. (respondent's expert, Richard Ryabik). In any case, it is clear that Stephenson's speed exceeded both the posted speed limit of 45 m.p.h. and a safe speed based on the rainy conditions coming down a bridge.

There was also conflicting testimony offered by the respondent that Stephenson was following the jeep too closely. However, the driver of the jeep testified that he wasn't aware that any vehicle was behind him, much less a 78,000 pound tanker truck.

The Claimant

At the time of the accident, Christian Stephenson was 29 years old and had been married to Amie for 5 years. Together they had a two-year-old daughter, Hailey, and Amie was 8 months pregnant with their son, Christian. He was working for Infinger Transportation, making short hauls in the tanker truck, and had been employed by Infinger for two years. Amie Stephenson

remarried five years after the accident, and has a daughter with her new husband, Kevin O'Brien. The Jacksonville Times Union newspaper hailed Mr. Stephenson a hero for preventing his tanker from hitting and likely killing the eight other people at the scene.

LITIGATION HISTORY:

A wrongful death suit was filed in the Fourth Circuit in and for Duval County. In addition to DOT, the following entities were sued:

- Multimedia Holdings Corp. d/b/a WTLV-TV and Doug Lockwood (the driver with Channel 12). Summary judgment was entered in favor of Multimedia and Lockwood, and fees and costs (\$5,148) were assessed against the plaintiff, which order was appealed. The order was affirmed on appeal and remains outstanding.
- Shana Williams (driver of the first Saturn that parked in the safety zone) and Peggy Hicks (owner of the Williams' vehicle). Summary judgment was entered in favor of Williams and Hicks. A final judgment was entered awarding fees (\$21,599) and costs (\$1,887.07) to Williams and Hicks, which order was appealed and affirmed on appeal. The amount remains outstanding.
- City of Jacksonville. Summary judgment was entered for the City of Jacksonville, who settled after judgment for \$10,000.
- Jason Keiffer (driver of the jeep in front of the Stephenson tanker). Summary judgment was entered in favor of Keiffer, who settled after the judgment for \$10,000.

The suit proceeded against DOT. After a two-week trial, the jury assigned 64% of the negligence to Christian Stephenson and 36% of the negligence to DOT. The jury determined total damages to be \$3,589,000.

Final judgment was entered against DOT for \$1,292,040 on April 21, 2005. Plaintiff's motions for new trial and mistrial were denied. The DOT paid claimant \$175,100 pursuant to the statutory caps on tort liability.

CLAIMANT'S POSITION:

Claimant asserts DOT was negligent by failing to keep the drainage basin free of debris, which caused water to overflow onto the road creating an unsafe condition that led to Mr. Stephenson's death. Additionally, DOT had at least constructive notice of the dangerous condition created by the clogged drainage basin as a result of prior crashes at the location caused by standing water.

RESPONDENT'S POSITION:

DOT did not have actual notice of the clogged drainage basin or the resulting dangerous roadway condition. Additionally, DOT asserts the primary cause of the crash that killed Mr. Stephenson was his own negligence, namely his excessive speed for the wet road conditions that existed at the time of

the crash.

CONCLUSION OF LAW:

Whether or not there is a jury verdict or a settlement agreement every claim bill against the State must be reviewed de novo against the four standard elements of negligence.

Duty

The Florida Department of Transportation was responsible for maintaining the Hart Bridge Expressway drain at the accident site, which responsibility is an operational level duty to which immunity does not apply.¹ No evidence was presented showing that DOT had actual knowledge of the clogged drain. However, I find that sufficient evidence was presented that DOT should have known that this drain was clogged. At trial, several individuals testified that they traveled the area regularly and often saw ponding of water in the area at issue, and there were at least two hydroplaning accidents at the same spot within one year of the accident at issue.

Breach

DOT breached their duty to maintain the road by failing to maintain the drain and allowing it to become so clogged that it created a substantial pond of water in the roadway.

Causation

While there were numerous factors that contributed to the accident, it is clear that but for the ponding of the water Stephenson's tanker truck would not have made the evasive actions that ultimately led to the truck's explosion and Stephenson's death.

It is also clear that Stephenson's own actions also contributed to his death. There was undisputed evidence that Stephenson was exceeding the posted speed limit in rainy, wet conditions, in violation of section 316.183(1), F.S.:

No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

Even though there was no expert testimony presented that speed was a causative factor, the jury appeared to apply

¹ *Capo v. State Dept. of Transportation*, 642 So.2d 37 (Fla. 3rd DCA 1994).

reason and common sense to the evidence presented, and I find no evidence sufficient to deviate from the jury's assessment.

The determination of the jury that Stephenson was 64% at fault and that DOT was 36% at fault is reasonable and adopted as a conclusion of law.

Damages

The jury determined damages as follows:

• Damages to the estate	\$ 1,300,000
• Damages to Amie Stephenson	763,000
• Damages to Hailey Stephenson	1,000,000
• Damages to Christian Stephenson, II	<u>526,000</u>
TOTAL	\$3,589,000

The final judgment reflected a reduction of the total amount by 64%, and awarded \$1,292,040, plus interest, to Amie Stephenson. Expert testimony presented indicated that \$1,829,700 would compensate Mrs. Stephenson for present and future economic losses. Thus, I find that the amount awarded in the final judgment is reasonable in light of all the circumstances.

COLLATERAL SOURCES:

Mrs. Stephenson has received the following amounts:

- \$104,581.34 in workers compensation disability payments and funeral expenses. Gates McDonald has asserted a lien on any recovery
- \$5,000 in PIP death benefits from State Farm
- \$100,000 uninsured motorist payment from State Farm
- \$659 per month for Amie and each of the 2 children in Social Security payments. Amie's payments ceased upon her remarriage, and the children's payments increased to \$917 per month until they reach 18
- \$50,000 in personal life insurance
- \$25,000 from Mr. Stephenson's employer's life insurance
- \$22,000 in donations from the St. Vincent's hospital foundation
- \$10,000 in settlement with Jason Keiffer
- \$10,000 in settlement with City of Jacksonville

ATTORNEY'S/
LOBBYING FEES:

Claimant's attorney has agreed to waive his 25% fee. Claimant's attorney has hired a lobbyist and has agreed to pay 5% of any amount of the claim bill in lobbying fees. Outstanding costs total \$223,388.00.

RECOMMENDATIONS:

Accordingly, I respectfully recommend that House Bill 6519 be reported **FAVORABLY**.

SPECIAL MASTER'S FINAL REPORT--

Page 7

Respectfully submitted,

PARKER AZIZ

House Special Master

cc: Representative Cortes, B., House Sponsor
Senator Artilles, Senate Sponsor
James Knudson, Senate Special Master

Stephenson, Christina Darby e/o vs. Florida Department of Transportation - Claims Bill
Affidavit
Case No.:

5. The lobbyist hired by Mrs. O'Brien will submit a separate Affidavit setting forth his proposed fee.

6. The attorney's fee, costs, and lobbyist fees will be adjusted such that the total aggregate of same will not exceed 25% of the total claims bill amount. The lobbyist, Lance Block, has agreed that the total lobbying fee will be 5% of the total proposed claims bill amount, leaving the lobbying fee at \$55,847.00 The cost reimbursement to Searcy Denney, et al, would be \$223,388.00, which would result in Searcy Denney taking no fee for the work performed in this case and also writing off \$76,361.11 in costs so as to keep total fees and costs within 25% of the total claims bill amount in an effort to assist the client and get the bill passed.

FURTHER AFFIANT SAYETH NOT.



Brian R. Denney

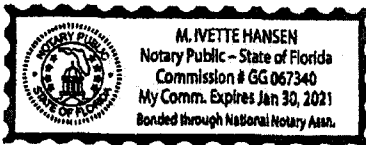
The foregoing instrument was acknowledged before me this 13th day of March, 2017,
by Brian R. Denney who is personally known to me or who has produced
_____ as identification and who did/did not take an oath.



Notary Signature

Notary name - print

NOTARY PUBLIC, State of Florida



HB 6519

RELIEF OF O'BREIN/ STEPHENSEN BY DEPARTMENT OF TRANSPORTATON/

AMENDED AFFIDAVIT AND VERIFIED STATEMENT OF LANCE BLOCK

STATE OF FLORIDA)

COUNTY OF LEON)

BEFORE ME, the undersigned authority, personally appeared, LANCE BLOCK, who being first duly sworn, deposes and says:

1. My name is Lance Block.

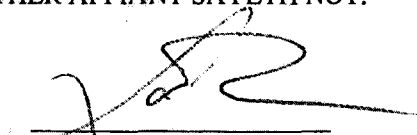
2. I am a member of the Florida Bar and registered as a lobbyist on behalf of the claimants.

Additionally, I represented the claimants as one of their attorneys during the underlying litigation and trial when I was a shareholder with the Searcy Denney firm.

3. Lance Block, P.A. was under contract to receive a 5 percent fee for lobbying services of the total claim bill award; however, on behalf of the firm I have agreed to accept a 2 percent fee instead.

4. Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true to the best of my knowledge and belief.

FURTHER AFFIANT SAYETH NOT.



Lance Block

Date 3/15/17

Affiant has verified this affidavit without notarization as authorized by § 92.525, Fla. Stat. (1986). *See State v. Shearer*, 628 So.2d 1102 (Fla. 1993); *Dodrill v. Infe, Inc.*, 837 So.2d 1187 (Fla. 4th DCA 2003); *Goines v. State*, 691 So.2d 593 (Fla. 1st DCA 1997).

HB 6519

Relating to Relief/Amie Draiemann O'Brien, Hailey Morgan Stephenson, and Christian Darby Stephenson II/Department of Transportation

AFFIDAVIT OF MATHEW FORREST

STATE OF FLORIDA)
COUNTY OF LEON)

BEFORE ME, the undersigned authority, personally appeared, MATHEW FORREST, who being first duly sworn, deposes and says:

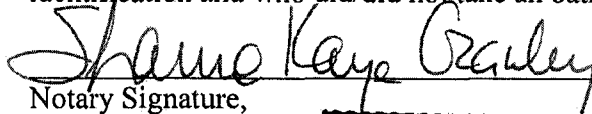
1. My name is Mathew Forrest. I am over the age of twenty-one years and am of sound mine.
2. Ballard Partners and I are registered as lobbyists on behalf of the claimant.
3. My firm is under contract to receive a three percent fee from the recovery of the claim bill in this matter.
4. Our contingency fee is three (3) percent of the total recovery of the claim bill.
5. Our cost for expenses are \$315.00 to be recovered from the claim bill.
6. All expenses are external costs.

I declare that I have read the foregoing affidavit and that the facts stated in it are believed to be true.

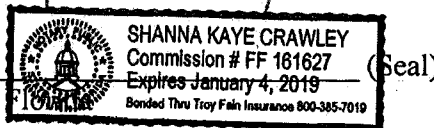
FURTHER AFFIANT SAYETH NOT.


Mathew Forrest

The foregoing instrument was acknowledged before me this 7th day of March, 2017, by Mathew Forrest who is personally known to me or who has produced N/A as identification and who did/did not take an oath.


Notary Signature,

Notary Public, State of



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A bill to be entitled
An act for the relief of Amie Draiemann O'Brien,
individually and as personal representative of the
Estate of Christian Darby Stephenson, deceased, and
for the relief of Hailey Morgan Stephenson and
Christian Darby Stephenson II, as surviving minor
children of the decedent; providing an appropriation
to compensate them for the wrongful death of Christian
Darby Stephenson, which was due in part to the
negligence of the Department of Transportation;
providing a limitation on the payment of fees and
costs; providing an effective date.

WHEREAS, on August 12, 2000, 29-year-old Christian Darby
Stephenson was driving a gasoline tanker eastbound on the Hart
Bridge Expressway in Duval County, and

WHEREAS, a clogged drain had caused a large pool of
standing water to collect at the base of the bridge, and

WHEREAS, the Department of Transportation was responsible
for the maintenance of the drains at that location on the Hart
Bridge Expressway, and

WHEREAS, as Mr. Stephenson drove over the bridge, a Jeep
that was traveling toward the tanker hit the pool of water and
hydroplaned, and

WHEREAS, Mr. Stephenson took evasive action to avoid

26 hitting the Jeep, as well as two other vehicles that had been
 27 involved in previous accidents and which were parked in the
 28 striped safety zone alongside the expressway, and

29 WHEREAS, Mr. Stephenson attempted to make a hard right turn
 30 onto the Atlantic Avenue exit to avoid the three vehicles, but,
 31 as he attempted to exit, the gasoline tanker jackknifed, struck
 32 the guardrail, overturned, and exploded, and

33 WHEREAS, Mr. Stephenson was subsequently pronounced dead at
 34 the scene, and

35 WHEREAS, Mr. Stephenson's widow, Amie Draiemann O'Brien,
 36 brought suit against the Department of Transportation in the
 37 Circuit Court of the Fourth Judicial Circuit in and for Duval
 38 County, Case No. 01-03428 CA, and on March 22, 2005, the jury
 39 returned a verdict that assigned the Department of
 40 Transportation with 36 percent of the negligence that was a
 41 legal cause of Mr. Stephenson's death, and

42 WHEREAS, the jury verdict states the jury's determination
 43 that the total amount of damages sustained by Mr. Stephenson's
 44 estate is \$1.3 million; the total amount sustained by Amie
 45 Draiemann O'Brien, the widow of Mr. Stephenson, is \$763,000; the
 46 total amount sustained by Hailey Morgan Stephenson, a surviving
 47 minor child of Mr. Stephenson, is \$1 million; and the total
 48 amount sustained by Christian Darby Stephenson II, a surviving
 49 minor child of Mr. Stephenson, is \$526,000, and

50 WHEREAS, 36 percent of the aggregate sum of the damages

51 awarded to Mr. Stephenson's estate and the named survivors under
 52 the final judgment is \$1,292,040, and

53 WHEREAS, the Department of Transportation has paid a total
 54 of \$175,100 under s. 768.28, Florida Statutes, after the payment
 55 of \$24,900 to third parties who brought claims against the
 56 Department of Transportation for damages claimed as a result of
 57 the same occurrence, the remainder subject to being awarded
 58 under this act is \$1,116,940, NOW, THEREFORE,

59
 60 Be It Enacted by the Legislature of the State of Florida:

61
 62 Section 1. The facts stated in the preamble to this act
 63 are found and declared to be true.

64 Section 2. There is appropriated from the General Revenue
 65 Fund to the Department of Transportation the sum of \$1,116,940
 66 for the relief of Amie Draiemann O'Brien, as the personal
 67 representative of the Estate of Christian Darby Stephenson, for
 68 the wrongful death of Christian Darby Stephenson.

69 Section 3. The Chief Financial Officer is directed to draw
 70 warrants in the sum of \$1,116,940 upon the funds of the
 71 Department of Transportation in the State Treasury not otherwise
 72 appropriated, payable as follows:

73 (1) The sum of \$404,575.65, to the Estate of Christian
 74 Darby Stephenson;

75 (2) The sum of \$237,454.78, to compensate Amie Draiemann

76 O'Brien;

77 (3) The sum of \$311,212.04, to be paid into a trust to
 78 compensate Hailey Morgan Stephenson; and

79 (4) The sum of \$163,697.53, to be paid into a trust to
 80 compensate Christian Darby Stephenson II.

81 Section 4. The amount paid by the Department of
 82 Transportation under s. 768.28, Florida Statutes, and the amount
 83 awarded under this act are intended to provide the sole
 84 compensation for all present and future claims arising out of
 85 the factual situation described in this act which resulted in
 86 the death of Mr. Stephenson. Of the amount awarded under this
 87 act, no amount may be paid for attorney fees, the total amount
 88 paid for lobbying fees may not exceed \$55,847, and the total
 89 amount paid for costs and other similar expenses relating to
 90 this claim may not exceed \$223,388.

91 Section 5. This act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation & Tourism
 2 Appropriations Subcommittee
 3 Representative Ingram offered the following:

Amendment

6 Remove lines 64-72 and insert:

7 Section 2. There is appropriated from the State
 8 Transportation Trust Fund to the Department of Transportation
 9 the sum of \$1,116,940 for the relief of Amie Draiemann O'Brien,
 10 as the personal representative of the Estate of Christian Darby
 11 Stephenson, for the wrongful death of Christian Darby
 12 Stephenson.

13 Section 3. The Chief Financial Officer is directed to draw
 14 warrants in the sum of \$1,116,940 upon the funds of the
 15 Department of Transportation in the State Treasury, and the

Amendment No. 1

16 Chief Financial Officer is directed to pay the same out of such
17 funds in the State Treasury as follows:

18