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# **Transportation & Modals Subcommittee**

**Thursday, January 25, 2024  
11:30 AM  
Sumner Hall (404 HOB)**

**Meeting Packet**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Transportation & Modals Subcommittee

**Start Date and Time:** Thursday, January 25, 2024 11:30 am  
**End Date and Time:** Thursday, January 25, 2024 02:30 pm  
**Location:** Sumner Hall (404 HOB)  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HB 91 Transportation Facility Designations by Clemons, Mooney  
HB 389 Transportation Facility Designations by Roach  
HB 403 Specialty License Plates by Chaney  
CS/HB 619 Sovereign Immunity for Professional Firms by Civil Justice Subcommittee, Tuck  
HB 841 Transportation Facility Designations by Rayner  
HB 911 Specialty License Plates by Skidmore  
HB 1045 Student Transportation Safety by Michael  
HB 1301 Department of Transportation by Abbott  
HB 1341 Transportation Facility Designations by Robinson, W.  
HB 1363 Traffic Enforcement by Busatta Cabrera

**Consideration of the following proposed committee substitute(s):**

PCS for HB 981 -- Aviation

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at [www.myfloridahouse.gov](http://www.myfloridahouse.gov).

**NOTICE FINALIZED on 01/23/2024 3:57PM by Mejia.Margarita**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 91 Transportation Facility Designations

**SPONSOR(S):** Clemons, Mooney, and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 84

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

**SUMMARY ANALYSIS**

State law authorizes legislative designations of transportation facilities, such as bridges, interchanges, or portions of roads, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the facilities and do not require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings to account for the designations. The Department of Transportation (DOT) may not erect markers for a designation unless the appropriate city or county commission enacts a resolution supporting the designation.

The bill designates the “Jimmy Buffett Memorial Highway” in Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Brevard, Volusia, Flagler, St. Johns, Duval, and Nassau counties. The bill also directs DOT to erect suitable markers for the designation by August 30, 2024.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the designation. The cost can be absorbed within DOT’s existing resources.

The bill takes effect upon becoming a law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Transportation Facility Designations

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not officially change the existing names of the facilities and do not require local governments or private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings to account for the designations.<sup>1</sup>

Regarding the naming of state buildings and other facilities, state law provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.<sup>2</sup>

##### Transportation Facility Markers

When the Legislature establishes transportation facility designations, the Department of Transportation (DOT) is required to place a marker at each terminus or intersection of the highway segment or bridge designated and may erect other markers it deems appropriate for the designated transportation facility.<sup>3</sup> Markers may not be erected until the appropriate city or county commission passes a resolution in support of the particular designation. Additionally, if the designated facility is located in multiple cities or counties, each affected local government must pass a resolution in support of the designation before DOT can install the markers.<sup>4</sup>

##### Jimmy Buffett

Jimmy Buffett was a singer-songwriter whose recording career spanned more than fifty years and whose music often celebrated the culture of the Florida Keys.<sup>5</sup> Some of his greatest hits include “Margaritaville,” “Come Monday,” and “It’s Five O’Clock Somewhere.”<sup>6</sup> In 1974, Jimmy Buffett released an album entitled “A1A” that included songs such as “A Pirate Looks at Forty” and “Nautical Wheelers.”<sup>7</sup> In his album notes, Jimmy Buffett explained that “A1A is the beach access road that runs occasionally on and off U.S. 1. It can take you to some of the prettiest beaches in Florida east of St. Augustine, right through the middle of ‘Wrinkle City’, better known as Miami Beach, and ending suddenly 90 miles north of Havana and four blocks from my house.”<sup>8</sup>

Jimmy Buffett passed away on September 1, 2023.<sup>9</sup>

#### Effect of the Bill

The bill designates all of those portions of State Road A1A located in Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Brevard, Volusia, Flagler, St. Johns, Duval, and Nassau counties as “Jimmy Buffett Memorial Highway.”

The bill directs DOT to erect suitable markers for the designation by August 30, 2024.

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<sup>1</sup> S. 334.071(1), F.S.

<sup>2</sup> S. 267.062(1), F.S.

<sup>3</sup> S. 334.071(2), F.S.

<sup>4</sup> S. 334.071(3), F.S.

<sup>5</sup> Peter Mason, *Jimmy Buffett Obituary*, *The Guardian* (Sep. 4, 2023), <https://www.theguardian.com/music/2023/sep/04/jimmy-buffett-obituary> (last visited Jan. 23, 2024); JimmyBuffet.com, *James William Buffett Obituary*, <https://www.jimmybuffett.com/obituary> (last visited Jan. 23, 2024).

<sup>6</sup> Peter Mason, *supra* note 5.

<sup>7</sup> Buffett World, *A1A*, <https://buffettworld.com/albums/a1a/> (last visited Jan. 23, 2024).

<sup>8</sup> *Id.*

<sup>9</sup> JimmyBuffet.com, *supra* note 5s.

**B. SECTION DIRECTORY:**

**Section 1:** Designates “Jimmy Buffett Memorial Highway”; directs DOT to erect suitable markers by August 30, 2024.

**Section 2:** Provides that bill is effective upon becoming law.

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

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

1. Revenues:

None.

2. Expenditures:

Under current law, DOT must place a marker at each end of the designation, and DOT has the authority to place markers as appropriate for the transportation facility being designated. At minimum, the bill will have an estimated negative fiscal impact of \$1,800 to DOT within the State Transportation Trust Fund. This amount is accounting for two signs installed at \$900 per sign.<sup>10</sup> This cost can be absorbed within existing DOT resources.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

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 governments.

2. Other:

None.

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<sup>10</sup> Email from Jack Rogers, Legislative Affairs Director, Department of Transportation, FW: road designation sign costs, (Oct. 10, 2023).

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

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

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

10  
 11           Section 1. Jimmy Buffett Memorial Highway designated;  
 12 Department of Transportation to erect suitable markers.-

13           (1) All of those portions of S.R. A1A located in Monroe,  
 14 Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian  
 15 River, Brevard, Volusia, Flagler, St. Johns, Duval, and Nassau  
 16 Counties are designated as "Jimmy Buffett Memorial Highway."

17           (2) By August 30, 2024, the Department of Transportation  
 18 is directed to erect suitable markers designating Jimmy Buffett  
 19 Memorial Highway as described in subsection (1).

20           Section 2. This act shall take effect upon becoming a law.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 389 Transportation Facility Designations

**SPONSOR(S):** Roach

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

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

**SUMMARY ANALYSIS**

State law authorizes legislative designations of transportation facilities, such as bridges, interchanges, or portions of roads, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the facilities and do not require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings to account for the designations. The Department of Transportation (DOT) may not erect markers for a designation unless the appropriate city or county commission enacts a resolution supporting the designation.

The bill designates the “Officer Christopher Taylor Highway” in Charlotte County. Under the bill, DOT must erect suitable markers for the designation.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the designation. The cost can be absorbed within DOT’s existing resources.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Transportation Facility Designations

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not officially change the existing names of the facilities and do not require local governments or private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings to account for the designations.<sup>1</sup>

Regarding the naming of state buildings and other facilities, state law provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.<sup>2</sup>

###### Transportation Facility Markers

When the Legislature establishes road or bridge designations, the Department of Transportation (DOT) is required to place a marker at each terminus or intersection of the highway segment or bridge designated and may erect other markers it deems appropriate for the designated transportation facility.<sup>3</sup> Markers may not be erected until the appropriate city or county commission passes a resolution in support of the particular designation. Additionally, if the designated facility is located in multiple cities or counties, each affected local government must pass a resolution in support of the designation before DOT can install the markers.<sup>4</sup>

###### Officer Christopher Taylor

On November 22, 2022, 23-year-old Deputy Sheriff Christopher Taylor was struck by a drunk driver while conducting a traffic stop on I-75 near mile marker 163 in Punta Gorda. Deputy Sheriff Taylor served with the Charlotte County Sheriff's Office for 15 months.<sup>5</sup>

##### Effect of the Bill

The bill designates that portion of I-75 between U.S. 17/Duncan Road and Harbor View Road in Charlotte County as "Officer Christopher Taylor Highway". The bill directs DOT to erect suitable markers.

#### B. SECTION DIRECTORY:

**Section 1:** Designates "Officer Christopher Taylor Highway"; directs DOT to erect suitable markers.

**Section 2:** Provides an effective date of July 1, 2024.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

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<sup>1</sup> S. 334.071(1), F.S.

<sup>2</sup> S. 267.062(1), F.S.

<sup>3</sup> S. 334.071(2), F.S.

<sup>4</sup> S. 334.071(3), F.S.

<sup>5</sup> Officer Down Memorial Page, *Deputy Sheriff Christopher Taylor*, <https://www.odmp.org/officer/26469-deputy-sheriff-christopher-taylor> (last visited Jan. 23, 2024).

2. Expenditures:

DOT estimates a cost of \$1,800 per designation for the appropriate markers, which provides for two signs per designation at \$900 per sign.<sup>6</sup> Therefore, the bill has an estimated negative fiscal impact of \$1,800 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.<sup>7</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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 governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A.

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<sup>6</sup> Email from Jack Rogers, Legislative Affairs Director, Department of Transportation, FW: road designation sign costs, (Oct. 10, 2023).

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

1                                   A bill to be entitled  
 2           An act relating to transportation facility  
 3           designations; providing an 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 Christopher Taylor Highway designated;  
 11 Department of Transportation to erect suitable markers.-

12           (1) That portion of I-75 between U.S. 17/Duncan Road and  
 13 Harbor View Road in Charlotte County is designated as "Officer  
 14 Christopher Taylor Highway."

15           (2) The Department of Transportation is directed to erect  
 16 suitable markers designating Officer Christopher Taylor Highway  
 17 as described in subsection (1).

18           Section 2. This act shall take effect July 1, 2024.

Amendment No.

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		

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1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Roach offered the following:

4

5 **Amendment**

6 Remove lines 10-17 and insert:

7 Section 1. Deputy Sheriff Christopher Taylor Memorial  
 8 Highway designated; Department of Transportation to erect  
 9 suitable markers.-

10 (1) That portion of I-75 between U.S. 17/Duncan Road and  
 11 Harbor View Road in Charlotte County is designated as "Deputy  
 12 Sheriff Christopher Taylor Memorial Highway."

13 (2) The Department of Transportation is directed to erect  
 14 suitable markers designating Deputy Sheriff Christopher Taylor  
 15 Memorial Highway as described in subsection (1).



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 403 Specialty License Plates  
**SPONSOR(S):** Chaney and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 434

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

**SUMMARY ANALYSIS**

As of November 2023, there are 114 specialty license plates available for sale and an additional 31 in presale. Specialty license plates are available to the owner or lessee of any motor vehicle who is willing to pay an annual use fee, in addition to the required license tax and fees. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity.

The bill creates the Margaritaville license plate, with an annual use fee of \$25. The plate must bear DHSMV-approved colors and designs, with “Florida” appearing at the top of the plate and “Margaritaville” appearing at the bottom or side of the plate. The annual use fees from the sale of the plate are distributed to the SFC Charitable Foundation, Inc, also known as Singing for Change.

The bill will have a negative, but insignificant, fiscal impact to state expenditures associated with DHSMV’s programming costs for the specialty license plate.

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



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Specialty License Plates

As of November 2023, there are 114 specialty license plates available for sale and an additional 31 in presale.<sup>1</sup> Specialty license plates are available to the owner or lessee of any motor vehicle who is willing to pay an annual use fee, in addition to the required license tax and fees.<sup>2</sup> The annual use fees range from \$15-\$25,<sup>3</sup> and are distributed directly to the sponsoring organization or other entity as designated in statute.<sup>4</sup>

In order to establish a specialty license plate, an organization must first receive approval by law. Once this approval has been granted, the organization has 60 days to submit the proposed art design for the specialty license plate to DHSMV.<sup>5</sup> Within 120 days of the specialty license plate becoming law, DHSMV must establish a method to issue presale vouchers for the specialty license plate. The applicant for a specialty license plate pays a \$5 processing fee<sup>6</sup>, a \$2.50 service charge, a \$.50 branch fee<sup>7</sup>, and the annual use fee.<sup>8</sup> All other applicable fees are paid at the time of issuance of the specialty license plate.<sup>9</sup>

After the presale vouchers are established, the organization has 24 months to obtain a minimum of 3,000 voucher sales before manufacturing of the plate can begin.<sup>10</sup> If the minimum sales requirement has not been met by the end of the 24-month presale period, the specialty license plate is deauthorized and DHSMV must discontinue the development of the plate and issuance of the presale vouchers. Upon deauthorization of the license plate or if the plate has met the presale requirement but has not been issued, a purchaser of the license plate voucher may use the annual use fee paid as a credit towards any other specialty license plate or may apply for a refund.<sup>11</sup>

New specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08058, F.S., provided that they have met all statutory requirements, including the presale requirement. If the next listed specialty license plate has not met the presale requirement, DHSMV will proceed in the order provided in s. 320.08058, F.S., to identify the next qualified specialty license plate that has met the presale requirement. DHSMV must cycle through the list in statutory order.<sup>12</sup>

The number of specialty license plates issued cannot exceed 135. If the Legislature approves more than 135 specialty license plates, DHSMV cannot issue any new specialty license plates until a sufficient number of plates are discontinued in order to not exceed the limit.<sup>13</sup>

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 House Bill 403, p. 2 (Nov. 13, 2023).

<sup>2</sup> S. 320.08056(2)(a), F.S.

<sup>3</sup> S. 320.08056(3)(d), F.S., states that the annual use fee for any specialty license plate is \$25, except if otherwise specified in s. 320.08056(4), F.S.

<sup>4</sup> S. 320.08058, F.S.

<sup>5</sup> S. 320.08053(1), F.S.

<sup>6</sup> The processing fee is prescribed in s. 320.08056, F.S.

<sup>7</sup> The service charge and branch fee are prescribed in s. 320.04, F.S.

<sup>8</sup> The annual use fee is prescribed in s. 320.08056, F.S.

<sup>9</sup> S. 320.08053(2)(a), F.S.

<sup>10</sup> Chapter 2022-189, Laws of Fla., extended the presale requirement by an additional 24 months for an approved specialty license plate organization that, as of June 15, 2022, is in the presale period but had not recorded at least 3,000 voucher sales.

<sup>11</sup> S. 320.08053(2)(b), F.S.

<sup>12</sup> S. 320.08053(3)(a), F.S.

<sup>13</sup> S. 320.08053(3)(b), F.S.

Except for collegiate license plates authorized by s. 320.08058(3), F.S., DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty license plate registrants falls below 3,000 plates for 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 3,000. For out-of-state college or university plates, this number is 4,000.<sup>14</sup> This requirement does not apply to in-state collegiate license plates established under s. 320.08058(3), F.S., license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, specialty license plates for which annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention, or Florida professional sports team license plates established under s. 320.08058(9), F.S.<sup>15</sup>

DHSMV may discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.<sup>16</sup>

On January 1 of each year, DHSMV must discontinue the specialty license plate with the fewest number of plates in circulation, including specialty license plates exempt from the sales requirement. A warning letter is mailed to the organizations in the lowest ten percent of valid, active specialty license plate registrations as of December 1 of each year.<sup>17</sup>

#### Use of Specialty License Plate Fees

The annual use fees collected by an organization and any interest earned from those fees may not be used for commercial or for-profit activities, or general or administrative expenses, unless authorized by s. 320.08058, F.S.<sup>18</sup> Further, the annual use fees and interest earned from those fees may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding an employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or any elected member or employee of the Legislature.<sup>19</sup>

Annual use fees collected by an organization and any interest earned from those fees may be expended only in Florida, unless the annual use fees are derived from the sale of United States Armed Forces or veterans-related specialty license plates.<sup>20</sup> Additionally, organizations receiving annual use fees must submit an annual audit or attestation document to DHSMV that proceeds were used in compliance with the applicable specialty license plate statutes.<sup>21</sup>

#### SFC Charitable Foundation, Inc.

SFC Charitable Foundation, Inc, also known as Singing for Change, was founded by Jimmy Buffett in 1995 and is a Florida not-for-profit corporation registered with the Florida Department of State.<sup>22</sup> According to the organization's website, Singing for Change supports small nonprofits by providing such entities with grants that aim to create positive social change within communities and help individuals become more self-sufficient. The organization focuses on low-income communities or people living in poverty.<sup>23</sup>

### **Effect of the Bill**

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<sup>14</sup> S. 320.08056(8)(a), F.S.

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

<sup>16</sup> S. 320.08056(8)(b), F.S.

<sup>17</sup> S. 320.08056(8)(f), F.S.

<sup>18</sup> S. 320.08056(10)(a), F.S.

<sup>19</sup> S. 320.08056(11), F.S.

<sup>20</sup> S. 320.08056 (10)(a), F.S.

<sup>21</sup> S. 320.08062, F.S. Annual use fees may be used to pay for the cost of this required audit or report. See s. 320.08056(10)(a), F.S.

<sup>22</sup> SFC Charitable Foundation, Inc., Articles of Incorporation,

<https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C1407%5C0118%5CAR014708.tif&documentNumber=N94000005329> (last visited Jan. 23, 2024).

<sup>23</sup> Singing For Change, Mission Statement, <https://www.singingforchange.org/mission-statement> (last visited Jan. 23, 2024).

The bill creates the Margaritaville license plate, with an annual use fee of \$25<sup>24</sup>. The plate must bear DHSMV-approved colors and designs, with “Florida” appearing at the top of the plate and “Margaritaville” appearing at the bottom or side of the plate.

The annual use fees from the sale of the plate will be distributed to the SFC Charitable Foundation, Inc, also known as Singing for Change. Up to 18 percent of the annual use fees may be used for the promotion and marketing of the plate; and administrative costs, startup costs, and costs incurred in the development and approval process of the license plate. The remaining funds must be distributed with the approval of, and accountability to, the board of directors of the SFC Charitable Foundation, Inc. to:

- Provide grants to nonprofit organizations in communities impacted by natural and manmade disasters for recovery, rebuilding, and future sustainability; and
- Promote and inspire grassroots leadership that will work to improve the quality of life in those communities and others in the state.

This license plate will be added to DHSMV’s presale voucher process, but the plate will only be placed into production once it meets the 3,000 minimum sales threshold<sup>25</sup> and if the 135 plate cap is not reached.<sup>26</sup>

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

**B. SECTION DIRECTORY:**

**Section 1** Amends s. 320.08058, F.S., relating to specialty license plates.

**Section 2** Provides an effective date.

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

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

1. Revenues:

None.

2. Expenditures:

DSHMV will need to update its procedures, forms, and website to incorporate this additional license plate. Additionally, programming will be required for DHSMV to accept presale vouchers for the license plate. According to DHSMV, this specialty license plate with one distribution will require approximately 216 hours of programming. This programming can be done using existing resources.<sup>27</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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<sup>24</sup> S. 320.08056(3)(d), F.S.

<sup>25</sup> S. 320.08053(2)(b), F.S.

<sup>26</sup> S. 320.08053(3)(b), F.S.

<sup>27</sup> DHSMV, *supra* note 1 at pp. 5-6.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Once the license plate goes into production, the SFC Charitable Foundation, Inc. may see an increase in revenues associated with the sale of this license plate.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to impact county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill contains certain language that is obsolete and should be removed.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

1                            A bill to be entitled  
 2            An act relating to specialty license plates; amending  
 3            s. 320.08058, F.S.; directing the Department of  
 4            Highway Safety and Motor Vehicles to develop a  
 5            Margaritaville license plate; providing for  
 6            distribution and use of fees collected from the sale  
 7            of the plate; providing an effective date.

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

10  
 11            Section 1. Subsection (127) is added to section 320.08058,  
 12            Florida Statutes, to read:

13            320.08058 Specialty license plates.—

14            (127) MARGARITAVILLE LICENSE PLATES.—

15            (a) The department shall develop a Margaritaville license  
 16 plate as provided in this section and s. 320.08053. The plate  
 17 must bear the colors and design approved by the department. The  
 18 word "Florida" must appear at the top of the plate, and the word  
 19 "Margaritaville" must appear at the bottom or side of the plate.

20            (b) The annual use fees from the sale of the plate shall  
 21 be distributed to the SFC Charitable Foundation, Inc., also  
 22 known as Singing for Change, a nonprofit corporation, to fund  
 23 its activities, programs, and projects as follows:

24            1. Up to 18 percent of the annual use fees may be used  
 25 for:

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2024

26 a. Promotion and marketing of the license plate.

27 b. Reimbursing the corporation for administrative costs,  
28 startup costs, and costs incurred in the development and  
29 approval process of the license plate.

30 2. The remaining funds must be distributed with the  
31 approval of, and accountability to, the board of directors of  
32 the SFC Charitable Foundation, Inc., to provide grants to  
33 nonprofit organizations in communities impacted by natural and  
34 manmade disasters for recovery, rebuilding, and future  
35 sustainability and to promote and inspire local grassroots  
36 leadership that will work to improve the quality of life in  
37 those communities and others in this state.

38 Section 2. This act shall take effect October 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Chaney offered the following:

4  
 5 **Amendment**

6 Remove lines 19-35 and insert:

7 "Margaritaville" must appear at the bottom of the plate.

8 (b) The annual use fees from the sale of the plate must be  
 9 distributed to the SFC Charitable Foundation, Inc., also known  
 10 as Singing for Change, which may use up to 10 percent of such  
 11 fees for administrative costs and marketing of the plate. The  
 12 balance of the fees shall be used by SFC Charitable Foundation,  
 13 Inc., and shall be distributed with the approval of and  
 14 accountability to the board of directors of the SFC Charitable  
 15 Foundation, Inc., to provide grants to nonprofit organizations  
 16 in communities impacted by natural or manmade disasters for

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 403 (2024)

Amendment No.

17 | recovery, rebuilding, and future sustainability in those  
18 | communities, and to promote and inspire local grassroots





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 619 Sovereign Immunity for Professional Firms

**SPONSOR(S):** Civil Justice Subcommittee, Tuck

**TIED BILLS:** IDEN./SIM. BILLS: SB 1534

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 4 N, As CS	Mawn	Jones
2) Transportation & Modals Subcommittee		Hinshelwood	Hinshelwood
3) Judiciary Committee			

**SUMMARY ANALYSIS**

“Sovereign immunity” is a doctrine, derived from English common law, which bars lawsuits against the government absent the government’s consent to be sued. Exceptions to this general principle include a voluntary waiver of sovereign immunity and when the entity is not an “arm of the state” – that is, when sovereign immunity is inapplicable in the first place because it is not technically the state being sued.

The sovereign immunity doctrine bars lawsuits against the State of Florida in state or federal court, unless an exception applies. However, article X, section 13 of the Florida Constitution authorizes the Legislature to waive sovereign immunity “as to all liabilities now existing or hereafter originating.” In accordance with this delegation of power, the Legislature has waived sovereign immunity in several areas, including, to a degree, for tort lawsuits as specified s. 768.28(1), F.S. Florida law also extends state sovereign immunity protections in such tort lawsuits to certain private entities by designating them as “agents of the state.” For example, s. 768.28(10)(e), F.S., specifies that, for purposes of s. 768.28(1), F.S., a professional firm that provides specified monitoring and inspection services, or any of the firm’s employees performing such services, is an agent of the Florida Department of Transportation (“FDOT”) while acting within the scope of the firm’s contract.

CS/HB 619 amends s. 768.28(10)(e), F.S., to expand the scope of the sovereign immunity protections granted to a professional firm and its employees under that paragraph. Specifically, the bill provides that a professional firm that provides monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm’s employees performing such services, is an agent of the state or of its applicable subdivision while acting within the scope of the firm’s contract to ensure that the project is constructed in conformity with the project’s plans, specifications, and contract provisions. Further, the bill specifies that, in this context, sovereign immunity applies to both a professional firm in direct contract with the state or any of its subdivisions and to a professional firm providing monitoring and inspection services as a consultant to a professional firm in direct contract with the state or any of its subdivisions.

The bill does not appear to have a fiscal impact on state or local governments. The bill provides an effective date of July 1, 2024.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Sovereign Immunity

“Sovereign immunity” is a doctrine which bars lawsuits against the government absent the government’s consent to be sued.<sup>1</sup> The doctrine derives from English common law, under which the King could not be sued on the theories that he could do no wrong, and that there could be no legal rights against the authority that makes the laws upon which the rights depend.<sup>2</sup>

##### *History of State Sovereign Immunity*

The United States Constitution did not expressly incorporate the sovereign immunity doctrine as originally written. Instead, Article III of the United States Constitution extended federal judicial power to “all Cases” involving federal law “in which a State shall be a party” and to “controversies between a State and citizens of another State.” Thus, in 1793, the United States Supreme Court, applying a literal reading of the text of Article III, held that sovereign immunity did not bar a South Carolina citizen from suing the state of Georgia in federal court to recover a Revolutionary War debt.<sup>3</sup>

Within two years of this decision, Congress passed, and the states ratified, the Eleventh Amendment to the United States Constitution to expressly incorporate the sovereign immunity doctrine, as follows:

The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

However, the United States Supreme Court has since moved away from the literal reading of the Constitution applied by the 1793 Court, holding that “sovereign immunity derives not from the Eleventh Amendment but from the structure of the original Constitution itself.”<sup>4</sup> In doing so, the Court recognized the principle that, when the states ratified the United States Constitution, they each retained the sovereign immunity derived from English common law and thus could not generally be sued in either state or federal court.<sup>5</sup> Exceptions to this general principle include:

- An unequivocal, express Congressional abrogation made pursuant to a valid exercise of Congressional power – that is, where Congress passes a law pursuant to a constitutional provision granting Congress the power to abrogate sovereign immunity;<sup>6</sup>
- The *Ex Parte Young* exception, which allows a citizen to sue a state officer in his or her official capacity for prospective injunctive relief in order to end “a continuing violation of federal law”;<sup>7</sup>
- A voluntary waiver of sovereign immunity by the State;<sup>8</sup> and
- A situation where the entity sued is not “an arm of the state” – that is, when sovereign immunity is inapplicable in the first place because it is not technically the state being sued.<sup>9</sup>

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<sup>1</sup> Legal Information Institute, *Sovereign Immunity*, [https://www.law.cornell.edu/wex/sovereign\\_immunity](https://www.law.cornell.edu/wex/sovereign_immunity) (last visited Jan. 23, 2024).

<sup>2</sup> Miles McCann, Visiting Fellow, National Association of Attorneys General, *State Sovereign Immunity*, Nov. 11, 2017, <https://www.naag.org/attorney-general-journal/state-sovereign-immunity/> (last visited Jan. 23, 2024).

<sup>3</sup> *Chisolm v. Georgia*, 2 U.S. 419 (1793).

<sup>4</sup> *Alden v. Maine*, 527 U.S. 706, 728 (1999).

<sup>5</sup> *Id.* at 712 (“We hold that the powers delegated to Congress under Article I of the United States Constitution do not include the power to subject nonconsenting States to private suits for damages in state court.”).

<sup>6</sup> *Seminole Tribe of Fla. v. Fla.*, 517 U.S. 44 (1996).

<sup>7</sup> *Ex Parte Young*, 209 U.S. 123 (1908).

<sup>8</sup> *Clark v. Barnard*, 108 U.S. 436, 447-448 (1883) (holding that sovereign immunity is a “personal privilege” that a state may waive “at [its] pleasure,” by state statute, state constitutional provision, or accepting federal funds through a federal program).

<sup>9</sup> No comprehensive test exists for determining whether an entity is an “arm of the state.” However, the United States Supreme Court directs courts to at least examine the “relationship between the [state] and the entity in question” and “the essential nature and effect of

## Sovereign Immunity in Florida

Since its days as a United States Territory, Florida has declared in force within its jurisdiction those English common law doctrines which are of a general nature, if such doctrines are consistent with the United States Constitution, federal laws, and state laws; this includes the sovereign immunity doctrine.<sup>10</sup> Thus, the sovereign immunity doctrine bars lawsuits against the State of Florida in state or federal court, unless an exception applies.

Article X, section 13 of the Florida Constitution authorizes the Legislature to waive sovereign immunity “as to all liabilities now existing or hereafter originating.” In accordance with this delegation of power, the Legislature has waived sovereign immunity in several areas, including, to a degree, for tort<sup>11</sup> lawsuits. Specifically, s. 768.28(1), F.S., authorizes tort lawsuits brought against the state or one of its agencies or subdivisions alleging negligence on the part of an agency or subdivision employee committed while the employee was acting within the scope of his or her office or employment under circumstances in which the state or its agency or subdivision, if a private person, would be liable to the injured party. Recovery under this section is generally limited to \$200,000 per person and \$300,000 per incident, and the awarding of punitive damages<sup>12</sup> is prohibited.<sup>13</sup> Where a plaintiff recovers an amount above the statutory recovery limits, the plaintiff may seek payment of such excess amount by filing a claim bill with the Legislature.<sup>14</sup> However, payment through the passage of a claim bill is not a right; rather, it is an act of legislative grace.<sup>15</sup>

Florida law also extends state sovereign immunity protections in such tort lawsuits to certain private parties by designating them as “agents of the state.”<sup>16</sup> For example, s. 768.28(10)(e), F.S., specifies that, for purposes of the limited sovereign immunity waiver in s. 768.28(1), F.S., a professional firm that provides monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm’s employees performing such services, is an agent of the Florida Department of Transportation (“FDOT”) while acting within the scope of the firm’s contract with FDOT to ensure that the project is constructed in conformity with the project’s plans, specifications, and contract provisions. Under this paragraph:

- Any contract with the professional firm must indemnify FDOT for any liability, including reasonable attorney fees, incurred up to the recovery limits set out in s. 768.28(5)(a), F.S., to the extent caused by the negligence of the firm or its employees;
- Persons who provide monitoring and inspection services are not employees or agencies of the state for purposes of Florida’s Workers’ Compensation Law, set out in ch. 440, F.S.; and
- The sovereign immunity protections do not apply to:
  - A firm or its employees if involved in an accident while operating a motor vehicle; or
  - A firm engaged by FDOT for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.<sup>17</sup>

However, in April of 2023, the Circuit Court for the 17<sup>th</sup> Judicial Circuit declined to extend the sovereign immunity protections in s. 768.28(10)(e), F.S., to a professional firm that subcontracted with a professional firm in direct contract with FDOT to provide the statutorily-specified monitoring and inspection services, reasoning that the subcontracted professional firm was not “in contract with

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the proceeding.” Courts making such an examination give varying weight to two factors: the degree of state control over the entity, and the entity’s state law classification. *Alden*, 527 U.S. at 756; *Regents of the Univ. of Cal. v. Doe*, 519 U.S. 425, 429 (1997).

<sup>10</sup> S. 2.01, F.S. (first enacted in 1829).

<sup>11</sup> A tort is a civil wrong for which the law provides a remedy. A tort may be intentional, such as battery, or unintentional, such as negligence. Legal Information Institute, *Tort*, <https://www.law.cornell.edu/wex/tort> (last visited Jan. 23, 2024).

<sup>12</sup> “Punitive damages” are damages that punish the defendant for bad behavior. Legal Information Institute, *Punitive Damages*, [https://www.law.cornell.edu/wex/punitive\\_damages](https://www.law.cornell.edu/wex/punitive_damages) (last visited Jan. 23, 2024).

<sup>13</sup> A government entity may, however, settle a claim or pay a judgment against it for an amount in excess of the statutory recovery limits if that amount falls within the limits of the entity’s applicable insurance coverage. S. 768.28(1) and (5)(a), F.S.; *Fischer v. City of Miami*, 172 So. 2d 455 (Fla. 1965).

<sup>14</sup> S. 768.28(5)(a), F.S.

<sup>15</sup> *Id.*; *United Servs. Auto Ass’n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

<sup>16</sup> S. 768.28(10)-(12), F.S.

<sup>17</sup> S. 768.28(10)(e), F.S.

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**DATE:** 1/23/2024

[FDOT]” and thus not entitled to sovereign immunity protections under the express meaning of s. 768.28(10)(e), F.S.<sup>18</sup> The court noted that the legislative intent of s. 768.28(10)(e), F.S., “was to specifically delineate those professional firms that would be given sovereign immunity” and that the legislature did not, in this instance, delineate subcontractors of a professional firm in direct contract with FDOT as deserving of such immunity.<sup>19</sup>

### Effect of Proposed Changes

CS/HB 619 amends s. 768.28(10)(e), F.S., to expand the scope of the sovereign immunity protections granted to a professional firm and its employees under that paragraph. Specifically, the bill provides that a professional firm that provides monitoring and inspection services of the work required for state roadway, bridge, or other transportation facility construction projects, or any of the firm’s employees performing such services, is an agent of the state or of its applicable subdivision, rather than just an agent of FDOT as provided in current law, while acting within the scope of the firm’s contract to ensure that the project is constructed in conformity with the project’s plans, specifications, and contract provisions. Further, the bill specifies that this paragraph applies to both a professional firm in direct contract with the state or any of its subdivisions and to a professional firm providing monitoring and inspection services as a consultant to a professional firm in direct contract with the state or any of its subdivisions.

Under the bill:

- Any contract with the professional firm must indemnify the state or its applicable subdivision for any liability, including reasonable attorney fees, incurred up to the statutory recovery limits set out in s. 768.28(5)(a), F.S., to the extent caused by the negligence of the firm or its employees;
- Persons who provide monitoring and inspection services are not employees or agencies of the state for purposes of Florida’s Workers’ Compensation Law, set out in ch. 440, F.S.; and
- The sovereign immunity protections do not apply to:
  - A firm or its employees if involved in an accident while operating a motor vehicle; or
  - A firm engaged by the state or any of its subdivisions for the design or construction of a state roadway, bridge, or other transportation facility construction project or to its employees, agents, or subcontractors.

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

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 768.28, F.S., relating to waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused by a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

**Section 2:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

---

<sup>18</sup> As of the date of this bill analysis, the case is presently under appeal. *Lillo v. Lead Eng’g Contractors LLC*, Case No. CACE22004434 (17th Jud. Cir. April 10, 2023); *Pinnacle Consulting Enters., Inc. v. Lillo*, Case No. 4D2023-1144 (Fla. 4th DCA 2023).

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

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact on a professional firm shielded by sovereign immunity protections due to the bill's expansion of s. 768.28(10)(e), F.S., as its liability would be capped by the statutory recovery limits in s. 768.28(5)(a), F.S. However, the bill may have a negative economic impact on persons injured by the negligence of such a professional firm or its employees, as their recovery would likewise be limited by the statutory recovery limits placed in s. 768.28(1), F.S., absent passage of a claim bill.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 11, 2024, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified which professional firms acting as a consultant to other professional firms receive the benefit of the sovereign immunity protection.

This analysis is drafted the committee substitute as passed by the Civil Justice Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to sovereign immunity for professional  
 3           firms; amending s. 768.28, F.S.; providing that  
 4           professional firms or their employees when performing  
 5           specified services for certain public projects are  
 6           considered agents of the state or its applicable  
 7           subdivision when acting within the scope of their  
 8           contract; revising applicability; requiring that  
 9           contracts with such firms must, to the extent  
 10          permitted by law, provide indemnity to the state or  
 11          its applicable subdivision; providing applicability;  
 12          making technical changes; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Paragraph (e) of subsection (10) of section  
 17   768.28, Florida Statutes, is amended to read:

18           768.28 Waiver of sovereign immunity in tort actions;  
 19   recovery limits; civil liability for damages caused during a  
 20   riot; limitation on attorney fees; statute of limitations;  
 21   exclusions; indemnification; risk management programs.—

22           (10)

23           (e) For purposes of this section, a professional firm that  
 24   provides monitoring and inspection services of the work required  
 25   for state roadway, bridge, or other transportation facility

26 construction projects, or any employee of a firm ~~the firm's~~  
 27 ~~employees~~ performing such services, is ~~shall be~~ considered an  
 28 agent ~~agents~~ of the state or of its applicable subdivision  
 29 ~~Department of Transportation~~ while acting within the scope of  
 30 the firm's contract ~~with the Department of Transportation~~ to  
 31 ensure that the project is constructed in conformity with the  
 32 project's plans, specifications, and contract provisions. This  
 33 paragraph applies to a professional firm in direct contract with  
 34 the state or any of its subdivisions, as well as any  
 35 professional firm providing monitoring and inspection services  
 36 as a consultant to a professional firm in direct contract with  
 37 the state or any of its subdivisions. Any contract with a  
 38 ~~between the~~ professional firm must ~~and the state,~~ to the extent  
 39 permitted by law, ~~shall~~ provide for the indemnification of the  
 40 state or its applicable subdivision ~~department~~ for any  
 41 liability, including reasonable attorney ~~attorney's~~ fees,  
 42 incurred up to the limits set out in this chapter to the extent  
 43 caused by the negligence of the firm or its employees. This  
 44 paragraph may ~~shall~~ not be construed as designating persons who  
 45 provide monitoring and inspection services as employees or  
 46 agents of the state for purposes of chapter 440. This paragraph  
 47 is not applicable to the professional firm or its employees if  
 48 involved in an accident while operating a motor vehicle. This  
 49 paragraph is not applicable to a firm engaged by the state or by  
 50 any of its subdivisions ~~Department of Transportation~~ for the



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51 | design or construction of a state roadway, bridge, or other  
52 | transportation facility construction project or to its  
53 | employees, agents, or subcontractors.

54 |       Section 2. This act shall take effect July 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Tuck offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 28-50 and insert:

7 ~~employees~~ performing such services, is ~~shall be~~ considered an  
 8 agent ~~agents~~ of the Department of Transportation while acting  
 9 within the scope of the firm's contract with the Department of  
 10 Transportation to ensure that the project is constructed in  
 11 conformity with the project's plans, specifications, and  
 12 contract provisions. This paragraph applies to a professional  
 13 firm that is in direct contract with the Department of  
 14 Transportation, as well as any professional firm providing  
 15 monitoring and inspection services as a consultant to the  
 16 professional firm that is in direct contract with the Department

Amendment No.

17 of Transportation. Any contract with a ~~between the~~ professional  
18 firm must ~~and the state,~~ to the extent permitted by law, ~~shall~~  
19 provide for the indemnification of the department for any  
20 liability, including reasonable attorney ~~attorney's~~ fees,  
21 incurred up to the limits set out in this chapter to the extent  
22 caused by the negligence of the firm or its employees. This  
23 paragraph may ~~shall~~ not be construed as designating persons who  
24 provide monitoring and inspection services as employees or  
25 agents of the state for purposes of chapter 440. This paragraph  
26 is not applicable to the professional firm or its employees if  
27 involved in an accident while operating a motor vehicle. This  
28 paragraph is not applicable to a firm engaged by the Department  
29 of Transportation for the

30

31

-----

32

**T I T L E   A M E N D M E N T**

33

Remove lines 10-11 and insert:

34

permitted by law, provide indemnity to the Department

35

of Transportation; providing applicability;



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 841 Transportation Facility Designations

**SPONSOR(S):** Rayner

**TIED BILLS:** IDEN./SIM. BILLS: SB 1148

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

**SUMMARY ANALYSIS**

State law authorizes legislative designations of transportation facilities, such as bridges, interchanges, or portions of roads, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the facilities and do not require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings to account for the designations. The Department of Transportation (DOT) may not erect markers for a designation unless the appropriate city or county commission enacts a resolution supporting the designation.

The bill designates the “Airman Mohammed 'Mo' Sameh Haitham Memorial Way” in Hillsborough and Pinellas counties. Under the bill, DOT must erect suitable markers for the designation.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the designation. The cost can be absorbed within DOT’s existing resources.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Transportation Facility Designations

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not officially change the existing names of the facilities and do not require local governments or private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings to account for the designations.<sup>1</sup>

Regarding the naming of state buildings and other facilities, state law provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.<sup>2</sup>

##### Transportation Facility Markers

When the Legislature establishes transportation facility designations, the Department of Transportation (DOT) is required to place a marker at each terminus or intersection of the highway segment or bridge designated and may erect other markers it deems appropriate for the designated transportation facility.<sup>3</sup> Markers may not be erected until the appropriate city or county commission passes a resolution in support of the particular designation. Additionally, if the designated facility is located in multiple cities or counties, each affected local government must pass a resolution in support of the designation before DOT can install the markers.<sup>4</sup>

##### Airman Mohammed 'Mo' Sameh Haitham

On December 6, 2019, Airman Mohammed “Mo” Sameh Haitham was the victim of an active shooter at the Naval Air Station in Pensacola, Florida. Airman Haitham has been described as a hero for his actions in connection with the incident. Airman Haitham was scheduled to complete his flight crew training the same month that he passed away.<sup>5</sup>

#### Effect of the Bill

The bill designates those portions of the Gandy Bridge on U.S. 92 located within the geographical boundaries of Hillsborough and Pinellas Counties as “Airman Mohammed 'Mo' Sameh Haitham Memorial Way”. The bill directs DOT to erect suitable markers.

### B. SECTION DIRECTORY:

**Section 1:** Designates “Airman Mohammed 'Mo' Sameh Haitham Memorial Way”; directs DOT to erect suitable markers.

**Section 2:** Provides an effective date of July 1, 2024.

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<sup>1</sup> S. 334.071(1), F.S.

<sup>2</sup> S. 267.062(1), F.S.

<sup>3</sup> S. 334.071(2), F.S.

<sup>4</sup> S. 334.071(3), F.S.

<sup>5</sup> The United States Navy Memorial, *Mohammed Sameh “Mo” Haitham*, <https://navylog.nawymemorial.org/haitham-mohammed> (last visited Jan. 23, 2024).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT estimates a cost of \$1,800 per designation for the appropriate markers, which provides for two signs per designation at \$900 per sign.<sup>6</sup> Therefore, the bill has an estimated negative fiscal impact of \$1,800 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.<sup>7</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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 governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A

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<sup>6</sup> Email from Jack Rogers, Legislative Affairs Director, Department of Transportation, FW: road designation sign costs, (Oct. 10, 2023).

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

1                                   A bill to be entitled  
 2           An act relating to transportation facility  
 3           designations; providing an honorary designation of a  
 4           certain transportation facility in specified counties;  
 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. Airman Mohammed "Mo" Sameh Haitham Memorial Way  
 11 designated; Department of Transportation to erect suitable  
 12 markers.-

13           (1) Those portions of the Gandy Bridge on U.S. 92 located  
 14 within the geographical boundaries of Hillsborough and Pinellas  
 15 Counties are designated as "Airman Mohammed 'Mo' Sameh Haitham  
 16 Memorial Way."

17           (2) The Department of Transportation is directed to erect  
 18 suitable markers designating Airman Mohammed "Mo" Sameh Haitham  
 19 Memorial Way as described in subsection (1).

20           Section 2. This act shall take effect July 1, 2024.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 911 Specialty License Plates  
**SPONSOR(S):** Skidmore  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 858

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

**SUMMARY ANALYSIS**

As of December 2023, there are 114 specialty license plates available for sale and an additional 31 in presale. Specialty license plates are available to the owner or lessee of any motor vehicle who is willing to pay an annual use fee, in addition to the required license tax and fees. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity.

The bill authorizes two new specialty license plates, a Recycle Florida license plate and a Boating Capital of the World license plate. The annual use fee for both plates is \$25. The plates must bear DHSMV-approved colors and designs, with “Florida” appearing at the top of each of the plates and “Recycle Florida” and “Boating Capital of the World” respectively appearing at the bottom of the plates. The annual use fees from the sale of the plates are distributed to the Recycle Florida Today, Inc. and Captain Sandy’s Charities, respectively.

The bill will have a negative, but insignificant, fiscal impact to state expenditures associated with DHSMV’s programming costs for the specialty license plates.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Specialty License Plates

As of December 2023, there are 114 specialty license plates available for sale and an additional 31 in presale.<sup>1</sup> Specialty license plates are available to the owner or lessee of any motor vehicle who is willing to pay an annual use fee, in addition to the required license tax and fees.<sup>2</sup> The annual use fees range from \$15-\$25,<sup>3</sup> and are distributed directly to the sponsoring organization or other entity as designated in statute.<sup>4</sup>

In order to establish a specialty license plate, an organization must first receive approval by law. Once this approval has been granted, the organization has 60 days to submit the proposed art design for the specialty license plate to DHSMV.<sup>5</sup> Within 120 days of the specialty license plate becoming law, DHSMV must establish a method to issue presale vouchers for the specialty license plate. The applicant for a specialty license plate pays a \$5 processing fee<sup>6</sup>, a \$2.50 service charge, a \$.50 branch fee<sup>7</sup>, and the annual use fee.<sup>8</sup> All other applicable fees are paid at the time of issuance of the specialty license plate.<sup>9</sup>

After the presale vouchers are established, the organization has 24 months to obtain a minimum of 3,000 voucher sales before manufacturing of the plate can begin.<sup>10</sup> If the minimum sales requirement has not been met by the end of the 24-month presale period, the specialty license plate is deauthorized and DHSMV must discontinue the development of the plate and issuance of the presale vouchers. Upon deauthorization of the license plate or if the plate has met the presale requirement but has not been issued, a purchaser of the license plate voucher may use the annual use fee paid as a credit towards any other specialty license plate or may apply for a refund.<sup>11</sup>

New specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08058, F.S., provided that they have met all statutory requirements, including the presale requirement. If the next listed specialty license plate has not met the presale requirement, DHSMV will proceed in the order provided in s. 320.08058, F.S., to identify the next qualified specialty license plate that has met the presale requirement. DHSMV must cycle through the list in statutory order.<sup>12</sup>

The number of specialty license plates issued cannot exceed 135. If the Legislature approves more than 135 specialty license plates, DHSMV cannot issue any new specialty license plates until a sufficient number of plates are discontinued in order to not exceed the limit.<sup>13</sup>

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<sup>1</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 Senate Bill 858, p. 2 (Dec. 20, 2023).

<sup>2</sup> S. 320.08056(2)(a), F.S.

<sup>3</sup> S. 320.08056(3)(d), F.S., states that the annual use fee for any specialty license plate is \$25, except if otherwise specified in s. 320.08056(4), F.S.

<sup>4</sup> S. 320.08058, F.S.

<sup>5</sup> S. 320.08053(1), F.S.

<sup>6</sup> The processing fee is prescribed in s. 320.08056, F.S.

<sup>7</sup> The service charge and branch fee are prescribed in s. 320.04, F.S.

<sup>8</sup> The annual use fee is prescribed in s. 320.08056, F.S.

<sup>9</sup> S. 320.08053(2)(a), F.S.

<sup>10</sup> Chapter 2022-189, Laws of Fla., extended the presale requirement by an additional 24 months for an approved specialty license plate organization that, as of June 15, 2022, is in the presale period but had not recorded at least 3,000 voucher sales.

<sup>11</sup> S. 320.08053(2)(b), F.S.

<sup>12</sup> S. 320.08053(3)(a), F.S.

<sup>13</sup> S. 320.08053(3)(b), F.S.

Except for collegiate license plates authorized by s. 320.08058(3), F.S., DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty license plate registrants falls below 3,000 plates for 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 3,000. For out-of-state college or university plates, this number is 4,000.<sup>14</sup> This requirement does not apply to in-state collegiate license plates established under s. 320.08058(3), F.S., license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, specialty license plates for which annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention, or Florida professional sports team license plates established under s. 320.08058(9), F.S.<sup>15</sup>

DHSMV may discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.<sup>16</sup>

On January 1 of each year, DHSMV must discontinue the specialty license plate with the fewest number of plates in circulation, including specialty license plates exempt from the sales requirement. A warning letter is mailed to the organizations in the lowest ten percent of valid, active specialty license plate registrations as of December 1 of each year.<sup>17</sup>

#### Use of Specialty License Plate Fees

The annual use fees collected by an organization and any interest earned from those fees may not be used for commercial or for-profit activities, or general or administrative expenses, unless authorized by s. 320.08058, F.S.<sup>18</sup> Further, the annual use fees and interest earned from those fees may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding an employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or any elected member or employee of the Legislature.<sup>19</sup>

Annual use fees collected by an organization and any interest earned from those fees may be expended only in Florida, unless the annual use fees are derived from the sale of United States Armed Forces or veterans-related specialty license plates.<sup>20</sup> Additionally, organizations receiving annual use fees must submit an annual audit or attestation document to DHSMV that proceeds were used in compliance with the applicable specialty license plate statutes.<sup>21</sup>

#### Recycle Florida Today Foundation, Inc.

Recycle Florida Today Foundation is a Florida not-for-profit corporation registered with the Florida Department of State (DOS) and the Florida Department of Agriculture and Consumer Services (DACs).<sup>22</sup> The organization's statement of purpose is "to serve and support the professional development and related educational objectives of source reduction and waste prevention, reuse, recycling, composting and sustainability professionals through education, grants, research, and certifications."<sup>23</sup> The organization was founded in 1990, and consists of a network of approximately 200

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<sup>14</sup> S. 320.08056(8)(a), F.S.

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

<sup>16</sup> S. 320.08056(8)(b), F.S.

<sup>17</sup> S. 320.08056(8)(f), F.S.

<sup>18</sup> S. 320.08056(10)(a), F.S.

<sup>19</sup> S. 320.08056(11), F.S.

<sup>20</sup> S. 320.08056 (10)(a), F.S.

<sup>21</sup> S. 320.08062, F.S. Annual use fees may be used to pay for the cost of this required audit or report. See s. 320.08056(10)(a), F.S.

<sup>22</sup> See Florida Department of Agriculture and Consumer Services, *Check-A-Charity: Recycle Florida Today Foundation, Inc.*, <https://csapp.fdacs.gov/CSPublicApp/CheckACharity/CheckACharity.aspx> (last visited Jan. 23, 2024). See also Florida Department of State, *Division of Corporations*, <https://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=RECYCLEFLORIDATODAY%20N415170&aggregateId=domnp-n41517-79e1bdd2-b6c8-4a69-8d51-ae28e316089b&searchTerm=Recycle%20florida%20today%2C%20inc&listNameOrder=RECYCLEFLORIDATODAY%20N415170> (last visited Jan. 23, 2024).

<sup>23</sup> *Id.*

members from governments, businesses, institutions and organizations focused on sustainable source and waste prevention, and legislative advocacy for those engaged in the business of recycling.<sup>24</sup>

### Captain Sandy's Charities

Captain Sandy Yawn Inc., also known as Captain Sandy's Charities, is a Florida not-for-profit registered with the DACS and DOS.<sup>25</sup> The organization focuses on promoting awareness and funding of maritime employment opportunities, environmental education, behavioral health assistance, and developmental disability services.<sup>26</sup> The organization was founded in 2019 by Captain Sandy Yawn, a renowned superyacht captain with over 30 years of international maritime experience.<sup>27</sup>

### **Effect of the Bill**

The bill authorizes two new specialty license plates, a Recycle Florida license plate and a Boating Capital of the World license plate. The annual use fee for both plates is \$25. The plates must bear DHSMV-approved colors and designs, with "Florida" appearing at the top of each of the plates and "Recycle Florida" and "Boating Capital of the World" respectively appearing at the bottom of the plates. The annual use fees from the sale of the plates are distributed to the Recycle Florida Today, Inc. and Captain Sandy's Charities, respectively.

The annual use fees from the sale of the Recycle Florida license plate must be used to:

- Increase public awareness about the importance of recycling, resource conservation, and environmental stewardship;
- Promote robust, comprehensive, and sustainable recycling programs; and
- Support the professional development of persons in fields including, but not limited to, recycling, conservation, and sustainability.

The annual use fees from the sale of the Boating Capital of the World plate must be used to:

- Increase public awareness of maritime employment opportunities;
- Fund maritime workforce instruction and training;
- Promote professional development and job placement in all sectors of maritime employment; and
- Support the advancement of education of trainees in the maritime industry, both at sea and on land.

This license plates will be added to DHSMV's presale voucher process, but the plates will only be placed into production once each plate meets the 3,000 minimum sales threshold<sup>28</sup> and if the 135 plate cap is not reached.<sup>29</sup>

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

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

**Section 1** Amends s. 320.08058, F.S., relating to specialty license plates.

**Section 2** Provides an effective date.

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<sup>24</sup> Recycle Florida Today, *Our History*, <https://recyclefloridatoday.org/our-history/#:~:text=Founded%20in%201990%2C%20four%20women,formed%20Recycle%20Florida%20Today%2C%20Inc.> (last visited Jan. 23, 2024).

<sup>25</sup> See Florida Department of Agriculture and Consumer Services, *Check-A-Charity: Captain Sandy Yawn, Inc.*, <https://csapp.fdacs.gov/CSPublicApp/CheckACharity/CheckACharity.aspx> (last visited Jan. 23, 2024). See also Florida Department of State, Division of Corporations, Articles of Incorporation, <https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2019%5C0626%5C00195476.Tif&documentNumber=N19000006425> (last visited Jan. 23, 2024).

<sup>26</sup> Captain Sandy Yawn, *Donate to Captain Sandy's Charities*, <https://captainsandyawn.com/charities/> (last visited Jan. 23, 2024).

<sup>27</sup> Captain Sandy Yawn, *About Captain Sandy Yawn*, <https://captainsandyawn.com/about/> (last visited Jan. 23, 2024).

<sup>28</sup> S. 320.08053(2)(b), F.S.

<sup>29</sup> S. 320.08053(3)(b), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

DSHSMV will need to update its procedures, forms, and website to incorporate the additional license plates. Additionally, programming will be required for DSHSMV to accept presale vouchers for the license plates. According to DSHSMV, each specialty license plate with one distribution will require approximately 216 hours of programming. This programming can be done using existing resources.<sup>30</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

The Recycle Florida Today Foundation, Inc. and the Captain Sandy's Charities may see an increase in revenues associated with the sale of their respective license plates.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

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

Not applicable. This bill does not appear to impact county or municipal governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill should be amended to align the names of the recipient entities with their legal names and to clarify the intent regarding the types of professional fields that may be supported by annual use fees of the Recycle Florida plate. The sponsor has indicated an intent to address these issues.

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<sup>30</sup> DSHSMV, *supra* note 1 at pp. 5-6.  
**STORAGE NAME:** h0911.TMS  
**DATE:** 1/23/2024

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

1                                   A bill to be entitled  
 2           An act relating to specialty license plates; amending  
 3           s. 320.08058, F.S.; directing the Department of  
 4           Highway Safety and Motor Vehicles to develop a Recycle  
 5           Florida license plate and a Boating Capital of the  
 6           World license plate; providing for distribution and  
 7           use of fees collected from the sale of the plates;  
 8           providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Subsections (127) and (128) are added to  
 13           section 320.08058, Florida Statutes, to read:

14           320.08058 Specialty license plates.—

15           (127) RECYCLE FLORIDA LICENSE PLATES.—

16           (a) The department shall develop a Recycle Florida license  
 17 plate as provided in this section and s. 320.08053. The plate  
 18 must bear the colors and design approved by the department. The  
 19 word "Florida" must appear at the top of the plate, and the  
 20 words "Recycle Florida" must appear at the bottom of the plate.

21           (b) The annual use fees from the sale of the plate shall  
 22 be distributed to Recycle Florida Today, Inc., to be used to  
 23 increase public awareness about the importance of recycling,  
 24 resource conservation, and environmental stewardship; to promote  
 25 robust, comprehensive, and sustainable recycling programs; and



26 | to support the professional development of persons employed in  
 27 | fields including, but not limited to, recycling, conservation,  
 28 | and sustainability.

29 | (128) BOATING CAPITAL OF THE WORLD LICENSE PLATES.—

30 | (a) The department shall develop a Boating Capital of the  
 31 | World license plate as provided in this section and s.  
 32 | 320.08053. The plate must bear the colors and design approved by  
 33 | the department. The word "Florida" must appear at the top of the  
 34 | plate, and the words "Boating Capital of the World" must appear  
 35 | at the bottom of the plate.

36 | (b) The annual use fees from the sale of the plate shall  
 37 | be distributed to Captain Sandy's Charities, a nonprofit  
 38 | organization under s. 501(c) (3) of the Internal Revenue Code, to  
 39 | be used to increase public awareness of maritime employment  
 40 | opportunities; to fund maritime workforce instruction and  
 41 | training; to promote professional development and job placement  
 42 | in all sectors of maritime employment; and to support the  
 43 | advancement of education of trainees in the maritime industry,  
 44 | both at sea and on land.

45 | Section 2. This act shall take effect October 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Skidmore offered the following:

4

5 **Amendment**

6 Remove lines 21-40 and insert:

7 (b) The annual use fees from the sale of the plate must be  
 8 distributed to the Recycle Florida Today Foundation, Inc., which  
 9 may use up to 10 percent of such fees for administrative costs  
 10 and marketing of the plate. The balance of the fees shall be  
 11 used by the Recycle Florida Today Foundation, Inc., to increase  
 12 public awareness about the importance of recycling, resource  
 13 conservation, and environmental stewardship; to promote robust,  
 14 comprehensive, and sustainable recycling programs; and to  
 15 support the professional development of persons employed in  
 16 fields relating to recycling, conservation, and sustainability.

Amendment No.

17 (128) BOATING CAPITAL OF THE WORLD LICENSE PLATES.-

18 (a) The department shall develop a Boating Capital of the  
19 World license plate as provided in this section and s.  
20 320.08053. The plate must bear the colors and design approved by  
21 the department. The word "Florida" must appear at the top of the  
22 plate, and the words "Boating Capital of the World" must appear  
23 at the bottom of the plate.

24 (b) The annual use fees from the sale of the plate must be  
25 distributed to Captain Sandy Yawn Inc., which may use up to 10  
26 percent of such fees for administrative costs and marketing of  
27 the plate. The balance of the fees shall be used by Captain  
28 Sandy Yawn Inc., to increase public awareness of employment  
29 opportunities in the maritime industry; to fund maritime  
30 workforce instruction and



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 981 Aviation  
**SPONSOR(S):** Transportation & Modals Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Modals Subcommittee		Walker	Hinshelwood

**SUMMARY ANALYSIS**

The term “advanced air mobility” (AAM) is defined in federal law as a transportation system that transports people and property by air between two points in the United States using aircraft with advanced technologies, including electric aircraft, or electric vertical takeoff and landing (eVTOL) aircraft, in both controlled and uncontrolled airspace. Florida is a target market for early-stage AAM, and the AAM market is projected to reach more than \$1 trillion by 2040. Related to AAM, the bill:

- Provides that it is the intent of the Legislature to promote the development of vertical takeoff and landing aircraft and vertiports that will provide residents and visitors of this state with access to AAM operations.
- Specifies the approval process for a vertiport and requires FDOT to conduct a physical site inspection of a vertiport as part of the approval process.
- Directs FDOT to serve as a resource for local governments and developers and operators of vertical takeoff and landing aircraft and vertiports.
- Directs FDOT to designate an AAM subject matter expert who must be located in the office of FDOT’s District 5.
- Designates the Greater Orlando Aviation Authority as the AAM test site for this state.
- Directs FDOT to provide an AAM report to the Governor and the Legislature by December 31, 2024.

Relating to airport regulations more generally, the bill:

- Clarifies the definitions of “aircraft” and “airport” and deletes an unnecessary definition of “ultralight aircraft”.
- Requires airport land use compatibility zoning regulations to “address”, rather than merely “consider”, the list of things specified in statute.
- Generally prohibits residential construction and educational facilities within a specified buffer zone adjacent to an airport, if the airport has not conducted a noise study in order to better define adjacent areas that are incompatible with residential construction and educational facilities.
- Adds an exception to the buffer zone described above in order to allow residential property within the buffer zone of a public-use airport that has as its sole runway a turf runway measuring less than 2,800 in length.

The bill will likely have an indeterminate negative fiscal impact on the state and an indeterminate positive fiscal impact on the private sector.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Advanced Air Mobility (AAM)

The term AAM is defined in federal law as a transportation system that transports people and property by air between two points in the United States using aircraft with advanced technologies, including electric aircraft, or electric vertical takeoff and landing (eVTOL) aircraft, in both controlled and uncontrolled airspace.<sup>1</sup>

Comparable with airports, AAM will be regulated by the FAA. The Federal Aviation Administration (FAA) is currently working with AAM stakeholders and engaging in rulemaking to enable AAM operations in the United States. The FAA has acknowledged that it expects to refine this framework by 2028 in order to integrate AAM systems and technology in the United States.<sup>2</sup>

##### *AAM in Florida*

Florida is a target market for early-stage AAM, and the AAM market is projected to reach more than \$1 trillion by 2040.<sup>3</sup> Therefore, the state of Florida, and specifically the Florida Department of Transportation (FDOT), has made efforts to embrace and prepare for the integration of AAM systems. For example, FDOT established an AAM working group of over 50 stakeholders to evaluate the feasibility of AAM utilization in the state and continues to engage with stakeholders.<sup>4</sup>

Many stakeholders, such as Original Equipment Manufacturers (OEMs) and their infrastructure partners are ready for early operations in Florida. Such entities include, but are not limited to, Archer, Beta, Blade, Ferrovial Vertiports, Joby, Lilium, Skyports Infrastructure, Supernal, Vertical, Volocopter, Wisk, and Mobility Reimagined.<sup>5</sup>

The entities such as Ferrovial and Skyports build, finance, and operate infrastructure specifically for eVTOL, such as vertiports.<sup>6</sup> Other entities, such as Blade, create platforms to allow passengers of AAMs to book rides. Finally, as detailed in figure 1 below, other major entities have developed their own unique AAM aircrafts. Benefits of these AAM aircrafts include, zero operating emissions and significantly lower noise profile than a traditional aircraft.<sup>7</sup>

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<sup>1</sup> AAM Coordination and Leadership Act, Pub. L. No. 117-203, 136 Stat. 2227 (Oct. 17, 2022).

<sup>2</sup> Federal Aviation Administration (FAA), *AAM Implementation Plan, Near-term (Innovative 28) Focus with an Eye on the Future of AAM Version 1.0*, (July 2023), <https://www.faa.gov/sites/faa.gov/files/AAM-128-Implementation-Plan.pdf> (last visited Jan. 23, 2024).

<sup>3</sup> FDOT, *AAM Presentation*, (Oct. 17, 2023),

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3250&Session=2024&DocumentType=Meeting+Packets&FileName=tms+10-17-23.pdf> (last visited Jan. 23, 2024). See also

Morgan Stanley, *Are Flying Cars Preparing for Takeoff?*, (Jan. 23, 2019),

[https://www.morganstanley.com/ideas/autonomous-](https://www.morganstanley.com/ideas/autonomous-aircraft#:~:text=The%20report%20projects%20a%20total,of%20sectors%20along%20the%20way.)

[aircraft#:~:text=The%20report%20projects%20a%20total,of%20sectors%20along%20the%20way.](https://www.morganstanley.com/ideas/autonomous-aircraft#:~:text=The%20report%20projects%20a%20total,of%20sectors%20along%20the%20way.) (last visited Jan 23, 2024).

<sup>4</sup> FDOT, *AAM Working Group Report Executive Summary*, (August 2023),









[https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/pdfs/fdot-aamwg-report-executive-summary--august-2023-final.pdf?sfvrsn=9ef90052\\_1](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/pdfs/fdot-aamwg-report-executive-summary--august-2023-final.pdf?sfvrsn=9ef90052_1) (last visited Jan. 23, 2024).

<sup>5</sup> *Supra* note 3, at p. 5.

<sup>6</sup> Vertiports are defined by the FAA as an area of land, or a structure, used or intended to be used, for electric, hydrogen, and hybrid VTOL aircraft landings and takeoffs and includes associated buildings and facilities. FAA, *Engineering Brief 105, Vertiport Design*, (Sep. 21, 2022), <https://www.faa.gov/sites/faa.gov/files/eb-105-vertiports.pdf>, p. 11 (last visited Jan 23, 2024).

<sup>7</sup> Florida House of Representatives, Transportation & Modals Subcommittee, *AAM Industry Overview*, (October 17, 2023), <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3250&Session=2024&DocumentType=Meeting+Packets&FileName=tms+10-17-23.pdf> (last visited Jan. 23, 2024).

**Figure 1: AAM Aircrafts<sup>8</sup>**

Archer	Joby	Lilium	Volocopter
			
Type: Pilot + 4 passengers Range: 75 miles Speed: 150 mph Bus. Model: UAM Cert: 2024	Type: Pilot + 4 passengers Range: 100 miles Speed: 200 mph Bus. Model: UAM Cert: 2025	Type: Pilot + 4 or 6 passengers Range: 110 miles Speed: 175 mph Bus. Model: RAM Cert: 2025	Type: Pilot + 1 passenger Range: 25 miles Speed: 55mph Bus. Model: UAM Cert: 2024 EIS: Paris 2024, Rome 2024
Eve Air Mobility	Wisk	BETA	
			
Type: Piloted + 4 passengers Range: 60 miles Speed: 125 mph Bus. Model: UAM Cert: 2025	Type: Self-flying, 4 passengers Range: 90 miles Speed: 138 mph Bus. Model: UAM Cert: Before 2030	Type: Piloted + Cargo or 5 passenger Range: Target 250 miles Speed: Over 100 mph Model: Cargo, RAM, or UAM Cert: eCTOL 2025; eVTOL 2026	Type: Piloted + 4 passengers Range: 90-125 miles Speed: 115 mph Bus. Model: RAM, UAM Cert: 2026

### Establishing a New Airport

Under Florida law, an owner or lessee of a proposed airport must, before site acquisition or construction or establishment of the proposed airport, obtain approval of the airport site from FDOT. Applications for approval of a site are made in a form and manner prescribed by FDOT.<sup>9</sup>

The following three steps are required for the airport application process in Florida:<sup>10</sup>

#### *Step 1: Obtain Local Zoning or Receive Confirmation Local Zoning is Not Applicable*

The applicant must receive and include a copy of all related correspondence from each city or county authority, including a statement that the proposed airport site is in compliance with local zoning requirements or that such requirements are not applicable.<sup>11</sup>

#### *Step 2: Receive FAA Airspace Approval*

The applicant must provide a copy of the notification to the FAA regarding the proposed airport site and a copy of the FAA's airspace approval correspondence given in response.<sup>12</sup>

#### *Step 3: Submit an Airport Site Approval Application to FDOT*

The documentation that must accompany this application includes a copy of property rights; facility

<sup>8</sup> *Id.*  
<sup>9</sup> S. 330.30(1)(a), F.S.  
<sup>10</sup> FDOT, *Establishing a New Airport, Heliport or Seaplane Base*, <https://www.fdot.gov/aviation/establishingnewairportheliportorseaplanebase> (last visited Jan. 23, 2024).  
<sup>11</sup> R. 14-60.005, F.A.C.  
<sup>12</sup> *Id.*

diagram; geodetic location map; location map; a list of nearby aviation facilities and notification of the proposed site to those airports; copies of notification letters to local governments; adjacent property owner notification and public notice of the proposed airport; location of waste sites within a certain distance from the airport; graphical depiction of the proposed air traffic patterns; confirmation that the runway and taxiway design have taken into account manufacturer's performance characteristics for the types of aircraft planned to be operated; security factors taken to secure the airport site from unauthorized access to safeguard airport and aircraft operations; and FAA approval.<sup>13</sup>

After the above steps have been taken by the applicant, FDOT must grant approval if it is satisfied that:

- The site has adequate area allocated for the airport as proposed;
- The proposed airport will conform to licensing or registration requirements and will comply with the applicable local government land development regulations or zoning requirements;
- All affected airports, local governments, and property owners have been notified and any comments submitted by them have been given adequate consideration; and
- That safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.<sup>14</sup>

If the airport is public, then site approval must be granted after a favorable FDOT inspection of the proposed site.<sup>15</sup> If the airport is a private entity, then no inspection of the proposed site is required in order to receive approval.<sup>16</sup> Site approval may be granted subject to any reasonable conditions FDOT deems necessary to protect the public health, safety, or welfare.<sup>17</sup>

Approval as a public airport or a private airport must remain valid for 2 years after the date of issue unless revoked by FDOT or unless a public airport license is issued or a private airport registration is completed before the expiration date.<sup>18</sup>

FDOT may revoke an airport site approval if it determines that:

- The site has been abandoned as an airport site;
- The site has not been developed as an airport within a reasonable time period or development does not comply with the conditions of the site approval;
- Except as required for in-flight emergencies, aircraft have operated on the site; or
- That the site is no longer usable for aviation purposes due to physical or legal changes in conditions that were the subject of the approval granted.<sup>19</sup>

FDOT must issue a license for a *public* airport if such airport was granted site approval and passes a final airport inspection by FDOT that determines if the airport is in compliance with all requirements for the license. The license may be subject to any reasonable conditions FDOT deems necessary to protect the public health, safety, or welfare.<sup>20</sup>

FDOT must issue a license for a *private* airport if such airport was granted site approval and completes the registration process. Registration must be completed upon self-certification by the registrant of operational and configuration data deemed necessary by FDOT.<sup>21</sup>

#### Airport Land Use Compatibility Zoning Regulations

Political subdivisions must adopt, administer, and enforce airport land use compatibility zoning regulations relating to airport hazard areas. The following are minimum requirements that political subdivisions must consider in their airport land use compatibility zoning regulations:<sup>22</sup>

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

<sup>14</sup> S. 330.30(1)(a), F.S.

<sup>15</sup> S. 330.30(1)(b), F.S.

<sup>16</sup> S. 330.30(1)(c), F.S.

<sup>17</sup> S. 330.30(1)(f), F.S.

<sup>18</sup> S. 330.30(1)(g), F.S.

<sup>19</sup> S. 330.30(1)(i), F.S.

<sup>20</sup> S. 330.30(2)(a), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> S. 333.03(2), F.S.



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

## **Effect of the Bill**

### Airports Generally

The bill amends the definition of “aircraft” and “airport” to specify particular types of aircraft and airports, respectively, that are covered by the current definitions of each, in order to bring clarity to the public regarding types of aircraft and airports that are subject to regulation. The bill further clarifies the definition of “airport” by using the term “airport operations”, rather than “landing and takeoff of aircraft”, in order to clearly cover operations such as taxiing on the runway. Additionally, the bill clarifies that the definition of “airport” covers areas where aircraft operations occur, even if there is only a runway and no associated buildings, facilities, etc. Lastly, the bill deletes the definition of “ultralight aircraft”, which is unnecessary since the term is defined in federal law.

### AAM

The bill specifies that the owner or lessee of a proposed vertiport must comply with requirements to obtain site approval and requirements to obtain an airport license or registration. In conjunction with the granting of site approval, FDOT must conduct a final physical inspection of the vertiport to ensure compliance with all the requirements for airport licensure or registration.

The bill provides that it is the intent of the Legislature to promote the development of vertical takeoff and landing aircraft and vertiports that will provide residents and visitors of this state with access to AAM operations.

The bill directs FDOT to serve as a resource for local governments and developers and operators of vertical takeoff and landing aircraft and vertiports, and FDOT must designate an AAM subject matter expert within its aviation office. The AAM expert must be a resource for local jurisdictions navigating advances in aviation technology, including vertical takeoff and landing aircraft, and electrification of aviation. The AAM subject matter expert must be located in the office of FDOT’s district that includes the City of Orlando, and the Greater Orlando Aviation Authority is designated as the AAM test site for this state.

By December 31, 2024, FDOT must provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report describing all of the following:

- The status of the AAM industry nationwide and of charging and fueling capabilities.
- Current and proposed airports where AAM operations are occurring or will occur.
- Advances in aviation technology relating to AAM.
- The status of federal regulations relevant to vertical takeoff and landing aircraft and vertiports, including any updates since the prior year's report to 14 C.F.R. part 77 or other relevant federal regulations.
- Recommendations for ways, including potential statutory changes, to facilitate land use compatibility around vertiports.
- AAM best practices.
- Recommendations for increased FDOT personnel to accommodate necessary inspections of AAM operations.
- Recommendations for ways, including potential statutory changes, to incorporate AAM in the Department of Transportation's Strategic Intermodal System.
- Ways the Department of Transportation may use, promote, and further AAM for the public good, including, but not limited to, medical transportation, emergency services, law enforcement, and disaster relief.
- The future infrastructure needed to support and further AAM operations.

#### Airport Land Use Compatibility Zoning Regulations

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

#### Effective Date

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

#### B. SECTION DIRECTORY:

- Section 1** Amends s. 330.27, F.S., relating to definitions.
- Section 2** Amends s. 330.30, F.S., relating to approval of airport sites; registration, and licensure of airports.
- Section 3** Amends s. 332.006, F.S., relating to duties and responsibilities of the Department of Transportation.
- Section 4** Creates s. 332.15, F.S., relating to advanced air mobility.
- Section 5** Amends s. 333.03, F.S., relating to requirement to adopt airport zoning regulations.
- Section 6** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

##### 2. Expenditures:

The bill will have an indeterminate negative fiscal impact on FDOT, as it requires FDOT to submit a report by December 31, 2024. The bill also requires FDOT, within budgeted agency resources, to designate an AAM subject matter expert who will be located in the office of FDOT District 5.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

Indeterminate. The bill may promote the development of the AAM industry in Florida.

**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 governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

1                                   A bill to be entitled  
 2           An act relating to aviation; amending s. 330.27, F.S.;  
 3           revising definitions; amending s. 330.30, F.S.;  
 4           requiring the owner or lessee of a proposed vertiport  
 5           to comply with specified requirements; requiring the  
 6           department to conduct a specified inspection of a  
 7           vertiport; amending s. 332.006, F.S.; requiring the  
 8           department to designate a subject matter expert for  
 9           advanced air mobility; providing location and purpose  
 10          of such expert; creating s. 332.15, F.S.; providing  
 11          legislative intent; providing duties of the  
 12          department; requiring a report to the Governor and  
 13          Legislature; designating the Greater Orlando Aviation  
 14          Authority as the advanced air mobility test site for  
 15          this state; amending s. 333.03, F.S.; revising  
 16          requirements for the adoption of airport land use  
 17          compatibility zoning regulations; providing an  
 18          effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Subsections (1), (2), and (8) of section  
 23   330.27, Florida Statutes, are amended to read:  
 24           330.27 Definitions, when used in ss. 330.29-330.39.—  
 25           (1) "Aircraft" means a powered or unpowered machine or

26 | device capable of atmospheric flight, including but not limited  
 27 | to airplanes, autogyros, gliders, gyrodyne, helicopters, lift  
 28 | and cruise, multicopter, paramotors, powered lift, seaplanes,  
 29 | tiltrotors, ultralights, and vectored thrust, except a parachute  
 30 | or other such device used primarily as safety equipment.

31 | (2) "Airport" means an area of land or water used for, or  
 32 | intended to be used for, ~~landing and takeoff of aircraft~~  
 33 | operations, which may include including appurtenant areas,  
 34 | buildings, facilities, or rights-of-way necessary to facilitate  
 35 | such use or intended use, if any exist. The term includes, but  
 36 | is not limited to, airparks, airports, gliderports, heliports,  
 37 | helistops, seaplane bases, ultralight flightparks, vertiports,  
 38 | and vertistops.

39 | ~~(8) "Ultralight aircraft" means any aircraft meeting the~~  
 40 | ~~criteria established by part 103 of the Federal Aviation~~  
 41 | ~~Regulations.~~

42 | Section 2. Subsections (3) and (4) of section 330.30,  
 43 | Florida Statutes, are renumbered as subsections (4) and (5),  
 44 | respectively, paragraph (a) of subsection (1), paragraph (a) of  
 45 | subsection (2), and present subsection (4) are amended, and a  
 46 | new subsection (3) is added to that section, to read:

47 | 330.30 Approval of airport sites; registration and  
 48 | licensure of airports.—

49 | (1) SITE APPROVALS; REQUIREMENTS, EFFECTIVE PERIOD,  
 50 | REVOCATION.—

51 (a) Except as provided in subsection (4) ~~(3)~~, the owner or  
 52 lessee of a proposed airport shall, before site acquisition or  
 53 construction or establishment of the proposed airport, obtain  
 54 approval of the airport site from the department. Applications  
 55 for approval of a site shall be made in a form and manner  
 56 prescribed by the department. The department shall grant the  
 57 site approval if it is satisfied:

58 1. That the site has adequate area allocated for the  
 59 airport as proposed.

60 2. That the proposed airport will conform to licensing or  
 61 registration requirements and will comply with the applicable  
 62 local government land development regulations or zoning  
 63 requirements.

64 3. That all affected airports, local governments, and  
 65 property owners have been notified and any comments submitted by  
 66 them have been given adequate consideration.

67 4. That safe air-traffic patterns can be established for  
 68 the proposed airport with all existing airports and approved  
 69 airport sites in its vicinity.

70 (2) LICENSES AND REGISTRATIONS; REQUIREMENTS, RENEWAL,  
 71 REVOCATION.—

72 (a) Except as provided in subsection (4) ~~(3)~~, the owner or  
 73 lessee of an airport in this state shall have a public airport  
 74 license, private airport registration, or temporary airport  
 75 registration before the operation of aircraft to or from the

76 | airport. Application for a license or registration shall be made  
 77 | in a form and manner prescribed by the department.

78 |         1. For a public airport, upon granting site approval, the  
 79 | department shall issue a license after a final airport  
 80 | inspection finds the airport to be in compliance with all  
 81 | requirements for the license. The license may be subject to any  
 82 | reasonable conditions the department deems necessary to protect  
 83 | the public health, safety, or welfare.

84 |         2. For a private airport, upon granting site approval, the  
 85 | department shall provide controlled electronic access to the  
 86 | state aviation facility data system to permit the applicant to  
 87 | complete the registration process. Registration shall be  
 88 | completed upon self-certification by the registrant of  
 89 | operational and configuration data deemed necessary by the  
 90 | department.

91 |         3. For a temporary airport, the department must publish  
 92 | notice of receipt of a completed registration application in the  
 93 | next available publication of the Florida Administrative  
 94 | Register and may not approve a registration application less  
 95 | than 14 days after the date of publication of the notice. The  
 96 | department must approve or deny a registration application  
 97 | within 30 days after receipt of a completed application and must  
 98 | issue the temporary airport registration concurrent with the  
 99 | airport site approval. A completed registration application that  
 100 | is not approved or denied within 30 days after the department

101 receives the completed application is considered approved and  
 102 shall be issued, subject to such reasonable conditions as are  
 103 authorized by law. An applicant seeking to claim registration by  
 104 default under this subparagraph must notify the agency clerk of  
 105 the department, in writing, of the intent to rely upon the  
 106 default registration provision of this subparagraph and may not  
 107 take any action based upon the default registration until after  
 108 receipt of such notice by the agency clerk.

109 (3) VERTIPOINTS.—On or after July 1, 2024, the owner or  
 110 lessee of a proposed vertiport must comply with subsection (1)  
 111 in obtaining site approval and subsection (2) in obtaining an  
 112 airport license or registration. In conjunction with the  
 113 granting of site approval, the department must conduct a final  
 114 physical inspection of the vertiport to ensure compliance with  
 115 all the requirements for airport licensure or registration.

116 (5)~~(4)~~ EXCEPTIONS.—Private airports with 10 or more based  
 117 aircraft may request to be inspected and licensed by the  
 118 department. Private airports licensed according to this  
 119 subsection shall be considered private airports as defined in s.  
 120 330.27 ~~s. 330.27(5)~~ in all other respects.

121 Section 3. Subsection (10) is added to section 332.006,  
 122 Florida Statutes, to read:

123 332.006 Duties and responsibilities of the Department of  
 124 Transportation.—The Department of Transportation shall, within  
 125 the resources provided pursuant to chapter 216:



126 (10) Designate a subject matter expert for advanced air  
 127 mobility within the department's aviation office. The advanced  
 128 air mobility subject matter expert shall be:

129 (a) Located in the office of the department's district  
 130 that includes the City of Orlando.

131 (b) A resource for local jurisdictions navigating advances  
 132 in aviation technology, including vertical takeoff and landing  
 133 aircraft, and electrification of aviation.

134 Section 4. Section 332.15, Florida Statutes, is created to  
 135 read:

136 332.15 Advanced air mobility.-

137 (1) It is the intent of the Legislature to promote the  
 138 development of vertical takeoff and landing aircraft and  
 139 vertiports that will provide residents and visitors of this  
 140 state with access to advanced air mobility operations.

141 (2) The Department of Transportation shall:

142 (a) Serve as a resource for local governments and  
 143 developers and operators of vertical takeoff and landing  
 144 aircraft and vertiports.

145 (b) By December 31, 2024, provide to the Governor, the  
 146 President of the Senate, and the Speaker of the House of  
 147 Representatives a report describing all of the following:

148 1. The status of the advanced air mobility industry  
 149 nationwide and of charging and fueling capabilities.

150 2. Current and proposed airports where advanced air

151 mobility operations are occurring or will occur.

152 3. Advances in aviation technology relating to advanced  
 153 air mobility.

154 4. The status of federal regulations relevant to vertical  
 155 takeoff and landing aircraft and vertiports, including any  
 156 updates since the prior year's report to 14 C.F.R. part 77 or  
 157 other relevant federal regulations.

158 5. Recommendations for ways, including potential statutory  
 159 changes, to facilitate land use compatibility around vertiports.

160 6. Advanced air mobility best practices.

161 7. Recommendations for increased Department of  
 162 Transportation personnel to accommodate necessary inspections of  
 163 advanced air mobility operations.

164 8. Recommendations for ways, including potential statutory  
 165 changes, to incorporate advanced air mobility in the Department  
 166 of Transportation's Strategic Intermodal System.

167 9. Ways the Department of Transportation may use, promote,  
 168 and further advanced air mobility for the public good,  
 169 including, but not limited to, medical transportation, emergency  
 170 services, law enforcement, and disaster relief.

171 10. The future infrastructure needed to support and  
 172 further advanced air mobility operations.

173 (4) The Greater Orlando Aviation Authority is designated  
 174 as the advanced air mobility test site for this state.

175 Section 5. Subsection (2) of section 333.03, Florida

176 Statutes, is amended to read:

177 333.03 Requirement to adopt airport zoning regulations.—

178 (2) In the manner provided in subsection (1), political  
 179 subdivisions shall adopt, administer, and enforce airport land  
 180 use compatibility zoning regulations. At a minimum, airport land  
 181 use compatibility zoning regulations must address ~~shall, at a~~  
 182 ~~minimum, consider~~ the following:

183 (a) The prohibition of new landfills and the restriction  
 184 of existing landfills within the following areas:

185 1. Within 10,000 feet from the nearest point of any runway  
 186 used or planned to be used by turbine aircraft.

187 2. Within 5,000 feet from the nearest point of any runway  
 188 used by only nonturbine aircraft.

189 3. Outside the perimeters defined in subparagraphs 1. and  
 190 2., but still within the lateral limits of the civil airport  
 191 imaginary surfaces defined in 14 C.F.R. s. 77.19. Case-by-case  
 192 review of such landfills is advised.

193 (b) When ~~Where~~ any landfill is located and constructed in  
 194 a manner that attracts or sustains hazardous bird movements from  
 195 feeding, water, or roosting areas into, or across, the runways  
 196 or approach and departure patterns of aircraft. The landfill  
 197 operator must incorporate bird management techniques or other  
 198 practices to minimize bird hazards to airborne aircraft.

199 (c) When ~~Where~~ an airport authority or other governing  
 200 body operating a public-use airport has conducted a noise study

201 in accordance with 14 C.F.R. part 150, or where a public-use  
202 airport owner has established noise contours pursuant to another  
203 public study accepted by the Federal Aviation Administration,  
204 the prohibition of incompatible uses, as established in the  
205 noise study in 14 C.F.R. part 150, Appendix A or as a part of an  
206 alternative Federal Aviation Administration-accepted public  
207 study, within the noise contours established by any of these  
208 studies, except if such uses are specifically contemplated by  
209 such study with appropriate mitigation or similar techniques  
210 described in the study.

211 (d) When ~~Where~~ an airport authority or other governing  
212 body operating a public-use airport has not conducted a noise  
213 study, the prohibition ~~mitigation~~ of ~~potential incompatible uses~~  
214 ~~associated with~~ residential construction and ~~any~~ educational  
215 facilities ~~facility~~, with the exception of aviation school  
216 facilities or residential property near a public-use airport  
217 that has as its sole runway a turf runway measuring less than  
218 2,800 feet in length, within an area contiguous to the airport  
219 measuring one-half the length of the longest runway on either  
220 side of and at the end of each runway centerline.

221 (e) The restriction of new incompatible uses, activities,  
222 or substantial modifications to existing incompatible uses  
223 within runway protection zones.

224 Section 6. This act shall take effect July 1, 2024.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1045 Student Transportation Safety

**SPONSOR(S):** Michael

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 994

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

### SUMMARY ANALYSIS

Florida law expressly preempts to the state the regulation of the use of cameras for enforcing the Florida Uniform Traffic Control Law. The only cameras currently authorized to enforce traffic laws are traffic infraction detectors (commonly known as red light cameras), speed detection systems used to enforce school zone speed limits for violations in excess of 10 miles per hour over the speed limit, and school bus infraction detection systems.

A school bus infraction detection system is a camera system affixed to a school bus with two or more camera sensors or computers that produce a recorded video and two or more film or digital photographic still images for the purpose of documenting a motor vehicle being used or operated in a manner that allegedly violates the laws relating to traffic stopping for a school bus. Florida law authorizes school districts to install and operate a school bus infraction detection system on a school bus to enforce such laws.

The bill makes several changes to provisions relating to the use of school bus infraction detection systems, some of which include:

- Authorizing charter schools and private schools to install and operate a school bus infraction detection system on a school bus.
- No longer prohibiting:
  - An individual from receiving a commission from any revenue collected from violations detected through the use of a school bus infraction detection system.
  - A private vendor or manufacturer from receiving a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system.
- Authorizing traffic infraction enforcement officers and certified school board security agencies that employ law enforcement officers to enforce laws relating to traffic stopping for a school bus.
- Making changes to the notice of violation process and providing a process to contest a notice of violation through use of a local hearing officer.
- Revising requirements for signage posted on the rear of a school bus indicating use of a school bus infraction detection system by no longer requiring the signage to be reflective.
- Revising the use for civil penalties assessed and collected for a violation enforced by a school bus infraction detection system.
- Amending provisions relating to use of camera footage.
- Amending reporting requirements
- Amending the authority of certain police departments in order to authorize their use of school bus infraction detection systems.

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

The bill is effective upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Use of Cameras for Traffic Enforcement

Florida law expressly preempts to the state the regulation of the use of cameras for enforcing the Florida Uniform Traffic Control Law.<sup>1</sup> The only cameras currently authorized to enforce traffic laws are traffic infraction detectors (commonly known as red light cameras),<sup>2</sup> speed detection systems used to enforce school zone speed limits for violations in excess of 10 miles per hour over the speed limit,<sup>3</sup> and school bus infraction detection systems.<sup>4</sup>

##### School Bus Infraction Detection Systems

Under Florida law, a school bus infraction detection system is a camera system affixed to a school bus with two or more camera sensors or computers that produce a recorded video and two or more film or digital photographic still images for the purpose of documenting a motor vehicle being used or operated in a manner that allegedly violates the following laws relating to traffic stopping for a school bus:<sup>5</sup>

- Any person using, operating, or driving a vehicle on or over the roads or highways of this state must, upon approaching any school bus which displays a stop signal, bring such vehicle to a full stop while the bus is stopped, and the vehicle must not pass the school bus until the signal has been withdrawn.<sup>6</sup>
- Any person using, operating, or driving a vehicle must not pass a school bus on the side that children enter and exit when the school bus displays a stop signal.<sup>7</sup>

Florida law authorizes school districts to install and operate a school bus infraction detection system on a school bus to enforce such laws.<sup>89</sup>

School districts may contract with a private vendor or manufacturer to install a school bus infraction detection system on any school bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance of the system. The school district's decision to install school bus infraction systems must be based solely on the need to increase public safety. An individual may not receive a commission from any revenue collected from violations detected through the use of a school bus infraction detection system. A private vendor or manufacturer may not receive a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system.<sup>10</sup>

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<sup>1</sup> S. 316.0076, F.S. Ch. 316, F.S., is the Florida Uniform Traffic Control Law.

<sup>2</sup> Section 316.003(100), F.S., defines the term "traffic infraction detector" to mean a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s. 316.0083(1)(b), F.S., or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated. *See also* s. 316.0083, F.S., relating to the Mark Wandall Traffic Safety Program.

<sup>3</sup> Ss. 316.003(82), 316.008(9), 316.0776(3), and 316.1896, F.S.

<sup>4</sup> Ss. 316.003(78) and 316.173, F.S.

<sup>5</sup> S. 316.003(78), F.S.

<sup>6</sup> S. 316.172(1)(a), F.S.

<sup>7</sup> S. 316.172(1)(b), F.S.

<sup>8</sup> S. 316.173(1)(a), F.S.

<sup>9</sup> S. 1006.21(3)(h), F.S., provides that a district school board, after considering recommendations of the district school superintendent may install and operate, or enter into an agreement with a private vendor or manufacturer to provide, a school bus infraction detection system.

<sup>10</sup> S. 316.173(1)(b), F.S.

The school district must ensure that each school bus infraction detection system meets specifications established by the State Board of Education (SBE) and must be tested at regular intervals according to specifications prescribed by SBE rule. The SBE must establish such specifications by rule on or before December 31, 2023. Equipment acquired via an agreement entered into by a school district on or before December 31, 2023, is not required to meet SBE specifications until July, 1, 2024.<sup>11</sup>

A school district that elects to install a school bus infraction detection system must enter into an interlocal agreement with one or more law enforcement agencies authorized to enforce violations, within the school district which jointly establishes the responsibilities of enforcement and the reimbursement of costs associated with school bus infraction detection systems.<sup>12</sup>

Any school bus in which a school bus infraction detection system is installed and operational, the school district must post high-visibility reflective signage on the rear of the school bus which indicates the use of such system. The signage must be in the form of one or more signs or stickers and must contain the following elements in substantially the following form:

- The words “STOP WHEN RED LIGHTS FLASH” or “DO NOT PASS WHEN RED LIGHTS FLASH.”
- The words “CAMERA ENFORCED.”
- A graphic depiction of a camera.<sup>13</sup>

If a school district that has never conducted a school bus infraction detection system program begins such a program, the school district must make a public announcement and conduct a public awareness campaign at least 30 days before commencing enforcement. The school district must notify the public of the specific date on which the program will commence and, during the 30-day public awareness campaign, only a warning may be issued for a violation that is enforced by a school bus infraction detection system, and a civil penalty may not be imposed.<sup>14</sup>

Within 30 days after an alleged violation is recorded by a school bus infraction detection system, the school district or the private vendor or manufacturer with whom the school district has entered into a contract, must submit the following information to a law enforcement agency that has entered into an interlocal agreement with the school district and has traffic infraction enforcement jurisdiction at the location where the alleged violation occurred:

- A copy of the recorded video and images showing the motor vehicle’s alleged violations;
- The motor vehicle’s license plate number and the state of issuance of the motor vehicle’s license plate; and
- The date, time, and location of the alleged violation.<sup>15</sup>

Within 30 days after receiving the information required above, the law enforcement agency, if it determines that the motor vehicle violated the laws relating to traffic stopping for a school bus, must send notice of violation to the registered owner of the motor vehicle involved in the violation specifying the remedies available under s. 318.14, F.S.,<sup>16</sup> and that the violator must pay the penalty under s. 318.18(5), F.S.,<sup>17</sup> or furnish an affidavit within 30 days after the date the notice of violation is sent in order to avoid court fees, costs, and the issuance of a uniform traffic citation. The notice of violation must be sent by first-class mail and include all of the following:

- A copy of one or more recorded images showing the motor vehicle involved in the violation, including an image showing the license plate of the motor vehicle;

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<sup>11</sup> S. 316.173(1)(c) and (18), F.S.

<sup>12</sup> S. 316.173(1)(d), F.S.

<sup>13</sup> S. 316.173(2), F.S.

<sup>14</sup> S. 316.173(3), F.S.

<sup>15</sup> S. 316.173(4), F.S.

<sup>16</sup> S. 318.14, F.S., provides procedures for noncriminal traffic infractions.

<sup>17</sup> S. 318.18(5), F.S., provides a minimum penalty of \$200 for a failure to stop for a school bus and a minimum penalty of \$200 for passing a school bus on the side that children enter and exit if the violation is enforced by a school bus infraction detection system. In addition to these penalties, if the alleged offender is found to have committed the offense and it is enforced by a school bus infraction detection system, then the court must impose the civil penalty aforementioned plus an additional \$25.



- The date, time, and location of the violation;
- The amount of the civil penalty, the date by which the civil penalty must be paid, and instructions on how to pay the civil penalty;
- Instructions on how to request a hearing to contest liability or the notice of violation;
- A notice that the owner has the right to review, in person or remotely, the video and images recorded by the school bus infraction detection system which constitute a rebuttable presumption that the motor vehicle was used in violation of law;
- The time when, and the place or website at which, the recorded video and images may be examined and observed; and
- A warning that failure to pay the civil penalty or to contest liability within 30 days after the notice is mailed will result in the issuance of a uniform traffic citation.<sup>18</sup>

If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or an authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation.<sup>19</sup>

Civil penalties assessed and collected for a violation enforced by a school bus infraction detection system must be remitted to the school district in which the violation occurred. Such civil penalties must be used for the installation or maintenance of school bus infraction detection systems on school buses, for any other technology that increases the safety of the transportation of students, or for the administration and costs associated with the enforcement of violations.<sup>20</sup>

A uniform traffic citation is to be issued by mailing the uniform traffic citation by certified mail to the address of the registered owner of the motor vehicle involved in the violation if payment has not been made within 30 days after the notice of violation and if the registered owner has not submitted an affidavit supporting an exception.<sup>21</sup>

Delivery of the uniform traffic citation constitutes notification of a violation. If the registered owner or co-owner of the motor vehicle; the person identified as having care, custody, or control of the motor vehicle at the time of the violation; or a duly authorized representative of the owner, co-owner, or identified person initiates a proceeding to challenge the citation, such person waives any challenge or dispute as to delivery of the uniform traffic citation.<sup>22</sup>

In the case of joint ownership of a motor vehicle, the uniform traffic citation must be mailed to the first name appearing on the motor vehicle registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.<sup>23</sup>

The uniform traffic citation mailed to the registered owner of the motor vehicle involved in the violation must be accompanied by information that was also included in the notice of violation.<sup>24</sup>

The registered owner of the motor vehicle involved in the violation is responsible and liable for paying the uniform traffic citation issued for a violation of the laws relating to traffic stopping for a school bus, unless the owner can establish that:

- The motor vehicle was, at the time of the violation, in the care, custody, or control of another person;
- A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation; or

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<sup>18</sup> S. 316.173(5), F.S.

<sup>19</sup> S. 316.173(6), F.S.

<sup>20</sup> S. 316.173(7), F.S.

<sup>21</sup> S. 316.173(8), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

- The motor vehicle's owner was deceased on or before the date of the alleged violation, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other identified person or family member.<sup>25</sup>

To establish the above facts, the registered owner of the motor vehicle must, within 30 days after the date of issuance of the notice of violation or the traffic citation, furnish to the law enforcement agency an affidavit setting forth information supporting an exception:

- An affidavit stating that the motor vehicle was, at the time of the violation, in the care, custody, or control of another person must include the name, address, date of birth, and, if known, the driver license number of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle at the time of the alleged violation. If the motor vehicle was stolen at the time of the alleged violation, the affidavit must include the police report indicating that the motor vehicle was stolen.
- If a uniform traffic citation for a violation was issued at the location of the violation by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.
- If the motor vehicle's owner to whom a uniform traffic citation has been issued is deceased, the affidavit must include a certified copy of the owner's death certificate showing that the date of death occurred on or before the date of the alleged violation and one of the following:
  - A bill of sale or other document showing that the deceased owner's motor vehicle was sold or transferred after his or her death but on or before the date of the alleged violation.
  - Documented proof that the registered license plate belonging to the deceased owner's motor vehicle was returned to the Department of Highway Safety and Motor Vehicles (DHSMV) or any branch office or authorized agent of the DHSMV after his or her death but on or before the date of the alleged violation.
  - A copy of the police report showing that the deceased owner's registered license plate or motor vehicle was stolen after his or her death but on or before the date of the alleged violation.<sup>26</sup>

Upon receipt of the required affidavit and documentation specified above related to the issuance of a uniform traffic citation or a deceased owner, or 30 days after the date of issuance of a notice of violation sent to a person identified as having care, custody, or control of the motor vehicle at the time of the violation, the county or municipality must dismiss the notice or citation and provide proof of such dismissal to the person who submitted the affidavit. If, within 30 days after the date a notice of violation was sent to a person, the county or municipality receives an affidavit from the person sent a notice of violation affirming that the person did not have care, custody, or control of the motor vehicle at the time of the violation, the county or municipality must notify the registered owner that the notice or citation will not be dismissed due to failure to establish that another person had care, custody, or control of the motor vehicle at the time of the violation.<sup>27</sup>

Upon receipt of an affidavit that another person had care, custody, and control of the motor vehicle, the law enforcement agency may issue the person identified as having care, custody, or control of the motor vehicle at the time of the violation a notice of violation. The affidavit is admissible in a proceeding pursuant to this section for the purpose of providing evidence that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased motor vehicle for which a uniform traffic citation is issued for a violation of s. 316.172(1)(a) or (b), F.S., is not responsible for paying the uniform traffic citation and is not required to submit an affidavit if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.<sup>28</sup>

If a law enforcement agency receives an affidavit identifying another person having care, custody, or control of the vehicle, the required notice of violation must be sent to the person identified in the affidavit within 30 days after receipt of the affidavit. The person identified in an affidavit and sent a notice of violation may also affirm he or she did not have care, custody, or control of the motor vehicle

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<sup>25</sup> S. 316.173(9), F.S.

<sup>26</sup> S. 316.173(10), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> 316.173(11), F.S.

at the time of the violation by furnishing to the appropriate law enforcement agency within 30 days after the date of the notice of violation an affidavit stating such.<sup>29</sup>

The submission of a false affidavit is a misdemeanor of the second degree<sup>30</sup>, punishable with up to 60 days in jail or a \$500 fine.<sup>31</sup>

The video and images by a school bus infraction detection system which are attached to or referenced in the traffic citation are evidence of a violation and are admissible in any proceeding. The recorded and video images raise a rebuttable presumption that the motor vehicle shown in the recorded and video images was used in violation of the laws relating to stopping for a school bus.<sup>32</sup>

Notwithstanding any other law, equipment deployed as part of a school bus infraction detection system may not be capable of automated or user-controlled remote surveillance.<sup>33</sup>

Any recorded video or still image obtained through the use of a school bus infraction detection system must be destroyed within 90 days after the final disposition of the recorded event. The vendor of the school bus infraction detection system must provide the school district with written notice by December 31 of each year that such records have been destroyed. Registered motor vehicle owner information obtained as a result of the operation of a school bus infraction detection system is not the property of the manufacturer or vendor of the system and may be used only for specified purposes.<sup>34</sup>

To the extent practicable, a school bus infraction detection system may use necessary technology to ensure that personal identifying information contained in the video or still images recorded by the system which is not relevant to the alleged violation is sufficiently obscured so as not to reveal such personal identifying information. A notice of a violation or uniform traffic citation may not be dismissed solely because a recorded video or still images reveal personal identifying information as long as a reasonable effort has been made to comply with the privacy provisions.<sup>35</sup>

By October 1, 2023, and quarterly thereafter, each school district, in consultation with the law enforcement agencies with which it has interlocal agreements, operating a school bus infraction detection system must submit a report to DHSMV which details the results of the school bus infraction detection systems in the school district in the preceding quarter. The information submitted by the school district must be submitted in a form and manner determined by DHSMV, which DHSMV must make available to the school districts by August 1, 2023, and must include, at least the:

- The number of school buses that have a school bus infraction detection system installed, including the date of installation and, if applicable, the date the systems were removed.
- The number of notices of violations issued and the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic citations, and the number that were paid.
- Data for each to determine the locations in need of safety improvements. Such data must include, but is not limited to, global positioning system coordinates of the infraction, the date and time of the infraction, and the name of the school to or from which the school bus was transporting students.
- Any other statistical data and information required by DHSMV to complete the report required below.<sup>36</sup>

Each school district that operates a school bus infraction detection system is responsible for and must maintain its respective data for reporting purposes for at least 2 years after such data is reported to DHSMV.<sup>37</sup>

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<sup>29</sup> S. 316.173 (12), F.S.

<sup>30</sup> S. 316.173 (13), F.S.

<sup>31</sup> This is as provided in s.775.082, F.S., or s. 775.083, F.S.

<sup>32</sup> S. 316.173(14), F.S.

<sup>33</sup> S. 316.173(16), F.S.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> S. 316.173(17)(a), F.S.

By December 31, 2024, and annually thereafter, DHSMV must submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, regarding the use and operation of school bus infraction detection systems along with DHSMV's recommendations and any recommended legislation. The summary report must include a review of the information submitted to DHSMV by the school districts and must describe the enhancement of traffic safety and enforcement programs.<sup>38</sup>

### **Effect of the Bill**

The bill makes changes to provisions relating to the use of school bus infraction detection systems by removing the prohibition on commissions and fee-sharing, authorizing charter schools and private schools to install and operate a school bus infraction detection system on a school bus, authorizing traffic infraction enforcement officers and certain school board security agencies to issue school bus passing infractions, making changes to the notice of violation process, providing a process to contest a notice of violation through use of a local hearing officer, amending school bus signage requirements, amending provisions relating to civil penalties, amending provisions relating to use of camera footage, amending reporting requirements, and amending the authority of certain police departments in order to authorize their use school bus infraction detection systems.

#### *Prohibition on Commissions and Fee-Sharing*

The bill removes the following prohibitions in current law:

- An individual may not receive a commission from any revenue collected from violations detected through the use of a school bus infraction detection system.
- A private vendor or manufacturer may not receive a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system.

#### *Traffic Infraction Enforcement Officers*

The bill authorizes traffic infraction enforcement officers and certified school board security agencies that employ law enforcement officers to enforce school bus passing infractions. A school safety officer who successfully completes instruction in traffic enforcement procedures and court presentation may be authorized by a county, municipality, or applicable school entity as a traffic infraction enforcement officer and may issue notices of violation and uniform traffic citations under s. 316.173, F.S., within the county in which the school district, charter school, or private school is located.

#### *Notice of Violation and Local Hearing Officer Process*

For purposes of the school bus infraction detection systems, the bill defines a local hearing officer to mean a person that:

- Is designated by a school district, charter school, or private school to issue traffic citations under laws relating to the school bus infraction system.
- Is authorized to conduct hearings related to a notice of violation issued.

The local hearing officer may:

- Be an attorney in good standing with The Florida Bar for at least 5 years.
- Serve in such office for one or more school entities, and such service does not constitute dual officeholding as prohibited by s. 5(a), Art. II of the State Constitution.
- Be the local hearing officer of a county or municipality.

The bill authorizes a notice of violation for a school bus passing infraction to be sent by an *agent* of law enforcement or by a traffic infraction enforcement officer.

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<sup>37</sup> S. 316.173(17)(b), F.S.

<sup>38</sup> S. 316.173(17)(c), F.S.

The bill allows, in lieu of hearings administered by a county traffic court, that the governing board of a school entity, by resolution, may establish the following hearing procedures:

- DHSMV must publish and make available electronically to each school entity's governing board a model request for hearing form. The form must include the option for a petitioner to choose whether to attend the hearing in person or virtually.
- The school district, charter school, or private school must designate existing staff or a designated staff agent to serve as the clerk to the local hearing officer.
- A petitioner who elects to request a hearing must be scheduled for a hearing by the clerk to the local hearing officer. The petitioner may appear before a local hearing officer in person or virtually, with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk to the local hearing officer, at least 5 calendar days before the day of the originally scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the penalty assessed under s. 318.18, F.S.,<sup>39</sup> plus \$50 in administrative costs, before the start of the hearing.
- All testimony at the hearing must be under oath and recorded. The local hearing officer must take testimony from a traffic infraction enforcement officer, or law enforcement agency designee, and the petitioner, and may take testimony from others. The local hearing officer must review the video and images. Formal rules of evidence do not apply, but due process and the preponderance of evidence standard shall be observed and govern the proceedings.
- At the conclusion of the hearing, the local hearing officer must determine whether a violation has occurred, in which case the hearing officer shall uphold or dismiss the violation. The local hearing officer must issue a final administrative order including the determination and, if the notice of violation is upheld, require the petitioner to pay the penalty previously assessed under s. 318.18<sup>40</sup>, and may also require the petitioner to pay school entity costs, including local hearing officer and hearing administrative costs, not to exceed \$250. The final administrative order shall be mailed to the petitioner by first-class mail.
- Allow for an aggrieved party to appeal a final administrative order consistent with the process provided under s. 162.11, F.S.<sup>41</sup>

### *School Bus Signage*

The bill revises requirements for signage posted on the rear of a school bus indicating use of a school bus infraction detection system by no longer requiring the signage to be reflective.

### *Civil Penalties*

The bill provides that the civil penalties assessed and collected via the enforcement of a school bus infraction detection system must be remitted to the school district in which the violation occurred or to the charter school or private school that reported the violation.

The bill revises the use for civil penalties assessed and collected for a violation enforced by a school bus infraction detection system. Such penalties must be used for the installation, operation, or maintenance of school bus infraction detection systems on school buses, including student transportation safety initiatives, driver recruitment and retention stipends, or other student transportation safety enhancements, or for administration and costs associated with the enforcement of the violations.

The bill clarifies that the \$25 civil penalty provided in s. 318.18(5)(c), F.S., applies to a notice of violation. The bill provides that this fee must be remitted to the participating school district, charter school, or private school operating the school bus with a school bus infraction detection system.

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<sup>39</sup> *Supra* note 17.

<sup>40</sup> *Supra* note 17.

<sup>41</sup> S. 162.11, F.S. provides that an aggrieved party may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal must not be a hearing de novo but must be limited to appellate review of the record created before the enforcement board. An appeal must be filed within 30 days of the execution of the order to be appealed.

### *Use of Camera Footage*

The bill provides that a school bus infraction detection system may not be used for remote surveillance, and the collection of evidence by a school bus infraction detection system to enforce violations does not constitute remote surveillance.

The bill provides that a school bus infraction detection system may only be used for traffic enforcement and for purposes of determining criminal or civil liability for incidents captured by the school bus infraction detection system incidental to the permissible use of the school bus infraction detection system.

### *Reporting Requirements*

The bill revises the quarterly report requirements due to DHSMV by:

- Requiring that such report which details the results of the school bus infraction detection systems must be made by each school district, charter school, or private school, in consultation with the law enforcement agencies with which it has interlocal agreements or with designated traffic infraction enforcement officers.
- Providing that DHSMV must make the acquired report information available to school districts by August 1, 2023, and to charter schools and private schools by August 1, 2024.
- Amending the data requirements of the report to allow flexibility and no longer expressly mandating the data to include global positioning system coordinates of the infraction, the date and time of the infraction, and the name of the school that the school bus was transporting students to or from.

### *Authority of Certain Police Departments to Use School Bus Infraction Detection Systems*

The bill provides that the authority of a police department of each chartered municipality to enforce traffic laws throughout the municipality includes the authority for such police department to use school bus infraction detection systems.

### **Effective Date**

The bill is effective upon becoming law.

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

**Section 1** Amends s. 316.003, F.S., relating to definitions.

**Section 2** Amends s. 316.173, F.S., relating to school bus infraction detection systems.

**Section 3** Amends s. 316.640, F.S., relating to enforcement.

**Section 4** Amends s. 318.18, F.S., relating to amount of penalties.

**Section 5** Provides effective date upon becoming law.

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

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

##### **1. Revenues:**

None.

##### **2. Expenditures:**

Indeterminate. To the extent that governing boards of school entities elect to establish by resolution the new hearing procedures outlined in the bill, DHSMV will be required to provide such entities with a model request for hearing form, which may incur programming costs. Also, with the addition of private schools and charter schools, DHSMV could receive data from more schools, which administratively may have a negative fiscal impact on DHSMV due to the extra work involved with creating the annual summary report.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Indeterminate.

2. Expenditures:

Indeterminate.

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

Indeterminate.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

1 A bill to be entitled  
2 An act relating to student transportation safety;  
3 amending s. 316.003, F.S.; revising the definition of  
4 the term "local hearing officer"; amending s. 316.173,  
5 F.S.; authorizing charter schools and private schools  
6 to install and operate school bus infraction detection  
7 systems; removing a prohibition of the receipt of  
8 commission, fees, or remuneration based on the number  
9 of violations detected; authorizing traffic infraction  
10 enforcement officers who meet specified requirements  
11 and school board security agencies to enforce  
12 specified violations; revising requirements for  
13 signage posted on the rear of a school bus indicating  
14 use of a school bus infraction detection system;  
15 authorizing the governing board of a school entity to  
16 establish certain procedures for a hearing to contest  
17 liability or a notice of violation; revising the  
18 required uses for civil penalties assessed and  
19 collected for certain violations; prohibiting school  
20 bus infraction detection systems from being used for  
21 remote surveillance; providing construction; revising  
22 purposes for which video and images recorded as part  
23 of a school bus infraction detection system may be  
24 used; amending s. 316.640, F.S.; providing that a  
25 school safety officer who completes certain training



26 |           may be authorized by a county, municipality, or school  
 27 |           entity as a traffic infraction enforcement officer and  
 28 |           may issue certain notices and citations; amending s.  
 29 |           318.18, F.S.; requiring certain civil penalties to be  
 30 |           remitted to a school district, charter school, or  
 31 |           private school operating a school bus with a school  
 32 |           bus infraction detection system to be used for certain  
 33 |           purposes; providing an effective date.

34 |

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

36 |

37 |           Section 1. Subsection (38) of section 316.003, Florida  
 38 |           Statutes, is amended to read:

39 |           316.003 Definitions.—The following words and phrases, when  
 40 |           used in this chapter, shall have the meanings respectively  
 41 |           ascribed to them in this section, except where the context  
 42 |           otherwise requires:

43 |           (38) LOCAL HEARING OFFICER.—

44 |           (a) The person, designated by a department, county, or  
 45 |           municipality that elects to authorize traffic infraction  
 46 |           enforcement officers to issue traffic citations under ss.  
 47 |           316.0083(1)(a) and 316.1896(1), who is authorized to conduct  
 48 |           hearings related to a notice of violation issued pursuant to s.  
 49 |           316.0083 or s. 316.1896. The charter county, noncharter county,  
 50 |           or municipality may use its currently appointed code enforcement

51 board or special magistrate to serve as the local hearing  
52 officer. The department may enter into an interlocal agreement  
53 to use the local hearing officer of a county or municipality.

54 (b) The person, designated by a school district, charter  
55 school, or private school that elects to authorize traffic  
56 infraction enforcement officers or one or more law enforcement  
57 agencies to issue traffic citations under s. 316.173, who is  
58 authorized to conduct hearings related to a notice of violation  
59 issued pursuant to s. 316.173. The school district, charter  
60 school, or private school may use an attorney in good standing  
61 with The Florida Bar for at least 5 years designated by the  
62 governing board to serve as the local hearing officer. A local  
63 hearing officer designated under this paragraph may serve in  
64 such office for one or more school entities, and such service  
65 does not constitute dual officeholding as prohibited by s. 5(a),  
66 Art. II of the State Constitution. The school district, charter  
67 school, or private school may enter into an interlocal agreement  
68 to use the local hearing officer of a county or municipality.

69 Section 2. Subsections (6) through (19) of section  
70 316.173, Florida Statutes, are renumbered as subsections (7)  
71 through (20), respectively, subsection (1), paragraph (a) of  
72 subsection (2), subsections (3), (4), and (5), and present  
73 subsections (7), (8), (10), (11), (12), (16), and (17) are  
74 amended, and a new subsection (6) is added to that section, to  
75 read:

76 316.173 School bus infraction detection systems.—

77 (1)(a) A school district, charter school, or private  
 78 school may install and operate a school bus infraction detection  
 79 system on a school bus for the purpose of enforcing s.

80 316.172(1)(a) and (b) as provided in and consistent with this  
 81 section.

82 (b) The school district, charter school, or private school  
 83 may contract with a private vendor or manufacturer to install a  
 84 school bus infraction detection system on any school bus within  
 85 its fleet, whether owned, contracted, or leased, and for  
 86 services including, but not limited to, the installation,  
 87 operation, and maintenance of the system. The school district's,  
 88 charter school's, or private school's decision to install school  
 89 bus infraction detection systems must be based solely on the  
 90 need to increase public safety. ~~An individual may not receive a~~  
 91 ~~commission from any revenue collected from violations detected~~  
 92 ~~through the use of a school bus infraction detection system. A~~  
 93 ~~private vendor or manufacturer may not receive a fee or~~  
 94 ~~remuneration based upon the number of violations detected~~  
 95 ~~through the use of a school bus infraction detection system.~~

96 (c) The school district, charter school, or private school  
 97 must ensure that each school bus infraction detection system  
 98 meets the requirements of subsection (19) ~~(18)~~.

99 (d) The school district, charter school, or private school  
 100 may ~~must~~ enter into an interlocal agreement with one or more law

101 enforcement agencies authorized to enforce violations of s.  
102 316.172(1)(a) and (b) within the school district which jointly  
103 establishes the responsibilities of enforcement and the  
104 reimbursement of costs associated with school bus infraction  
105 detection systems consistent with this section. For the purposes  
106 of administering this section, a traffic infraction enforcement  
107 officer who meets the requirements of s. 316.640 or a certified  
108 school board security agency that employs law enforcement  
109 officers may enforce violations of s. 316.172(1)(a) and (b) as  
110 authorized by this section.

111 (2)(a) The school district, charter school, or private  
112 school must post high-visibility ~~reflective~~ signage on the rear  
113 of each school bus in which a school bus infraction detection  
114 system is installed and operational which indicates the use of  
115 such system. The signage must be in the form of one or more  
116 signs or stickers and must contain the following elements in  
117 substantially the following form:

- 118 1. The words "STOP WHEN RED LIGHTS FLASH" or "DO NOT PASS  
119 WHEN RED LIGHTS FLASH."
- 120 2. The words "CAMERA ENFORCED."
- 121 3. A graphic depiction of a camera.

122 (3) If a school district, charter school, or private  
123 school that has never conducted a school bus infraction  
124 detection system program begins such a program, the school  
125 district, charter school, or private school must make a public

126 announcement and conduct a public awareness campaign of the  
127 proposed use of school bus infraction detection systems at least  
128 30 days before commencing enforcement under the school bus  
129 infraction detection system program and notify the public of the  
130 specific date on which the program will commence. During the 30-  
131 day public awareness campaign, only a warning may be issued to  
132 the registered owner of a motor vehicle for a violation of s.  
133 316.172(1)(a) or (b) enforced by a school bus infraction  
134 detection system, and a civil penalty may not be imposed under  
135 chapter 318.

136 (4) Within 30 days after an alleged violation of s.  
137 316.172(1)(a) or (b) is recorded by a school bus infraction  
138 detection system, the school district, charter school, or  
139 private school or the private vendor or manufacturer under  
140 paragraph (1)(b) must submit the following information to a law  
141 enforcement agency or a traffic infraction enforcement officer  
142 designated ~~that has entered into an interlocal agreement with~~  
143 ~~the school district~~ pursuant to paragraph (1)(d) ~~and has traffic~~  
144 ~~infraction enforcement jurisdiction at the location where the~~  
145 ~~alleged violation occurred:~~

146 (a) A copy of the recorded video and images showing the  
147 motor vehicle allegedly violating s. 316.172(1)(a) or (b).

148 (b) The motor vehicle's license plate number and the state  
149 of issuance of the motor vehicle's license plate.

150 (c) The date, time, and location of the alleged violation.

151 (5) Within 30 days after receiving the information  
152 required in subsection (4), the law enforcement agency or its  
153 agent, or a traffic infraction enforcement officer, if it is  
154 determined ~~determines~~ that the motor vehicle violated s.  
155 316.172(1)(a) or (b), must send a notice of violation to the  
156 registered owner of the motor vehicle involved in the violation  
157 specifying the remedies available under s. 318.14 and that the  
158 violator must pay the penalty under s. 318.18(5) or furnish an  
159 affidavit in accordance with subsection (11) ~~(10)~~ within 30 days  
160 after the notice of violation is sent in order to avoid court  
161 fees, costs, and the issuance of a uniform traffic citation. The  
162 notice of violation must be sent by first-class mail and include  
163 all of the following:

164 (a) A copy of one or more recorded images showing the  
165 motor vehicle involved in the violation, including an image  
166 showing the license plate of the motor vehicle.

167 (b) The date, time, and location of the violation.

168 (c) The amount of the civil penalty, the date by which the  
169 civil penalty must be paid, and instructions on how to pay the  
170 civil penalty.

171 (d) Instructions on how to request a hearing to contest  
172 liability or the notice of violation. In lieu of hearings  
173 administered by a county traffic court, the governing board of a  
174 school entity, by resolution, may establish the hearing  
175 procedures provided in subsection (6).

176 (e) A notice that the owner has the right to review, in  
 177 person or remotely, the video and images recorded by the school  
 178 bus infraction detection system which constitute a rebuttable  
 179 presumption that the motor vehicle was used in violation of s.  
 180 316.172(1)(a) or (b).

181 (f) The time when, and the place or website at which, the  
 182 recorded video and images may be examined and observed.

183 (g) A warning that failure to pay the civil penalty or to  
 184 contest liability within 30 days after the notice is sent will  
 185 result in the issuance of a uniform traffic citation.

186 (6) The governing board of a school entity, by resolution,  
 187 may establish the following procedures for a hearing under this  
 188 section:

189 (a) The department shall publish and make available  
 190 electronically to each school entity's governing board a model  
 191 request for hearing form to assist each school entity's  
 192 governing board administering this section. Such request for  
 193 hearing form must include the option for a person, referred to  
 194 in this subsection as the "petitioner," to choose whether to  
 195 attend the hearing in person or virtually.

196 (b) A school district, charter school, or private school  
 197 operating school bus infraction detection systems on school  
 198 buses which elects to authorize traffic infraction enforcement  
 199 officers or one or more law enforcement agencies to issue  
 200 traffic citations under this section shall designate by

201 resolution existing staff or a designated staff agent to serve  
202 as the clerk to the local hearing officer.

203 (c) A petitioner who elects to request a hearing under  
204 this section shall be scheduled for a hearing by the clerk to  
205 the local hearing officer to appear before a local hearing  
206 officer in person or virtually, with notice to be sent by first-  
207 class mail. Upon receipt of the notice, the petitioner may  
208 reschedule the hearing once by submitting a written request to  
209 reschedule to the clerk to the local hearing officer, at least 5  
210 calendar days before the day of the originally scheduled  
211 hearing. The petitioner may cancel his or her appearance before  
212 the local hearing officer by paying the penalty assessed under  
213 s. 318.18, plus \$50 in administrative costs, before the start of  
214 the hearing.

215 (d) All testimony at the hearing shall be under oath and  
216 shall be recorded. The local hearing officer shall take  
217 testimony from a traffic infraction enforcement officer, or law  
218 enforcement agency designee, and the petitioner, and may take  
219 testimony from others. The local hearing officer shall review  
220 the video and images made available under this section. Formal  
221 rules of evidence do not apply, but due process and the  
222 preponderance of evidence standard shall be observed and govern  
223 the proceedings.

224 (e) At the conclusion of the hearing, the local hearing  
225 officer shall determine whether a violation under this section



226 has occurred, in which case the hearing officer shall uphold or  
 227 dismiss the violation. The local hearing officer shall issue a  
 228 final administrative order including the determination and, if  
 229 the notice of violation is upheld, require the petitioner to pay  
 230 the penalty previously assessed under s. 318.18, and may also  
 231 require the petitioner to pay school entity costs, including  
 232 local hearing officer and hearing administrative costs, not to  
 233 exceed \$250. The final administrative order shall be mailed to  
 234 the petitioner by first-class mail.

235 (f) An aggrieved party may appeal a final administrative  
 236 order consistent with the process provided under s. 162.11.

237 (8)-(7) The civil penalties assessed and collected for a  
 238 violation of s. 316.172(1)(a) or (b) enforced by a school bus  
 239 infraction detection system must be remitted to the school  
 240 district in which the violation occurred or to the charter  
 241 school or private school that reported the violation. Such civil  
 242 penalties must be used for the installation, operation, or  
 243 maintenance of school bus infraction detection systems on school  
 244 buses, including student transportation safety initiatives,  
 245 driver recruitment and retention stipends, or other student  
 246 transportation safety enhancements ~~for any other technology that~~  
 247 ~~increases the safety of the transportation of students,~~ or for  
 248 ~~the~~ administration and costs associated with the enforcement of  
 249 violations as described in this section.

250 (9)-(8) A uniform traffic citation must be issued by

251 mailing the uniform traffic citation by certified mail to the  
252 address of the registered owner of the motor vehicle involved in  
253 the violation if payment has not been made within 30 days after  
254 notification under subsection (5) and if the registered owner  
255 has not submitted an affidavit in accordance with subsection  
256 (11) ~~(10)~~.

257 (11) ~~(10)~~ To establish such facts under subsection (10)  
258 ~~(9)~~, the registered owner of the motor vehicle must, within 30  
259 days after the date of issuance of the notice of violation or  
260 the uniform traffic citation, furnish to the law enforcement  
261 agency or its agent who ~~that~~ issued the notice of violation or  
262 uniform traffic citation an affidavit setting forth information  
263 supporting an exception under subsection (10) ~~(9)~~.

264 (a) An affidavit supporting the exception under paragraph  
265 (10) (a) ~~(9) (a)~~ must include the name, address, date of birth,  
266 and, if known, the driver license number of the person who  
267 leased, rented, or otherwise had care, custody, or control of  
268 the motor vehicle at the time of the alleged violation. If the  
269 motor vehicle was stolen at the time of the alleged violation,  
270 the affidavit must include the police report indicating that the  
271 motor vehicle was stolen.

272 (b) If a uniform traffic citation for a violation of s.  
273 316.172 (1) (a) or (b) was issued at the location of the violation  
274 by a law enforcement officer, the affidavit must include the  
275 serial number of the uniform traffic citation.

276 (c) If the motor vehicle's owner to whom a notice of  
 277 violation or a uniform traffic citation has been issued is  
 278 deceased, the affidavit must include a certified copy of the  
 279 owner's death certificate showing that the date of death  
 280 occurred on or before the date of the alleged violation and one  
 281 of the following:

282 1. A bill of sale or other document showing that the  
 283 deceased owner's motor vehicle was sold or transferred after his  
 284 or her death but on or before the date of the alleged violation.

285 2. Documented proof that the registered license plate  
 286 belonging to the deceased owner's motor vehicle was returned to  
 287 the department or any branch office or authorized agent of the  
 288 department after his or her death but on or before the date of  
 289 the alleged violation.

290 3. A copy of the police report showing that the deceased  
 291 owner's registered license plate or motor vehicle was stolen  
 292 after his or her death but on or before the date of the alleged  
 293 violation.

294  
 295 Upon receipt of the affidavit and documentation required under  
 296 paragraphs (b) and (c), or 30 days after the date of issuance of  
 297 a notice of violation sent to a person identified as having  
 298 care, custody, or control of the motor vehicle at the time of  
 299 the violation under paragraph (a), the law enforcement agency or  
 300 its agent, or traffic infraction enforcement officer must

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301 dismiss the notice or citation and provide proof of such  
302 dismissal to the person who submitted the affidavit. If, within  
303 30 days after the date of a notice of violation sent to a person  
304 under subsection (12) ~~(11)~~, the law enforcement agency or its  
305 agent, or traffic infraction enforcement officer receives an  
306 affidavit under subsection (13) ~~(12)~~ from the person who was  
307 sent a notice of violation affirming that the person did not  
308 have care, custody, or control of the motor vehicle at the time  
309 of the violation, the law enforcement agency or its agent, or  
310 traffic infraction enforcement officer must notify the  
311 registered owner that the notice or citation will not be  
312 dismissed due to failure to establish that another person had  
313 care, custody, or control of the motor vehicle at the time of  
314 the violation.

315 (12) ~~(11)~~ Upon receipt of an affidavit under paragraph  
316 (10) (a) ~~(9) (a)~~, the law enforcement agency may issue the person  
317 identified as having care, custody, or control of the motor  
318 vehicle at the time of the violation a notice of violation  
319 pursuant to subsection (5) for a violation of s. 316.172(1)(a)  
320 or (b). The affidavit is admissible in a proceeding pursuant to  
321 this section for the purpose of providing evidence that the  
322 person identified in the affidavit was in actual care, custody,  
323 or control of the motor vehicle. The owner of a leased motor  
324 vehicle for which a uniform traffic citation is issued for a  
325 violation of s. 316.172(1)(a) or (b) is not responsible for

326 paying the uniform traffic citation and is not required to  
327 submit an affidavit as specified in subsection (11) ~~(10)~~ if the  
328 motor vehicle involved in the violation is registered in the  
329 name of the lessee of such motor vehicle.

330 (13) ~~(12)~~ If a law enforcement agency or traffic infraction  
331 enforcement officer receives an affidavit under paragraph  
332 (10) (a) ~~(9) (a)~~, the notice of violation required under  
333 subsection (5) must be sent to the person identified in the  
334 affidavit within 30 days after receipt of the affidavit. The  
335 person identified in an affidavit and sent a notice of violation  
336 may also affirm he or she did not have care, custody, or control  
337 of the motor vehicle at the time of the violation by furnishing  
338 to the appropriate law enforcement agency or traffic infraction  
339 enforcement officer within 30 days after the date of the notice  
340 of violation an affidavit stating such.

341 (17) ~~(16)~~ (a)1. ~~Notwithstanding any other law, equipment~~  
342 ~~deployed as part of A school bus infraction detection system as~~  
343 ~~provided under this section may not be used for capable of~~  
344 ~~automated or user-controlled remote surveillance. The collection~~  
345 of evidence by a school bus infraction detection system to  
346 enforce violations of s. 316.172 does not constitute remote  
347 surveillance.

348 ~~2.~~ Video and images recorded as part of a ~~the~~ school bus  
349 infraction detection system may only be used for traffic  
350 enforcement and for purposes of determining criminal or civil

351 liability for incidents captured by the school bus infraction  
 352 detection system incidental to the permissible use of the school  
 353 bus infraction detection system ~~to document violations of s.~~  
 354 ~~316.172(1)(a) and (b) and may not be used for any other~~  
 355 ~~surveillance purposes.~~

356 2.3. To the extent practicable, a school bus infraction  
 357 detection system must use necessary technology to ensure that  
 358 personal identifying information contained in the video or still  
 359 images recorded by the system which is not relevant to the  
 360 alleged violation, including, but not limited to, the identity  
 361 of the driver and any passenger of a motor vehicle, the interior  
 362 or contents of a motor vehicle, the identity of an uninvolved  
 363 person, a number identifying the address of a private residence,  
 364 and the contents or interior of a private residence, is  
 365 sufficiently obscured so as not to reveal such personal  
 366 identifying information.

367 3.4. A notice of a violation or uniform traffic citation  
 368 issued under this section may not be dismissed solely because a  
 369 recorded video or still images reveal personal identifying  
 370 information as provided in subparagraph 2. 3. as long as a  
 371 reasonable effort has been made to comply with this subsection.

372 (b) Any recorded video or still image obtained through the  
 373 use of a school bus infraction detection system must be  
 374 destroyed within 90 days after the final disposition of the  
 375 recorded event. The vendor of the school bus infraction

376 | detection system must provide the school district, charter  
 377 | school, or private school with written notice by December 31 of  
 378 | each year that such records have been destroyed in accordance  
 379 | with this section.

380 | (c) Notwithstanding any other law, registered motor  
 381 | vehicle owner information obtained as a result of the operation  
 382 | of a school bus infraction detection system is not the property  
 383 | of the manufacturer or vendor of the system and may be used only  
 384 | for the purposes of this section.

385 | ~~(18)-(17)~~(a) By October 1, 2023, and quarterly thereafter,  
 386 | each school district, charter school, or private school, ~~in~~  
 387 | ~~consultation with the law enforcement agencies with which it has~~  
 388 | ~~interlocal agreements pursuant to this section~~, operating a  
 389 | school bus infraction detection system must submit, in  
 390 | consultation with the law enforcement agencies with which it has  
 391 | interlocal agreements pursuant to this section or with traffic  
 392 | infraction enforcement officers designated pursuant to paragraph  
 393 | (1)(d), a report to the department which details the results of  
 394 | the school bus infraction detection systems in the school  
 395 | district, charter school, or private school in the preceding  
 396 | quarter. The information from the school districts, charter  
 397 | schools, or private schools must be submitted in a form and  
 398 | manner determined by the department, which the department must  
 399 | make available to the school districts by August 1, 2023, and to  
 400 | the charter schools and private schools by August 1, 2024, and

401 must include at least the following:

402 1. The number of school buses that have a school bus  
403 infraction detection system installed, including the date of  
404 installation and, if applicable, the date the systems were  
405 removed.

406 2. The number of notices of violations issued, the number  
407 that were contested, the number that were upheld, the number  
408 that were dismissed, the number that were issued as uniform  
409 traffic citations, and the number that were paid.

410 3. Data for each infraction to determine locations in need  
411 of safety improvements. Such data may ~~must~~ include, but is not  
412 limited to, global positioning system coordinates of the  
413 infraction, the date and time of the infraction, and the name of  
414 the school that the school bus was transporting students to or  
415 from.

416 4. Any other statistical data and information required by  
417 the department to complete the report required by paragraph (c).

418 (b) Each school district, charter school, or private  
419 school that operates a school bus infraction detection system is  
420 responsible for and must maintain its respective data for  
421 reporting purposes under this subsection for at least 2 years  
422 after such data is reported to the department.

423 (c) On or before December 31, 2024, and annually  
424 thereafter, the department shall submit a summary report to the  
425 Governor, the President of the Senate, and the Speaker of the



426 House of Representatives regarding the use and operation of  
 427 school bus infraction detection systems under this section,  
 428 along with the department's recommendations and any recommended  
 429 legislation. The summary report must include a review of the  
 430 information submitted to the department by the school districts,  
 431 charter schools, and private schools and must describe the  
 432 enhancement of traffic safety and enforcement programs.

433 Section 3. Paragraph (a) of subsection (1), paragraph (a)  
 434 of subsection (3), and paragraph (a) of subsection (5) of  
 435 section 316.640, Florida Statutes, are amended to read:

436 316.640 Enforcement.—The enforcement of the traffic laws  
 437 of this state is vested as follows:

438 (1) STATE.—

439 (a)1.a. The Division of Florida Highway Patrol of the  
 440 Department of Highway Safety and Motor Vehicles; the Division of  
 441 Law Enforcement of the Fish and Wildlife Conservation  
 442 Commission; the Division of Law Enforcement of the Department of  
 443 Environmental Protection; and the agents, inspectors, and  
 444 officers of the Department of Law Enforcement each have  
 445 authority to enforce all of the traffic laws of this state on  
 446 all the streets and highways thereof and elsewhere throughout  
 447 the state wherever the public has a right to travel by motor  
 448 vehicle.

449 b. University police officers may enforce all of the  
 450 traffic laws of this state when violations occur on or within

451 1,000 feet of any property or facilities that are under the  
452 guidance, supervision, regulation, or control of a state  
453 university, a direct-support organization of such state  
454 university, or any other organization controlled by the state  
455 university or a direct-support organization of the state  
456 university, or when such violations occur within a specified  
457 jurisdictional area as agreed upon in a mutual aid agreement  
458 entered into with a law enforcement agency pursuant to s.  
459 23.1225(1). Traffic laws may also be enforced off-campus when  
460 hot pursuit originates on or within 1,000 feet of any such  
461 property or facilities, or as agreed upon in accordance with the  
462 mutual aid agreement.

463 c. Florida College System institution police officers may  
464 enforce all the traffic laws of this state only when such  
465 violations occur on or within 1,000 feet of any property or  
466 facilities that are under the guidance, supervision, regulation,  
467 or control of the Florida College System institution, or when  
468 such violations occur within a specified jurisdictional area as  
469 agreed upon in a mutual aid agreement entered into with a law  
470 enforcement agency pursuant to s. 23.1225. Traffic laws may also  
471 be enforced off-campus when hot pursuit originates on or within  
472 1,000 feet of any such property or facilities, or as agreed upon  
473 in accordance with the mutual aid agreement.

474 d. Police officers employed by an airport authority may  
475 enforce all of the traffic laws of this state only when such

476 | violations occur on any property or facilities that are owned or  
 477 | operated by an airport authority.

478 |         (I) An airport authority may employ as a parking  
 479 | enforcement specialist any individual who successfully completes  
 480 | a training program established and approved by the Criminal  
 481 | Justice Standards and Training Commission for parking  
 482 | enforcement specialists but who does not otherwise meet the  
 483 | uniform minimum standards established by the commission for law  
 484 | enforcement officers or auxiliary or part-time officers under s.  
 485 | 943.12. This sub-sub-subparagraph may not be construed to permit  
 486 | the carrying of firearms or other weapons, nor shall such  
 487 | parking enforcement specialist have arrest authority.

488 |         (II) A parking enforcement specialist employed by an  
 489 | airport authority may enforce all state, county, and municipal  
 490 | laws and ordinances governing parking only when such violations  
 491 | are on property or facilities owned or operated by the airport  
 492 | authority employing the specialist, by appropriate state,  
 493 | county, or municipal traffic citation.

494 |         e. The Office of Agricultural Law Enforcement of the  
 495 | Department of Agriculture and Consumer Services may enforce  
 496 | traffic laws of this state.

497 |         f. School safety officers may enforce all of the traffic  
 498 | laws of this state when such violations occur on or about any  
 499 | property or facilities that are under the guidance, supervision,  
 500 | regulation, or control of the district school board. A school

501 safety officer who successfully completes instruction in traffic  
502 enforcement procedures and court presentation as specified in  
503 paragraph (5) (a) may be authorized by a county, municipality, or  
504 applicable school entity as a traffic infraction enforcement  
505 officer and may issue notices of violation and uniform traffic  
506 citations under s. 316.173 within the county in which the school  
507 district, charter school, or private school is located.

508         2. Any disciplinary action taken or performance evaluation  
509 conducted by an agency of the state as described in subparagraph  
510 1. of a law enforcement officer's traffic enforcement activity  
511 must be in accordance with written work-performance standards.  
512 Such standards must be approved by the agency and any collective  
513 bargaining unit representing such law enforcement officer. A  
514 violation of this subparagraph is not subject to the penalties  
515 provided in chapter 318.

516         3. The Division of the Florida Highway Patrol may employ  
517 as a traffic accident investigation officer any individual who  
518 successfully completes instruction in traffic accident  
519 investigation and court presentation through the Selective  
520 Traffic Enforcement Program as approved by the Criminal Justice  
521 Standards and Training Commission and funded through the  
522 National Highway Traffic Safety Administration or a similar  
523 program approved by the commission, but who does not necessarily  
524 meet the uniform minimum standards established by the commission  
525 for law enforcement officers or auxiliary law enforcement

526 officers under chapter 943. Any such traffic accident  
527 investigation officer who makes an investigation at the scene of  
528 a traffic accident may issue traffic citations, based upon  
529 personal investigation, when he or she has reasonable and  
530 probable grounds to believe that a person who was involved in  
531 the accident committed an offense under this chapter, chapter  
532 319, chapter 320, or chapter 322 in connection with the  
533 accident. This subparagraph does not permit the officer to carry  
534 firearms or other weapons, and such an officer does not have  
535 authority to make arrests.

536 (3) MUNICIPALITIES.—

537 (a) The police department of each chartered municipality  
538 shall enforce the traffic laws of this state on all the streets  
539 and highways thereof and elsewhere throughout the municipality  
540 wherever the public has the right to travel by motor vehicle,  
541 including by the use of school bus infraction detection systems.

542 In addition, the police department may be required by a  
543 municipality to enforce the traffic laws of this state on any  
544 private or limited access road or roads over which the  
545 municipality has jurisdiction pursuant to a written agreement  
546 entered into under s. 316.006(2) (b). However, nothing in this  
547 chapter shall affect any law, general, special, or otherwise, in  
548 effect on January 1, 1972, relating to "hot pursuit" without the  
549 boundaries of the municipality.

550 (5) (a) Any sheriff's department or police department of a

551 municipality may employ, as a traffic infraction enforcement  
552 officer, any individual who successfully completes instruction  
553 in traffic enforcement procedures and court presentation through  
554 the Selective Traffic Enforcement Program as approved by the  
555 Division of Criminal Justice Standards and Training of the  
556 Department of Law Enforcement, or through a similar program, but  
557 who does not necessarily otherwise meet the uniform minimum  
558 standards established by the Criminal Justice Standards and  
559 Training Commission for law enforcement officers or auxiliary  
560 law enforcement officers under s. 943.13. Any such traffic  
561 infraction enforcement officer who observes the commission of a  
562 traffic infraction or, in the case of a parking infraction, who  
563 observes an illegally parked vehicle may issue a traffic  
564 citation for the infraction when, based upon personal  
565 investigation, he or she has reasonable and probable grounds to  
566 believe that an offense has been committed which constitutes a  
567 noncriminal traffic infraction as defined in s. 318.14. In  
568 addition, any such traffic infraction enforcement officer may  
569 issue a traffic citation under ss. 316.0083, 316.173, and  
570 316.1896. For purposes of enforcing ss. 316.0083, 316.173,  
571 316.1895, and 316.183, any sheriff's department or police  
572 department of a municipality may designate employees as traffic  
573 infraction enforcement officers. The traffic infraction  
574 enforcement officers must be physically located in the county of  
575 the respective sheriff's or police department.

576 Section 4. Paragraph (c) of subsection (5) of section  
 577 318.18, Florida Statutes, is amended to read:

578 318.18 Amount of penalties.—The penalties required for a  
 579 noncriminal disposition pursuant to s. 318.14 or a criminal  
 580 offense listed in s. 318.17 are as follows:

581 (5)

582 (c) In addition to the penalty under paragraph (a) or  
 583 paragraph (b), \$65 for a violation of s. 316.172(1)(a) or (b).  
 584 If the alleged offender is found to have committed the offense,  
 585 the court shall impose the civil penalty under paragraph (a) or  
 586 paragraph (b) plus an additional \$65. The additional \$65  
 587 collected under this paragraph shall be remitted to the  
 588 Department of Revenue for deposit into the Emergency Medical  
 589 Services Trust Fund of the Department of Health to be used as  
 590 provided in s. 395.4036. If a violation of s. 316.172(1)(a) or  
 591 (b) is enforced by a school bus infraction detection system  
 592 pursuant to s. 316.173, the additional amount imposed on a  
 593 notice of violation, on a ~~the~~ uniform traffic citation, or by  
 594 the court under this paragraph must be \$25, in lieu of the  
 595 additional \$65, and must be remitted to the participating school  
 596 district, charter school, or private school operating the school  
 597 bus with a school bus infraction detection system. Such amounts  
 598 must be used pursuant to s. 316.173(8).

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





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

**SPONSOR(S):** Abbott

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

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

### SUMMARY ANALYSIS

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

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

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

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

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

##### Current Situation

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

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

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

##### Effect of the Bill

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

#### **Landscape Requirement**

##### Current Situation

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

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

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

##### Effect of the Bill

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

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

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

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

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

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

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

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

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

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

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

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

### Current Situation

#### *Florida Turnpike and Procurement*

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

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

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

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

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

### Effect of the Bill

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

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

## **Dormant Prepaid Toll Accounts**

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

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

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

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

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

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

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

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

### Current Situation

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

### Effect of the Bill

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

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

### Current Situation

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

### Effect of the Bill

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Arterial Highway Projects**

### Current Situation

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

### Effect of the Bill

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

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

### Current Situation

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

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

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

### *Moving Florida Forward Initiative*

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

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

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

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

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

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

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

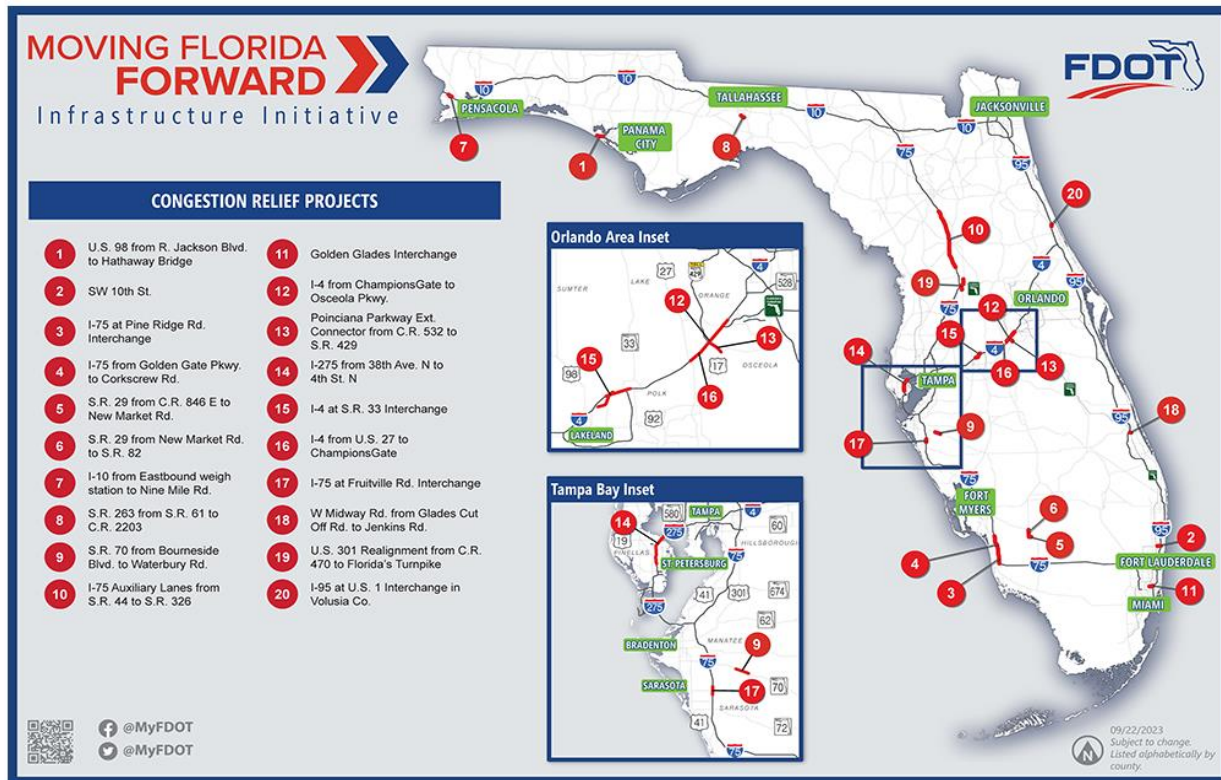
<sup>32</sup> S. 339.0809(13), F.S.

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

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

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

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



### Effect of the Bill

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

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

<sup>33</sup> Ch. 2023-239, Laws of Fla.

<sup>34</sup> State of Florida, Transparency Florida, *Approved Budget Amendment Request B0112, Fiscal Year 2023-24*, <http://www.transparencyflorida.gov/arreports/arreport/55469> (last visited Jan. 24, 2024).

<sup>35</sup> FDOT, *Moving Florida Forward Infrastructure Initiative*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited Jan. 24, 2024).

<sup>36</sup> S. 339.135(1)(c), F.S., defines the tentative work program as the 5-year listing of all transportation projects planned for each fiscal year which is developed by FDOT's central office based on the district work programs.

request. Finally, FDOT must ensure that the annual payments are programmed for the life of the service contract before execution of the service contract and shall remain programmed until fully paid.

## Transportation Planning

### Current Situation

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

### Effect of the Bill

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

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

## Supply Chain Innovation Grant Program

### Current Situation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Effect of the Bill

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

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

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

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

### **New Starts Transit Program**

#### Current Situation

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

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

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

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

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

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



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

#### Effect of the Bill

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

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

#### Current Situation

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

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

#### Effect of the Bill

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

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

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

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

#### Current Situation

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

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

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

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

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

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

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

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

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

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

#### Effect of the Bill

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

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

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

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

#### **Effective Date**

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

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

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

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

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

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

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

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

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

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

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

Indeterminate. See “Fiscal Comments” section below.

### D. FISCAL COMMENTS:

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

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

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

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

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

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

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

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

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

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

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

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

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

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

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A

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

1 A bill to be entitled

2 An act relating to the Department of Transportation;  
3 amending s. 20.23, F.S.; removing provisions requiring  
4 the secretary of the Department of Transportation to  
5 appoint an inspector general; amending s. 334.044,  
6 F.S.; revising requirements for the allocation of  
7 funds by the department for the purchase of plant  
8 materials; amending s. 338.2216, F.S.; authorizing the  
9 department to contract with certain financial  
10 institutions for the acceptance and processing of  
11 electronic payments to the Florida Turnpike  
12 Enterprise; providing applicability; amending s.  
13 338.231, F.S.; revising the time period for which a  
14 prepaid toll account must remain inactive in order to  
15 be presumed unclaimed; amending s. 339.08, F.S.;  
16 prohibiting the department from expending certain  
17 state funds to support certain projects or programs;  
18 amending s. 339.0803, F.S.; prioritizing availability  
19 of certain revenues deposited into the State  
20 Transportation Trust Fund for payments under service  
21 contracts with the Florida Department of  
22 Transportation Financing Corporation to fund arterial  
23 highway projects; authorizing two or more of such  
24 projects to be treated as a single project for certain  
25 purposes; amending s. 339.0809, F.S.; specifying

26 | priority of availability of funds appropriated for  
27 | payments under a service contract with the  
28 | corporation; authorizing the department to enter into  
29 | service contracts to finance projects identified in  
30 | the Moving Florida Forward Infrastructure Initiative;  
31 | providing requirements for annual service contract  
32 | payments; amending s. 339.155, F.S.; defining the term  
33 | "nonpecuniary factor"; prohibiting the department from  
34 | considering certain nonpecuniary factors when  
35 | developing transportation plans; requiring  
36 | consideration of certain pecuniary factors; providing  
37 | applicability; creating s. 339.652, F.S.; creating the  
38 | Supply Chain Innovation Grant Program within the  
39 | Department of Commerce; providing the purpose of the  
40 | program; requiring the Department of Commerce and the  
41 | Department of Transportation to consider applications  
42 | and select grant awardees; requiring each award made  
43 | for vertiport development to be matched by nonstate  
44 | funds; defining the term "vertiport"; authorizing the  
45 | departments to adopt rules; amending s. 341.051, F.S.;  
46 | requiring funds appropriated from the State  
47 | Transportation Trust Fund for the New Starts Transit  
48 | Program to revert to the trust fund under certain  
49 | circumstances; amending s. 341.071, F.S.; defining the  
50 | terms "administrative costs" and "public transit

51 provider"; requiring each public transit provider to  
 52 annually certify that its administrative costs do not  
 53 exceed the annual state average of administrative  
 54 costs by more than a certain percentage; specifying  
 55 the method by which the Department of Transportation  
 56 is required to determine such state average; creating  
 57 s. 341.072, F.S.; prohibiting a public transit  
 58 provider from expending certain state funds for  
 59 certain marketing or advertising activities;  
 60 prohibiting certain media on passenger windows of  
 61 public transit provider vehicles to be darker than  
 62 certain window tinting requirements; providing an  
 63 effective date.

64  
 65 Be It Enacted by the Legislature of the State of Florida:

66  
 67 Section 1. Paragraph (d) of subsection (3) of section  
 68 20.23, Florida Statutes, is amended to read:

69 20.23 Department of Transportation.—There is created a  
 70 Department of Transportation which shall be a decentralized  
 71 agency.

72 (3)

73 ~~(d) The secretary shall appoint an inspector general~~  
 74 ~~pursuant to s. 20.055 who shall be directly responsible to the~~  
 75 ~~secretary and shall serve at the pleasure of the secretary.~~

76 Section 2. Subsection (26) of section 334.044, Florida  
 77 Statutes, is amended to read:

78 334.044 Powers and duties of the department.—The  
 79 department shall have the following general powers and duties:

80 (26) To provide for the enhancement of environmental  
 81 benefits, including air and water quality; to prevent roadside  
 82 erosion; to conserve the natural roadside growth and scenery;  
 83 and to provide for the implementation and maintenance of  
 84 roadside conservation, enhancement, and stabilization programs.  
 85 To accomplish these activities, the department may contract with  
 86 nonprofit organizations having the primary purpose of developing  
 87 youth employment opportunities.

88 (a) A percentage ~~At least 1.5 percent~~ of the amount  
 89 contracted for construction projects shall be allocated by the  
 90 department on a statewide basis as follows for the purchase of  
 91 plant materials:

92 1. For projects contracted for up to \$50 million: 1.5  
 93 percent.

94 2. For projects contracted for \$50,000,001 through \$100  
 95 million: 1 percent.

96 3. For projects contracted for \$100,000,001 through \$250  
 97 million: 0.75 percent.

98 4. For projects contracted for \$250,000,001 through \$500  
 99 million: 0.5 percent.

100 5. For projects contracted for \$500,000,001 or more, 0



101 percent.

102 (b) Department districts may not expend funds for  
 103 landscaping in connection with any project that is limited to  
 104 resurfacing existing lanes unless the expenditure has been  
 105 approved by the department's secretary or the secretary's  
 106 designee.

107 (c) To the greatest extent practical, at least 50 percent  
 108 of the funds allocated under this subsection shall be allocated  
 109 for large plant materials and the remaining funds for other  
 110 plant materials. Except as prohibited by applicable federal law  
 111 or regulation, all plant materials shall be purchased from  
 112 Florida commercial nursery stock in this state on a uniform  
 113 competitive bid basis. The department shall develop grades and  
 114 standards for landscaping materials purchased through this  
 115 process. ~~To accomplish these activities, the department may~~  
 116 ~~contract with nonprofit organizations having the primary purpose~~  
 117 ~~of developing youth employment opportunities.~~

118 Section 3. Subsection (2) of section 338.2216, Florida  
 119 Statutes, is amended to read:

120 338.2216 Florida Turnpike Enterprise; powers and  
 121 authority.—

122 (2) The department may ~~shall have the authority to~~ employ  
 123 procurement methods available to the Department of Management  
 124 Services under chapters 255 and 287 and under any rule adopted  
 125 under such chapters solely for the benefit of the turnpike

126 enterprise. Notwithstanding any other provision of law to the  
 127 contrary, the department may procure and establish contracts, in  
 128 a manner consistent with chapter 287, with one or more financial  
 129 institutions, credit card companies, or other entities for the  
 130 acceptance and processing of credit cards, charge cards, debit  
 131 cards, electronic funds transfers, or any other means of  
 132 electronic payment for the collection of amounts to which the  
 133 turnpike enterprise is entitled. Section 215.322 does not apply  
 134 to electronic payment services procured under this section.

135 Section 4. Paragraph (c) of subsection (3) of section  
 136 338.231, Florida Statutes, is amended to read:

137 338.231 Turnpike tolls, fixing; pledge of tolls and other  
 138 revenues.—The department shall at all times fix, adjust, charge,  
 139 and collect such tolls and amounts for the use of the turnpike  
 140 system as are required in order to provide a fund sufficient  
 141 with other revenues of the turnpike system to pay the cost of  
 142 maintaining, improving, repairing, and operating such turnpike  
 143 system; to pay the principal of and interest on all bonds issued  
 144 to finance or refinance any portion of the turnpike system as  
 145 the same become due and payable; and to create reserves for all  
 146 such purposes.

147 (3)

148 (c) Notwithstanding any other provision of law to the  
 149 contrary, a ~~any~~ prepaid toll account of any kind which has  
 150 remained inactive for 10 ~~3~~ years shall be presumed unclaimed,

151 ~~and its disposition shall be handled by~~ the Department of  
 152 Financial Services shall handle the disposition of the account  
 153 in accordance with all applicable provisions of chapter 717  
 154 relating to the disposition of unclaimed property, and the  
 155 department shall close the ~~prepaid toll account shall be closed~~  
 156 ~~by the department.~~

157 Section 5. Subsection (5) is added to section 339.08,  
 158 Florida Statutes, to read:

159 339.08 Use of moneys in State Transportation Trust Fund.—

160 (5) (a) The department may not expend any state funds as  
 161 described in s. 215.31 to support a project or program of:

- 162 1. A public transit provider as defined in s. 341.031(1);
- 163 2. An authority created pursuant to chapter 343, chapter  
 164 348, or chapter 349;
- 165 3. A public-use airport as defined in s. 332.004; or
- 166 4. A port enumerated in s. 311.09(1)

167  
 168 which is found in violation of s. 381.00316. The department  
 169 shall withhold state funds until the public transit provider,  
 170 authority, public-use airport, or port is found in compliance  
 171 with s. 381.00316.

172 (b) The department may not expend any state funds as  
 173 described in s. 215.31 to support a project or program of:

- 174 1. A public transit provider as defined in s. 341.031(1);
- 175 2. An authority created pursuant to chapter 343, chapter

176 348, or chapter 349;  
 177 3. A public-use airport as defined in s. 332.004; or  
 178 4. A port enumerated in s. 311.09(1)  
 179  
 180 which is found advertising, enforcing, promoting, or displaying  
 181 a recommendation, requirement, or mandate relating to COVID-19  
 182 or any variant thereof which is produced, recommended, or  
 183 enacted by the Centers for Disease Control and Prevention, the  
 184 United States Department of Health and Human Services, the  
 185 Transportation Security Administration, the United States  
 186 Department of Transportation and any operating administration  
 187 thereof, or any other governmental entity. The department shall  
 188 withhold state funds until the public transit provider,  
 189 authority, public-use airport, or port is found no longer  
 190 advertising, enforcing, promoting, or displaying such  
 191 recommendation, requirement, or mandate.

192 Section 6. Section 339.0803, Florida Statutes, is amended  
 193 to read:

194 339.0803 Allocation of increased revenues derived from  
 195 amendments to s. 320.08 by ch. 2019-43.—

196 (1) Beginning in the 2021-2022 fiscal year and each fiscal  
 197 year thereafter, funds that result from increased revenues to  
 198 the State Transportation Trust Fund derived from the amendments  
 199 to s. 320.08 made by chapter 2019-43, Laws of Florida, and  
 200 deposited into the fund pursuant to s. 320.20(5)(a) must be used

201 to fund arterial highway projects identified by the department  
 202 in accordance with s. 339.65 and may be used for projects as  
 203 specified in ss. 339.66 and 339.67. For purposes of the funding  
 204 provided in this section, the department shall prioritize use of  
 205 existing facilities or portions thereof when upgrading arterial  
 206 highways to limited or controlled access facilities. However,  
 207 this section does not preclude use of the funding for projects  
 208 that enhance the capacity of an arterial highway. The funds  
 209 allocated as provided in this section shall be in addition to  
 210 any other statutory funding allocations provided by law.

211 (2) Revenues deposited into the State Transportation Trust  
 212 Fund pursuant to s. 320.20(5)(a) shall first be available for  
 213 appropriation for payments under a service contract entered into  
 214 with the Florida Department of Transportation Financing  
 215 Corporation pursuant to s. 339.0809(4) to fund arterial highway  
 216 projects. For the corporation's bonding purposes, two or more of  
 217 such projects in the department's approved work program may be  
 218 treated as a single project.

219 Section 7. Subsection (13) of section 339.0809, Florida  
 220 Statutes, is amended to read:

221 339.0809 Florida Department of Transportation Financing  
 222 Corporation.—

223 (13) (a) The department may enter into a service contract  
 224 in conjunction with the issuance of debt obligations as provided  
 225 in this section which provides for periodic payments for debt

226 service or other amounts payable with respect to debt  
227 obligations, plus any administrative expenses of the Florida  
228 Department of Transportation Financing Corporation. Funds  
229 appropriated for payments under a service contract shall be  
230 available after funds pledged to payment on bonds but before  
231 other statutorily required distributions.

232 (b) For the purposes of this subsection, the department  
233 may enter into a service contract to finance those 20 projects  
234 identified in the Moving Florida Forward Infrastructure  
235 Initiative in the work program. Service contract payments may  
236 not exceed 7 percent of the funds deposited in the State  
237 Transportation Trust Fund in each fiscal year. The annual  
238 payments under such service contract shall be included in the  
239 department's tentative work program and legislative budget  
240 request developed under s. 339.135. The department shall ensure  
241 that the annual payments are programmed for the life of the  
242 service contract before execution of the service contract and  
243 shall remain programmed until fully paid.

244 Section 8. Subsection (6) is added to section 339.155,  
245 Florida Statutes, to read:

246 339.155 Transportation planning.—

247 (6) PROHIBITION ON ENVIRONMENTAL, SOCIAL, AND GOVERNANCE  
248 CONSIDERATIONS IN TRANSPORTATION PLANNING.—As used in this  
249 subsection, the term "nonpecuniary factor" means environmental,  
250 social, and corporate governance (ESG) interests; social

251 governance standards, benchmarks, and requirements, including,  
 252 but not limited to, environmental or social justice; any  
 253 initiative, action, framework, or target that advances or  
 254 implements the goals of the Paris Agreement, defined as the  
 255 resolution adopted by the United Nations Framework Convention on  
 256 Climate Change's 21st Conference of Parties in Paris, France; or  
 257 any similar initiative adopted by the Federal Government or any  
 258 agency thereof to achieve net zero emissions of carbon dioxide.

259 (a) Notwithstanding any other law to the contrary, when  
 260 developing plans outlined in this section, the department may  
 261 not consider any nonpecuniary social, political, or ideological  
 262 factor. Rather, the department shall consider pecuniary factors  
 263 including, but not limited to, the material effects on the risk  
 264 or return of an investment, mitigation against natural hazards,  
 265 and long-term financial viability.

266 (b) The requirements of this subsection also apply to all  
 267 metropolitan planning organizations subject to s. 339.175.

268 Section 9. Section 339.652, Florida Statutes, is created  
 269 to read:

270 339.652 Supply Chain Innovation Grant Program.—

271 (1) There is created the Supply Chain Innovation Grant  
 272 Program within the Department of Commerce. Subject to  
 273 appropriation by the Legislature and in collaboration with the  
 274 Department of Transportation, the Department of Commerce shall  
 275 annually consider applications submitted under the program by

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276 ports listed in s. 311.09(1); class I, II, or III freight  
277 railroads; public airports as defined in s. 330.27, and  
278 intermodal logistics centers or inland ports as defined in s.  
279 311.101(2) to fund proposed projects that increase efficiency or  
280 demonstrably reduce traffic congestion in the delivery of goods;  
281 increase fuel storage and distribution loading rack capacity; or  
282 otherwise expand fuel capacity in this state. The Department of  
283 Commerce and the Department of Transportation shall also  
284 consider applications for funding submitted by public and  
285 private entities seeking to develop and establish vertiports in  
286 this state. Each award made for vertiport development shall be  
287 matched dollar-for-dollar by nonstate funds. For purposes of  
288 this subsection, the term "vertiport" means a system or  
289 infrastructure with supporting services and equipment used for  
290 landing, ground handling, and takeoff of manned or unmanned  
291 vertical takeoff and landing (VTOL) aircraft.

292 (2) Awardees under this program shall be selected jointly  
293 by the Department of Transportation and the Department of  
294 Commerce, and grants awarded under this program shall be  
295 administered by the Department of Commerce. The Department of  
296 Transportation and the Department of Commerce may adopt rules to  
297 implement this section.

298 Section 10. Subsection (6) of section 341.051, Florida  
299 Statutes, is amended to read:

300 341.051 Administration and financing of public transit and



301 intercity bus service programs and projects.—

302 (6) ANNUAL APPROPRIATION.—Funds paid into the State  
 303 Transportation Trust Fund pursuant to s. 201.15 for the New  
 304 Starts Transit Program are hereby annually appropriated for  
 305 expenditure to support the New Starts Transit Program. If no  
 306 funds are allocated to projects that qualify for the New Starts  
 307 Transit Program by June 30 of the current fiscal year, such  
 308 funds shall revert and are appropriated to the State  
 309 Transportation Trust Fund.

310  
 311 For purposes of this section, the term "net operating costs"  
 312 means all operating costs of a project less any federal funds,  
 313 fares, or other sources of income to the project.

314 Section 11. Subsection (4) is added to section 341.071,  
 315 Florida Statutes, to read:

316 341.071 Transit productivity and performance measures;  
 317 reports.—

318 (4) (a) As used in this subsection, the term:

319 1. "Administrative costs" includes, but is not limited to,  
 320 employee salaries and benefits, small business outreach,  
 321 insurance, professional service contracts not directly related  
 322 to the operation and maintenance of a transit system, and other  
 323 overhead costs.

324 2. "Public transit provider" means a public agency  
 325 providing public transit service, including an authority created

326 pursuant to chapter 343 or chapter 349.

327 (b) Each public transit provider, during a publicly  
 328 noticed meeting, shall annually certify that its budgeted and  
 329 actual administrative costs are not greater than 10 percent  
 330 above the annual state average of administrative costs.

331 (c) To support compliance with paragraph (b), the  
 332 department shall determine the annual state average of  
 333 administrative costs by calculating the annual administrative  
 334 costs of all the public transit providers in this state.

335 Section 12. Section 341.072, Florida Statutes, is created  
 336 to read:

337 341.072 Prohibited use of state funds by public transit  
 338 providers.—

339 (1) A public transit provider may not expend state funds  
 340 as described in s. 215.31 directly, indirectly, or through a  
 341 grant or agreement, for any of the following marketing or  
 342 advertising activities:

343 (a) A marketing or public awareness campaign, whether  
 344 through a digital or print medium, including the use of any  
 345 wrap, tinting, or paint on a bus, commercial motor vehicle, or  
 346 motor vehicle, as those terms are defined in s. 316.003, in  
 347 support of any social, political, or ideological interest.

348 (b) Use of an asset owned or funded by a public transit  
 349 provider, including an existing or future asset, which displays,  
 350 contains, or markets, whether through a digital or print medium,

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351 any social, political, or ideological interest.

352 (2) The activities prohibited in subsection (1) include  
353 the promotion of environmental, social, and corporate governance  
354 (ESG) interests or any campaign related to environmental or  
355 social justice causes. This section does not apply to the  
356 acknowledgement of recognized holidays under s. 110.117.

357 (3) Any new wrap, tinting, paint, medium, or advertisement  
358 on the passenger windows of a vehicle used by a public transit  
359 provider may not be darker than the legally allowed window  
360 tinting requirements as provided in s. 316.2954.

361 Section 13. This act shall take effect July 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Berfield offered the following:

4  
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6  
7  
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9  
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14  
15  
16

**Amendment**

Remove lines 271-297 and insert:

(1) (a) There is created the Supply Chain Innovation Grant  
Program within the Department of Commerce. Subject to  
appropriation by the Legislature and in collaboration with the  
Department of Transportation, the Department of Commerce shall  
annually consider applications submitted under the program by  
ports listed in s. 311.09(1); class I, II, or III freight  
railroads; public airports as defined in s. 330.27, and  
intermodal logistics centers or inland ports as defined in s.  
311.101(2) to fund proposed projects that support supply chain  
innovation. Project selection shall be based on projects that

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17 create strategic investments in infrastructure to increase  
18 capacity and address freight mobility to meet the economic  
19 development goals of the state. Project criteria shall include  
20 consideration of:

21 1. Consistency with plans and studies produced by the  
22 Department of Commerce and the Department of Transportation.

23 2. Projects that directly increase efficiency in the  
24 delivery of goods.

25 3. Improved freight mobility access while reducing  
26 congestion, including, but not limited to, overnight truck  
27 parking at rest areas, weight stations, and intermodal logistics  
28 centers.

29 4. Increased fuel storage capacity and reliable  
30 distribution across the state, including, but not limited to,  
31 alternative fuel.

32 5. Securing a sustainable logistics transportation network  
33 throughout this state.

34 6. Developing connections to multimodal transportation  
35 systems.

36 7. Addressing emerging supply chain and transportation  
37 industry challenges.

38 (b) The Department of Commerce and the Department of  
39 Transportation shall also consider applications for funding  
40 submitted by public and private entities seeking to develop and  
41 establish vertiports in this state. Each award made for

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42 vertiport development shall be matched dollar-for-dollar by  
43 nonstate funds. For purposes of this subsection, the term  
44 "vertiport" means a system or infrastructure with supporting  
45 services and equipment used for landing, ground handling, and  
46 takeoff of manned or unmanned vertical takeoff and landing  
47 (VTOL) aircraft.

48 (2) Awardees under this program shall be selected jointly  
49 by the Department of Transportation and the Department of  
50 Commerce, and grants awarded under this program shall be  
51 administered by the Department of Commerce. The Department of  
52 Transportation and the Department of Commerce may adopt rules to  
53 implement this section.

54 (3) The Department of Commerce in conjunction with the  
55 Department of Transportation shall generate a Supply Chain  
56 Innovation Grant Program report which shall include a list of  
57 each Supply Chain Innovation Grant Program project awarded and  
58 the benefit of each project toward meeting the Supply Chain  
59 Innovation Grant Program goals and objectives. The Department of  
60 Commerce must provide the report to the Governor, the President  
61 of the Senate, and the Speaker of the House of Representatives  
62 by October 1, 2025, and biennially thereafter.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1341 Transportation Facility Designations

**SPONSOR(S):** Robinson, W.

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 868

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

**SUMMARY ANALYSIS**

State law authorizes legislative designations of transportation facilities, such as bridges, interchanges, or portions of roads, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not change the official names of the facilities and do not require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings to account for the designations. The Department of Transportation (DOT) may not erect markers for a designation unless the appropriate city or county commission enacts a resolution supporting the designation.

The bill designates the “Army Specialist Nicholas Panipinto Memorial Highway” in Manatee County. Under the bill, DOT must erect suitable markers for the designation.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the designation. The cost can be absorbed within DOT’s existing resources.

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



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Transportation Facility Designations

Under current law, the Legislature may designate a transportation facility, such as a bridge, interchange, or portion of a road, for honorary or memorial purposes or to distinguish a particular facility. Legislative designations do not officially change the existing names of the facilities and do not require local governments or private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings to account for the designations.<sup>1</sup>

Regarding the naming of state buildings and other facilities, state law provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.<sup>2</sup>

##### Transportation Facility Markers

When the Legislature establishes transportation facility designations, the Department of Transportation (DOT) is required to place a marker at each terminus or intersection of the highway segment or bridge designated and may erect other markers it deems appropriate for the designated transportation facility.<sup>3</sup> Markers may not be erected until the appropriate city or county commission passes a resolution in support of the particular designation. Additionally, if the designated facility is located in multiple cities or counties, each affected local government must pass a resolution in support of the designation before DOT can install the markers.<sup>4</sup>

##### Army Specialist Nicholas Panipinto

On November 6, 2019, United States Army Specialist Nicholas Panipinto died during training in Seoul, South Korea.<sup>5</sup> Panipinto was assigned to Alpha Company, 2nd Battalion, 7th Infantry Regiment, 3rd Brigade, 1st Cavalry Division out of Fort Hood, Texas.<sup>6</sup>

#### Effect of the Bill

The bill designates that portion of U.S. 19 between Palm View Road and Terra Ceia Road in Manatee County as “Army Specialist Nicholas Panipinto Memorial Highway”. The bill directs DOT to erect suitable markers.

### B. SECTION DIRECTORY:

**Section 1:** Designates “Army Specialist Nicholas Panipinto Memorial Highway”; directs DOT to erect suitable markers.

**Section 2:** Provides an effective date of July 1, 2024.

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<sup>1</sup> S. 334.071(1), F.S.

<sup>2</sup> S. 267.062(1), F.S.

<sup>3</sup> S. 334.071(2), F.S.

<sup>4</sup> S. 334.071(3), F.S.

<sup>5</sup> My Fallen Soldiers, *Panipinto, Nicholas*, <https://myfallensoldiers.com/2019/11/06/panipinto-nicholasarmy-specialist/> (last visited Jan. 23, 2024).

<sup>6</sup> Brown and Sons Funeral Homes & Crematory, *Nicholas C. Panipinto Obituary*, <https://www.brownsfuneral.com/obituary/nicholas-panipinto> (last visited Jan. 23, 2024).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT estimates a cost of \$1,800 per designation for the appropriate markers, which provides for two signs per designation at \$900 per sign.<sup>7</sup> Therefore, the bill has an estimated negative fiscal impact of \$1,800 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.<sup>8</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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 governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A

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<sup>7</sup> Email from Jack Rogers, Legislative Affairs Director, Department of Transportation, FW: road designation sign costs, (Oct. 10, 2023).

<sup>8</sup> *Id.*

1                                    A bill to be entitled  
 2                    An act relating to transportation facility  
 3                    designations; providing an 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.    Army Specialist Nicholas Panipinto Memorial  
 11                    Highway designated; Department of Transportation to erect  
 12                    suitable markers.-

13                    (1)    That portion of U.S. 19 between Palm View Road and  
 14                    Terra Ceia Road in Manatee County is designated as "Army  
 15                    Specialist Nicholas Panipinto Memorial Highway."

16                    (2)    The Department of Transportation is directed to erect  
 17                    suitable markers designating Army Specialist Nicholas Panipinto  
 18                    Memorial Highway as described in subsection (1).

19                    Section 2.    This act shall take effect July 1, 2024.

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



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1363 Traffic Enforcement  
**SPONSOR(S):** Busatta Cabrera  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1464

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee		Hinshelwood	Hinshelwood
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

Florida law expressly preempts to the state the regulation of the use of cameras for enforcing the Florida Uniform Traffic Control Law. The only cameras currently authorized to enforce traffic laws are traffic infraction detectors (commonly known as red light cameras), speed detection systems used to enforce school zone speed limits for violations in excess of 10 miles per hour over the speed limit, and school bus infraction detection systems.

Similar to current law for school zone speed detection systems, the bill adds the following requirements to the law that authorizes red light cameras:

- A county or municipality must enact an ordinance in order to authorize the placement or installation of, or to authorize contracting with a vendor for the placement or installation of, one or more traffic infraction detectors.
- A county or municipality that operates traffic infraction detectors must annually report the results of all traffic infraction detectors within the county's or municipality's jurisdiction.
- Before a county or municipality contracts or renews a contract to place or install traffic infraction detectors, the county or municipality must approve the contract or contract renewal at a regular or special meeting of the county's or municipality's governing body.
- The bill provides requirements for the public hearing on a proposed ordinance and the annual reporting.
- The compliance or sufficiency of compliance with the reporting requirement may not be raised in a proceeding challenging specified traffic violations enforced by a traffic infraction detector.

Additionally, the bill provides that a county or municipality that does not comply with the specified reporting requirements are suspended from operating traffic infraction detectors until such noncompliance is corrected.

Relating to the requirement under current law that each county and municipality must submit to DHSMV a traffic infraction detector report in order for DHSMV to compile its summary report on red light cameras, the bill requires DHSMV to publish each report submitted by a county or municipality on its website.

The bill also adds parameters around the use of all cameras for traffic enforcement such that contracts must be competitively bid, and a camera or camera component which is constructed by a Chinese manufacturer or a domestic or international manufacturer that uses materials imported from China may not be used for traffic enforcement in Florida.

The bill will have an indeterminate negative fiscal impact, though likely insignificant, on the state. The bill will have an indeterminate negative fiscal impact on local governments that elect to enforce certain traffic infractions by use of a camera.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Florida law expressly preempts to the state the regulation of the use of cameras for enforcing the Florida Uniform Traffic Control Law.<sup>1</sup> The only cameras currently authorized to enforce traffic laws are traffic infraction detectors (commonly known as red light cameras),<sup>2</sup> speed detection systems used to enforce school zone speed limits for violations in excess of 10 miles per hour over the speed limit,<sup>3</sup> and school bus infraction detection systems.<sup>4</sup>

School zone speed detection systems and school bus infraction detection systems are the two most recently authorized camera programs and were authorized in the 2023 Legislative Session.<sup>5</sup>

The law authorizing school zone speed detection systems contains the following provisions pertinent to this bill:

- Requires a county or municipality to enact an ordinance in order to authorize the placement or installation of a speed detection system.<sup>6</sup> As part of the public hearing on such proposed ordinance, the county or municipality must consider traffic data or other evidence supporting the installation and operation of each proposed school zone speed detection system, and the county or municipality must determine that the school zone where a speed detection system is to be placed or installed constitutes a heightened safety risk that warrants additional enforcement measures pursuant to this subsection.<sup>7</sup>
- Requires a county or municipality to annually report the results of all school zone speed detection systems within the county's or municipality's jurisdiction by placing a specified report as a single reporting item on the agenda of a regular or special meeting of the county's or municipality's governing body.<sup>8</sup> Before a county or municipality contracts or renews a contract to place or install a speed detection system in a school zone, the county or municipality must approve the contract or contract renewal at a regular or special meeting of the county's or municipality's governing body.<sup>9</sup>
  - Interested members of the public must be allowed to comment regarding the report, contract, or contract renewal under the county's or municipality's public comment policies or formats, and the report, contract, or contract renewal may not be considered as part of a consent agenda.<sup>10</sup>
  - The report must include a written summary, which must be read aloud at the regular or special meeting, and the summary must contain, for the same time period pertaining to the specified annual report to the Department of Highway Safety and Motor Vehicles (DHSMV), the number of notices of violation issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were

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<sup>1</sup> S. 316.0076, F.S. Ch. 316, F.S., is the Florida Uniform Traffic Control Law.

<sup>2</sup> Section 316.003(100), F.S., defines the term "traffic infraction detector" to mean a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s. 316.0083(1)(b), F.S., or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated. See also s. 316.0083, F.S., relating to the Mark Wandall Traffic Safety Program.

<sup>3</sup> Ss. 316.003(82), 316.008(9), 316.0776(3), and 316.1896, F.S.

<sup>4</sup> Ss. 316.003(78) and 316.173, F.S.

<sup>5</sup> Chs. 2023-174 and 2023-171, Laws of Fla.

<sup>6</sup> S. 316.008(9)(c), F.S.

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

<sup>8</sup> S. 316.0776(3)(c), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> S. 316.0776(3)(c)1., F.S.

issued as uniform traffic citations, and the number that were paid and how collected funds were distributed and in what amounts. The county or municipality must report to the DHSMV that the county's or municipality's annual report was properly considered, including the date of the regular or special meeting at which the annual report was considered.<sup>11</sup>

- The compliance or sufficiency of compliance with this reporting requirement may not be raised in a proceeding challenging a violation of s. 316.1895, F.S., or s. 316.183, F.S., enforced by a speed detection system in a school zone.<sup>12</sup>

The law that authorizes red light cameras contains the following provisions pertinent to this bill:

- Each county or municipality that operates a traffic infraction detector must submit a report by October 1, 2012, and annually thereafter, to DHSMV which details the results of using the traffic infraction detector and the procedures for enforcement for the preceding state fiscal year.<sup>13</sup> The information submitted by the counties and municipalities must include statistical data and information required by DHSMV in order for DHSMV to complete the report that DHSMV is required to compile.<sup>14</sup>
- On or before December 31, 2012, and annually thereafter, DHSMV must provide a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the use and operation of traffic infraction detectors, along with DHSMV's recommendations and any necessary legislation.<sup>15</sup> The summary report must include a review of the information submitted to DHSMV by the counties and municipalities and must describe the enhancement of the traffic safety and enforcement programs.<sup>16</sup>

## Effect of the Bill

Similar to current law for school zone speed detection systems, the bill adds the following requirements to the law that authorizes red light cameras:

- A county or municipality must enact an ordinance in order to authorize the placement or installation of, or to authorize contracting with a vendor for the placement or installation of, one or more traffic infraction detectors to enforce s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S. As part of the public hearing on such proposed ordinance, the county or municipality must consider traffic data or other evidence supporting the installation and operation of each traffic infraction detector, and the county or municipality must determine that the intersection at which a traffic infraction detector is to be placed or installed constitutes a heightened safety risk that warrants additional enforcement measures.
- A county or municipality that operates one or more traffic infraction detectors must annually report the results of all traffic infraction detectors within the county's or municipality's jurisdiction as a single reporting item on the agenda of a regular or special meeting of the county's or municipality's governing body. Before a county or municipality contracts or renews a contract to place or install one or more traffic infraction detectors, the county or municipality must approve the contract or contract renewal at a regular or special meeting of the county's or municipality's governing body.
  - Interested members of the public must be allowed to comment regarding the report, contract, or contract renewal under the county's or municipality's public comment policies or formats, and the report, contract, or contract renewal may not be considered as part of a consent agenda.
  - The report must include a written summary, which must be read aloud at the regular or special meeting, and the summary must contain, for the preceding year, the number of notices of violation issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic citations, and the number that were paid and how collected funds were distributed and in

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<sup>11</sup> S. 316.0776(3)(c)2., F.S.

<sup>12</sup> S. 316.0776(3)(c)3., F.S.

<sup>13</sup> S. 316.0083(4)(a), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> S. 316.0083(4)(b), F.S.

<sup>16</sup> *Id.*

what amounts. The county or municipality must report to DHSMV that the county's or municipality's annual report was considered in accordance with this paragraph, including the date of the regular or special meeting at which the annual report was considered.

- The compliance or sufficiency of compliance with this reporting requirement may not be raised in a proceeding challenging a violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., enforced by a traffic infraction detector.

Additionally, the bill provides that a county or municipality that does not comply with this reporting requirement is suspended from operating traffic infraction detectors until such noncompliance is corrected.

Relating to the requirement under current law that each county and municipality must submit to DHSMV a traffic infraction detector report in order for DHSMV to compile its summary report on red light cameras, the bill requires DHSMV to publish each report submitted by a county or municipality on its website.

The bill adds the following parameters around the use of all cameras for traffic enforcement:

- *Competitive bidding*: The provisions of s. 287.057, F.S., which exempt the purchase of commodities or contractual services from competitive bidding requirements do not apply to contracts entered into with manufacturers or vendors of school bus infraction detection systems, speed detection systems, traffic infraction detectors, or any other camera systems used for enforcing ch. 316, F.S.<sup>17</sup>
- *Manufacturing*: A school bus infraction detection system, speed detection system, traffic infraction detector, or any other camera system used for ch. 316, F.S., or any component thereof, which is constructed by a Chinese manufacturer or a domestic or international manufacturer that uses materials imported from China may not be used for traffic enforcement in Florida.

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

#### B. SECTION DIRECTORY:

**Section 1** Creates s. 316.0077, F.S., relating camera systems; competitive bidding.

**Section 2** Creates s. 316.0078, F.S., relating to use of camera systems constructed by Chinese manufacturers prohibited.

**Section 3** Amends s. 316.0083, F.S., relating to Mark Wandall Traffic Safety Program; administration; report.

**Section 4** Provides an effective of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None.

2. Expenditures:

The bill will have an indeterminate negative fiscal impact, though likely insignificant, on DHSMV because the agency will have to publish each red light camera report submitted by a county or municipality on its website.

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<sup>17</sup> Ch. 316, F.S., relates to state uniform traffic control.  
**STORAGE NAME:** h1363.TMS  
**DATE:** 1/23/2024



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

Indeterminate. As to local governments that elect to enforce certain traffic infractions by use of a camera, the bill may add costs to local governments in order for them to do so.

**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 require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A

1                   A bill to be entitled  
2           An act relating to traffic enforcement; creating s.  
3           316.0077, F.S.; providing that provisions exempting  
4           the purchase of commodities or contractual services  
5           from competitive bidding requirements do not apply to  
6           contracts for certain camera systems; creating s.  
7           316.0078, F.S.; prohibiting certain camera systems or  
8           components thereof constructed by a Chinese  
9           manufacturer from being used for traffic enforcement  
10          in this state; amending s. 316.0083, F.S.; requiring a  
11          county or municipality to enact an ordinance to  
12          authorize placement or installation of traffic  
13          infraction detectors; requiring the county or  
14          municipality to consider certain evidence and make a  
15          certain determination at a public hearing; requiring a  
16          county or municipality to place a specified annual  
17          report on the agenda of a regular or special meeting  
18          of its governing body; requiring approval by the  
19          governing body at a regular or special meeting before  
20          contracting or renewing a contract to place or install  
21          traffic infraction detectors; providing for public  
22          comment; prohibiting such report, contract, or  
23          contract renewal from being considered as part of a  
24          consent agenda; providing requirements for a written  
25          summary of such report; requiring a report to the

26 Department of Highway Safety and Motor Vehicles;  
 27 prohibiting compliance with certain provisions from  
 28 being raised in a proceeding challenging a violation;  
 29 providing for suspension of a noncompliant county or  
 30 municipality from operating traffic infraction  
 31 detectors until such noncompliance is corrected;  
 32 requiring the department to publish certain reports on  
 33 its website; providing an effective date.

34

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

36

37 Section 1. Section 316.0077, Florida Statutes, is created  
 38 to read:

39 316.0077 Camera systems; competitive bidding.—The  
 40 provisions of s. 287.057 which exempt the purchase of  
 41 commodities or contractual services from competitive bidding  
 42 requirements do not apply to contracts entered into with  
 43 manufacturers or vendors of school bus infraction detection  
 44 systems, speed detection systems, traffic infraction detectors,  
 45 or any other camera systems used for enforcing this chapter  
 46 which are regulated under s. 316.0076.

47 Section 2. Section 316.0078, Florida Statutes, is created  
 48 to read:

49 316.0078 Use of camera systems constructed by Chinese  
 50 manufacturers prohibited.—A school bus infraction detection

51 system, speed detection system, traffic infraction detector, or  
52 any other camera system used for enforcing this chapter which is  
53 regulated under s. 316.0076, or any component thereof, which is  
54 constructed by a Chinese manufacturer or a domestic or  
55 international manufacturer that uses materials imported from  
56 China may not be used for traffic enforcement in this state.

57 Section 3. Subsection (4) of section 316.0083, Florida  
58 Statutes, is amended to read:

59 316.0083 Mark Wandall Traffic Safety Program;  
60 administration; report.—

61 (4)(a)1. A county or municipality must enact an ordinance  
62 in order to authorize the placement or installation of, or to  
63 authorize contracting with a vendor for the placement or  
64 installation of, one or more traffic infraction detectors to  
65 enforce s. 316.074(1) or s. 316.075(1)(c)1. As part of the  
66 public hearing on such proposed ordinance, the county or  
67 municipality must consider traffic data or other evidence  
68 supporting the installation and operation of each traffic  
69 infraction detector, and the county or municipality must  
70 determine that the intersection at which a traffic infraction  
71 detector is to be placed or installed constitutes a heightened  
72 safety risk that warrants additional enforcement measures.

73 2. A county or municipality that operates one or more  
74 traffic infraction detectors must annually report the results of  
75 all traffic infraction detectors within the county's or

76 municipality's jurisdiction as a single reporting item on the  
 77 agenda of a regular or special meeting of the county's or  
 78 municipality's governing body. Before a county or municipality  
 79 contracts or renews a contract to place or install one or more  
 80 traffic infraction detectors, the county or municipality must  
 81 approve the contract or contract renewal at a regular or special  
 82 meeting of the county's or municipality's governing body.

83 a. Interested members of the public must be allowed to  
 84 comment regarding the report, contract, or contract renewal  
 85 under the county's or municipality's public comment policies or  
 86 formats, and the report, contract, or contract renewal may not  
 87 be considered as part of a consent agenda.

88 b. The report required under this subparagraph must  
 89 include a written summary, which must be read aloud at the  
 90 regular or special meeting, and the summary must contain, for  
 91 the preceding year, the number of notices of violation issued,  
 92 the number that were contested, the number that were upheld, the  
 93 number that were dismissed, the number that were issued as  
 94 uniform traffic citations, and the number that were paid and how  
 95 collected funds were distributed and in what amounts. The county  
 96 or municipality must report to the department that the county's  
 97 or municipality's annual report was considered in accordance  
 98 with this paragraph, including the date of the regular or  
 99 special meeting at which the annual report was considered.

100 3. The compliance or sufficiency of compliance with this

101 paragraph may not be raised in a proceeding challenging a  
102 violation of s. 316.074(1) or s. 316.075(1)(c)1. enforced by a  
103 traffic infraction detector.

104 4. A county or municipality that does not comply with this  
105 paragraph is suspended from operating traffic infraction  
106 detectors under this subsection until such noncompliance is  
107 corrected.

108 (b)(a) Each county or municipality that operates a traffic  
109 infraction detector shall submit a report by October 1, 2012,  
110 and annually thereafter, to the department which details the  
111 results of using the traffic infraction detector and the  
112 procedures for enforcement for the preceding state fiscal year.  
113 The information submitted by the counties and municipalities  
114 must include statistical data and information required by the  
115 department to complete the summary report required under  
116 paragraph (c) (b). The department must publish each report  
117 submitted by a county or municipality pursuant to this paragraph  
118 on its website.

119 (c)(b) On or before December 31, 2012, and annually  
120 thereafter, the department shall provide a summary report to the  
121 Governor, the President of the Senate, and the Speaker of the  
122 House of Representatives regarding the use and operation of  
123 traffic infraction detectors under this section, along with the  
124 department's recommendations and any necessary legislation. The  
125 summary report must include a review of the information

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2024

126 | submitted to the department by the counties and municipalities  
127 | and must describe the enhancement of the traffic safety and  
128 | enforcement programs.

129 |       Section 4. This act shall take effect July 1, 2024.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Transportation & Modals  
 2 Subcommittee

3 Representative Busatta Cabrera offered the following:

4

5 **Amendment**

6 Remove lines 108-118 and insert:

7 (b) ~~(a)~~ Each county or municipality that operates a traffic  
 8 infraction detector shall submit a report by October 1, 2012,  
 9 and annually thereafter, to the department which details the  
 10 results of using the traffic infraction detector and the  
 11 procedures for enforcement for the preceding state fiscal year.  
 12 The information submitted by the counties and municipalities  
 13 must include:

- 14 1. The number of notices of violation issued, the number  
 15 that were contested, the number that were upheld, the number  
 16 that were dismissed, the number that were issued as uniform



Amendment No.

17 traffic citations, the number that were paid, and the number in  
18 each of the preceding categories for which the notice of  
19 violation was issued for a right-hand turn violation.

20 2. A description of alternative safety countermeasures  
21 taken prior to and after the placement or installation of a  
22 traffic infraction detector.

23 3. Statistical data and information required by the  
24 department to complete the summary report required under  
25 paragraph (c) ~~(b)~~.

26  
27 The department must publish each report submitted by a county or  
28 municipality pursuant to this paragraph on its website.