HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7039 PCB TPS 15-01 Department of Transportation
SPONSOR(S): Economic Affairs Committee; Transportation & Ports Subcommittee; Rooney, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1554

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Ports Subcommittee	12 Y, 0 N	Johnson	Vickers
1) Transportation & Economic Development Appropriations Subcommittee	10 Y, 0 N	Dobson	Davis
2) Economic Affairs Committee	18 Y, 0 N, As CS	Johnson	Creamer

SUMMARY ANALYSIS

This is a comprehensive bill relating to the Department of Transportation (DOT). In summary the bill:

- Removes a requirement that DOT's inspector general be appointed by the DOT Secretary.
- Removes a staffing mandate regarding DOT's Fort Myers Urban Office.
- Reallocates $10 million within the work program to the Florida Seaport and Economic Development (FSTED) Program, which increases the program's annual funding minimum from $15 to $25 million.
- Revises existing statutory language and definitions in order to assist in the enforcement and general understanding of bicycle and pedestrian related statutes in an effort to maintain the safety of bicyclists and pedestrians.
- Modifies the statutes to allow commercial motor vehicles that are not registered to legally operate in the state, but legally registered in another jurisdiction, to obtain an International Registration Plan permit at dedicated ports-of-entry.
- Streamlines and revises the existing state process to manage airspace and land use at or near airports.
- Modifies the definition of 511 services and revises 511 related statutes to allow the service to be disseminated via methods other than interactive voice response.
- Authorizes the DOT to assume specified responsibilities under the National Environmental Policy Act (NEPA).
- Removes the Beeline-East Expressway and the Navarre Bridge from the list of facilities whose toll revenues may be used to secure bonds.
- Provides that bond validation of turnpike bonds is optional instead of mandatory.
- Changes the length of time from three years to 10 years that a toll account must be dormant before it reverts to unclaimed property.
- Revises requirements for when a DOT Work Program amendment must be approved by the Legislative Budget Commission.
- Increases the maximum population for counties eligible for the Small County Outreach Program from 150,000 to 165,000.
- Removes the ability of municipalities and counties to charge a developer for removing vegetation within the right-of-way limits of road improvements under certain circumstances, provides opt-out.
- Requires the Office of Economic and Demographic Research to evaluate and determine the economic benefits of DOT's Work Program.

The overall fiscal impact of this bill is indeterminate but likely insignificant. Additionally, there also may be cost savings associated with DOT assuming responsibilities under NEPA. See fiscal section for specific details.

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This is a comprehensive bill relating to the Department of Transportation (DOT). For ease of understanding, this analysis is arranged by topic.

DOT Inspector General (Section 1)

Current Situation
Current law requires the DOT Secretary to "appoint an inspector general pursuant to s. 20.055[1] who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary."[2]

In 2014, the Legislature passed CS/CS/HB 1385,[3] relating to inspector generals. As amended by CS/CS/HB 1385, s. 20.055(3), F.S., provides that all agencies under the jurisdiction of the Governor, including DOT, are appointed by and report to the Governor's Chief Inspector General.[4] Additionally, s. 20.055(3)(c), F.S., provides that the agency inspector general for agencies under the jurisdiction of the Governor may only be removed from office by the Chief Inspector General for cause.

Proposed Changes
The bill repeals s. 20.23(3)(d), F.S., removing requirement that the DOT Secretary appoint an inspector general who is directly responsible to and serves at the pleasure of the Secretary. DOT's inspector general will now be appointed by the Governor's Chief Inspector General, like all other agencies under the jurisdiction of the Governor.

Fort Myers Urban Office (Section 1)

Current Situation
DOT is a decentralized agency organized into seven districts, each headed by a district secretary, and a turnpike enterprise and a rail enterprise, each enterprise headed by an executive director. The headquarters for each of the seven districts are Polk, Columbia, Washington, Broward, Volusia, Miami-Dade, and Hillsborough Counties. The headquarters of the turnpike enterprise is in Orange County and the headquarters for the rail enterprise is in Leon County.[5] In addition, DOT has urban offices in Fort Myers, Jacksonville, and Orlando, which are satellite offices of the main district office and are under the direction of the respective District Secretary. Only the Fort Myers Urban Office is specifically referenced in statute.[6]

Current law provides that DOT's district director for the Fort Myers Urban Office[7] is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. That office is also responsible for providing policy, direction, local government coordination, and planning for those counties.[8]

Proposed Changes
The bill repeals s. 20.23(4)(d), F.S., requiring the district director of the Fort Myers Urban Office to develop the 5-year transportation plan for certain counties and to be responsible for providing policy, direction, local government coordination, and planning for those counties.

FSTED Funding (Sections 2 and 3)

[1] Section 20.055, F.S., relates to agency inspector generals.
[2] S. 20.23(3)(d), F.S.
[3] Ch. 2014-144, L.O.F.
[4] Section 20.055(3), F.S., previously had each agency's inspector general appointed by the agency head.
[5] S. 20.23(4)(a), F.S.
[6] DOT e-mail response to staff questions, February 3, 2015. Copy on file with Transportation & Ports Subcommittee Staff.
[7] The Fort Myers Urban Office is in DOT District 1.
[8] S. 20.23(4)(d), F.S.

Current Situation

In 1990, the Legislature created Ch. 311, F.S., authorizing the Florida Seaport and Economic Development (FSTED) Program.[9] This program established a collaborative relationship between DOT and the seaports and currently codifies an annual minimum of $15 million for a seaport grant program.[10] FSTED funds are to be used on approved projects on a 50-50 matching basis.[11] Funding grants under the FSTED program are limited to the following port facilities or port transportation projects:

- Transportation facilities within the jurisdiction of the port.
- The dredging or deepening of channels, turning basins, or harbors.
- The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with the foregoing.
- The acquisition of vessel tracking systems, container cranes, or other mechanized equipment used in the movement of cargo or passengers in international commerce.
- The acquisition of land to be used for port purposes.
- The acquisition, improvement, enlargement, or extension of existing port facilities.
- Environmental protection projects: which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites; or which result from the funding of eligible projects.
- Transportation facilities which are not otherwise part of DOT's adopted Work Program.[12]
- Intermodal access projects.
- Construction or rehabilitation of port facilities, excluding any park or recreational facility, in ports listed in s. 311.09(1), F.S.,[13] with operating revenues of $5 million or less, provided that such project creates economic development opportunities, capital improvements, and positive financial returns to such ports.
- Seaport master plan or strategic plan development updates, including the purchase of data to support such plans or other provisions of the Community Planning Act.[14]

In order for a project to be eligible for consideration by the FSTED Council, a project must be consistent with the port's comprehensive master plan, which is incorporated as part of the approved local government comprehensive plan.

The FSTED program is managed by the FSTED Council, which consists of the port director, or director's designee of the 15 deepwater ports, the Secretary of DOT or his or her designee, and the Executive Director of the Department of Economic Opportunity or his or her designee.[15]

Proposed Changes

The bill amends ss. 311.07(2) and 311.09(9), F.S., providing that DOT include a minimum of $25 million per year in its annual legislative budget request for the FSTED program.

Bicycle/Pedestrian Safety (Sections 4 through 7)

Current Situation

According to the National Highway Traffic Safety Administration, Florida ranks first in the nation for pedestrian and bicycle crashes, fatalities, and serious injuries.[16] In 2013, DOT created a Pedestrian

[9] Ch. 90-136, L.O.F.
[10] SS. 311.07 and 311.09, F.S.
[11] S. 311.07(3)(a), F.S.
[12] DOT's work program is adopted pursuant to s. 339.135, F.S.
[13] The ports listed in s. 311.09(1), F.S., are the ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.
[14] Part II of Ch. 163, F.S.
[15] S. 311.09(1), F.S.

and Bicycle Safety Coalition to implement effective countermeasures that support and promote pedestrian and bicycle safety on Florida's streets and highways. The Coalition's Legislation, Regulation, and Policy Emphasis Area Team determined that statutes relating to bicycles and pedestrians needed to be clarified to promote individual safety for pedestrians and bicyclists.

Current law defines "crosswalk" as:

> (a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.
> (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.[17]

Current law defines "sidewalk" as "that portion of a street between the curbline, or the lateral line, of a roadway, intended for use by pedestrians."[18]

Current law provides that vehicles proceeding at less than the normal speed of traffic shall be driven in the right-hand lane or as close as practicable to the right-hand side of the roadway, except when overtaking and passing another vehicle going in the same direction or when preparing for a left turn.[19]

Current law provides that a driver at a crosswalk where a sign indicates shall stop and remain stopped to allow a pedestrian to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is on the side of roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.[20]

Current law provides that when traffic control signals are not in place or in operation and there is no sign indicating otherwise, the driver yields the right-of-way to a pedestrian crossing the roadway in a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Any pedestrian crossing a roadway where there is a pedestrian tunnel or overhead pedestrian crossing yields the right-of-way to all vehicles on the roadway.[21]

Current law provides that a bicyclist on a roadway at less than the normal speed of traffic shall ride in the bicycle lane or, if no bicycle lane, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

- When overtaking and passing another bicycle or vehicle proceeding in the same direction.
- When preparing for a left turn at an intersection or into a private road or driveway.
- When reasonably necessary to avoid any condition or potential conflict, or substandard-width lane,[22] which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.[23]

Current law provides that a bicyclist on a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.[24]

<u>Proposed Changes</u>

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[16] National Highway Traffic Safety Administration Crash Facts. Available at: http://safety.fhwa.dot.gov/ped_bike/crash_facts/ (Last visited February 3, 2015).
[17] S. 316.003(6), F.S.
[18] S. 316.003(47), F.S.
[19] S. 316.081(2), F.S.
[20] S. 316.130(7)(b), F.S.
[21] S. 316.137(7)(c), F.S.
[22] Section 316.0265(5)(a)3., F.S., defines "substandard-width lane" as "a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane."
[23] S. 316.2065(5)(a), F.S.
[24] S. 316.2065(5)(b), F.S.

- The bill deletes the current definition of "crosswalk" and adds the following definitions in its place: Marked Crosswalk-pavement marking lines on the roadway surface, which include contrasting pavement texture, style, or colored portions of the roadway, at an intersection used by pedestrians crossing the roadway.

- Midblock Crosswalk-pavement marking lines on the roadway surface, which may include contrasting pavement, texture, style, or a colored portion of the roadway, located between intersections at a signalized or nonsignalized crosswalk used by pedestrians for crossing the roadway and may include a pedestrian refuge island.

- Unmarked Crosswalk-that portion of the roadway at an intersection which is used by pedestrians for crossing the roadway and which is not marked by pavement marking lines on the roadway surface.

The bill amends the definition of "sidewalk" to read: "that portion of a street intended for use by pedestrians, adjacent to the roadway between the curb and the edge of the roadway and the property line."

The bill amends s. 316.081(2), F.S., changing "at the time and place and under conditions then existing" to "based on existing conditions." The bill also provides conditions if no lane is marked for traffic and changes the term "practicable" to "safe and reasonable."

The bill amends s. 316.130(7)(b), F.S., providing that the requirement that the driver of a vehicle stop and remain stopped for a pedestrian applies to a crosswalk where the approach is not controlled by a traffic control signal or stop sign. The bill also provides that the law applies when the vehicle is turning. The bill also adds language to s. 316.130(7)(b), F.S., regarding pedestrian tunnels, which is currently in s. 316.130(7)(c), F.S. The bill then repeals s. 316.130(7)(c), F.S.

The bill amends s. 316.2065(5)(a), F.S., replacing "at the time and place under the conditions then existing" with "under existing conditions" The bill also replaces the term "practicable" with "safe and reasonable." The bill also removes the phrase "substandard width lane, which makes it unsafe to continue along the right hand curb or edge within a bicycle lane" from s. 316.2065(5)(a)3, F.S., along with the definition for "substandard width lane." According to DOT, this change is intended to address uncertainty relating to the definition of "substandard width lane" and clarify that in instances where lane sharing is not realistic, bicyclists should utilize the full lane.[25]

The bill amends s. 316.2065(5)(b), F.S., replacing the word "practicable" with "safe and reasonable."

Port of Entry (Sections 4 and 8)

Current Situation

The Federal Motor Carrier Safety Administration and the state have enacted certain laws and regulations intended to promote the safe operation of commercial vehicles and to protect the state's roads and bridges from damage associated with overweight vehicles. DOT's Office of Maintenance's Motor Carrier Size and Weight Office as well as the Florida Highway Patrol's Commercial Vehicle Enforcement Unit enforce laws relating to commercial vehicle size, weight, and safety.[26]

Before a commercial vehicle can legally transport goods and commodities from one state to another, it must meet certain requirements. The basic credential requirements include a valid and current apportioned registration (International Registration Plan [IRP]),[27] international fuel tax agreement

[25] February 9, 2015, e-mail from DOT to Transportation & Ports Subcommittee Staff. On file with Transportation & Ports Subcommittee staff.

[26] Florida Department of Transportation, *Florida Port of Entry Feasibility Study*, September 2014. Copy on file with Transportation & Ports Subcommittee Staff.

[27] The IRP is a registration reciprocity agreement among states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. http://www.irponline.org/ (Last visited February 12, 2015).

license and decals, display of a valid United States Department of Transportation number, and, in some situations, overweight/over dimensional permits. Certain states allow carriers to purchase all or portions of these credentials at select weigh station facilities or other locations within the state. These locations are generally referred to as ports-of-entry.[28]

Currently, Florida is not a port-of-entry state, meaning that all applicable permits and credentials must be obtained prior to entering the state. If a commercial vehicle operator does not have the necessary permits and credentials upon entering Florida and attempts to purchase them at the first weigh station, they will be cited for not having the necessary credentials and will then be given the opportunity to purchase the necessary permits and credentials.[29]

Pursuant to s. 316.545, F.S., the fine for not having the proper credentials when entering the state is five cents per pound based upon the following:

- For laden truck-tractor-semi trailer or tandem trailer truck combinations will be fined for any scaled weight exceeding 35,000 pounds.
- For unladen truck tractor-semi trailer or straight truck-trailers will be fined for any scaled weight in excess of 10,000 pounds.[30]

Proposed Changes

The bill creates s. 316.003(94), F.S., defining "port-of-entry" as a designated location that allows drivers of commercial motor vehicles to purchase temporary registration permits necessary to operate legally within the state. The locations and the designated routes to such locations shall be determined by DOT.

The bill amends s. 316.545(2)(b), F.S., providing that commercial motor vehicles entering the state at designated ports-of-entry, or operating on designated routes to a port of entry location, which obtain temporary registration permits associated with the IRP, shall be assessed a penalty limited to the difference between its gross weight and the declared gross vehicle weight at five cents per pound.

Airport Zoning (Sections 9 through 24)

In 2012, DOT created a stakeholder working group to address problems with the state's airport zoning law and to update it to reflect current federal requirements and industry standards. The group consisted of representatives from airports, local planning/zoning departments, the Florida Defense Alliance, the Florida League of Cities, the Florida Airports Council, the real estate development community, and DOT. The group met three times from June to September 2012.

The working group determined that the law, which originally passed in 1945,[31] contains outdated and inconsistent provisions when compared to applicable federal regulations, contains internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.

Definitions (s. 333.01, F.S.)

Current Situation

Current law defines various terms as they relate to airport zoning.

Proposed Changes

The bill adds the following definitions to s. 333.01, F.S.:

[28] Florida Department of Transportation, *Florida Port of Entry Feasibility Study*, September 2014. Copy on file with Transportation & Ports Subcommittee Staff.
[29] *Id*.
[30] S. 316.454(2)(b), F.S.
[31] Ch. 23079, L.O.F.

- Aeronautical study-a Federal Aviation Administration (FAA) review conducted pursuant to 14 C.F.R. Part 77, concerning the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft.

- Airport master plan-a comprehensive plan of an airport that describes the immediate and long-term development plans to meet future aviation demand.

- Airport protection zoning-airport zoning regulations governing airport hazards in the manner provided in s. 333.03

- Department-Department of Transportation as created under s. 20.23, F.S.

- Educational facility-any structure, land, or use thereof that includes a public or private kindergarten through twelfth grade school, charter school, magnet school, college campus, or university campus. For the purposes of Ch. 333, F.S. the term "educational facility" does not include space utilized for educational purposes within a multitenant building.

- Landfill-has the same meaning as in s. 403.703, F.S.[32]

- Public-use airport-an airport,[33] publicly or privately owned licensed by the state which is open for use by the public.

- Substantial modification-any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

The bill also amends the following definitions:
- Airport hazard
- Airport hazard area
- Airport land use compatibility zoning
- Airport layout plan
- Obstruction
- Political subdivision
- Runway protection zone
- Structure

The bill also deletes the definition of "aeronautics" since the term is not being used. It also deletes the definition of "tree" and replaces the term with "vegetation" throughout Ch. 333, F.S.

Permit required for structures exceeding federal obstruction standards. (s. 333.025, F.S.)

Current Situation
Current law provides that in order to prevent structures[34] dangerous to air navigation from being erected, each person[35] must secure permit from DOT to erect, alter, or modify a structure exceeding the federal obstruction standards.[36] However, permits are only required within an airport hazard area[37]

[32] Section 403.703(17), F.S., defines "landfill" as "any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris."
[33] The bill defines "airport" as "any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose."
[34] The bill defines "structure" as "any object, constructed, erected, altered, or installed, including, but without limitation thereof, buildings, towers, smokestacks, utility poles, power generation equipment and overhead transmission lines."
[35] The bill defines "person" as "any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof."
[36] The federal obstruction standards are contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23.
[37] The bill defines "airport hazard area" as "any area of land or water upon which an airport hazard might be established."

where federal standards are exceeded and if the proposed construction is within a 10-nautical-mile radius of the geographical center of the airport.

Current law provides that affected airports are considered having those facilities which are shown on the airport master plan, or an airport layout plan,[38] or in comparable military documents, and those facilities will be protected. Planned or proposed public-use airports which are the subject of a notice or proposal submitted to the FAA or to DOT will also be protected.

Current law provides that permit requirements do not apply if the project received construction permits from the Federal Communications Commission (FCC) prior to May 20, 1975;[39] nor do permit requirements apply to previously approved structures now existing, or any necessary replacement or repairs to existing structures, provided that there is no change to the height and location of the structure.

Current law provides that when political subdivisions[40] have adopted adequate airspace protections, which are on file with DOT, a DOT permit for the structure is not required.

Current law gives DOT 30 days from when it receives an application for a permit, to issue or deny a permit to erect, alter, or modify of any structure which would exceed federal obstruction standards.

Current law provides that in determining whether to issue or deny a permit, DOT considers the following:

- The nature of the terrain and height of existing structures.
- Public and private interests and investments.
- The character of flying operations and planned developments of airports.
- Federal airways as designated by the FAA.
- Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
- Technological advances.
- The safety of persons on the ground and in the air.
- Land use density.
- The safe and efficient use of navigable airspace.
- The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

Current law provides that when issuing a permit, DOT shall require the obstruction[41] marking and lighting of the permitted obstruction.

Current law prohibits DOT from approving a permit to erect a structure unless the applicant submits both documentation showing compliance with federal notification requirements and a valid aeronautical evaluation. DOT shall not approve a permit solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

Proposed Changes

[38] The bill defines "airport layout plan" as "a scaled drawing, or set of drawings, in either paper or electronic form, of existing and planned airport facilities that provide a graphic representation of the existing and long-term development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport."

[39] This is provided that these structures now exist.

[40] The bill defines "political subdivision" as "the local government any county, city, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state."

[41] The bill defines "obstruction" as any object of natural growth or terrain or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus, or alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein, existing or proposed, which exceeds the standards contained in 14 C.F.R. 77.15, 77.17, 11.19, 77.21, and 77.23.

The bill replaces the term “geographic center” with “airport reference point.” The airport reference point is located at the approximate geometric center of all usable runways. The bill also updates references to FAA rules by providing current C.F.R. references.

The bill provides that existing, planned, and proposed facilities at public-use airports contained in an airport master plan, on an airport layout plan, or in comparable military documents will be protected from the structures that exceed federal obstruction standards. The bill also removes the provision that certain planned or proposed public-use airports are also protected.

The bill changes the term “project” to “structures” in s. 333.025(3), F S., and removes the reference to structures that now exist for structures receiving construction permits from the FCC prior to May 20, 1975.

The bill provides that when political subdivisions have adopted adequate airport protection zoning regulations, which DOT has on file and the political subdivision has established a permitting process, a DOT permit is not required for the structure. To evaluate, concurrent with the permitting process, for technical consistency, the bill creates a 15-day DOT review period. Unless requested by DOT, the bill exempts cranes, construction equipment, and other temporary structures in use or in place for a period not exceeding 18 consecutive months from DOT review.

The bill provides that DOT has 30 days after receiving an application to issue or deny a permit for the construction or alteration of any structure which would exceed federal obstruction standards. The bill requires DOT to review permit applications in conformity with s. 120.60, F.S.[42]

The bill adds the following criteria for DOT to consider when granting or denying a permit:

- Whether the construction of the proposed structure would impact the state licensing standards for a public-use airport.[43]

The bill modifies the following criteria for DOT to consider in granting or denying a permit:

- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- The cumulative effects on navigable airspace of all existing structures and all other known proposed structures in the area.

The bill deletes the following criteria for DOT to consider in granting or denying a permit:

- Land use density.

The bill provides that when issuing a permit, DOT must require the owner of the permitted obstruction or vegetation to install, operate, and maintain, at his or her own expense, marking and lighting in conformance FAA standards.

The bill provides that DOT shall not approve the construction or alteration unless documentation is submitted that it is in compliance with certain standards. The bill changes the term “aeronautical evaluation” to “aeronautical study,” which the bill defines. The bill also updates C.F.R. references to federal obstruction standards.

The bill creates s. 333.025(9), F.S., providing that the denial of a permit is subject to the administrative review under the Administrative Procedures Act.[44]

Power to adopt airport zoning regulations. (s. 333.03, F.S.)

[42] Section 120.60, F.S., relates to licensing.
[43] The state licensing standards for a public-use airport are contained in Ch. 330, F.S., and Rule 14-60, F.A.C.
[44] Ch. 120, F.S.

Current Situation

Current law provides that every political subdivision with an airport hazard[45] area has until October 1, 1977, to adopt, administer, and enforce airport zoning regulations for the airport hazard area.

Current law provides where an airport is owned or controlled by a political subdivision and any airport hazard area related to the airport is located in whole or in part outside of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision where the airport hazard area is located, shall either:

- By interlocal agreement, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area; or
- create a joint airport zoning board, with the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area.

Current law provides that airport zoning regulations shall, as a minimum, require:

- A variance for the erection, alteration, or modification of any structure which would cause the structure to exceed the federal obstruction standards;
- obstruction marking and lighting for structures;
- documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation submitted by each person applying for a variance;
- consideration of the criteria in s. 333.025(6), F.S., when determining whether to issue or deny a variance; and
- that no variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

Current law requires DOT to issue copies, at no cost to authorized recipients, of the federal obstruction to each political subdivision with an airport hazard area. Additionally, DOT must, in cooperation with political subdivisions, issue appropriate airport zoning maps depicting within each county the maximum allowable height of any structure or tree.

Current law provides that interim airport land use compatibility zoning[46] regulations shall be adopted. When political subdivisions have land development regulations addressing land use consistent with Ch. 333, F.S, the political subdivision is not required to adopt airport land use compatibility regulations. Interim land use compatibility regulations are required to consider the following:

- Whether sanitary landfills are located within the following areas:
  - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbojet or turboprop aircraft.
  - Within 5,000 feet from the nearest point of any runway used only by piston-type aircraft.
  - Outside the perimeters defined above, but still within the lateral limits of the civil airport imaginary surfaces. Current law advises a case-by-case review of such landfills.
- Whether any landfill is located and constructed so that it attracts or sustains hazardous bird movements. The political subdivision shall request a report from the airport on such bird feeding or roosting areas that are known to the airport. In preparing its report, the airport, considers whether the landfill will incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft. The airport has 30 days to respond to the request.
- Where an airport authority or other governing body has conducted a noise study[47] neither residential construction nor any educational facility[48] with the exception of aviation school

[45] The bill defines "airport hazard" as "any obstruction that exceeds the federal obstruction standards contained in 14 C.F.R. ss. 77.15, 77.17, 77.19, 77.21, and 77.23 and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft and for which no person has previously obtained a permit pursuant to s. 333.025 or s.333.07."

[46] The bill defines "airport land use compatibility zoning" as "airport zoning regulations regulating the use of land adjacent to or in the immediate vicinity of airports in the manner provided in s. 333.03."

[47] A noise study is conducted in accordance with 14 C.F.R. Part 150.

[48] Section 1013.01(6), F.S., defines "educational facilities" as "the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards."

facilities, shall be permitted within the area contiguous to the airport defined by an outer noise contour that is considered incompatible with that type of construction.
- Where an airport authority or other governing body operating an airport has not conducted a noise study, neither residential construction nor any educational facility except for of aviation school facilities, shall be permitted 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.

Current law requires airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. These regulations shall prohibit the construction of an educational facility at either end of a runway of an airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the political subdivision administering the zoning regulations makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns.

Current law requires DOT to provide technical assistance to any political subdivision requesting assistance in preparing an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances, must be filed with DOT.

Current law provides that nothing shall be construed to require the removal, change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in former s. 235.19, F.S., as of July 1, 1993.

Proposed Changes

The bill amends the title of s. 333.03, F.S. to “requirement to adopt airport zoning regulations.”

The bill amends s. 333.03(1)(a), F.S., removing the October 1, 1977 deadline, clarifying language, and specifying airport protection zoning regulations.

The bill amends s. 333.03(1)(b), F.S., removing antiquated legal phrasing, to provide clarity and specificity, and to delete unnecessary statutory references.

The bill amends s. 333.03(1)(c), F.S., reflecting the conversion from a variance process to a permitting process. The bill also updates references to FAA rules.

The bill amends s. 333.03(1)(d), F.S., removing the requirement that DOT issue copies of the federal obstruction standards. The paragraph now provides that DOT is available to assist political subdivisions with regard to federal obstruction standards.

The bill amends s. 333.03(2), F.S., modifying the text to require political subdivisions adopt, administer, and enforce airport land use compatibility zoning regulations.

The bill amends s. 333.03(2)(a), F.S., prohibiting any new and restricting any existing landfills in the areas above. The text is also modified to reflect current aviation terminology regarding the types of aircraft and to update a C.F.R. reference.

The bill amends s. 333.03(2)(b), F.S., eliminating statutory redundancy.

The bill amends s. 333.03(2)(c), F.S. allowing for alternative noise studies approved by the FAA in lieu of a noise study provided for in 14 C.F.R. Part 150.

The bill amend s. 333.03(2)(d), F.S., removing the term “publicly-owned” and a reference to a definition for educational facility in Ch. 1013, F.S.

The bill amends s. 333.03(3), F.S. reflecting statutory intent, removing redundancy and antiquated aviation terminology and reflecting the purpose of runway protection zones[49] as defined and described in FAA AC 15-5300-13A.[50]

The bill repeals the existing s. 333.03(4), F.S., preventing redundancy due to changes to the permitting process.

The bill revises current s. 333.03(5),F.S., providing clarity and specificity and to reflect a conversion to a permitting process by requiring all updates and amendments to local airport zoning codes, rules, and regulations to be filed with DOT within 30 days after adoption.

The bill amends current s. 333.03(6), F.S., removing the provision prohibiting the construction of a new site as determined by the former s. 235.19, F.S., as of July 1, 1993.

The bill creates a new s. 333.03(6), F.S., providing that nothing precludes another governing body operating a public-use airport from establishing airport zoning regulations stricter than provided in state law in order to protect the safety and welfare of the public in the air and on the ground.

Comprehensive zoning regulations; most stringent to prevail where conflicts occur. (s. 333.04, F.S.)

Current Situation

Incorporation
Current law provides that if a political subdivision has a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures, and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion of the area may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection with the comprehensive zoning regulations.

Conflict
Current law provides that if there is a conflict between any airport zoning regulations and any other regulations applicable to the same area, the more stringent limitation or requirement governs and prevails.

Proposed Changes
The bill amends s. 333.04(1), F.S., changing zoning ordinance to “zoning plan or policy.” The bill also added “protection” to the phrase “airport zoning regulations.”

The bill amends s. 333.04(2), F.S., providing that it refers to “airport protection zoning” and to change the word “trees” to “vegetation.”

Procedure for adoption of zoning regulations. (s. 333.05, F.S.)

Current Situation

Notice and Hearing
Current law provides that airport zoning regulations shall not be adopted, amended, or changed except by action of the legislative body of the political subdivision, or the joint board after a public hearing where interested parties and citizens may be heard.

[49] The bill defines “runway protection zone” as an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.
[50] FAA AC 15-5300-13A is available at: http://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentNumber/150_5300-13 (Last visited February 10, 2015).

Airport Zoning Commission
Current law provides that prior to the initial zoning of any airport area, the political subdivision or joint airport zoning board appoints an airport zoning commission. The airport zoning commission recommends the boundaries of the various zones to be established and the regulations to be adopted. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

Proposed Changes
The bill amends s. 333.05, F.S., providing internal consistency with definitions and to reflect correct community planning terminology.

Airport zoning requirements. **(s. 333.06, F.S.)**

Current Situation

Reasonableness
Current law provides that all airport zoning regulations shall be reasonable and not impose any requirement or restriction which is not reasonably necessary. In determining what regulations it may adopt, the following must be considered:

- The character of the flying operations expected to be conducted at the airport;
- the nature of the terrain within the airport hazard area and runway clear zones;
- the character of the neighborhood;
- the uses to which the property to be zoned is put and adaptable; and
- the impact of any new use, activity, or construction on the airport's operating capability and capacity.

Independent Justification
Current law provides that the purpose of all airport zoning regulations is to provide both airspace protection and land use compatible with airport operations. Each aspect requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway clear zone which does not exceed airspace height restrictions is not evidence per se that such use, activity, or construction is compatible with airport operations.

Nonconforming Uses
Current law prohibits airport zoning regulations from requiring the removal, lowering, or other change of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3), F.S.

Adoption of Airport Master Plan and Notice to Affected Local Governments
Current law requires that an each public airport licensed by DOT prepare an airport master plan.

Proposed Changes
The bill amends s. 333.06, F.S. deleting the term “runway clear zone” and replacing it with “runway protection zone.”[51] The bill also modifies the statute for internal consistency with definitions.

Guidelines regarding land use near airports. (s. 333.065, F.S.)

Current Situation
Current law provides that DOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, is required to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports.

Proposed Changes

[51] According to DOT, this is consistent with FAA AC 150/5300-13A.

The bill repeals s. 333.065, F.S. According to DOT, this is due to its completion of its Airport Compatibility Land Use Guidebook.[52]

Permits and variances. (s. 333.07, F.S.)

Current Situation

Permits
Current law provides that any airport zoning regulations may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure is substantially changed or substantially altered or repaired. All such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations. A permit may not be granted that would allow the establishment or creation of an airport hazard or would permit a nonconforming structure or tree or nonconforming use to be made or become higher or to become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

Current law provides that whenever the administrative agency determines that a nonconforming use or nonconforming structure or tree has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, it may not grant a permit that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit or not, the agency may by appropriate action, compel the owner of the nonconforming structure or tree, at his or her own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree does not comply with the order within 10 days, the agency may report the violation to the political subdivision involved, who, through its appropriate agency, may proceed to have the object lowered, removed, reconstructed, or equipped, and assess its cost and expense thereof upon the object or the land where it is or was located, and, unless such an assessment is paid within 90 days from the service of notice on the owner or the owner's agent, of such object or land, the sum shall be a lien on said land, and shall bear interest at an annual rate of six percent, and shall be collected in the same manner as the political subdivision collects property taxes, or, the political subdivision may enforce the lien in the manner provided for enforcement of liens.[53]

Current law provides that except as provided, applications for permits shall be granted, provided the matter applied for meets the provisions Ch. 333, F.S., and the regulations adopted and in force.

Variances
Current law provides that any person desiring use his or her property in violation of airport zoning regulations or any land development regulation adopted pertaining to airport land use compatibility, may apply to the board of adjustment for a variance from the zoning regulations. When filing the application, the applicant forwards a copy to DOT. DOT has 45 days to comment or waive the right to comment to the applicant and the board of adjustment. DOT must include in its comments its explanation for any objections. If DOT fails to comment within 45 days, it waives its right to comment. The board of adjustment may proceed with its consideration of the application only after it receives DOT's comments or DOT waives its right to comment. Noncompliance is grounds to appeal and to apply for judicial relief. Such variances may only be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of airport zoning regulations and Ch. 333, F.S. However, any variance may be allowed subject to any reasonable conditions that the board of adjustment deems necessary.

Current law allows DOT to appeal any variance granted and apply for judicial relief.

[52] A copy of DOT's Airport Compatibility Land Use Guidebook is available at: http://www.dot.state.fl.us/aviation/compland.shtm (Last visited February 2, 2015).
[53] The enforcement of statutory liens is provided for in Ch. 85, F.S.

Current law provides that in granting any permit or variance the administrative agency or board of adjustment shall require the owner of the structure or tree to install, operate, and maintain, at his or her own expense, marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction.

Obstruction marking and lighting
Current law provides that marking and lighting shall conform to the specific standards established in DOT rule.

Current law provides that existing structures not in compliance on October 1, 1988, shall be required to comply the earliest of whenever the existing lighting requires replacement, or within 5 years of October 1, 1988.

Proposed Changes
The bill amends the title of s. 333.07, F.S., to local government permitting of airspace.

Permits
The bill amends ss. 333.07(1)(a) and (b), F.S., reflecting the conversion from a variance to a permitting process, for internal consistency with definitions, and removing antiquated legal phrasing.

The bill deletes s. 333.07(1)(c), F.S., removing statutory redundancy.

Variances
The bill deletes the current s. 333.07(2), F.S., reflecting the conversion from a variance process to a permitting process.

Considerations when issuing or denying permits.
The bill creates a new s. 333.07(2), F.S. relating to considerations when issuing or denying a permit. In determining whether to issue or deny a permit, the political subdivision or its administrative agency considers the impact of the following, as applicable:

- The safety of persons on the ground and in the air.
- The safe and efficient use of navigable airspace.
- The nature of the terrain and height of existing structures.
- The state licensing standards for a public-use airport for the construction or alteration of the proposed structure.
- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- Effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.
- The cumulative effect on navigable airspace of all existing structures, and all other known proposed structures in the area.
- Requirements contained in ss. 333.03(2) and (3), F.S.
- Additional requirements adopted by the political subdivision pertinent to evaluation and protection of airspace and airport operations.

Obstruction marking and lighting.
The bill amends ss. 333.07(3)(a) and (b), F.S., for internal consistency with definitions and with FAA AC 70/7460-1K.[54] The bill repeals s. 333.07(3)(c), F.S., which contains an obsolete date.

Appeals. (s. 333.08, F.S.)

[54] A copy of FAA AC 70/7460-1K is available at: http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.current/documentNumber/70_7460-1 (Last visited February 10, 2015).

Current Situation
Current law provides that any person aggrieved, or taxpayer affected, by any decision of an administrative agency in the administration of airport zoning regulations; or any governing body of a political subdivision, or DOT, or any joint airport zoning board, which believes that an administrative agency's decision is an improper application of airport zoning regulations of concern to the governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Current law provides that all appeals are to be taken within a reasonable time, by filing a notice of appeal with the agency from which appeal is taken and with the board. The notice of appeal must specify the grounds of the appeal.

Current law provides that an appeal stays all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed, that by reason of the facts stated in the certification that a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the board on notice to the agency from which the appeal is taken and on due cause shown.

Current law provides that the board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties, and make its decision within a reasonable time.

Current law provides that the board may reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

Proposed Changes
The bill repeals current s. 333.08, F.S., and moves the text into a new s. 333.09(3), F.S.

Administration of airport zoning regulations. (s. 333.09, F.S.)

Current Situation
Current law requires that all airport zoning regulations provide for their administration and enforcement by an administrative agency. The administrative agency may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board. Such administrative agency may not be or include any member of the board of adjustment. The duties of any administrative agency include hearing and deciding all permits, deciding all matters under s. 333.07(3), F.S., as they pertain to the agency, and all other matters under the state's airport zoning law, which applies to the agency, but the agency shall not have or exercise any of the powers delegated to the board of adjustment.

Proposed Changes

Administration
The bill provides that all airport zoning regulations shall provide for the administration and enforcement of those regulations by the political subdivision or its administrative agency. The duties of any administrative agency shall include that of hearing and deciding all permits, as they pertain to such agency, and all other matters under Ch. 333, F.S. applying to the agency.

Local Government Process
The bill creates s. 333.09(2), F S., providing for a local government permitting process. Any political subdivision required to adopt airport zoning regulations shall provide a process to:

- Issue and deny permits, including requests for exceptions to airport zoning regulations.
- Notify DOT of receipt of a complete application.
- Enforce any permit, order, requirement, decision, or determination made by the administrative agency with respect to airport zoning regulations.

Where a political subdivision already has a zoning board or permitting body, the existing zoning board or permitting body may implement the permitting and appeals process. Otherwise, the political subdivision shall implement the permitting and appeals process in a manner consistent with its constitutional powers and areas of jurisdiction.

Appeals
The bill moves the text from the current s. 333.08, F.S. into a newly created s. 333.09(3), F.S., relating to appeals. However, the text is modified to reflect the conversion from the variance process to a permitting process and to clean-up and update various provisions.

Board of adjustment. (s. 333.10, F.S.)

Current Situation
Current law provides that all airport zoning regulations must provide for a board of adjustment having and exercising the following powers:

- To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations.
- To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.
- To hear and decide specific variances.

An existing zoning board may be appointed as the board of adjustment.

The majority vote of the board's members is sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

The board of adjustment is required to adopt rules in accordance with the ordinance or resolution creating it.

Proposed Changes
The bill repeals s. 333.10, F.S., reflecting the conversion from the variance process to a permitting process.

Judicial review. (s. 333.11, F.S.)

Current Situation
Current law provides that any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or DOT or any joint airport zoning board, or of any administrative agency, may apply for judicial relief. The appeal must be filed within 30 days after the board of adjustment renders its decision. Review shall be by petition for writ of certiorari, governed by the Florida Rules of Appellate Procedure.

Current law provides that upon presentation of such petition to the court, the court may allow a writ of certiorari, directed to the board of adjustment, to review the board's decision. The allowance of the writ does not stay the proceedings upon the decision appealed from, but the court may, under certain circumstances, grant a restraining order.

Current law provides that the court has exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review and if need be, order further proceedings by the board of adjustment. The findings of fact by the board of adjustment, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a board of adjustment decision shall be considered by the court unless such objection shall have been urged before the board of adjustment, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

Current law provides that in any case in which adopted airport zoning regulations, although generally reasonable, are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding does not affect the application of the regulations to other structures and parcels of land, or other regulations that are not involved in the particular decision.

Current law provides that no appeal is permitted to any courts, save and except an appeal from a decision of the board of adjustment, the appeal provided being from such final decision of the board of adjustment. The appellant is required to exhaust his or her remedies of application for permits, exceptions and variances, and appeal to the board of adjustment, and gaining a determination by said board, before being permitted to appeal to the court.

Proposed Changes

The bill amends s. 333.11(1), F.S., removing references to the board of adjustment and DOT. The bill also changes one reference to the board of adjustment to political subdivision to reflect other changes being made to Ch. 333, F.S.

The bill repeals ss. 333.11(2) and (3), F.S., reflecting the conversion from a variance process to a permitting process.

The bill amends the current s. 333.011(4), F.S., modifying it for clarity and specificity and to be consistent with Ch. 163, F.S.

The bill amends the current s. 333.011(5), F.S., removing the phrase “although generally reasonable.”

The bill amends s. 311.11(6), F.S., providing that a judicial appeal may not be permitted to any courts, until the appellant has exhausted all its remedies through the application for political subdivision permits, exceptions, and appeals.

Acquisition of air rights. (s. 333.12, F.S.)

Current Situation

Current law provides that when it is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or the approach protection necessary cannot, due to constitutional limitations, be provided by airport regulations; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation such air right, navigation easement, or other estate, portion or interest in the property or nonconforming structure or use or such interest in the air above such property, tree, structure, or use, in question, as may be necessary to effectuate the purposes Ch. 333, F.S., and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned. In the case of the purchase of any property or any easement or estate or interest therein or the acquisition by the power of eminent domain the political subdivision making such purchase or exercising such power shall in addition to the damages for the taking, injury or destruction of property also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

Proposed Changes

The bill amends s. 333.12, F.S. for clarity and specificity, for internal consistency with definitions, and to correct aviation terminology since avigation easement[55] is the correct term, instead navigation easement, which is currently in law.

Enforcement and remedies. (s. 333.13, F.S.)

[55] An avigation easement is the conveyance of airspace over another property for use by the airport.

Current Situation
Current law provides for the enforcement of Ch. 333, F.S., and appropriate remedies.

Proposed Changes
The bill amends s. 333.13(3), F S., changing a reference to the Department of Transportation to "department" for internal consistency with the definitions provided in s. 333.01, F.S.

Transition Provisions (s. 333.135, F.S)

Current Situation
Currently Ch. 333, F.S., does not contain any transition provisions.

Proposed Changes
The bill creates s. 333.135, F.S., providing transition provisions regarding the changes made to Ch. 333, F.S. The bill provides that any airport zoning regulation in effect on July 1, 2015, which include provisions conflicting with Ch. 333, F.S., shall be amended to conform to the requirements of Ch. 333, F.S., by July 1, 2016.

Any political subdivisions having an airport within its territorial limits, which have not adopted airport zoning regulations, shall by October 1, 2017, adopt airport zoning regulations for such airport. The regulations must be consistent with Ch. 333, F.S.

For those political subdivisions that have not yet adopted airport protection zoning regulations, DOT will administer the permitting process as provided in s. 333.025, F.S.

Short title. (s. 333.14, F.S.)

Current Situation
Current law provides the short title "Airport Zoning Law of 1945."

Proposed Changes
The bill repeals s. 333.14, F.S., eliminating a short title for Ch. 333., F.S.

511 Services (Sections 25 through 27)

Current Situation
Current law defines "511" or "511 services" as a three-digit telecommunications dialing to access interactive voice response (IVR) telephone traveler information services provided in the state as defined by the FCC in Order No. 00-256, July 31, 2000.[56]

Current law defines "interactive voice response" as a software application that accepts a combination of voice telephone input and touch-tone keypad selection and provides appropriate responses in the form of voice, fax, callback, e-mail, and other media.[57]

Current law authorizes DOT to provide oversight of traveler information systems that may include IVR via the 511 number as assigned by the FCC for traveler information services. DOT ensures that uniform standards and criteria for the collection and dissemination of traveler information are applied using IVR systems.[58]

Current law provides that DOT is the state's lead agency for implementing 511 services and is the state's point of contact for coordinating 511 services with telecommunications service providers. DOT is required to:

[56] S. 334.03(36), F.S.
[57] S. 334.03(37), F.S.
[58] S. 334.044(31), F.S.

- Implement and administer 511 services in the state;
- coordinate with other transportation authorities in the state to provide multimodal traveler information through 511 services and other means;
- develop uniform standards and criteria for the collection and dissemination of traveler information using the 511 number or other interactive voice response system; and
- enter into joint participation agreements or contracts with highway authorities and public transit districts to share the cost of implementing and administering 511 services in the state. DOT may also enter into agreements or contracts with private firms relating to 511 services to offset the cost of implementing 511 services in the state.

DOT is required to adopt rules to administer the coordination of 511 traveler information phone services in the state.[59,60]

DOT currently has a contractor providing its 511 system, which includes IVR services. Data is sent from DOT's SunGuide system, which operators input all traffic related incidents on covered Florida 511 roadways. The caller is offered a menu of options after dialing 511.

According to DOT, the 511 system has proven to be a valuable resource to the traveling public. Since 2003, Florida's 511 system has evolved into a multi-platform system including IVR, a statewide website,[61] two mobile applications, and 12 statewide and regional Twitter social media accounts.

Florida's 511 system currently averages 5,000 calls per day and 2,150 website visits per day. The mobile apps have been downloaded over 50,000 times and there are over 18,000 followers on Twitter. Additionally, there are approximately 4,600 text/SMS subscribers who receive 350,000 to 1 million alerts per month.[62]

Proposed Changes
The bill amends s. 334.03(36), F.S., removing from the definition of "511" the requirement for IVR and provides that the definition means all traveler information services provided in the state to include, but is not limited to, the terms as defined in the FCC Order.

The bill also deletes the definition of IVR in s. 334.03(37), F.S., due to removing the requirement that DOT provide 511 service using IVR.

The bill amends s. 334.044(31), F.S., removing references to IVR in DOT's duty to provide 511 service.

The bill amends s. 334.60, F.S., providing that DOT is the state's point of contact for all 511 services instead of coordinating the service with telecommunications service providers. The bill also removes a reference to the 511 number or IVR and replaces it with a reference to 511 services.

Modifications to the 511 statutes will allow DOT to disseminate travel information using the most current technology. Current law requires DOT provide travel information using an IVR system. As technology advances, the effectiveness to disseminate information via IVR is becoming less advantageous. By revising the statutes, DOT will no longer be required to utilize a tool that is no longer beneficial. Though DOT may decide to discontinue its IVR system, it will continue to provide travel information through various other means.

NEPA Delegation (Section 26)

Current Situation
DOT funds, develops and constructs highway transportation projects through several funding sources including federal, state, local, toll or combination thereof. When DOT advances a highway project as

[59] The rule is codified in Rule 14-111.001, F.A.C.
[60] S. 334.60 ,F.S.
[61] 511 information is also available on-line at www.fl511.com (Last visited January 21, 2015).
[62] DOT e-mail response to staff questions, February 3, 2015. Copy on file with Transportation & Ports Subcommittee Staff.

"federally eligible," the project is developed consistent with the National Environmental Policy Act (NEPA) and other laws and regulations in consultation with and subject to the oversight of the Federal Highway Administration (FHWA) of the United States Department of Transportation (USDOT). DOT meets NEPA requirements through its Efficient Transportation Decision Making (ETDM) and Project Development and Environment (PD&E) processes.

DOT uses the ETDM process to initiate contact with agencies and other stakeholders during the planning phase of a project to provide the opportunity for input by multiple parties and garner information that can be used to inform the PD&E process. The PD&E process is DOT's procedure for analyzing, performing outreach, guiding agency coordination and meeting regulatory requirements before a project can be advanced. The two processes have been working in concert since 2005 and PD&E has been in place for over 20 years. Under this process DOT prepares documents, analyzes alternatives, consults with agencies, makes recommendations and provides this information to the FHWA as the lead federal agency for review, comment, approval and ultimate decision making.

Under this federally assisted, state administered process DOT is responsible for providing all supporting work and effort to advance DOT projects but has limited autonomy and authority to make ultimate project decisions. The result is that DOT must perform its analysis, coordinate and consult with agencies and ultimately satisfy FHWA. The additional layer of coordination, review and satisfaction of FHWA can add considerable time and cost to project development and delivery.

From a legal standpoint, the FHWA provides legal sufficiency reviews of project documents developed by DOT and is tasked with addressing court challenges of projects. These challenges are based on the federal Administrative Procedures Act and therefore focus on the administrative record and the prepared documentation and related analysis. The Department is typically part of these challenges to support FHWA and ensure its project advancement.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was signed into law in August of 2005. Under SAFETEA-LU a five-state pilot program was established authorizing the pilot states to assume the USDOT Secretary's environmental responsibilities, NEPA and other environmental laws.[63] In 2012, Congress enacted the Moving Ahead for Progress in the 21st Century Act (MAP-21), which made the program permanent, provided the opportunity for its use to all states and expanded the responsibilities that could be assigned and assumed. Application requirements and criteria for participation were recently defined.[64]

Proposed Changes

The bill creates s. 334.044(34), F.S., authorizing DOT to assume responsibilities of the USDOT with respect to highway projects within the state under NEPA[65] and with respect to related responsibilities for environmental review, consultation, or other action required under any federal environmental law pertaining to review or approval of any highway project within the State. DOT may assume responsibilities under 23 U.S.C. s. 327;[66] and enter into one or more agreements, including memoranda of understanding with the United States Secretary of Transportation related to the federal surface transportation project delivery program for transportation projects as provided by 23 U.S.C. s. 327. DOT may adopt rules to implementing this section and may adopt relevant federal environmental standards as the standards for the state for a program described above. The bill provides that sovereign immunity to a civil suit in federal court is waived[67] and limited to the compliance, discharge, or enforcement of responsibility assumed by DOT.

The bill would allow Florida to be responsible for the fate of its own projects by giving the DOT direct NEPA decision making authority. By assuming FHWA's role in the review and approval of transportation projects, DOT anticipates achieving both time and cost savings in project delivery. These benefits are due in part to eliminating one layer of governmental review, allowing direct consultation

[63] 23 U.S.C. s. 327
[64] These requirements were defined in the updated 23 C.F.R. s. 773.
[65] 42 U.S.C. s. 4321 et. seq.
[66] 23 U.S.C. s. 327 relates to the surface transportation project delivery program.
[67] This is consistent with 23 U.S.C. s. 327

between DOT and federal regulatory agencies and maximizing efficiency by consolidating all NEPA reviews under the DOT. According to DOT, it will result in more timely delivery of transportation projects to Florida's citizens and enhancement of infrastructure to support Florida's economic competitiveness.

Sovereign immunity to civil suit in federal court is waived consistent with 23 U.S.C. s. 327 and limited to the compliance, discharge, or enforcement of a responsibility assumed by the DOT. The DOT advises its district offices would continue to conduct the PD&E process, with the FHWA's project review, legal sufficiency, and approval authority delegated to the DOT's Central Office and with the FHWA retaining program level oversight. The waiver of sovereign immunity is limited only to those actions delegated to the DOT and related to carrying out its NEPA duties on state highway projects. The standard for review is whether the DOT's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Further, a state assuming the NEPA responsibilities may use certain apportioned state funds for attorneys' fees directly attributable to eligible activities associated with a project.

Obsolete Facilities for Toll Revenue (Section 28)

Current Situation
Current law authorizes DOT to request the Division of Bond Finance to issue bonds secured by toll revenues collected on Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway to fund transportation projects within the county or counties in which the project is located and contained in DOT's adopted Work Program.[68]

The Navarre Bridge is county owned and is no longer used for toll revenue. The Beeline-East Expressway (re-named the Beachline East Expressway) is now part of the Turnpike Enterprise[69] and toll revenues can be used to secure turnpike debt.

Proposed Changes
The bill amends s. 338.165(4), F.S., removing the Beeline-East Expressway and the Navarre Bridge from the list of facilities from which DOT may use toll revenues for certain purposes.

Turnpike Bond Validation (Sections 29 and 35)

Current Situation
Current law authorizes DOT to borrow money as provided for in the State Bond Act[70] for the purposes of paying all or part of the cost of legislatively approved turnpike projects.[71] The principal and interest on these bonds are payable solely from revenues pledged for their payment.[72]

Currently, pursuant to s. 215.82, F.S., turnpike bonds are required to be validated. Chapter 75, F.S., provides that statutory provisions regarding bond validation and gives the circuit courts "jurisdiction to determine the validation of bonds and certificates of indebtedness."[73]

Bond validation is a judicial process through which the legality of a proposed bond issue may be determined in advance of its issuance. It serves to assure bondholders that future court proceedings will not invalidate a government's pledge to repay the bonds. Validation is generally not necessary for established borrowing programs, such as Turnpike bonds, where any legal issues relating to the bonds have been resolved previously. Validation is optional for almost all bonds issued by the Division of Bond Finance, including Public Education Capital Outlay Bonds and University Revenue Bonds. If a constitutional or statutory question arises for a proposed bond issue, a complaint for validation may be filed in circuit court even if validation is not required.

[68] S. 338.165(4), F.S.
[69] Ch. 2012-128, F.S.
[70] SS. 215.57 through 215.83, F.S.
[71] Turnpike projects are legislatively approved through the approval of DOT's work program in the General Appropriations Act.
[72] S. 338.227, F.S.
[73] S. 75.01, F.S.

Proposed Changes
The bill creates s. 338.227(5), F.S., providing that, turnpike bonds are not required to be validated, but may be validated at the option of the Division of Bond Finance. Any complaint for validation is to be filed in the circuit court of the county where the seat of state government is situated. The notice required to be published by s. 75.06, F.S. shall be published only in the county where the complaint is filed, and the complaint and order of the court shall be served only on the state attorney of the circuit in which the action is pending.

The bill also amends s. 215.82(2), F.S., removing a now unnecessary reference to s. 338.227, F.S.

Dormant Toll Accounts (Section 30)

Current Situation
SunPass is the Florida's electronic, prepaid tolls program. It is accepted on all Florida toll roads and nearly all toll bridges. SunPass customers always pay the lowest toll rates available and pay 25 cents less than TOLL-BY-PLATE customers at every exit and location where Turnpike all-electronic, no-cash tolling is in place.

SunPass uses electronic transponders attached to the inside of a car's windshield. When a car equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's account.[74]

Current law provides that any prepaid toll account that has remained inactive for three years shall be presumed unclaimed and handled by the Department of Financial Services in accordance laws relating to the disposition of unclaimed property[75] and that DOT shall close the prepaid toll account.[76]

According to DOT, there are approximately 250,000 SunPass accounts and 35,000 Toll-by-Plate accounts that have not had any activity since January 1, 2012.[77]

Proposed Changes
The bill amends s. 338.231(3)(c), F.S., revising the three year time frame to 10 years. After 10 years, dormant toll accounts will now revert to the state as unclaimed property.

Work Program (Section 31)

Current Situation
Each year, DOT develops and submits to the Legislature a Work Program, which consists of transportation projects it intends to undertake in the next five years. As part of the annual General Appropriations Act, the Legislature approves DOT's Work Program. DOT has the statutory authority to amend its Work Program.[78]

Current law permits amending the adopted Work Program, but Work Program amendments are only required to come before the Legislative Budget Commission (LBC) if budget authority is moved between appropriations categories.[79] However, historically, there has been sufficient budget authority within each appropriations category to negate the need for a LBC amendment. Therefore, most amendments to the Work Program must only be placed on consultation for 14 days, and become effective automatically unless the House of Representatives or the Senate objects to an amendment

Current law provides that any Work Program amendment requiring the transfer of fixed capital outlay appropriations between categories within DOT or the increase of an appropriation category is subject to the approval of the LBC. However, if a meeting of the LBC cannot be held within 30 days, then the

[74] http://www.floridasturnpike.com/all-electronictolling/SunPass.cfm (Last visited January 22, 2015).
[75] Ch. 717, F.S.
[76] S. 338.231(3)(c), F.S.
[77] DOT e-mail response to staff questions, February 3, 2015. Copy on file with Transportation & Ports Subcommittee Staff.
[78] S. 339.135, F.S.
[79] S. 339.135(7), F.S.

chair and vice chair of the LBC may authorize the amendment to be approved pursuant to s. 216.177, F.S.[80, 81]

Proposed Changes
The bill amends s. 339.135(7)(g), F.S., removing the authorization for the chair and vice chair of the LBC to approve an amendment to the work program if a LBC meeting cannot be held within 30 days.

The bill creates s. 339.135(7)(h), F.S., providing that any Work Program amendment which also adds a new project, or project phase, to the adopted Work Program in excess of $3 million is subject to LBC approval. Any work program amendment submitted under s. 339.135(7)(h), F.S. must include, as supplemental information, a list of projects, or project phases, in the current five-year adopted work program that are eligible for the funds within the appropriation category being utilized for the proposed amendment. DOT is required to provide a narrative with the rationale for not advancing an existing project or project phase in lieu of the proposed amendment.

Small County Outreach Program (Section 32)

Current Situation
The Small County Outreach Program (SCOP) is authorized in s. 339.2818, F.S. The purpose of the program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road related drainage improvements, resurfacing or reconstructing of county roads, or constructing capacity or safety improvements to county roads. A small county is defined as any county that has a population of 150,000 or less as determined by the most recent official population estimate as determined by the Office of Economic and Demographic Research. The 150,000 population threshold has been in effect since SCOP was created in 2000.[82]

Small counties are eligible to compete for funds designated for projects on county roads. DOT provides 75 percent of the cost of the projects funded under this program. Funds paid into the State Transportation Trust Fund pursuant to s. 201.15, F.S., for the purposes of the SCOP are annually appropriated for expenditure to support the program. [83]

In 2014, the SCOP statute was amended to allow municipalities within a Rural Area of Opportunity or Rural Area of Opportunity community[84] to compete for project funding using the SCOP criteria at up to 100 percent of project costs, excluding capacity projects. The funding for municipalities would be subject to an additional appropriation in excess of those appropriated for SCOP.

Proposed Changes
The bill amends s. 339.2818(2), F.S., increasing the maximum population of counties eligible for SCOP from 150,000 to 165,000. With this change, Santa Rosa and Charlotte counties would again be eligible for SCOP funding.

Vegetation in the Right-of Way (Section 33)

Current Situation

Transportation Concurrency
Concurrency requires public facilities and services to be available "concurrent" with the impacts of new development. Under Florida law, concurrency for sanitary sewer, solid waste, drainage, and potable water is required,[85] and concurrency for transportation, schools, and parks and recreation is optional.[86]

[80] Section 216.177, F.S., relates to Appropriations acts, statement of intent, violation, notice, review and objection procedures.
[81] S. 339.135(7)(g), F.S.
[82] Ch. 2000-257, L.O.F.
[83] Section. 201.15(1)(c)1., F.S., provides for the distribution of 38.2 percent or $541.75 million (whichever is less) of documentary stamp tax revenues to the State Transportation Trust Fund in DOT, and allocates the revenues among various programs.
[84] Rural Areas of Opportunity are designated pursuant to s. 288.0656(7)(a), F.S.
[85] S. 163.3180(1), F.S.
[86] S. 163.3180, F.S.

However, if a municipality or county decides to implement concurrency for one of the optional facilities, it must do so according to state law.[87]

A municipality or county that implements transportation concurrency must define what constitutes an adequate level of service (LOS) for its transportation system, adopt a plan and improvement program to achieve and maintain adequate LOS, and measure whether the service needs of a new development exceed existing capacity of the transportation system.[88] Unless and until LOS standards are met, a municipality or county may not issue a development permit without an applicable exception.[89]

If adequate capacity is not available (i.e., if LOS is not met), the municipality or county may require the developer to contribute his or her "proportionate share" to the development. Proportionate share is a tool municipalities and counties may use to require developers to contribute to or build facilities necessary to offset a new development's impacts to ensure LOS is met.[90] The state provides specific formulas municipalities and counties must use when calculating proportionate share and specify criteria for when developers have satisfied proportionate share.[91] A municipality or county may not require a developer to pay or construct transportation facilities where the developer's costs exceed the developer's proportionate share of the improvements necessary to mitigate the development's impact.[92]

Vegetation Removal Fees

Various municipalities and counties have enacted ordinances that require, under certain circumstances, for developers and landowners to pay fees to the local government for removing vegetation from the developer or landowner's land. Often times such charges stem from "tree ordinances."[93] The ordinances vary throughout the state, however, many require a landowner or developer seeking to remove "protected trees" to acquire a permit and pay a fee per "tree-inch" removed.[94] Protected trees often gain such distinction based on their age, size, or specimen.[95]

In Florida, at least 21 counties require a developer or landowner to acquire a permit and pay tree fees for removing protected trees.[96]

Proposed Changes

The bill removes the authority of municipalities and counties to impose fees on developers "for the removal of vegetation within the right-of-way limits of road improvements for which the developer completed or contributed funding for as required for transportation concurrency for a development project."

The bill does not affect a municipality or county's ability to require any tree removal permits or tree removal plans. In addition, the word "fee" does not include any costs associated with applying for a tree removal permit or preparing a tree removal plan. The bill is also "not intended to affect a local government's ability to establish and enforce landscaping requirements." Lastly, each municipality or county may, by majority vote of its governing body, exempt itself from this provision of the bill.

Return on Investment (Section 34)

Current Situation

[87] S. 163.3180(1), F.S.
[88] S. 163.3180(5), F.S.
[89] Section 163.3180(5)(h)1.b., F.S. exempts public transit facilities from concurrency.
[90] S. 163.3180(5)(h), F.S.
[91] *Id.*
[92] *Id.*
[93] *See* OPPAGA Research Memorandum, "Availability of Local Tax, License, and Fee Information," December 16, 2013, at Exhibit B – On file with House Economic Development and Tourism Subcommittee staff.
[94] *See e.g.,* St. Johns County Code of Ordinances, Sec 4.01.05.
[95] Trees may be protected based on age, size, or specimen. Zoning and Planning Deskbook, Second Edition by Douglas W. Kmiec and Katherine Kmiec Turner, Part A, Chapter 5 (2014).
[96] *See* chart on file with House staff that illustrates which Florida counties charge tree removal fees and require tree removal permits. Staff last updated the chart on February 10, 2015.

Current law provides that DOT must adopt goals and principles supporting economic competitiveness and ensure that the state has a clear understanding of the economic consequences of transportation investments. Additionally, DOT is directed to develop a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefit of the Work Program investments.[97]

DOT has developed a model to evaluate the long-term economic benefits of its Work Program. The model quantifies the benefits of investments in highway, transit, seaport, and rail projects. Similarly, DOT is developing tools and resources to enable its managers to estimate and evaluate the return on investment for individual transportation projects.

Macroeconomic Analysis

DOT has developed a macroeconomic analysis methodology to evaluate the long-term economic benefits of its Work Program.[98] These benefits are based on an understanding of how transportation investments save time, reduce costs, and enhance economic competitiveness and opportunity. For purposes of the model, the economic benefits of the Work Program consist of:

- Personal user benefits, which arise from personal travel via highways or transit, including commuting, recreational and social trips; and
- increased personal income, which stems from business travel including person trips for business purposes and freight trips via truck, rail, and water.

DOT recently completed A Macroeconomic Analysis of Florida's Transportation Investment,[99] and evaluated the impacts of the Fiscal Year 2013-2014 through 2017-2018 Work Program. The study determined that "[t]he ratio of total benefits to costs is 4.4. This means, on average, every dollar invested in the Work Program will yield about $4.40 in economic benefits for Florida from the beginning of the Work Program to FY 2043."[100]

Proposed Changes

The bill requires the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits[101] of the state's investment in DOT's adopted work program for Fiscal Year 2015-2016, including the following four fiscal years. At a minimum, a separate return in investment shall be projected for each of the following areas:

- Roads and highways.
- Rails.
- Public transit.
- Aviation.
- Seaports.

The analysis is limited to the funding anticipated by the adopted work program, but may address the continuing economic impact of those transportation projects in the five years beyond the conclusion of the adopted work program. The analysis must evaluate the number of jobs created, the increase or decrease in personal income, and the impact on gross domestic product from the direct, indirect, and induced effects of the state's investment in each area.

The bill requires DOT and each of its district offices to provide EDR full access to all data necessary to complete the analysis, including confidential data.

EDR is required to submit the analysis to the President of the Senate and the Speaker of the House of Representatives by January 1, 2016.

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[97] S. 334.046, F.S.

[98] This is pursuant to s. 333.046, F.S.

[99] A copy of the report is available at: http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtm (Last visited January 26, 2015).

[100] Florida Department of Transportation, *A Macroeconomic Analysis of Florida's Transportation Investment"* January 2015. P. 1. Available at: http://www.dot.state.fl.us/planning/weeklybriefs/2015/011915.shtm (Last visited January 26, 2015).

[101] Section 288.005(1), F.S., defines "economic benefits" as "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives."

Statute Reenactment (Section 36)
The bill reenacts s. 350.81(6), F.S., to incorporate the changes made by this bill to s. 333.01, F.S.

Effective Date (Section 37)
The bill has an effective date of July 1, 2015.

B. SECTION DIRECTORY:

Section 1 Amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 Amends s. 311.07, F.S., relating to Florida seaport transportation and economic development funding.

Section 3 Amends s. 311.09, F.S., relating to Florida Seaport Transportation and Economic Development Council.

Section 4 Amends s. 316.003, F.S., relating to definitions.

Section 5 Amends s. 316.081, F.S., relating to driving on the right side of roadway; exceptions.

Section 6 Amends s. 316.130, F.S., relating to pedestrian traffic regulations.

Section 7 Amends s. 316.2065, F.S., relating to bicycle regulations.

Section 8 Amends s. 316.545, .F.S., relating to weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.

Section 9 Amends s. 331.01, F.S., relating to definitions.

Section 10 Amends s. 333.025, F.S., relating to permit required for structures exceeding federal obstruction standards.

Section 11 Amends s. 333.03, F.S., relating to requirement to adopt airport zoning regulations.

Section 12 Amends s. 333.04, F.S., relating to comprehensive zoning regulations; most stringent to prevail where conflict occurs.

Section 13 Amends s. 333.05, F.S., relating to procedure for adoption of zoning regulations.

Section 14 Amends s. 333.06, F.S., relating to airport zoning requirements.

Section 15 Repeals s. 333.065, F.S., relating to guidelines regarding land use near airports.

Section 16 Amends s. 333.07, F.S., relating to local government permitting airspace obstructions.

Section 17 Repeals s. 333.08, F.S., relating to appeals.

Section 18 Amends s. 333.09, F.S., relating to administration of airport zoning regulations.

Section 19 Repeals s. 333.10, F.S., relating to board of adjustment.

Section 20 Amends s. 333.11, F.S., relating to judicial review.

Section 21 Amends s. 333.12, F.S., relating to the acquisition of air rights.

Section 22 Amends s. 333.13, F.S., relating to enforcement and remedies.

Section 23 Creates s. 333.135, F.S., relating to transitional provisions.

Section 24 Repeals s. 333.14, F.S., providing a short title.

Section 25 Amends s. 334.03, F.S., providing definitions.

Section 26 Amends s. 334.044, F.S., providing DOT powers and duties.

Section 27 Amends s. 334.60, F.S., relating to the 511 traveler information system.

Section 28 Amends s. 338.165, F.S., relating to the continuation of tolls.

Section 29 Amends s. 338.227, F.S., relating to turnpike revenue bonds.

Section 30 Amends s. 338.231, F.S., relating to turnpike tolls, fixing; pledge of tolls and other revenues.

Section 31 Amends s. 339.135, F.S., relating to Work Program; legislative budget request; definitions; preparation, adoption, execution, and amendment.

Section 32 Amends s. 339.2818, F.S., relating to the Small County Outreach Program.

Section 33 Prohibits certain fees for the removal of trees in the right-of-way.

Section 34 Requires the Office of Economic and Demographic Research to evaluate and determine the economic benefits of DOT's work program.

Section 35 Amends s. 258.82, F.S., relating to validation; when required.

Section 36 Reenacts s. 350.81, F.S., relating to communications services offered by governmental entities.

Section 37 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Ports of Entry

Currently, if a commercial vehicle operator does not have the necessary permits and credentials upon entering Florida and attempts to purchase them at the first weigh station, they will be cited for not having the necessary credentials. Creating ports of entry and the ability to purchase temporary credentials will likely limit the penalties and reduce revenues associated with these citations. DOT estimates there will be a $1.6 million recurring negative fiscal impact to the State Transportation Trust Fund from allowing commercial motor vehicles to purchase IRP permits at ports of entry.[102]

2. Expenditures:

FSTED Funding

The bill provides an additional $10 million per year for FSTED funding. This funding will come from the State Transportation Trust Fund and is a reallocation of funding from within the confines of the work program.

[102] Florida Department of Transportation response to Transportation & Ports Subcommittee Staff Questions. February 3, 2014.

Ports-of-Entry
Florida becoming a port-of-entry state will require funds to develop and support the infrastructure necessary to accommodate the acceptance and processing of applications for the credentials necessary to satisfy compliance with Florida's laws. However, most of the funds necessary to deploy the needed systems are already funded through other means. Deployment of the technologies and the programming support necessary to accommodate POE policies are already underway in other Florida initiatives. These other initiatives utilize the same equipment and will require very slight modification to make them compatible with any change to Florida's POE policies. It is estimated that costs for all POE sites combined will not exceed $58,000.[103]

511 Services
According to DOT, any costs associated with sunsetting outdated technology for 511 services will be absorbed within its current resources.

Return on Investment
The bill requires the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits[104] of the state's investment in DOT's adopted work program for Fiscal Year 2015-2016, including the following four fiscal years. This will create an additional workload for EDR which will be absorbed within existing resources and staffing.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Vegetation Removal Fees
Municipalities and counties that do not exempt themselves from provisions of the bill relating to vegetation removal fees will likely incur an indeterminate negative impact on revenues.

2. Expenditures:

Administration of airport zoning regulations
Political subdivisions that have an airport but no airport zoning regulations will see an indeterminate increase to expenditures related to structural permitting and enforcement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

FSTED Funding
The additional $10 million in FSTED funding will assist seaports with various projects. Projects planned for various ports include dredging, berth rehabilitation, and the expansion of facilities. These projects may help increase the competitiveness of Florida's seaports.

Bicycle/Pedestrian Safety
There is a significant economic impact due to pedestrian and bicycle crashes. According to a June 2014, Department of Health report, the median hospital emergency department charge for bicyclist injured in a motor vehicle crash is $3,826, while the median hospital charge for a bicyclist admitted to the hospital following a motor vehicle crash is $54,403. About 35 percent of bicyclists treated as a result of a motor vehicle crash are self-pay, or did not have enough insurance to cover the medical bills. The same report provides that the median hospital emergency department charge for a pedestrian injured in a motor vehicle crash is $3,427, while the medial hospital charge for a pedestrian admitted to the hospital following a motor vehicle crash is $73,835. About 28 percent of pedestrians treated following a motor vehicle crash were self-pay, or did not have enough insurance to cover the costs.[105]

[103] Florida Department of Transportation, *Florida Port of Entry Feasibility Study*, September 2014. Copy on file with Transportation & Ports Subcommittee Staff.
[104] Section 288.005(1), F.S., defines "economic benefits" as "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives."
[105] Florida Department of Health, *The Economic Impact of Motor Vehicle Crashes Involving Pedestrians and Bicyclists.* June 20, 2014. Copy on file with Transportation & Ports Subcommittee Staff.

To the extent that the changes in the bill reduce the number and severity of bicycle and pedestrian crashes, there will be a positive economic impact to bicyclists and pedestrians.

Port-of-Entry

Commercial motor vehicle operators may see a reduction in their costs due to the ability to obtain permits at the state's ports-of-entry and avoiding fines by not having the proper permits when entering the state. Commercial motor vehicle operations may also save time with the ability to purchase permits at ports-of-entry.

Dormant Toll Accounts

Individuals are less likely to have their prepaid tolls revert to unclaimed property with increasing the length of time the account is dormant from three years to 10 years.

D. FISCAL COMMENTS:

The net impact from all the provisions of this bill is indeterminate, but likely insignificant. The proposed FY 2015-16 House of Representatives budget for DOT is $9.9 billion.

Giving DOT direct NEPA decision making authority may result in more efficient project delivery and reduced project costs. However, the actual reduction in costs will be based on specific projects. DOT also indicates that it does not require any additional positions due to NEPA delegation.[106]

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:

DOT's rules regarding commercial motor vehicle permits may need to be amended if Florida becomes a port-of-entry state as proposed in the bill.

Chapter 14-60, F.A.C., implements portions of Ch. 333, F.S., relating to airport zoning as well as other statutes relating to aviation. DOT advises that it is in the process of reviewing and revising its aviation related rules; however, DOT will defer its final revisions, pending the revisions to Ch. 333, F.S., contained in the bill.

DOT may need to amend Rule 14-111.001, F.A.C., relating to 511 service in order to conform to changes to the 511 statute made by the bill.

The bill authorizes DOT to adopt rules implementing its responsibilities under NEPA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill defines the term "midblock crosswalk" but it is not used anywhere in statute or anywhere else in the bill.

[106] Conversation between Transportation & Ports Subcommittee Staff and DOT staff.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 3, 2015, the Transportation & Ports Subcommittee adopted two amendments to the PCB. The amendments:

- Revised definitions.
- Defined “airport protection zoning.”
- Made various clarifying changes to the airport zoning law.
- Corrected drafting errors in the airport zoning law.
- Reenacted a provision of statute due to changes made to the airport zoning law.

On April 8, 2015, the Economic Affairs Committee adopted three amendments and reported the bill favorably as a committee substitute. The amendments:

- Authorizes DOT to assume certain responsibilities of the USDOT under NEPA.
- Increases the maximum population for counties eligible for SCOP from 150,000 to 165,000.
- Made a technical correction in the language regarding the removal of vegetation on the right-of-way.

This analysis is written to the committee substitute..