

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

**SPONSOR(S):** Infrastructure & Tourism Appropriations Subcommittee, Transportation & Modals Subcommittee, Abbott, and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	11 Y, 6 N, As CS	Walker	Hinshelwood
2) Infrastructure & Tourism Appropriations Subcommittee	10 Y, 4 N, As CS	Hicks	Davis
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

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

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

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

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

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

##### Current Situation

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

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

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

##### Effect of the Bill

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

#### **Florida's Turnpike Electronic Payments**

##### Current Situation

##### *Florida Turnpike and Procurement*

The Florida Turnpike Enterprise, a separate business unit of DOT, operates and maintains the Florida Turnpike system, with its hundreds of miles of toll roads that provide access to major highways.<sup>4</sup>

Under Florida law, the DOT has the authority to employ procurement methods available to the Department of Management Services under chapters 255<sup>5</sup> and 287, F.S.<sup>6</sup> and under any rule adopted under such chapters solely for the benefit of the turnpike enterprise.<sup>7</sup>

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

A state agency or the judicial branch must use the standard contract established by the Chief Financial Officer (CFO) for acceptance of electronic payments by credit card, charge card, debit card, and electronic check or obtain authorization from the CFO to use another contractor. If an alternative contractor is desired, the state agency or judicial branch must present justification to the CFO as to why the standard contract is not acceptable and receive approval from the CFO before seeking an alternative contractor.<sup>8</sup>

An alternate agreement must meet the terms, conditions, and specifications provided for in the standard contract relative to pricing, reporting, reconciliation, settlement, and funds availability. The

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

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

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

<sup>4</sup> S. 338.2216(1)(a), F.S.

<sup>5</sup> Ch. 255, F.S., provides provisions relating to property and publicly owned buildings.

<sup>6</sup> Ch. 287, F.S., provides provisions relating to procurement of personal property and services.

<sup>7</sup> S. 338.2216(2), F.S.

<sup>8</sup> Rule 69C-4.004, F.A.C.

CFO will consider unique requirements of a state agency or the judicial branch that are not provided for in the standard contract in making a determination whether to approve an alternative contractor.<sup>9</sup>

#### Effect of the Bill

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

The bill provides that the provisions, found in s. 215.322, F.S., relating to agencies acceptance of credit cards, charge cards, debit cards, or electronic fund transfers, does not apply to electronic payment services procured by DOT on behalf of the Florida Turnpike Enterprise.<sup>10</sup>

### **Dormant Prepaid Toll Accounts**

#### Current Situation

Under Florida law, any prepaid toll account of any kind which has remained inactive for 3 years must be presumed unclaimed and its disposition must be handled by the Department of Financial Services<sup>11</sup> in accordance with all applicable provisions relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by the DOT.<sup>12</sup>

#### Effect of the Bill

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

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

#### Current Situation

Florida law establishes the State Transportation Trust Fund (STTF), which is used for transportation purposes, under the direction of the DOT.<sup>13</sup> Such transportation purposes include maintaining and developing the state highway system and supporting various transportation related projects.<sup>14</sup> STTF's primary revenue sources are from state fuel taxes and fees related to motor vehicle licensing.<sup>15</sup> DOT must expend moneys in the STTF in accordance with its annual budget.<sup>16</sup>

#### Effect of the Bill

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<sup>9</sup> *Id.*

<sup>10</sup> S. 215.322, F.S., provides that the CFO is authorized to adopt rules governing the establishment and acceptance of credit cards, charge cards, debit cards, or electronic funds transfers by state agencies or the judicial branch, including but not limited to, the use of a standardized contract between the financial institution or other appropriate intermediaries. See also Rule 69C-4.004, F.A.C.

<sup>11</sup> Until claimed, unclaimed money is deposited into the state school fund, where it is used for public education. There is, however, no statute of limitations, and citizens have the right to claim their property any time at no cost. Florida Department of Financial Services, *Unclaimed Property*, <https://www.myfloridacfo.com/division/unclaimedproperty/home#:~:text=Florida%20Unclaimed%20Property&text=Until%20Unclaimed%20C%20unclaimed%20money%20is.any%20time%20at%20no%20cost.> (Jan. 24, 2024).

<sup>12</sup> S. 338.231(3)(c), F.S.

<sup>13</sup> S. 206.46(1), F.S.

<sup>14</sup> Office of Work Program and Budget Florida Department of Transportation, *Florida's Transportation Tax Sources*, (2023), p. 2,

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

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

<sup>16</sup> S. 339.08(1), F.S.

The bill provides that DOT may not expend any state funds approved through the General Appropriation Act (GAA) to support a project or program of a public transit provider<sup>17</sup>, authority<sup>18</sup>, public-use airport<sup>19</sup>, or a port<sup>20</sup> that:

- violates s. 381.00316, F.S.<sup>21</sup>
- is found advertising, enforcing, promoting, or displaying a recommendation, requirement, or mandate relating to COVID-19 or any variant thereof which is produced, recommended, or enacted by the Centers for Disease Control and Prevention, the United States Department of Health and Human Services, the Transportation Security Administration, the United States Department of Transportation and any operating administration thereof, or any other governmental entity.

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

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

## **Arterial Highway Projects**

### Current Situation

After the revenue derived from the registration of motor vehicles is distributed monthly, as specified and allocated per law, the remainder of such revenues must be deposited into the STTF.<sup>22</sup> This remainder deposited in the STTF must be used to fund arterial highway<sup>23</sup> projects identified by the DOT and may be used for projects for upgrading arterial highways with controlled access facilities and constructing U.S. 19 controlled access facilities.<sup>24</sup>

### Effect of the Bill

The bill provides that the revenues deposited into the STTF aforementioned must first be available for appropriation for payments under a service contract entered into with the Florida Department of Transportation Financing Corporation<sup>25</sup> to fund arterial highway projects. Furthermore, the bill provides

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<sup>17</sup> S. 341.031(1), F.S., defines public transit provider as a public agency providing public transit service, including rail authorities.

<sup>18</sup> Authority created pursuant to Ch. 343, 348, or 349.

<sup>19</sup> S. 332.004(14), F.S., defines public-use airport as any publicly owned airport which is used or to be used for public purposes.

<sup>20</sup> S. 311.09(1), F.S., enumerates the following ports: Port of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>21</sup> S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.

<sup>22</sup> S. 320.20(5)(a), F.S.

<sup>23</sup> S. 334.03(1), F.S., defines arterial road as a route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

<sup>24</sup> S. 339.0803, F.S.

<sup>25</sup> S. 339.0809(1), F.S., provides that the Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for the DOT.

that for the corporation's bonding purposes, two or more of such projects in the DOT's approved Work Program (WP) may be treated as a single project.

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

### Current Situation

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

The Florida Department of Transportation Financing Corporation is created as a nonprofit corporation for the purpose of financing or refinancing projects for the DOT.<sup>26</sup>

The Florida Department of Transportation Financing Corporation may enter into one or more service contracts with DOT to provide services to the DOT in connection with projects approved in the department's WP. The DOT may enter into one or more such service contracts with the corporation and provide for payments under such contracts, subject to annual appropriation by the Legislature.<sup>27</sup> The DOT may enter into a service contract in conjunction with the issuance of debt obligations which provide for periodic payments for debt service or other amounts payable with respect to debt obligations, plus any administrative expenses of the Florida Department of Transportation Financing Corporation.<sup>28</sup>

#### *Moving Florida Forward Initiative*

During the 2023 Legislative session, the GAA transferred \$4 billion from the General Revenue Fund to the STTF for the Moving Florida Forward plan with the purpose of accelerating the completion of selected road projects and providing traffic congestion relief in the state. The funds were placed in reserve, contingent upon DOT submitting a budget amendment for approval by the Legislative Budget Commission (LBC). Such budget amendment must include a project list, implementation schedule, finance plan, and budget authority necessary to implement the initiative.<sup>29</sup>

On September 8, 2023, the LBC approved the appropriation and release of nearly \$1.6 billion of these funds for the first year of the Moving Florida Forward Plan.<sup>30</sup>

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<sup>26</sup> *Supra* note 29.

<sup>27</sup> S. 339.0809(4), F.S.

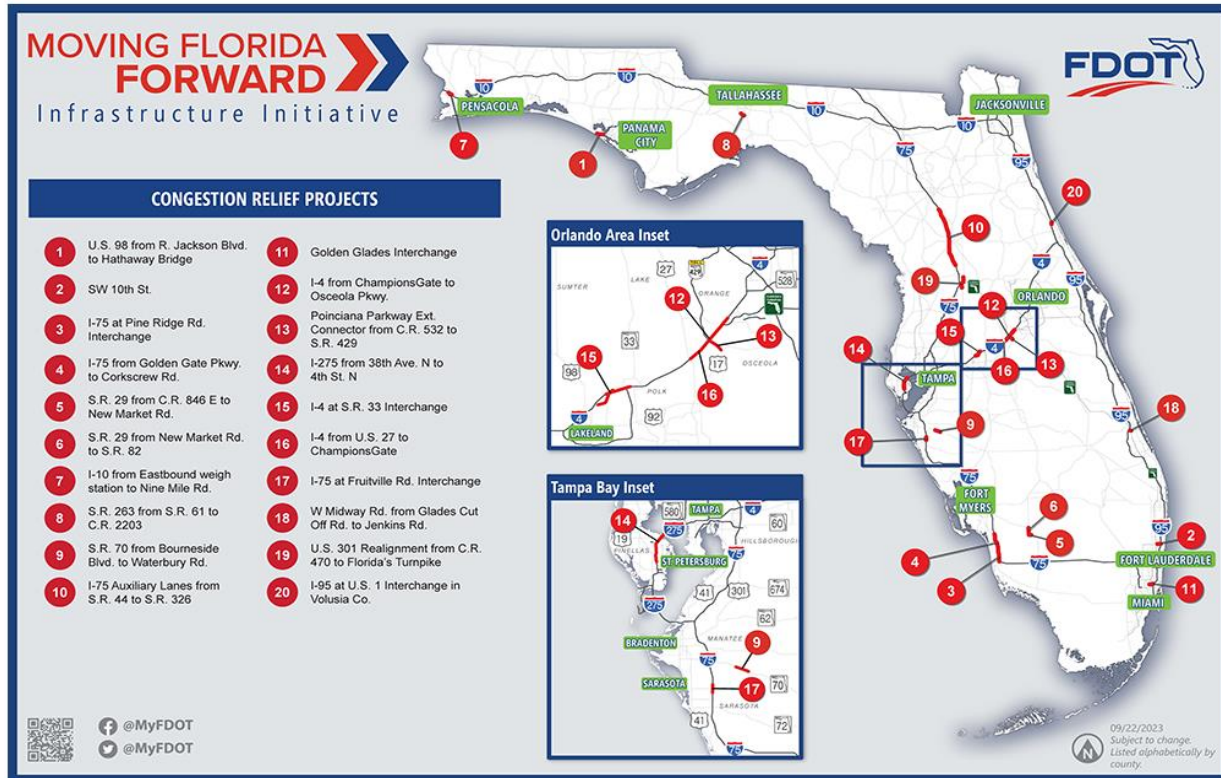
<sup>28</sup> S. 339.0809(13), F.S.

<sup>29</sup> Ch. 2023-239, Laws of Fla.

<sup>30</sup> State of Florida, Transparency Florida, *Approved Budget Amendment Request B0112, Fiscal Year 2023-24*, <http://www.transparencyflorida.gov/arreports/arreport/55469> (last visited Jan. 24, 2024).

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

**Figure 1: Moving Florida Forward Project List<sup>31</sup>**



### Effect of the Bill

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

Additionally, the bill allows DOT to enter into a service contract with the Florida Department of Transportation Financing Corporation to finance those 20 projects identified in the Moving Florida Forward Infrastructure Initiative in the WP. Such service contract payments may not exceed 7 percent of the funds deposited in the STTF in each fiscal year. The annual payments under such service contract must be included in the DOT's tentative WP<sup>32</sup> and legislative budget request. Finally, DOT must ensure that the annual payments are programmed for the life of the service contract before execution of the service contract and shall remain programmed until fully paid.

### **Transportation Planning**

#### Current Situation

DOT and Metropolitan Planning Organizations (M.P.O.s) are partners in the transportation planning, with DOT responsible for coordinating the state's long range transportation goals, the Florida Transportation Plan (FTP),<sup>33</sup> and M.P.O.s responsible for coordinating regional long range

<sup>31</sup> DOT, *Moving Florida Forward Infrastructure Initiative*, <https://www.fdot.gov/movingfloridaforward/landing> (last visited Jan. 24, 2024).

<sup>32</sup> S. 339.135(1)(c), F.S., defines the tentative work program as the 5-year listing of all transportation projects planned for each fiscal year which is developed by DOT's central office based on the district work programs.

<sup>33</sup> The FTP is a policy document updated at least once every five years and developed in compliance with requirements in s. 339.155, F.S. The FTP establishes and defines the state's long range transportation goals and objectives to be accomplished over a period of at least 20 years. S. 339.155(1), F.S. It is based upon the prevailing principles of preserving the existing transportation infrastructure, enhancing Florida's economic competitiveness, improving travel choices to ensure mobility, and expanding the state's role as a hub for trade and investment. *Id.* The FTP is the single

transportation plans.<sup>34</sup> The M.P.O.s develop their Long Range Transportation Plan (LRTP) to implement national and state goals for their metropolitan area.<sup>35</sup> Projects are developed and must be included in the LRTP to be considered for funding.<sup>36</sup> An M.P.O. must also develop its List of Priority Projects (LOPP), which must be consistent with the LRTP and is used to inform the development of the Transportation Improvement Program (TIP).<sup>37</sup> An M.P.O.'s TIP includes a listing of projects planned for the next five fiscal years.<sup>38</sup> TIPs from all 27 M.P.O.s are combined together, along with DOT's other non-metropolitan statewide projects to form the Statewide Transportation Improvement Program (STIP).<sup>39</sup> To be eligible for federal funding, projects must be included in the LRTP, TIP, and STIP.<sup>40</sup> The projects included in an M.P.O.'s TIP are funded and completed through the WP.<sup>41</sup>

### Effect of the Bill

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

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

### **Supply Chain Innovation Grant Program**

#### Current Situation

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

For example, DOT has an assistant secretary that is directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America.<sup>42</sup> In addition, Commerce provides programs, such as the Job Growth Grant Fund, to support Florida's economic growth and supply chain.

The five industry clusters below were identified by the Department of Economic Opportunity (now Commerce) and Enterprise Florida (now repealed) for economic growth in Florida and each of these industries rely heavily on freight transportation systems and a strong supply chain<sup>43</sup>:

- 1) Cleantech,
- 2) Life Sciences,

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overarching plan guiding Florida's transportation future. DOT, *Florida Transportation Plan*, <https://www.fdot.gov/planning/ftp/default.shtm> (last visited Jan. 24, 2024).

<sup>34</sup> DOT, Metropolitan Planning Organization Subject Brief, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing\\_sheet\\_mpo\\_102720.pdf?sfvrsn=b17ab46b\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheet_mpo_102720.pdf?sfvrsn=b17ab46b_2) (last visited Jan. 24, 2024).

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

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> DOT, *STIP Information*, <https://www.fdot.gov/workprogram/federal/stip-mpostip.shtm> (last visited Jan. 24, 2024).

<sup>39</sup> DOT, *supra* note 38.

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

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

<sup>42</sup> S. 20.23(1)(d), F.S.

<sup>43</sup> DOT, *Florida Supply Chain Management*, <https://www.fdot.gov/docs/default-source/planning/systems/programs/mspi/pdf/Freight/Florida-Supply-Chain-Management-Exec-Summary.pdf> (last visited Jan. 24, 2024).

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- 3) Aviation/Aerospace,
- 4) Logistics and Distribution, and
- 5) Defense and Homeland Security.

### Effect of the Bill

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

DOT and Commerce must annually consider applications submitted under the new program by ports<sup>44</sup>; class I, II, or III freight railroads; public airports, and intermodal logistics centers or inland ports<sup>45</sup> to fund proposed projects that support supply chain innovation.

Project selection must be based on projects that create strategic investments in infrastructure to increase capacity and address freight mobility to meet the economic development goals of the state.

Project criteria must include consideration of:

- Consistency with plans and studies produced by Commerce and DOT;
- Projects that directly increase efficiency in the delivery of goods;
- Improved freight mobility access while reducing congestion, including, but not limited to, overnight truck parking at rest areas, weigh stations, and intermodal logistics centers;
- Increased fuel storage capacity and reliable distribution across the state, including, but not limited to, alternative fuel;
- Securing a sustainable logistics transportation network throughout this state;
- Developing connections to multimodal transportation systems; and
- Addressing emerging supply chain and transportation industry challenges.

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

Commerce, in conjunction with DOT, must generate a Supply Chain Innovation Grant Program report that must include a list of each Supply Chain Innovation Grant Program project awarded and the benefit of each project toward meeting the Supply Chain Innovation Grant Program goals and objectives. Commerce must provide the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1, 2025, and biennially thereafter.

## **New Starts Transit Program**

### Current Situation

The New Starts Transit Program assists local governments in the development of fixed guideway and bus rapid transit projects. After required distributions, ten percent of the amount credited to the STTF

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<sup>44</sup> S. 311.09(1), F.S., The ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Putnam County, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>45</sup> S. 311.101(2), F.S., defines intermodal logistics center or an inland port as a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and whose activities and services are designed to support or be supported by conveyance or shipping through one or more seaports.



must be allocated for capital funding for the New Starts Transit Program in accordance with Florida law. Those funds are annually appropriated for expenditure to support the New Starts Transit Program.<sup>46</sup>

This program is a matching program to leverage local or federal funds.<sup>47</sup> However, according to the department, due to local governments' inability to sometimes meet state and federal eligibility requirements or provide a funding commitment for the required matching funds, projects identified for the New Starts Transit Program cannot be programmed into the WP, which results in the annually appropriated funds not being obligated and carried forward to the next fiscal year.

#### Effect of the Bill

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

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

#### Current Situation

Public transit provider is defined as a public agency providing public transit service, including rail authorities created in chapter 343, F.S.<sup>48</sup>

Each public transit provider must establish productivity and performance measures, which must be approved by DOT and which must be selected from measures developed pursuant to s. 341.041(3), F.S.<sup>49 50</sup>

#### Effect of the Bill

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

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

- Administrative costs: includes, but is not limited to, employee salaries and benefits, small business outreach, insurance, professional service contracts not directly related to the operation and maintenance of a transit system, and other overhead costs.
- Public transit provider: a public agency providing public transit service, including an authority created pursuant to chapter 343, F.S.,<sup>51</sup> and chapter 349, F.S.<sup>52</sup>

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

#### Current Situation

DOT's annual budget is approved by the Legislature and the Governor and contains funding for transportation related projects through the inclusion and adoption of the Five-Year WP, which is a list of

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<sup>46</sup> S. 341.051(6), F.S.

<sup>47</sup> Florida Transportation Commission, *New Starts Transit Program*, [http://www.ftc.state.fl.us/documents/Presentations/New\\_Starts\\_Transit\\_Program\\_\(5-23-06\).pdf](http://www.ftc.state.fl.us/documents/Presentations/New_Starts_Transit_Program_(5-23-06).pdf) (last visited Jan. 24, 2024).

<sup>48</sup> S. 341.031(1), F.S.

<sup>49</sup> S. 341.071(2), F.S.

<sup>50</sup> S. 341.041(3), F.S., provides that DOT must develop, publish, and administer state measures concerning system management, performance, productivity, cost distribution, and safety of governmentally owned public transit systems and privately owned or operated systems financed wholly or in part by state funding. Such measures must be developed jointly with representatives of affected publicly owned transit systems and in coordination with affected privately owned systems, with full consideration given to nationwide industry norms.

<sup>51</sup> Ch. 343, F.S., relates to the South Florida Regional Transportation Authority and Central Florida Regional Transportation Authority.

<sup>52</sup> Ch. 349, F.S., relates to the Jacksonville Transportation Authority.

transportation projects planned for each fiscal year. State taxes and fees, along with federal aid, make up the primary funding sources for the WP. Other funding sources include tolls collected in certain facilities, proceeds from bond issuances, and local taxes and fees.<sup>53</sup>

Each fiscal year, a minimum of 15 percent of all state revenues deposited into the STTF are committed annually by DOT for public transportation projects, including public transit projects.<sup>54</sup>

Public transit is defined in Florida law as the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Public transit specifically includes those forms of transportation commonly known as paratransit.<sup>55</sup>

#### Effect of the Bill

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

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

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

Additionally, the bill provides that any new wrap, tinting, paint, medium, or advertisement on the passenger windows of a vehicle used by a public transit provider may not be darker than the legally allowed window tinting requirements.<sup>56</sup>

#### **Effective Date**

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

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

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

**Section 2:** Amends s. 338.2216, F.S., relating to Florida Turnpike Enterprise; powers and authority.

**Section 3:** Amends s. 338.231, F.S., relating to turnpike tolls, fixing; pledge of tolls and other revenues.

**Section 4:** Amends s. 339.08, F.S., relating to use of moneys in State Transportation Trust Fund.

**Section 5:** Amends s. 339.0803, F.S., relating to allocation of increased revenues derived from amendments to s. 320.08, F.S., by chapter 2019-43, Laws of Florida.

**Section 6:** Amends s. 339.0809, F.S., relating Florida Department of Transportation Financing Corporation.

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<sup>53</sup> Office of Work Program and Budget Florida Department of Transportation, *supra* note 18.

<sup>54</sup> S. 206.46(3), F.S. The funding cap minimum is for public transportation projects that are in accordance with ch. 311, ss. 332.003-332.007, ch. 341, and ch. 343 of F.S.

<sup>55</sup> S. 341.031(6), F.S.

<sup>56</sup> S. 316.2954, F.S., provides that a person shall not operate any motor vehicle with any sun screening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance. Specific requirements provided in statute.

- Section 7:** Amends s. 339.155, F.S., relating to transportation planning.
- Section 8:** Creates s. 339.652, F.S., relating to Supply Chain Innovation Grant Program.
- Section 9:** Amends s. 341.051, F.S., relating to administration and financing of public transit and intercity bus service programs and projects.
- Section 10:** Amends s. 341.071, F.S., relating to transit productivity and performance measures; reports.
- Section 11:** Creates s. 341.072, F.S., relating to prohibited use of state funds by public transit providers.
- Section 12:** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The creation of the Supply Chain Innovation Grant Program may have an indeterminate negative fiscal impact on Commerce and DOT's administrative expenditures due to their joint responsibilities to review applications submitted under the grant program and select awardees for grant funding. These administrative costs can be absorbed within existing department resources. However, the funding for grant awards under the Supply Chain Innovation Grant Program is subject to legislative appropriation and there is no appropriation in the bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. See "Fiscal Comments" section below.

2. Expenditures:

Indeterminate. See "Fiscal Comments" section below.

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

Indeterminate. See "Fiscal Comments" section below.

### D. FISCAL COMMENTS:

The bill appears to have a neutral fiscal impact on DOT expenditures as it relates to the New Starts Transit Program. As the bill is written, it appears that any unallocated funds would remain in the STTF for the New Starts Transit Program.

The bill may have a positive fiscal impact on entities involved in electronic payments, to the extent that DOT procures and establishes contracts with such entities for the collection of turnpike toll fees.

The bill may have a negative fiscal impact on a public transit provider, authority, public-use airport, or a port that is found to be in violation of s. 381.00316, F.S.,<sup>57</sup> or advertise, enforce, promote, or display a recommendation, requirement, or mandate relating to COVID-19 or any variant thereof which is produced, recommended, or enacted by, any governmental entity. DOT must withhold state funds from any entity found violating these provisions until such time that the entity is found to be no longer engaging in the unauthorized activity.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

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

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

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

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

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Transportation & Modals Subcommittee considered one amendment, which was adopted, and reported the bill favorably as a committee substitute. The amendment revises the Supply Chain Innovation Grant Program by:

- Requiring that DOT and Commerce must annually consider applications submitted under the new program to fund proposed projects that support supply chain innovation;
- Requiring that project selection must be based on projects that create strategic investments in infrastructure to increase capacity and address freight mobility to meet the economic development goals of the state;
- Expanding project criteria requirements;
- Requiring that Commerce in conjunction with the DOT generate a Supply Chain Innovation Grant Program report which must include a list of each Supply Chain Innovation Grant Program project awarded and the benefit of each project toward meeting the Supply Chain Innovation Grant Program goals and objectives; and
- Requiring that, by October 1, 2025, and biennially thereafter, Commerce provide such report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

On February 5, 2024, the Infrastructure & Tourism Appropriations Subcommittee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The amendment removes the provision that would create flexibility for DOT by allowing the use of a tiered system that

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<sup>57</sup> S. 381.00316, F.S., prohibits private businesses, government entities and educational institutions from requiring people to provide documentation certifying COVID-19 vaccination or post-infection recovery or wear a face mask, face shield, or other facial covering to access the business, governmental operations or school attendance or enrollment, or to access the institution and its services.

correlates with the cost of the construction project to meet the required percentage threshold for funding the purchase of plant materials.

The analysis is drafted to the committee substitute as approved by the Infrastructure & Tourism Appropriations Subcommittee.