
**SUMMARY OF
TRANSPORTATION-RELATED
LEGISLATION ENACTED BY THE
2016 LEGISLATURE**

April 2016

TABLE OF CONTENTS

SUMMARY OF TRANSPORTATION LEGISLATION

HB 7027 – An Act Relating to the Department of Transportation.....	3
HB 7061 – An Act Relating to Transportation.....	7

SUMMARY OF APPROPRIATION RELATED BILLS

HB 5001 – Relating to the General Appropriations Act.....	13
HB 5003 – Relating to Implementing the 2016-2017 General Appropriations Act.....	13

SUMMARY OF OTHER LEGISLATION OF INTEREST

CS/CS/SB 86 – Relating to Scrutinized Companies.....	15
CS/SB 100 – Relating to Pollution Discharge Removal and Prevention.....	15
CS/CS/CS/HB 183 – Relating to Administrative Procedures.....	16
CS/CS/SB 196 – Relating to Public Records/State-funded Infrastructure Bank.....	17
CS/HB 273 – Relating to Public Records.....	17
CS/SB 416 – Relating to Location of Utilities.....	18
CS/CS/CS/HB 651 – Relating to Department of Financial Services.....	18
SB 1110 – Relating to Central Florida Expressway System.....	18
CS/HB 1219 – Relating to Veterans Employment.....	19
CS/CS/HB 1361 – Relating to Growth Management.....	20
CS/SB 1508 – Relating to Airport Zoning Law of 1945.....	20
HB 7071 – Relating to Public Corruption.....	21
HB 7099 – Relating to Taxation.....	22

SUMMARY OF TRANSPORTATION LEGISLATION

Readers are encouraged to consult information provided by the Department’s Budget Office with regard to HB 5001, the General Appropriations Act, and HB 5003, Implementing the 2016-2017 General Appropriations Act, for transportation-related funding impacts. Further, a review for necessary details of any bill contained herein is recommended, and links to each bill are provided. Lastly, this document is intended to provide information on transportation-related bills and other bills of interest that were passed by the 2016 Legislature.

Relating to the Department of Transportation (*Department Package*)

[HB 7027](#) – by Representative Rooney

- Section 1 amends s. 311.07, F.S. to increase the funding from the current \$15 million to \$25 million a year to fund the Florida Seaport Transportation and Economic Development Program (FSTED). This section also directs the FSTED to develop guidelines for project funding. The Department of Transportation (Department), the Department of Economic Opportunity (DEO) and FSTED Council staff are directed to work together to review projects and allocate funds based upon the timing and scheduling of the tentative Work Program.
- Section 2 directs an allocation of at least \$25 million per year in the Department's Legislative Budget Request (LBR) for FSTED projects decided upon in section 2 of the bill. This section also provides direction on amendments to the Work Program related to the FSTED funds and projects.
- Section 3 amends s. 316.003, F.S., to define the term “driver-assistive truck platooning technology.”
- Section 4 requires the Department to study, in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

The bill authorizes the Department, upon conclusion of the study and in consultation with the DHSMV, to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology. The pilot project may be conducted notwithstanding the traffic control provisions related to following too closely and television-type equipment in motor vehicles. Prior to the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of \$5 million.

The Department, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, Senate President, and Speaker of the House upon conclusion of the pilot project.

- Section 5 amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.
- Section 6 creates s. 316.003(94), F.S., defining "port-of-entry" (POE) 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 the Department.

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 weight¹⁵ at five cents per pound. Existing penalties for failure to obtain other required credentials remain unchanged, including, but not limited to, IFTA violations and overweight and over-dimensional permit violations.

The Department is considering three potential POE locations:

- I-10 at the first eastbound weigh station entering the state;
- I-75 at the first southbound weigh station entering the state; and
- I-95 at the first southbound weigh station entering the state.

- Section 7 clarifies that the authorization for a person holding a valid driver license to operate an autonomous vehicle applies on the public roads of this state.
- Section 8 exempts from liability the original manufacturer of a vehicle converted by a third party into an autonomous vehicle. Repeals language detailing requirements for testing autonomous technology, including requirements of \$5 million in insurance.
- Section 9 requires that autonomous vehicles registered in Florida must continue to meet federal standards and regulations that apply to such vehicles. To the extent that any new provision in the bill regarding vehicle equipment is or becomes in conflict with federal law, the bill's provision would be superseded.
- Section 10 creates s. 334.044(34), F.S., authorizing the Department to assume responsibilities of the USDOT with respect to highway projects within the state under the National Environmental Policy Act (NEPA) or other actions required under any federal environmental law pertaining to review or approval of any highway project within the state. The Department may assume responsibilities under 23 U.S.C. s. 327; 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. The Department may adopt rules to implement this section and may adopt relevant federal environmental standards as the standards for the state for a program described above.

The bill would allow Florida to assume greater responsibility for the fate of its own projects by giving the Department direct NEPA decision making authority. By assuming Federal Highway Administration's (FHWA) role in the review and approval of transportation projects, the Department 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 between the Department and federal regulatory agencies and maximizing efficiency by consolidating all NEPA reviews under the Department.

A limited waiver of sovereign immunity to civil suit in federal court is required before a state may assume the FHWA's NEPA responsibilities. The waiver of sovereign immunity is limited to only those actions delegated to the Department and related to carrying out its NEPA duties on state highway projects. NEPA review is governed by the federal Administrative Procedures Act. The standard for review is whether the Department's action is arbitrary and capricious. The remedy for a successful challenge is to require additional review, analysis, and documentation to support the project. Monetary damages are not permitted. Further, a state assuming the NEPA responsibilities may use federally apportioned surface transportation funds for attorneys' fees directly attributable to eligible activities associated with a project.

- Section 11 amends s. 334.30, F.S., providing that the Department must provide information to, and consult with, the Division of Bond Finance of the State Board of Administration in connection with public-private partnership project proposals to finance or refinance a transportation facility. The bill authorizes the Division of Bond Finance to make an independent recommendation to the Office of the Governor.
- Section 12 creates s. 337.027, F.S., providing the Department with authorization to establish a program that would assist small businesses and increase competition for highway projects in the Department's Work Program. The bill would allow the Department to create a Business Development Program separate from the current authorization for the Initiative pursuant to s. 337.025, F.S. The bill allows the Department to set aside contracts, provide preferential points and special assistance, waive certain bond requirements, and implement other strategies.

The bill defines a qualifying small business as a business with average gross receipts under \$15 million for road and bridge contracts and under \$6.5 million for professional and non-professional services contracts.

The bill authorizes the Department to adopt rules for the implementation of a business development program.

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- Sections 13 and 14 amend s. 338.165(4), F.S., removing the Beeline-East Expressway, the Navarre Bridge and the Pinellas Bayway from the list of facilities from which the Department may use toll revenues for certain purposes.

The bill allows the Department to transfer the Pinellas Bayway System to the Florida Turnpike Enterprise and transfer all of the Pinellas Bayway funds to the Florida Turnpike Enterprise to be held in a reserve account to be used to help fund the costs of repair or replacement of the transferred facilities. This change will help minimize the costs to the Work Program as it will become the responsibility of the Turnpike to manage and maintain this system post transfer.

- Section 15 creates the Florida Department of Transportation Financing Corporation (Corporation), a conduit issuer of indebtedness that would be secured by amounts payable to the Corporation by the Department under one or more contracts.

The Corporation would be a state governmental entity, governed by a board made up of the Director of the Office of Policy and Budget in the Executive Office of the Governor, the Director of the Division of Bond Finance, and the Department's Secretary. The Corporation would have the power to enter into agreements with the Department under which the Department would remit payments to the Corporation in exchange for financing services from the Corporation. The Department's commitments would be subject to appropriation and would not constitute a general obligation of the State or a pledge of the full faith and credit of the State. The payments from the Department would effectively constitute revenues in the hands of the Corporation.

The bill allows the Department to leverage the favorable terms available to governmental borrowers in the tax exempt municipal bond market when entering into long term financing agreements and commits future transportation funding for the acquisition and construction of transportation facilities.

The bill would permit the issuance of debt to finance transportation projects for which the Department currently lacks legal authority to issue bonds. The Corporation would be authorized to issue debt payable from and secured by the contractual commitments of the Department and provide the proceeds of the debt to the Department for the purpose of financing identified transportation projects. The Corporation would be acting as a "conduit issuer" and would not be generally liable for repayment of the debt. Because the debt would only be secured by the Department's contractual commitment to pay under its contract with the Corporation, which obligation remains subject to annual appropriation, the debt would not be secured by the full faith and credit of the State. This provides a constitutionally permissible mechanism by which the Department could leverage future State Transportation Trust Fund (STTF) revenues to provide funding for currently needed projects.

- Section 16 amends s. 339.135(7)(g), F.S., removing the authorization for the chair and vice chair of the Legislative Budget Commission (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. The Department is required to provide a narrative with the rationale for not advancing an existing project or project phase in lieu of the proposed amendment.

- Section 17 directs the Department to coordinate with federal, regional, local partners, and industry representatives to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments, in the Strategic Intermodal System (SIS) facilities. The needs assessment must include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology. The proposed SIS Policy Plan incorporates technology and innovation and provides a foundation for inclusion and consideration of these items in the SIS Needs Plan.
- Section 18 amends s. 339.64, F.S., to require the Department when updating the SIS Plan to coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology.
- Section 19 provides an effective date of July 1, 2016.

Relating to Transportation

[CS/CS/HB 7061](#) – by Representative Santiago

Note: While HB 7061 is entitled “Relating to Transportation”, a significant portion of the bill deals with issues under the oversight of the Department of Highway Safety & Motor Vehicles. This section discusses only those parts of HB 7061 which directly impact the Department.

- Section 2 amends s. 311.07, F.S. to increase the minimum funding from the current \$15 million to \$25 million a year to fund the Florida Seaport Transportation and Economic Development Program (FSTED). This section also directs the FSTED to develop guidelines for project funding. FDOT, DEO and Council staff are directed to work together to review projects and allocate funds based upon the timing and scheduling of the tentative Work Program.
- Section 3 directs an allocation of at least \$25 million per year in the Department's LBR for FSTED projects decided upon in section 2 of the bill. This section also provides direction on amendments to the Work Program related to the FSTED funds and projects.

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- Section 4 adds subsections (5) and (6) to s. 311.12, F.S. to create a Seaport Security Advisory Committee (SSAC) under the direction of the FSTED Council. The committee shall consist of five or more port security directors appointed by the council chair and shall be voting members; a designee from the U.S. Coast Guard (ex officio - nonvoting member); a designee for the U.S. Customs and Border Protection (ex officio - nonvoting member); two representatives from local law enforcement agencies providing security services at a Florida seaport (ex officio - nonvoting member). The committee is directed to meet at the call of the chair but at least annually. The committee shall provide a forum for discussions of seaport security, including: matters of national and state security strategy and policy; actions required to meet current and future security threats; statewide cooperation on security issues; and security concerns of the state's maritime industry.

This section establishes a Seaport Security Grant Program for the purpose of assisting in the implementation of security plans and security measures. Funds may be used for the purchase of equipment, infrastructure needs, cybersecurity programs, and other security measures identified in the federal security plan. Grants may not exceed 75% of the total costs of the request and are subject to legislative appropriation. The applications must be reviewed by the SSAC and make recommendations to the council for grant approvals.

- Section 5 reorders s. 316.003, F.S. and adds definitions of "commercial megacycle" and "driver-assistive truck platooning technology".
- Section 6 amends subsection (7) of s. 316.0745, F.S. to allow the Department, upon receipt and investigation of reported noncompliance and after a hearing, to direct the removal of any purported traffic control device that fails to meet the requirements of section 316.0745, F.S. wherever the device is located and without regard to assigned responsibility. The public agency erecting or installing the same shall immediately bring it into compliance with the requirements in s. 316.0745, F.S.
- Section 7 creates s. 316.2069, F.S. regarding commercial megacycles. The bill allows a local municipality to authorize the operation of a commercial megacycle on roads and streets within the respective jurisdiction if certain requirements are met. These include: prior to authorization such operation, the local government must first determine that commercial megacycles may safely travel on or cross the public road or street, considering factors including speed, volume, and character of the motor vehicle traffic using the road or street. Upon that determination, the governmental entity shall post signs to indicate the megacycle is allowed. Next the local agency must clearly identify the roads and streets under the governing body's jurisdiction where the megacycle is permitted. The local body's authorization (at a minimum) must require that the megacycle be: operated at all times by its owner or lessee; operated by a driver at least 18 years of age and have a Class E driver's license; occupied by a safety monitor at least 18 years of age, who shall supervise the passengers while the megacycle is in motion; and be insured with the minimum commercial general liability insurance of not less than \$1,000,000, prior to and at all times of operation, and satisfy proof of which shall be provided to the governing body.

The Department is authorized to prohibit megacycles on or across any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety. There is no prohibition of an auxiliary motor to move the megacycle from the roadway under emergency situations.

- Section 8 modifies transit bus equipment lighting requirements.
- Section 9 allows television-type receiving equipment to be located so the driver can see the screen only if the vehicle is equipped with autonomous technology and is being operated in the autonomous mode.

The definition of autonomous technology (autonomous vehicle) is limited to that where active human intervention is unnecessary to operate a motor vehicle (NHTSA Level 4). Technologies like lane departure warning, traffic jam assist, parking assist and back up cameras are currently available from vehicle manufacturers as part of the original vehicle specifications and as after-market add-ons. Many of these automated and connected technologies use electronic display screens. The proposed revision does not provide clarification or authorization for these types of equipment and the definition of autonomous technology specifically excludes them.

- Section 10 extends the maximum length of semitrailers operating on public roads from 53 to 57 ft. in length and permits them to be operated on public roads except those on the State Highway System (SHS) that are restricted by the Department. The Department currently issues permits for trailers greater than 53' up to 57' 6" per Rule 14-26 FAC. A permit would still be required if the kingpin distance exceed 41'.
- Section 12 permits persons who have a valid driver license to operate an autonomous vehicle in autonomous mode "on the roads in this state if the vehicle is equipped with autonomous technology."
- Section 13 exempts from liability the original manufacturer of a vehicle converted by a third party into an autonomous vehicle. The bill repeals language detailing requirements for testing autonomous technology, including requirements of \$5 million in insurance.
- Section 14 mandates that an autonomous vehicle must have an alert system to safely notify the operator of autonomous vehicle failure. When the alert is given, the system must: 1) require the operator to take control of the vehicle or 2) if the operator does not or cannot safely control the vehicle, the operator must be capable of bringing the vehicle to a stop.
- Section 16 expands the definition of "port vehicle" to include those motor vehicles being relocated within a port facility or via designated port district roads.
- Section 20 extends certain airport leases from 30 to 50 years.
- Sections 21 to 36 revise existing language in Chapter 333, F.S. to provide clarity, reduce redundancy, remove outdated provisions, update references to federal regulations and

improve organization. The bill provides clear direction to local governments to adopt airport protection zoning regulations, as well as airport land use compatibility zoning regulations. Local governments are provided greater flexibility and control over the permitting process and the process is simplified and streamlined to use existing local zoning/permitting processes. The language also provides a transition period allowing local governments until July 1, 2017, to amend existing zoning regulations and to adopt zoning regulations, as necessary to conform to Chapter 333.

- Sections 37 and 38 establish "Chloe's Law" which requires the Department to erect roadside barriers to shield water bodies contiguous with state roads at locations where a death due to drowning resulted from a motor vehicle accident between July 1, 2006 and July 1, 2016. Exceptions made for locations determined by the Department's chief engineer that would increase the risk of injury to drivers.

The bill requires the Department to review all motor vehicle accidents that resulted in death due to drowning in water bodies contiguous to state roads and submit a report to the President of the Senate and the Speaker of the House, providing recommendations regarding any changes to state laws to enhance traffic safety by January 3, 2017.

- Section 39 prohibits local governments from approving or denying a proposed land use zoning change regarding construction aggregate materials without considering information provided by the Department regarding the effect such change would have on the cost of such materials to the local area, region or state. The bill also prohibits a local government from imposing a moratorium of more than 12 months duration on the mining or extraction of construction aggregate materials.
- Section 40 permits the Department to waive all or a portion of a surety bond if the prime contractor (or subcontractor) is a qualified non-profit agency for the blind or severely handicapped.
- Section 41 removes the Beeline, Navarre Bridge and Pinellas Bayway from the list of tolled facilities from which the Department may secure revenue bonds to fund transportation projects within their counties.

The bill allows the Department to transfer the Pinellas Bayway System to the Florida Turnpike Enterprise and transfer all of the Pinellas Bayway funds to the Florida Turnpike Enterprise to be held in a reserve account to be used to help fund the costs of repair or replacement of the transferred facilities. This change will help minimize the costs to the Work Program as it will become the responsibility of the Turnpike to manage and maintain this system post transfer.

- Section 42 removes obsolete language related to the use of toll revenues for the Pinellas Bayway.
- Section 43 strikes language related to retired bonds for the Sawgrass Expressway consistent with changes in Section 41.

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- Section 44 creates the Tampa Bay Area Regional Transportation Authority Metropolitan Planning Organization (TBARTA-MPO) Chairs Coordinating Committee within the Tampa Bay Area Regional Transportation Authority. Adds the Citrus County MPO chair to the membership of the coordinating committee.

The language obligates MPOs to include in their 20 year plans to make the most efficient use of existing transportation facilities to relieve vehicular congestion, "improve safety" and maximize the mobility of people and goods. Such plans must include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments. The Florida Transportation Plan (FTP), published December 2015, incorporates technology and innovation and provides a foundation for inclusion and consideration of these items in MPO long-range plans.

- Section 45 changes the population threshold for the Small County Outreach Program (SCOP) from 150,000 to 170,000. Eligible counties will now include Santa Rosa, Charlotte and Martin Counties.
- Section 46 authorizes the Department's state funded infrastructure bank (SIB) to be used to provide loans or credit for ancillary facilities that produce or distribute natural gas or fuel. Beginning July 1, 2017, the bank may lend capital costs or provide credit enhancements for applications for the development and construction or natural gas fuel production or distribution facilities used to support transportation activities at seaports or intermodal facilities.
- Section 47 directs the Department to coordinate with federal, regional, local partners, and industry representatives to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments, in the Strategic Intermodal System (SIS) facilities. The needs assessment must include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology. The proposed SIS Policy Plan incorporates technology and innovation and provides a foundation for inclusion and consideration of these items in the SIS Needs Plan.
- Section 48 repeals s. 341.0532, F.S., which established statewide transportation corridors.
- Section 49 and 50 amends s. 343.92, F.S. establishing TBARTA. Conforms sections for the coordinating committee changes. Directs the Secretary to appoint two advisors and directs TBARTA to appoint one member.
- Section 51 amends s. 348.656, F.S. permitting the Tampa-Hillsborough County Expressway (THEA) System to issue revenue bonds for the widening and extensions of the Lee Roy Selmon Crosstown Expressway System and capital projects that that the authority is authorized to acquire, construct, equip or operate pursuant to s. 348.54(15), F.S.

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- Section 52 waives permit requirements for signs located within the controlled area of a federal-aid primary highway but that are on a parcel adjacent to an off-ramp to the termination point of a turnpike system, if there is no directional decision to be made by a driver, the signs are primarily facing the off-ramp, and the signs have been in existence since at least 1995.
 - Section 53 permits Florida breweries that meet certain requirements relating to production, facility tours and hours of operation to request directional signs to be installed by the Department on the rights-of-way of interstate highways. The brewery shall pay all costs associated with the request. This change will require updates to Rule 14-51, F.A.C.
 - Section 54 directs the Department, in consultation with DHSMV, to study the use and operation of driver assistive truck platooning technology for the purpose of developing and conducting a pilot project to test vehicles equipped with this technology. The results of the study and pilot project shall be submitted to the Governor, President of the Senate and the Speaker of the House.
 - Section 55 requires the Office of Economic and Demographic Research (EDR) to evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of the state's investment in the Department's adopted Work Program developed in accordance with s. 339.135(5), F.S, for fiscal year 2016-2017 and the following 4 fiscal years. At a minimum, a separate return on investment shall be determined for specified program areas. Report is due by January 1, 2017.
 - Sections 63 through 82 are cross reference updates.
 - Section 83 provides an effective date of July 1, 2016.

SUMMARY OF APPROPRIATION RELATED BILLS

[HB 5001 - Relating to the General Appropriations Act \(GAA\)](#)

HB 5001 provides moneys for Fiscal Year 2016/2017 which begins July 1, 2016 and ends June 30, 2017. The bill appropriates over \$10.7 Billion to the Department and becomes effective July 1, 2016, or upon becoming law for specific sections. The funding is broken down into 4 categories as follows:

- Work Program: \$9.8 Billion
- Operating: \$740.8 Million
- Fixed Capital Outlay: \$8.2 Million
- Debt Service: \$166.4 Million

[HB 5003 – Relating to Implementing the 2016-2017 General Appropriations Act](#)

HB 5003 provides implementation requirements for the funds appropriated in the GAA.

- **Section 68/Tenant Broker Services:** Requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring before June 30, 2019.
- **Section 98/Strategic and Regionally Significant Corridors:** Authorizes the Department to use up to \$15 million of appropriated funds to pay the costs of strategic and regionally significant transportation projects. Funds may be used to provide up to 75 percent of project costs for production-ready eligible projects. Preference shall be given to projects that support the state's economic regions, or that have been identified as regionally significant. This paragraph expires July 1, 2017.
- **Section 98/Multi-use Trails:** Authorizes the Department to use funds for the purpose of funding the costs of land acquisition, design and construction of multiuse trails and related facilities. Requires DOT to give funding priority to certain types of projects.
- **Section 101 & 102/Small County Road Assistance Program (SCRAP):** Amends s. 339.2816, F.S. to provide that in fiscal year 2016-2017, up to \$50 million from the State Transportation Trust Fund may be used for the purposes of funding the Small County Road Assistance Program, and allows the use of SCRAP funds for the widening of existing lanes to address critical safety concerns as part of a resurfacing or reconstruction project.
- **Section 105/Transportation Disadvantaged:** Amends s. 427.013, F.S. to authorize the Commission for the Transportation Disadvantaged to make distributions during Fiscal

Year 2016-2017 to community transportation coordinators: That do not receive federal Urbanized Area Formula Funds to provide transportation disadvantaged services; and as competitive grants to enhance access to life services, to assist in development of transportation systems in non-urbanized areas, to promote coordination of services, to support inner-city bus transportation, and to encourage private provider participation.

- **Section 113/Competitive Solicitation Funded from Expense or Contracted Services:** Prohibits an agency from engaging in competitive solicitation using Expenses, Contracted Services or other special categories if the solicitation would require a law change or require a change in the agency's budget.
- **Section 119/State Employee Travel:** Requires state employee travel to be limited to mission critical to meet the agency's mission. Prohibits the use of funds for travel to foreign countries, other states, conferences, staff training activities, or other administrative functions unless approved by the agency head.
- **Section 120/State Employee Travel Lodging:** State employee travel costs for lodging associated with a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$150 per day. An employee may expend his or her own funds for any lodging expenses in excess of \$150 per day.
- **Section 124/Non-Disclosure Clauses in Contracts:** Prohibits a state agency from using Expenses, Contracted Services or other special categories to enter into a contract containing a nondisclosure clause that prohibits the contractor from disclosing information relevant to the performance of the contract to members or staff of the Senate or the House of Representatives. This section expires July 1, 2017.

SUMMARY OF OTHER LEGISLATION OF INTEREST

Relating to Scrutinized Companies

[CS/CS/SB 86](#) – By Senator Negron

The bill requires the State Board of Administration (SBA) to identify and assemble a list of companies that boycott Israel. The bill requires the SBA to update and make publicly available on a quarterly basis a Scrutinized Companies that Boycott Israel List (List). The List must be distributed to the trustees of the SBA, the President of the Florida Senate, and the Speaker of the Florida House of Representatives.

The bill limits governmental entities from contracting with scrutinized companies on the List or companies engaged in a boycott of Israel. Specifically, the bill prohibits a state agency or local governmental entity from contracting for goods and services of \$1 million or more with a company that has been placed on the List, or engaged in a boycott of Israel. The bill requires certain governmental contracts to contain provisions allowing the awarding body to terminate the contract if a company is placed on the List, or engaged in a boycott of Israel. Additionally, the bill requires certification by a company that the company is not participating in a boycott of Israel upon submission of bid or renewal of existing contract. A case-by-case exception is provided to state agencies and local governmental entities for contracting with companies on the List under specified circumstances.

Relating to Pollution Discharge Removal and Prevention

[CS/SB 100](#) – By Senator Simpson

The portion of the bill related to the Department of Transportation makes changes to the Low Scored Site Initiative (LSSI) program and requires a responsible party who wishes to participate in LSSI to provide evidence of authorization from the property owner. To participate in LSSI, the bill requires a property owner or responsible party to submit a “No Further Action” proposal that demonstrates the required criteria are met. In addition, the bill revises the criteria to:

- Provide a more specific standard for the prohibition on the presence of excessively contaminated soil on the site. Specifically, soil saturated with petroleum or petroleum products, or soil that causes a total corrected hydrocarbon measurement of 500 parts per million (ppm) or higher for Gasoline Analytical Group or 50 ppm or higher for Kerosene Analytical Group, as defined by Department of Environmental Protection (DEP) rule, must not exist onsite as a result of a release of petroleum product.
- Specify that a minimum of 12 months of groundwater monitoring indicates whether the plume is shrinking or stable.

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- Specify that the requirement that contamination remaining at the site does not adversely affect adjacent surface waters includes the effects of those waters on human health and the environment.
 - Remove the requirement that the area of groundwater contamination is less than one-quarter acre.
 - **Allow an area to contain petroleum products' chemicals of concern that is confined to the source property boundaries of the real property on which the discharge originated or has migrated from the source property onto or beneath a transportation facility for which DEP has approved, and the governmental entity owning the transportation facility has agreed to institutional controls. The bill stipulates that this does not impose any legal liability on the transportation facility owner, obligate such owner to engage in remediation, or waive such owner's right to recovery costs for damages.**
 - Add a requirement that the groundwater contamination containing the petroleum products' chemicals of concern is not a threat to any permitted potable water supply well.

If the DEP determines that the property owner or responsible party has demonstrated that these conditions are met, the DEP must issue a site rehabilitation completion order that incorporates the "No Further Action" proposal. This determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to the public health, safety, or welfare, water resources, or the environment. If the DEP determines that a discharge for which a site rehabilitation completion order was issued pursuant to LSSI may pose a threat to the public health, safety, or welfare, water resources, or the environment, the issuance of the site rehabilitation completion order does not alter eligibility for state-funded rehabilitation that would otherwise apply.

Relating to Administrative Procedures

[CS/CS/CS/HB 183](#) – By Representative Adkins

The Administrative Procedure Act (APA) provides uniform procedures for the exercise of specified administrative authority. The bill amends provisions of the APA to enhance the opportunities for substantially affected parties to challenge rules. These changes include, but are not limited to:

- Revising rulemaking procedures based on petitions to initiate rulemaking alleging an unadopted rule;
- Expanding the listing of information that must be published on the Florida Administrative Register to include rules filed for adoption in the previous seven days and a listing of all rules filed for adoption but awaiting legislative ratification;
- Revising the pleading requirements and burden of going forward with evidence in challenges to proposed and unadopted rules;
- Clarifying which rule validity decisions may be appealed; and
- Requiring agencies to identify and certify all of the rules the violation of which would be a minor violation.

In addition, the bill specifies that administrative challenges to any proposed regulatory permits related to special events are subject to the APA's summary hearing procedures, with certain exceptions.

Relating to Public Records/State-funded Infrastructure Bank

[CS/CS/SB 196](#) – By Senator Hutson

The bill creates a new exemption from the public records inspection and access requirements of Art. I, s. 24(a) of the State Constitution and s. 119.07(1), F.S., for financial information held by the Department. Specifically, the bill exempts the financial information of a private entity submitted to the Department as part of the application process for a loan or credit enhancement from the State-funded Infrastructure Bank (SIB). The exemption does not apply to records of a private applicant in default of a SIB loan.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Relating to Public Records

[CS/HB 273](#) – By Representative Beshears

The bill requires a public agency contract for services with a contractor to include a statement in large, boldface font informing the contractor of the contact information of the public agency's custodian of public records (records custodian) and instructing the contractor to contact the records custodian concerning any questions the contractor may have regarding the contractor's duties to provide public records relating to the contract.

The bill repeals the requirement that each contract for services require the contractor to transfer its public records to the public agency upon termination of the contract. Instead, the contract must address whether the contractor will retain the public records or transfer the public records to the public agency upon completion of the contract.

The bill requires a request for public records relating to a contract for services to be made directly to the contracting public agency. If the public agency determines that it does not possess the records, it must immediately notify the contractor and the contractor must provide the records or allow access to the records within a reasonable time. A contractor who fails to provide the records to the public agency within a reasonable time may be subject to certain penalties.

The bill provides that if a civil action is filed to compel production of public records, the court must assess and award against the contractor the reasonable costs of enforcement, including attorney fees, if the court determines that a contractor unlawfully refused to comply with the public records request within a reasonable time, and the plaintiff provided written notice of the public

records request to the public agency and the contractor. The notice must be sent at least 8 business days before the plaintiff files the civil action. The bill specifies that a contractor who complies with the public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.

Relating to Location of Utilities

[CS/SB 416](#) – By Senator Flores

The bill requires a state or local government to bear the responsibility for the cost of relocating utility facilities in a public easement, absent an agreement to the contrary. Specifically, the bill provides that a governmental authority must bear the cost of utility work required to eliminate an unreasonable interference if the utility is located within *an existing and valid utility easement granted by recorded plat*, regardless of whether such land was subsequently acquired by the governmental authority, by dedication, transfer of fee, or otherwise.

Currently, both statute and common law require a utility to pay for the cost of relocating its facilities within a public easement, absent an agreement to the contrary. Both the statute and common law were reaffirmed in a recent court case by the Second District Court of Appeals requiring a utility to pay for the cost of relocating its utility facilities.

The bill also reduces a county’s authority to grant licenses for lines to only locations under, on, over, across, or within the right-of-way limits of a county highway or public road, as opposed to under, on, over, across and along such highways or roads.

Relating to Department of Financial Services

[CS/CS/CS/HB 651](#) – By Representative Beshears

The bill creates and amends duties and responsibilities of the Department of Financial Services (DFS). Specifically in regard to the Department of Transportation, the bill amends the Florida Single Audit Act (FSAA) to more closely conform to the Federal Single Audit Act by amending the definition of “audit threshold” to raise the amount a nonstate entity must expend from \$500,000 to \$750,000 of state financial assistance in any fiscal year to be subject to a state single audit or project-specific audit.

Relating to Central Florida Expressway Authority

[SB 1110](#) – By Senator Simmons

The bill addresses issues relating to the Central Florida Expressway Authority (CFX). The bill clarifies that members of CFX’s governing body from Seminole, Lake, and Osceola Counties must be a county commission member or chair, or a county mayor from the respective counties.

Governor-appointed citizen members, who must be residents of either Orange, Seminole, Lake, or Osceola County, are made subject to Senate confirmation, and refusal or failure to confirm creates a vacancy. The bill provides that the 4-year term of Governor-appointed members ends on December 31 of the last year of service. The bill also removes the requirement that the CFX board elect a governing body member as secretary.

The bill also clarifies that CFX is a party to a 1985 lease-purchase agreement between the former Orlando-Orange County Expressway Authority (OOCEA) and the Florida Department of Transportation (FDOT), and repeals superseded language requiring that title to the former Orlando-Orange County Expressway System be transferred to the state under certain conditions.

Relating to Veterans Employment

[CS/HB 1219](#) – By Representative Raburn

The bill revises the section of Florida law governing veterans' preference in appointment and retention to require agencies to include a veteran recruitment plan and to track data related to the current veterans preference requirements.

Current law requires the state and its political subdivisions to grant a preference in hiring to all veterans; National Guard members; U.S. Reserve Forces; and Gold Star Mothers, Fathers, and legal guardians, and authorizes private sector employers to establish a veterans' preference process for honorably discharged veterans and certain spouses. However, Florida law does not provide a policy concerning the recruitment and employment of veterans by state agencies. In addition, Florida law does not provide a policy regarding the tracking of statistical data concerning these practices. The bill revises the section of Florida law governing veterans' preference in appointment and retention.

Specifically, the bill:

- Requires each state agency, and allows each political subdivision of the state, to develop and implement a written veterans' recruitment plan;
- Requires each veterans' recruitment plan to establish and meet annual goals for ensuring the full use of veterans in the agency's or subdivision's workforce;
- Requires the Department of Management Services (DMS) to collect statistical data for each state agency on the number of persons who claim veterans' preference, the number of persons who were hired through veterans' preference, and the number of persons who were hired as a result of the veterans' recruitment plan; and
- Requires DMS to annually update the statistical data on its website and include the statistics in its annual workforce report.

The bill requires each veterans' recruitment plan to apply to the same individuals (listed above) that are included in the Florida law governing veterans preference in appointment and retention.

Relating to Growth Management

[CS/CS/HB 1361](#) – By Representative LaRosa

The bill alters various provisions of state law related to growth management as follows:

- provides that recommended orders submitted to the Department of Economic Opportunity (DEO) by an administrative law judge regarding a challenged comprehensive plan amendment become final within a certain time period without agency action or an agreement to extend the time;
- authorizes developments of regional impact (DRIs) to reduce height, density, or intensity without losing vested rights;
- specifies that a proposed development that would otherwise require DRI review must follow the state coordinated review process if the development necessitates an amendment to the comprehensive plan;
- allows a developer, DEO, and local government, to amend their agreement that a development is “essentially built-out” without a notification of proposed change necessary for a substantial deviation;
- provides that a development may be determined to be “essentially built out” irrespective of whether required annual or biennial reports have been submitted;
- provides that certain unbuilt land uses specified in an agreement establishing that a development is “essentially built out,” may be substituted for another land use;
- provides that phase date extensions are not substantial deviations under certain circumstances;
- provides that previously developed lands acquired for development as part of an existing DRI are not subject to aggregation under certain circumstances;
- authorizes DRIs to rescind their DRI development order;
- decreases the minimum required acreage of sector plans from 15,000 acres to 5,000 acres;
- authorizes enclaves up to 110 acres in size to be annexed on an expedited basis;
- provides that comprehensive plan amendments and modifications to land development regulations within Apalachicola Bay do not require approval from the Administration Commission;
- authorizes the governing body of a county to hold joint meetings with the governing body or bodies of one or more adjacent counties or municipalities to discuss matters of mutual interest; and
- provides that a representative of a military installation is not required to file a statement of financial interest solely due to his or her service on a local land planning or zoning board.

Relating to Airport Zoning Law of 1945

[CS/SB 1508](#) – By Senator Simpson

The bill substantially revises chapter 333, Florida Statutes, containing airport zoning provisions relating to the management of airspace and land use at or near airports. Generally, the bill:

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- Updates statutory definitions and terms in accordance with federal regulations.
 - Streamlines the current local airport protection zoning process to a simpler permitting model.
 - Provides local governments the flexibility to structure and incorporate the airport protection zoning review process into existing local zoning review processes and repeals duplicative requirements for obtaining a variance.
 - Makes other grammatical, editorial, and conforming changes.

Relating to Public Corruption

HB 7071 – By Representative Workman

Chapter 838, F.S., establishes a number of criminal offenses related to public officials or employees and the performance of their official duties, including bribery, unlawful compensation for official behavior, official misconduct, and bid tampering. In order to be convicted of an offense under Ch. 838, F.S., one must act “corruptly” or “with corrupt intent,” which is defined as “acting knowingly and dishonestly for a wrongful purpose.”

The offenses defined in Ch. 838, F.S., only apply to the following persons and those who solicit such persons:

- Any officer or employee of a state, county, municipal, or special district agency or entity;
- Any legislative or judicial officer or employee;
- Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

The bill expands the applicability of offenses in Ch. 838, F.S., to officers and employees of a public entity created or authorized by law. Also, the bill makes public contractors eligible for prosecution of official misconduct. The bill defines public contractors as any person, or any officer or employee of a person, who has entered into a contract with a governmental entity. Additionally, the bill widens the scope of bid tampering to include public servants and public contractors who have contracted with a governmental entity to assist in a competitive procurement.

The bill also revises the level of intent for offenses under Ch. 838, F.S., from “corruptly” or “with corrupt intent” to “knowingly and intentionally.”

Relating to Taxation

[HB 7099](#) – By Representative Gaetz

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration. Provisions specifically related to the Department include:

- **Sales tax on asphalt used for government projects.**
 - The bill phases out the indexed sales tax on asphalt used for government projects over three years with the tax being fully eliminated beginning July 1, 2018.
- **Aviation fuel taxes.**
 - The bill amends s. 206.9825, F.S., limiting carriers that qualify for the aviation fuel tax exemption to those that increased their Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions between January 1, 1996 and July 1, 2016.
 - Beginning July 1, 2019, the bill repeals the aviation fuel tax exemption altogether and reduces the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 4.27 cents per gallon. The combination of the exemption repeal and tax rate cut is expected to be neutral with respect to total aviation fuel tax collections on a recurring basis.
 - The bill provides an effective date of July 1, 2016. However, as stated above, the removal of the aviation fuel tax exemption and reduction in tax rates would not be effective until July 1, 2019.