

Tourism, Infrastructure & Energy Subcommittee

Thursday, February 3, 2022
9:00 am – 11:00 am
Reed Hall (102 HOB)

Meeting Packet

Chris Sprowls
Speaker

Brad Drake
Chair

The Florida House of Representatives

Commerce Committee

Tourism, Infrastructure & Energy Subcommittee

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Meeting Agenda

Thursday, February 3, 2022
9:00 AM – 11:00 AM
Reed Hall (102 HOB)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 91 Digital License Plates by Duran

HB 631 Airport Funding by Grall

HB 741 Net Metering by McClure

HB 867 Towing, Storage, and Release of Motor Vehicles by Rizo

HB 871 Department of Highway Safety and Motor Vehicles by Brannan

HB 1287 Pub. Rec./Information Held by a Utility Owned or Operated by a Unit of Local Government by Botana, Yarborough

HM 1531 Free Trade Agreement Between the United States and the United Kingdom by Barnaby

HB 1543 Broadband Infrastructure by Tomkow

HB 1545 Trust Funds/Broadband Pole Replacement Trust Fund/DEO by Tomkow

Consideration of the following proposed committee substitute(s):

PCS for HB 445 -- Transportation Network Companies

PCS for HB 915 -- Commercial Motor Vehicle Registration

V. Closing Remarks

VI. Adjournment

HB 91

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 91 Digital License Plates
SPONSOR(S): Duran and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1178

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Walsh	Keating
2) Commerce Committee			

SUMMARY ANALYSIS

Current law requires motor vehicle license plates to be made out of metal retroreflective material and meet certain statutory requirements regarding size and number of characters allowed on the plate. License plates must be securely fastened to a vehicle and be free of defacement, mutilation, grease, and other obscuring matter, so that the plate is always plainly visible and legible. The Department of Highway Safety and Motor Vehicles (DHSMV) may conduct a pilot program on government vehicles to evaluate alternative license plates.

Digital license plates are dynamic screens, which may be used to replace the current metal license plate. They are able to display information such as a license plate number and annual validation of the current license plate. A digital license plate may also be used for applications such as electronic tolling and broadcasting emergency alerts.

The bill eliminates DHSMV's authority to evaluate alternative license plates through a pilot program. The bill defines digital license plate as an electronic display that is designed to display the information required by law to be included on a physical license plate and be placed on a motor vehicle in lieu of a physical license plate. The bill requires DHSMV to allow a registered motor vehicle to be equipped with a digital license plate in lieu of a physical license plate by October 1, 2023. However, DHSMV must first determine that digital license plates are readable by current automated license plate recognition hardware and software. DHSMV is authorized to adopt implementing rules.

The bill provides that except as otherwise specified in the bill or a DHSMV rule, a digital license plate is subject to Florida's laws applicable to a physical license plate; however, digital license plates are exempt from the statutory design requirements. The bill requires that, before purchasing a digital license plate, the vehicle owner must purchase a metal license plate from DHSMV and pay all applicable motor vehicle fees.

The bill authorizes DHSMV to contract with one or more digital license plate providers. DHSMV may authorize the display of a plate number and validation sticker on a digital license plate. DHSMV may authorize the use of digital license plates for toll collection, if approved by the Department of Transportation or other appropriate tolling authority, and parking permits. DHSMV may establish procedures for displaying emergency alerts, static logo displays, and other displays on the license plate. The bill also provides requirements for the digital license plate and requires providers to maintain an inventory of digital license plates, make available digital versions of each specialty license plate, and update the vehicle's registration in real time.

The bill does not appear to impact state or local government revenues or local government expenditures. The bill appears to have an indeterminate impact on state government expenditures, depending on whether DHSMV is expected to program connectivity.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida law requires motor vehicle registration license plates to be made of metal specially treated with a retroreflection material. The license plate must be designed to increase nighttime visibility and legibility and must be at least 6 inches tall and not less than 12 inches wide, unless a plate with reduced dimensions is deemed necessary by the Department of Highway Safety and Motor Vehicles (DHSMV) to accommodate motorcycles, mopeds, or similar smaller vehicles. Annual validation stickers must also be treated with a retroreflection material and must adhere to the license plate. [1]

The license plate must be imprinted with a combination of bold letters and numerals, not to exceed seven digits, so as to identify the license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. If the county votes as such, the state motto or the words "Sunshine State" must be printed in lieu of the county name.[2]

Current law requires that every vehicle display a license plate securely fastened to the vehicle's rear[3] in a manner to prevent the plate from swinging. All letters, numerals, printing, writing, the registration decal, and the alphanumeric designation of the registration license plate must be clear, distinct, and free from defacement, mutilation, grease, and other obscuring matter, so that the plate is always plainly visible and legible from 100 feet away.[4]

Florida law provides for the expiration of a motor vehicle registration and the required renewal. Law provides penalties for operating a motor vehicle without a registration license plate or validation sticker. The penalties are as follows:

- Any person whose motor vehicle or mobile home registration has been expired for a period of six months or less commits a noncriminal traffic infraction, punishable as a nonmoving violation.
- Any person whose motor vehicle or mobile home registration has been expired for more than six months, upon a first offense, is subject to the penalty provided in s. 318.14, F.S.[5]
- Any person whose motor vehicle or mobile home registration has been expired for more than six months, upon a second or subsequent offense, commits a misdemeanor of the second degree.[6]

Current law provides that DHSMV may conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates. For purposes of the pilot program, DHSMV must investigate the feasibility and use of alternative license plate technologies and the long-term cost impact to the consumer. A pilot program is limited to license plates that are used on government-owned motor vehicles. Such license plates are exempt from statutory design and material requirements for license plates.[7] DHSMV has had this authority since 2012, and currently has six digital license plates installed on vehicles.[8]

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[1] S. 320.06(3)(a), F.S.
[2] *Id.*
[3] An additional front facing plate is required by law for some vehicles, and such plates must meet the same requirements as rear facing plates. *See* s. 316.605(1), F.S.
[4] S. 316.605(1), F.S.
[5] Section 318.14, F.S., provides certain exceptions to noncriminal traffic infractions and provides for court appearances, payment plans, and authorizes proof of compliance with motor vehicle registration requirements.
[6] S. 320.07(3), F.S.
[7] S. 320.06(5), F.S.
[8] Florida Department of Highway Safety and Motor Vehicles, Agency Analysis of 2022 House Bill 91, p. 3 (Dec. 1, 2021).

Under current law, PRIDE, Inc.,[9] may manufacture license plates and validation stickers for DHSMV. DHSMV is not required to obtain competitive bids in order to contract with the corporation.[10]

Digital License Plates

Digital license plates are dynamic screens that may replace current physical license plate. The digital license plates can display information such as a license plate number and validation of the current license plate. Digital license plates also have the capability to work with a vehicle's computer system and communicate with outside sources that may access it remotely.[11] The license plate may be used for applications such as electronic tolling and broadcasting emergency alerts.[12]

Digital license plates are currently available in California and Arizona.[13] One digital license plate provider, Reviver, prices their digital license plates starting at $899.[14]

Effect of the Bill

The bill repeals DHSMV's authority to conduct a pilot program to evaluate the designs, concepts, and technologies of alternative license plates.

Under the bill, "digital license plate" is defined as an electronic display that is designed to:

- Display the information required to be included on a physical license plate; and
- Be placed on a motor vehicle registered under ch. 320, F.S. in lieu of a physical license plate.

The bill requires DHSMV to allow a registered motor vehicle to be equipped with a digital license plate in lieu of a physical license plate by October 1, 2023. Under the bill, DHSMV must determine that digital license plates are readable by current automated license plate recognition hardware and software. Before obtaining a digital license plate, the purchaser must first obtain a physical license plate from DHSMV.

Under the bill, DHSMV is authorized to adopt rules for digital license plates as outlined in the bill.

The bill also provides that the owner of a digital license plate is not subject to the penalties in s. 320.07, F.S., for failure to display a validation sticker if the vehicle was operated in compliance with ch. 320, F.S., and any DHSMV rules governing the placement of digital license plates and registration renewal.

Under the bill, DHSMV may authorize the display of the motor vehicle's validation on each digital license plate in lieu of the validation sticker. The validation must display the owner's birth month, the license plate number, and the year of expiration or appropriate renewal period if the owner is not a natural person. The validation must be displayed in the upper right corner of the digital license plate.

The bill provides that except as otherwise specified in the bill or a DHSMV rule, a digital license plate is subject to Florida's laws applicable to a physical license plate; however, digital license plates are exempt from the statutory design requirements.

The bill also allows DHSMV to authorize the use of a digital license plate for electronic toll collection, if such use has been approved by the Department of Transportation or other appropriate tolling authority or to display a parking permit.

Further, DHSMV may establish procedures for displaying the following information on a digital license plate:

- An emergency alert, including an alert regarding a missing child or missing adult;

[9] PRIDE, Inc., is the corporation organized under ch. 947, F.S., relating to inmate work programs.
[10] S. 320.06(4), F.S.
[11] Florida Department of Highway Safety and Motor Vehicles, Agency Analysis of 2022 House Bill 91, p. 2 (Dec. 1, 2021).
[12] Reviver, https://reviver.com/shop/ (last visited Jan. 7, 2022).
[13] Jacob Ogles, *Digital License Plates Could Come to Florida Roads*, Florida Politics (Mar. 3, 2021), https://floridapolitics.com/archives/409080-digital-license-plates-could-come-to-florida-roads/ (last visited Jan. 7, 2022).
[14] Reviver, https://reviver.com/shop/ (last visited Jan. 7, 2022).

- Static logo displays, including displays for fleet license plates, digital versions of specialty license plates, special license plates for military service, and special license plates for the Governor and federal and state legislators; and
- Other displays that DHSMV, in consultation with law enforcement agencies, determines are in the interest of public safety.

The bills states that a digital license plate must:
- Meet the requirements and specifications previously described;
- Include the same information required to be included on a physical license plate and legibly display that information at all times and in all light conditions; and
- Have wireless connectivity capability.

Under the bill, DHSMV may contract with one or more digital license plate providers[15] for the issuance of digital license plates, including any services related to the issuance of digital license plates. The contract must include provisions governing the protection of personal and motor vehicle registration data obtained by a digital license plate provider in the performance of its services.

A digital license plate provider with whom DHSMV contracts must:
- Maintain an inventory of digital license plates in this state;
- Make available a digital version of each specialty license plate authorized by DHSMV; and
- If a digital license plate displays a validation to reflect the current registration period for the motor vehicle, and upon DHSMV request, suspend the display of the validation or indicate in the digital license plate that the motor vehicle's registration has expired.

The bill provides that a consumer who chooses to purchase a digital license plate must purchase it directly from the digital license plate provider. In addition to any fees associated with the purchase of the digital license plate, the consumer is also responsible for paying to DHSMV all applicable motor vehicle fees, including the annual use fee associated with any specialty license plate the consumer wishes to display on the digital license plate.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 2: Amends s. 320.07, F.S., relating to expiration of registration, renewal required.

Section 3: Creates s. 320.08069, F.S., relating to digital license plates.

Section 4: Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. Since purchasers of digital license plates are also required to pay the statutorily required motor vehicle fees, the bill does not appear to impact state government revenues.

2. Expenditures:

[15] The bill defines "digital license plate provider" as a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicle owners.

Indeterminate. Assuming that most of the connectivity programming is between the digital license plate provider and the consumer, the bill will have an insignificant impact on DHSMV expenditures. If DHSMV is expected to provide connectivity, DHSMV asserts that this will require a significant amount of programming to multiple major DHSMV computer systems.[16]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Digital license plate providers may see additional revenues associated with the program.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill eliminates DHSMV's current authority to conduct a license plate pilot program and authorizes DHSMV to adopt rules to implement digital license plates.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill authorizes DHSMV to contract with one or more digital license plate providers for the issuance of such plates, but it does not expressly require digital license plate providers to contract with DHSMV prior to sale and distribution of such plates. Absent a contract, the bill does not provide for protection of personal information.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[16] Florida Department of Highway Safety and Motor Vehicles, Agency Analysis of 2022 House Bill 91, p. 7 (Dec. 1, 2021).

A bill to be entitled

An act relating to digital license plates; amending s. 320.06, F.S.; deleting provisions relating to the authority of the Department of Highway Safety and Motor Vehicles to conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates; amending s. 320.07, F.S.; exempting owners of digital license plates from certain penalties; creating s. 320.08069, F.S.; providing definitions; providing applicability; authorizing motor vehicles to be equipped with digital license plates by a certain date; authorizing the department to contract with digital license plate providers; providing department authority relating to the display and use of digital license plates; specifying requirements for digital license plates, digital license plate providers, and digital license plate consumers; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Subsection (5) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

validation stickers generally.—

~~(5) The department may conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates. For purposes of the pilot program, the department shall investigate the feasibility and use of alternative license plate technologies and the long-term cost impact to the consumer. The pilot program shall be limited to license plates that are used on government-owned motor vehicles as described in s. 320.0655. Such license plates are exempt from the requirements in paragraph (3)(a).~~

Section 2. Subsection (7) is added to section 320.07, Florida Statutes, to read:

320.07 Expiration of registration; renewal required; penalties.—

(7) An owner of a digital license plate as described in s. 320.08069 is not subject to the penalties in this section for failure to display a validation sticker if the vehicle was operated in compliance with this chapter and any rules adopted by the department governing the placement of digital license plates and registration renewal.

Section 3. Section 320.08069, Florida Statutes, is created to read:

320.08069 Digital license plates.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Digital license plate" means an electronic display

that is designed to:

1. Display the information required in this chapter to be included on a physical license plate.

2. Be placed on a motor vehicle registered under this chapter in lieu of a physical license plate.

(b) "Digital license plate provider" means a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicle owners.

(2) APPLICABILITY.—Except as otherwise provided in this section or a rule adopted under this section, a digital license plate issued under this section is subject to the laws of this state applicable to a physical license plate. However, digital license plates issued under this section are exempt from s. 320.06(3)(a).

(3) DIGITAL LICENSE PLATE ISSUANCE.—

(a) By October 1, 2023, the department shall allow a motor vehicle registered under this chapter to be equipped with a digital license plate in lieu of a physical license plate issued under s. 320.06 upon a determination that the information on the digital license plate display is readable by current automated license plate recognition hardware and software. However, the purchaser of a digital license plate must first obtain a physical license plate from the department before obtaining a digital license plate from a digital license plate provider.

(b) The department may contract with one or more digital

license plate providers for the issuance of digital license plates, including any services related to the issuance of digital license plates. The contract must include provisions governing the protection of personal and motor vehicle registration data obtained by a digital license plate provider in the performance of its services.

(c) The department may authorize the display of the motor vehicle's validation on each digital license plate in lieu of the validation sticker. The validation must display the owner's birth month, the license plate number, and the year of expiration or appropriate renewal period if the owner is not a natural person. The validation must be displayed in the upper right corner of the digital license plate.

(d) The department may authorize the use of a digital license plate for electronic toll collection, if such use has been approved by the Department of Transportation or other appropriate tolling authority, or to display a parking permit.

(e) The department may establish procedures for displaying the following information on a digital license plate:

1. An emergency alert or other public safety alert issued by a governmental entity, including an alert pursuant to s. 937.021.

2. Static logo displays, including unique displays for fleet license plates as described in s. 320.0657 and digital versions of specialty license plates as described in s.

320.08058, special license plates for military service as authorized in s. 320.089, and special license plates for the Governor and federal and state legislators as authorized in s. 320.0807.

3. Other displays that the department, in consultation with law enforcement agencies, determines are in the interest of public safety.

(4) DIGITAL LICENSE PLATE REQUIREMENTS.—A digital license plate issued under this section must:

(a) Meet the specifications and requirements adopted under subsection (3).

(b) Include the same information required to be included on a physical license plate and legibly display that information at all times and in all light conditions.

(c) Have wireless connectivity capability.

(5) DIGITAL LICENSE PLATE PROVIDERS.—A digital license plate provider with whom the department contracts shall:

(a) Maintain an inventory of digital license plates issued in this state by the digital license plate provider.

(b) Make available a digital version of each specialty license plate authorized by the department.

(c) If a digital license plate displays a validation, promptly update the display of the validation to reflect the current registration period for the motor vehicle and, upon request of the department, suspend the display of the validation

or indicate on the digital license plate that the registration for the motor vehicle has expired.

(6) DIGITAL LICENSE PLATE CONSUMERS.—A consumer who chooses to purchase a digital license plate must purchase a digital license plate directly from a digital license plate provider. In addition to any fees associated with the purchase of a digital license plate, the consumer is also responsible for paying to the department all applicable motor vehicle fees required by this chapter, including any annual use fees pursuant to s. 320.08056 associated with any specialty license plate the consumer wishes to display on the digital license plate.

(7) RULEMAKING.—The department may adopt rules to implement this section.

Section 4. This act shall take effect upon becoming a law.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 91 by Rep. Duran
Digital License Plates

AMENDMENT SUMMARY
February 3, 2022

Amendment 1 by Rep. Duran (Lines 48-74):

- Clarifies that a digital license plate must be determined by the Department of Transportation to have a display that is readable by current automated license plate readers.
- Affirms that the Department of Highway Safety and Motor Vehicles must allow digital license plates issued pursuant to a contract between the digital license plate provider and the department.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Duran offered the following:

Amendment

Remove lines 48-74 and insert:

320.08069 Digital license plates.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Digital license plate" means an electronic display that:

1. Is designed to display the information required in this chapter to be included on a physical license plate;

2. Is designed to be placed on a motor vehicle registered under this chapter in lieu of a physical license plate; and

3. Has been determined by the Department of Transportation to have a display that is readable by current automated license plate recognition hardware and software.

(b) "Digital license plate provider" means a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicle owners.

(2) APPLICABILITY.—Except as otherwise provided in this section or a rule adopted under this section, a digital license plate issued under this section is subject to the laws of this state applicable to a physical license plate. However, digital license plates issued under this section are exempt from s. 320.06(3)(a).

(3) DIGITAL LICENSE PLATE ISSUANCE.—

(a) By October 1, 2023, the department shall allow a motor vehicle registered under this chapter to be equipped with a digital license plate in lieu of a physical license plate issued under s. 320.06 pursuant to a contract between the digital license plate provider and the department entered into under (b). However, the purchaser of a digital license plate must first obtain a physical license plate from the department before obtaining a digital license plate from a digital license plate provider.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 91 by Rep. Duran
Digital License Plates

AMENDMENT SUMMARY
February 3, 2022

Amendment 2 by Rep. Duran (Lines 48-121):

- Clarifies that a digital license plate must be determined by the Department of Transportation to have a display that is readable by current automated license plate readers.
- Affirms that the Department of Highway Safety and Motor Vehicles must allow digital license plates issued pursuant to a contract between the digital license plate provider and the department.
- Ensures geolocation data is protected as personal data under any contract entered into by the department with a digital license plate provider.
- Clarifies that specialty license plates offered by digital license plate providers must comply with department procedures.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Duran offered the following:

Amendment

Remove lines 48-121 and insert:

320.08069 Digital license plates.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Digital license plate" means an electronic display that:

1. Is designed to display the information required in this chapter to be included on a physical license plate;

2. Is designed to be placed on a motor vehicle registered under this chapter in lieu of a physical license plate; and

3. Has been determined by the Department of Transportation to have a display that is readable by current automated license plate recognition hardware and software.

(b) "Digital license plate provider" means a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicle owners.

(2) APPLICABILITY.—Except as otherwise provided in this section or a rule adopted under this section, a digital license plate issued under this section is subject to the laws of this state applicable to a physical license plate. However, digital license plates issued under this section are exempt from s. 320.06(3)(a).

(3) DIGITAL LICENSE PLATE ISSUANCE.—

(a) By October 1, 2023, the department shall allow a motor vehicle registered under this chapter to be equipped with a digital license plate in lieu of a physical license plate issued under s. 320.06 pursuant to a contract between the digital license plate provider and the department entered into under (b). However, the purchaser of a digital license plate must first obtain a physical license plate from the department before obtaining a digital license plate from a digital license plate provider.

(b) The department may contract with digital license plate providers for the issuance of digital license plates, including any services related to the issuance of digital license plates.

The contract must include provisions governing the protection of personal and motor vehicle registration data, including geolocation data, obtained by a digital license plate provider in the performance of its services.

(c) The department may authorize the display of the motor vehicle's validation on each digital license plate in lieu of the validation sticker. The validation must display the owner's birth month, the license plate number, and the year of expiration or appropriate renewal period if the owner is not a natural person. The validation must be displayed in the upper right corner of the digital license plate.

(d) The department may authorize the use of a digital license plate for electronic toll collection, if such use has been approved by the Department of Transportation or other appropriate tolling authority, or to display a parking permit.

(e) The department may establish procedures for displaying the following information on a digital license plate:

1. An emergency alert or other public safety alert issued by a governmental entity, including an alert pursuant to s. 937.021.

2. Static logo displays, including unique displays for fleet license plates as described in s. 320.0657 and digital versions of specialty license plates as described in s. 320.08058, special license plates for military service as authorized in s. 320.089, and special license plates for the

Governor and federal and state legislators as authorized in s. 320.0807.

3. Other displays that the department, in consultation with law enforcement agencies, determines are in the interest of public safety.

(4) DIGITAL LICENSE PLATE REQUIREMENTS.—A digital license plate issued under this section must:

(a) Meet the specifications and requirements adopted under subsection (3).

(b) Include the same information required to be included on a physical license plate and legibly display that information at all times and in all light conditions.

(c) Have wireless connectivity capability.

(5) DIGITAL LICENSE PLATE PROVIDERS.—A digital license plate provider with whom the department contracts shall:

(a) Maintain an inventory of digital license plates issued in this state by the digital license plate provider.

(b) Make available a digital version of each specialty license plate authorized by the department, pursuant to procedures adopted by the department under subparagraph (3)(e) of this section.

HB 631

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 631 Airport Funding
SPONSOR(S): Grall
TIED BILLS: **IDEN./SIM. BILLS:** SB 780

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Neuffer	Keating
2) Commerce Committee			

SUMMARY ANALYSIS

The Federal Aviation Administration (FAA) oversees the planning and development of airports across the nation with a focus on safety and security. In order to further its goal, the FAA provides grants through the Airport Improvement Program (AIP) for the funding of airport infrastructure projects. The FAA classifies all airports using data related to the number of passengers that board an aircraft (passenger boardings).

To qualify for AIP funding, an airport must be included in the National Plan of Integrated Airport Systems (NPIAS), a database which is published every two years. The NPIAS classifies airports by category and hub. The amount of funding through the AIP is dependent upon the classification of the airport.

The Florida Department of Transportation (DOT) provides financial assistance to airports in the areas of safety, security, preservation, capacity improvement, land acquisition, planning, and economic development through its Aviation Grant Program. The Aviation Grant Program is funded from the State Transportation Trust Fund. Unless otherwise provided in the General Appropriations Act or a substantive bill implementing it, DOT may participate, if funds are available, in the capital cost of eligible public airport and aviation development projects.

DOT may provide, when such funding is available, up to 50 percent of eligible project costs to commercial service airports. General aviation airports may receive up to 80 percent funding from DOT for eligible costs so long as the airport has no scheduled commercial service.

The bill permits DOT funding for up to 80 percent of eligible project costs for airports classified as commercial service or general aviation with fewer than 100,000 annual passenger boardings. DOT funding will continue to come from the Aviation Grant fund. Annual passenger boardings will be determined by the FAA.

The bill does not impact state or local government revenues. The bill appears to have an indeterminate impact on state and local government expenditures.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Classification and Funding of Airports

The Federal Aviation Administration (FAA) oversees the planning and development of airports across the nation with a focus on safety and security. In order to further its goal, the FAA provides grants through the Airport Improvement Program (AIP) for the funding of airport infrastructure projects.[1] Grants are available to publicly owned airports – and, in some cases, to privately owned airports – for planning and development,[2] airport noise compatibility planning,[3] and the implementation of those plans.[4]

The FAA classifies all airports using data related to the number of passengers that board an aircraft (passenger boardings).[5] The agency also considers the types of activities conducted at the airport, such as cargo service.

To qualify for AIP funding, an airport must be included in the National Plan of Integrated Airport Systems (NPIAS), a database which is published every two years.[6] The NPIAS identifies existing and proposed public-use airports that are deemed important to the national transportation system.[7] Additionally, the NPIAS classifies airports by category[8] and hub.[9] The amount of grants funded through the AIP are dependent upon the classification of the airport. Large and medium primary hubs can receive up to 75 percent of eligible costs while small primary, reliever, and general aviation airports are eligible for 90 to 95 percent of qualifying costs.[10] The table below shows the federal airport classification system.

[1] 49 U.S.C. § 48103(a).
[2] 49 U.S.C. § 47104.
[3] 49 U.S.C. § 47505(a)(2).
[4] 49 U.S.C. § 47504(c).
[5] 49 U.S.C. § 47102(15) (defining "passenger boardings" as revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce).
[6] FAA Order 5090.5 s. 2.3.5, September 3, 2019.
[7] *Id.*
[8] *See* FAA, *National Plan of Integration Airport Systems* (2021-2025), September 2020 (explaining a category describes the type of service the airport currently provides to the community and is anticipated to provide at the end of the 5-year planning period).
[9] *Id.* (explaining a "hub" is defined in statute to delineate commercial service airports based on the percentage of total passenger enplanements).
[10] *See* FAA, *Overview: What is AIP?*, United States Department of Transportation, https://www.faa.gov/airports/aip/overview/#:~:text=For%20large%20and%20medium%20primary,costs%2C%20based%20on%20statutory%20requirements (last visited January 28, 2022).

Airport Classifications[11]		Hub Type: Percentage of Annual Passenger Boardings	Common Name
Commercial Service: Publicly owned airports that have at least 2,500 passenger boardings each calendar year and receive scheduled passenger service	**Primary:** Have more than 10,000 passenger boardings each year	**Large:** 1% or more	**Large Hub**
		Medium: At least 0.25% but less than 1%	**Medium Hub**
		Small: At least 0.05% but less than 0.25%	**Small Hub**
		Nonhub: More than 10,000 but less than 0.05%	**Nonhub Primary**
	Nonprimary	**Nonhub:** At least 2,500 and no more than 10,000	**Nonprimary Commercial Service**
Nonprimary (other than commercial service)		**N/A**	**Reliever**

Florida Airport Funding

The Florida Department of Transportation (DOT) is tasked with the duty, function, and responsibility of planning airport systems in the state.[12] DOT is also responsible for the creation and periodic update of the statewide aviation system plan.[13] Any proposed airport[14] must receive DOT approval for any and all site acquisitions, construction, or establishment of airport facilities. A public airport[15] is required to obtain a license from DOT prior to receiving or sending any aircraft from its location, subject to inspection upon initial application for the license and renewal. While DOT operates on a statewide level, local governments are charged with adopting, administering, and enforcing airport land use compatibility zoning regulations.[16]

DOT is charged with coordinating and assisting in the development of a viable aviation system within the state.[17] It statewide aviation system plan must be developed and periodically updated with 5-year, 10-year, and 20-year summaries for the state's needs.[18] The plans set forth by DOT must be consistent with the goals of the Florida Transportation Plan and with approved local airport master plans.[19] DOT provides financial assistance to airports in the areas of safety, security, preservation, capacity improvement, land acquisition, planning, and economic development through its Aviation Grant Program.[20] The Aviation Grant Program is funded from the State Transportation Trust Fund, which Florida's aviation industry contributes to through the state aviation tax of 4.27 cents per gallon of fuel.[21] Unless otherwise provided in the General Appropriations Act or a substantive bill implementing it, DOT may participate, if funds are available, in the capital cost of eligible *public* airport and aviation development projects.[22] Operational expenses are often not considered eligible for aviation grants.[23]

[11] *See* 42 U.S.C. § 47102.
[12] S. 332.001, F.S.
[13] S. 332.006, F.S.
[14] *See* s. 330.27(2), F.S.
[15] *See* s. 330.27(6), F.S. (defining "public airport" as an airport, publicly or privately owned, which is open for use by the public).
[16] S. 333.03, F.S.
[17] S. 332.006(1), F.S.
[18] *Id.*
[19] *Id.*
[20] *See* Florida Department of Transportation, Grant Program, available at https://www.fdot.gov/aviation/fundinginfo.shtm (last visited on December 14, 2021).
[21] S. 206.9825, F.S.
[22] S. 332.007(6), F.S. (emphasis added).
[23] The Florida Department of Transportation – Aviation Office, *Florida Aviation Project Handbook 2021-2022*, pg. 7 (2021), https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-(2020-2021)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049_12 (last visited January 28, 2022).

When federal funding is available through an AIP grant, DOT may fund up to 50 percent of the nonfederal share of eligible project costs for commercial service airports.[24] The FAA determines the types of persons or entities eligible for AIP grant funding, as well as the types of projects that may be included in a grant.[25] General aviation airports may receive up to 80 percent of master planning and eligible aviation development project costs from DOT if federal funds are not available.[26] If federal funds are available, DOT may fund up to 80 percent of the nonfederal share of such projects.[27] DOT funding of up to 80 percent is limited to those airports having no scheduled commercial service.[28] Certain strategic airport investment projects are eligible for up to 100 percent funding from DOT, whether classified as commercial service or general aviation.[29]

[30]

TYPICAL FUNDING PERCENTAGES BY AIRPORT TYPE

Commercial Service Airports*

Type of Airport	Percentage of Funding		
	FAA	FDOT	Local
Large Hub	75%	12.5%	12.5%
Medium Hub			
Small Hub	90%	5%	5%
Nonhub Primary			
Nonprimary Commercial Service			
No FAA (AIP) Funding	0%	50%	50%

General Aviation Airports*

Type of Airport	Percentage of Funding		
	FAA	FDOT	Local
General Aviation	90%	8%	2%
No FAA (AIP) Funding	0%	80%	20%

*These are typical funding percentages. There are many exceptions to both FAA and FDOT typical funding percentages.

Vero Beach Regional Airport

Vero Beach Regional airport was classified as a nonprimary commercial service, nonhub[31] airport in 2017 by the FAA.[32] In 2018, annual passenger boardings surpassed the 10,000 threshold, reclassifying the airport as a commercial service primary, nonhub airport.[33] Annual passenger boardings decreased in 2019 to slightly under 10,000, reclassifying Vero Beach Regional as a nonprimary commercial service, nonhub airport. In 2020, annual passenger boardings decreased drastically resulting in a reclassification by the FAA to a general aviation airport.[34]

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[24] S. 332.007(6)(a), F.S.; AIP funding is available to sponsors, which can include airports, public agencies not owning or leasing a public-use airport, metropolitan and state planning agencies.
[25] *See* United States Department of Transportation, Order 5100.38D, Change 1, February 26, 2019 (explaining a recipient of an AIP grant is normally called a sponsor).
[26] S. 332.007(6)(c), F.S.
[27] *Id.*
[28] Florida Department of Transportation, supra note 22.
[29] *See* s. 332.007(9), F.S. (providing for project criteria qualifying for 100 percent DOT funding).
[30] The Florida Department of Transportation – Aviation Office, *Florida Aviation Project Handbook 2021-2022*, pg. 7 (2021), https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/florida-aviation-project-handbook-(2020-2021)v7b5cc93c31f25452db01244377cc65215.pdf?sfvrsn=2ee80049_12 (last visited January 28, 2022).
[31] This classification was assigned as the airport had scheduled passenger service and 9,110 enplanements.
[32] *See* FAA, *Calendar Year 2019 Final Revenue Enplanements at All Airports*, September 25, 2020.
[33] This classification was assigned as the airport had scheduled passenger service and more 10,314 enplanements during the year, but less than 0.05 percent of the annual U.S. commercial enplanements.; *see* FAA, *Calendar Year 2018 Final Revenue Enplanements at All Airports*, December 20, 2019.
[34] *See* FAA, *Calendar Year 2020 Enplanements at U.S. Airports, by State*, November 8, 2021 (showing a 69.64% decrease in enplanements from 2019 to 2020).

In December of 2015, Elite Airways began direct, non-stop service from Vero Beach to Newark and other destinations. City officials did not expect the commercial service to grow at the rate it did, surpassing the 10,000 annual enplanement cap set by the FAA for non-primary, nonhub airports.[35] As a result of the reclassification, Vero Beach Regional stood to lose funding from DOT. Instead of receiving up to 80 percent for eligible projects when classified as a general aviation airport, it would only be eligible for up to 50 percent as a commercial service airport.[36]

Effect of the Bill

The bill permits DOT funding for up to 80 percent of eligible project costs for airports classified as commercial service or general aviation with fewer than 100,000 annual passenger boardings. DOT funding will continue to come from the Aviation Grant fund. Annual passenger boardings will be determined by the FAA.

B. SECTION DIRECTORY:

Section 1 Amends s. 332.007, F.S.; related to FDOT funding eligibility.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate.[37] *See* Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate.[38] *See* Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

[35] Nicole Rodriguez, *Vero City Council 'Blindsided' by Airport Funding Problem*, VeroNews.com (January 23, 2020), http://veronews.com/2020/01/23/vero-city-council-blindsided-by-airport-funding-problem/ (last visited January 27, 2022).
[36] *See* FAA, *Passenger Boarding (Enplanement) and All-Cargo Data for U.S. Airports – Previous Years Airports*, https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/previous_years/ (last visited January 31, 2022) (providing data that Fort Lauderdale Executive airport also appears to be trending upward in annual passenger boardings. In 2018, annual boardings increased 141 percent from the previous year. In 2019, annual passenger boardings increased 523 percent to reach 7,386).
[37] *See* Florida Department of Transportation, Agency Analysis of 2021 House Bill 631, p. 5-6 (November 05, 2021).
[38] *Id.*

The bill expands the number of airports qualifying for a larger percentage of DOT funding for eligible projects. This change could impact the opportunity of these airports to engage in eligible types of projects as the local match requirement is decreased. The cost is shifted to the state, and while the match required is indeterminate, all costs are still limited to available aviation project funding within DOT's adopted Work Program.

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 revenue in the aggregate; or reduce the percentage of sales tax shared with counties or municipalities

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill requires neither rulemaking nor does it provide a grant of rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to airport funding; amending s. 332.007, F.S.; revising the types of airports eligible for specified funding of master planning and eligible aviation development projects by the Department of Transportation; providing an effective date.

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

Section 1. Paragraph (c) of subsection (6) of section 332.007, Florida Statutes, is amended to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.—

(6) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible public airport and aviation development projects in accordance with the following rates, unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act:

(c) When federal funds are not available, the department may fund up to 80 percent of master planning and eligible aviation development projects at publicly owned, publicly operated airports. If federal funds are available, the department may fund up to 80 percent of the nonfederal share of such projects. Such funding is limited to general aviation

CODING: Words stricken are deletions; words underlined are additions.

airports, or commercial service airports that have fewer than 100,000 passenger boardings per year as determined by the Federal Aviation Administration ~~airports that have no scheduled commercial service~~.

Section 2. This act shall take effect July 1, 2022.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 741

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 741 Net Metering
SPONSOR(S): McClure and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Walsh	Keating
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The role of the Florida Public Service Commission (PSC) is to ensure that Florida's consumers receive some of their most essential services in a safe, affordable, and reliable manner. Current law requires the PSC to allow investor-owned electric utilities (IOUs) to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.

Florida law states that a utility's full avoided cost is the incremental costs of electric energy or capacity, which, but for the purchase from a non-utility generator, the utility would have to generate itself or purchase from another source.

Net energy metering, commonly referred to as net metering, is a billing arrangement designed to compensate customers who own on-site renewable energy generation systems and export electricity generated on-site to an electric utility's system. Net metering is most commonly referenced in relation to customer-owned solar panels. Net metering requires customers who own on-site renewable energy generation systems to interconnect with the electric grid.

In 2008, the Legislature required all electric utilities to develop standardized interconnection agreements and a net metering program for customer-owned renewable generation systems. Under Florida's current net metering framework for IOUs, the credit the customer receives on their monthly bill equates the value of the excess energy to the utility's retail rate.

Under the bill, the PSC must propose a revised net metering rule for IOUs by January 1, 2023. The proposed rule must ensure that: net metering customers pay the full cost of electric service and are not subsidized by the general body of ratepayers; all energy delivered by the IOU is purchased at the applicable retail rate; all energy delivered by the customer-owned or leased renewable generation to the IOU's system is credited to the customer at the IOU's full avoided cost; and the net metering may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills.

The bill allows any IOU customer who owns or leases renewable generation that is in service before January 1, 2023, to continue to use the current net metering rate design for ten years.

The bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

The bill provides and effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.[1] The role of the PSC is to ensure that Florida's consumers receive some of their most essential services – electric, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner. In doing so, the PSC exercises regulatory authority over utilities in one or more of three key areas: rate base/economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.[2]

Investor-Owned Electric Utilities

The PSC regulates the rates and services of investor-owned electric utilities (IOUs).[3] There are four IOUs in Florida: Florida Power & Light Company (FPL),[4] Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation.[5] Together, these four IOUs serve over 8.1 million customers in Florida.[6] IOU rates and revenues are regulated by the PSC.[7] The IOUs must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.[8]

IOUs must provide sufficient and adequate service to customers.[9] To fulfill that obligation, utilities monitor customer usage patterns in order to plan for future energy needs. Utilities use billing data to predict the future energy needs of customers and make investments in their infrastructure based on these predictions.[10] Current law requires the PSC to allow IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.[11]

Full Avoided Costs

An IOU's full avoided cost is the incremental cost of electric energy or capacity,[12] which, but for a purchase from a non-utility generator, the IOU would have to generate itself or purchase from another source.[13] Full avoided cost is based upon either the utility's cost to construct and operate its next

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[1] S. 350.001, F.S.
[2] Florida Public Service Commission, http://www.psc.state.fl.us/ (last visited Jan. 17, 2022).
[3] The PSC does not regulate the rates of municipal electric utilities or rural electric cooperatives.
[4] FPL acquired Gulf Power Company in 2019 and merged as of January 3, 2022.
[5] Florida Department of Agriculture and Consumer Services, *Electric Utilities*, https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities (last visited Jan. 19, 2022).
[6] Florida Public Service Commission, *Facts & Figures of the Florida Utility Industry* (2021), p, 4, available at http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/April%202021.pdf (last visited Jan. 19, 2022).
[7] Florida Department of Agriculture and Consumer Services, *Electric Utilities*, *supra* at n. 6.
[8] Florida Public Service Commission, *2020 Annual Report*, *supra* at n. 5, p. 6.
[9] S. 366.03, F.S.
[10] Florida Public Service Commission, Agency Analysis of 2022 HB 741, p. 2 (Jan. 3, 2022).
[11] S. 366.06, F.S.
[12] Capacity is the maximum electric output, in megawatts, that an electricity generator can produce under ideal conditions. *See* U.S. Energy Information Administration, *What is the difference between electricity generation capacity and electricity generation?*, https://www.eia.gov/tools/faqs/faq.php?id=101&t=3 (last visited Jan. 22, 2022).
[13] S. 366.051, F.S.

planned generating unit or the cost of purchasing capacity and energy from generating units owned by other utilities in the wholesale market.[14]

An IOU's full avoided costs is not the same as the rate it pays for energy provided on an as-available basis. Full avoided costs can include avoided capacity and energy costs, while an as-available energy rate only includes avoided energy costs, which are largely comprised of fuel costs.[15] In 2021, as-available energy rates ranged for Florida IOUs from $0.025 to $0.037 per kilowatt hour (kWh).[16]

Net Metering

Net energy metering, commonly referred to as net metering, is a billing arrangement designed to compensate customers who own on-site, renewable energy[17] generation systems and export electricity generated on-site to the utility grid.[18] Net metering essentially allows customers to sell excess electricity to an electric utility, and the utility credits the customer's energy bill on a per kWh basis.[19] The compensation structure for utility customers who engage in net metering varies by location depending on state and local policies.[20]

Common customer-owned renewable energy generation sources around the country include solar panels, natural gas micro-turbines, methane digesters, and small wind power generators;[21] however, net metering is most commonly referenced in relation to customer-owned solar panels.

Net metering requires customers who own on-site renewable energy generation systems to interconnect with the electric grid, which allows customers to reliably power their homes even when their systems are not generating enough power to meet their energy needs.[22] The U.S. Department of Energy defines the term "interconnection" as "the technical procedures and legal requirements surrounding energy customers' ability to connect their small-scale renewable energy projects to the electricity grid."[23] Utility customers primarily benefit from interconnected renewable generation systems through personal use and reducing the amount of electricity they purchase from the utility.[24]

As of August 2021, thirty-seven states, including Florida, have state-developed mandatory net metering rules for certain utilities, eight states have statewide compensation rules other than net metering, two states have some utilities that allow net metering, and three states offer no form of net metering or compensation.[25]

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[14] Florida Public Service Commission, *States' Electric Restructuring Activities Update: Wholesale Sales*, http://www.psc.state.fl.us/Publications/ElectricRestructuringDetails#4 (last visited Jan. 22, 2022).
[15] Florida Public Service Commission, Agency Analysis of 2022 HB 741, supra at n. 11, p. 2.
[16] Email from Kaley Slattery, Legislative Director, Florida Public Service Commission, Request for information (Feb. 1, 2022).
[17] "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration. S. 366.91(2)(d), F.S.
[18] National Renewable Energy Laboratory, *Net Metering*, https://www.nrel.gov/state-local-tribal/basics-net-metering.html (last visited Jan. 20, 2022).
[19] *Id.*
[20] *Id.*
[21] National Conference of State Legislatures, *State Net Metering Policies* (Nov. 20, 2017), https://www.ncsl.org/research/energy/net-metering-policy-overview-and-state-legislative-updates.aspx (last visited Jan. 20, 2022).
[22] U.S. Department of Energy, *Grid-Connected Renewable Energy Systems*, https://www.energy.gov/energysaver/grid-connected-renewable-energy-systems (last visited Jan. 22, 2022).
[23] U.S. Department of Energy, *Renewable Energy: Distributed Generation Policies and Programs*, https://www.energy.gov/eere/slsc/renewable-energy-distributed-generation-policies-and-programs (last visited Jan. 22, 2022)
[24] Florida Public Service Commission, Agency Analysis of 2022 HB 741, *supra* at n. 11, p. 1.
[25] DSIRE, *Net Metering*, NC Clean Energy Technology Center (August 2021), https://ncsolarcen-prod.s3.amazonaws.com/wp-content/uploads/2021/08/DSIRE_Net_Metering_August2021.pdf (last visited Jan. 20, 2022).

Net Metering in Florida

In 2008, the Legislature required all electric utilities to develop standardized interconnection agreements[26] and a net metering[27] program for customer-owned renewable generation[28] systems.[29] Under this section, the PSC is tasked with establishing requirements relating to expedited interconnection and net metering of customer-owned renewable generation by IOUs and may adopt rules to accomplish this task.[30, 31]

In response to the net metering requirements passed by the Legislature in 2008, the PSC amended Rule 25-6.065, F.A.C.,[32] to expand the applicability of the rule to all renewable energy types up to two megawatts (MW) in capacity.[33] The rule creates a billing mechanism by which net metering customers can offset their usage through self-generated energy, with any excess energy delivered to the IOU's system. The amount of any excess energy delivered to the IOU is applied to the customer's next monthly bill as a kWh credit. At the end of the calendar year, the IOU pays for any remaining unused energy credits at a rate based on the utility's avoided cost of generating electricity.[34]

Under Florida's current net metering framework, the credit the customer receives on their monthly bill equates the value of the excess energy to the utility's retail rate. The retail rates for each of the IOUs range from roughly $0.12 to $0.15 per kWh.[35] A utility's retail rate accounts for its cost to provide power to customers, which includes, but is not limited to, the cost of generation, transmission, distribution, fuel, and operating and maintenance expenses.[36]

IOUs must charge net metering customers the applicable rates and charges for the electricity provided by the utility.[37] The applicable rates and charges are dependent on the rate class the customer falls under, and these rates and charges can include a fixed monthly customer charge or base facility charge, volumetric rates based on consumption, demand rates based on the maximum electric demand in a monthly billing cycle, or a combination of the above.[38] Additionally, FPL and Duke were recently authorized to charge customers a monthly minimum bill of $25 and $30 respectively.[39]

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[26] An interconnection agreement is a contract between a customer and a utility to interconnect the customer's renewable generation system to the utility's electric grid. *See e.g.* Florida Public Utilities Company, *Interconnection of Customer-Owned Renewable Generation Systems Application*, p. 1, available at https://fpuc.com/wp-content/uploads/FPU17-123_Interconnection-Form.pdf (last visited Jan. 20, 2022).

[27] S. 366.091(2)(d), F.S., defines the term "net metering" as a metering and billing methodology where customer-owned renewable generation is allowed to offset the customer's electricity consumption.

[28] S. 366.091(2)(c), F.S., defines the term "customer-owned renewable generation" as an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.

[29] S. 366.091(5) and (6), F.S.

[30] S. 366.091(5), F.S.

[31] Municipal electric utilities and rural cooperatives are required to develop their own standardized interconnection agreements and net metering programs, but each year they must file a report detailing customer participation in such programs with the PSC. S. 366.91(6), F.S.

[32] This rule was initially promulgated by the PSC in 2002 for the purpose of standardizing and expediting the interconnection of small solar photovoltaic (PV) systems for customers of IOUs. Florida Public Service Commission, Agency Analysis of 2022 HB 741, *supra* at n. 11, p. 1.

[33] *Id.* at 2.

[34] *Id.*

[35] Florida Public Service Commission, *Florida Investor-Owned Electric Utilities Total Cost for 1,000 Kilowatt Hours – Residential Service*, available at http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/BillingAdjustments/ba_total-2022.pdf (last visited Feb. 1, 2022).

[36] *Id.*

[37] R. 25-6.065, F.A.C.

[38] Florida Public Service Commission, Agency Analysis of 2022 HB 741, *supra* at n. 11, p. 2.

[39] Florida Power & Light Company, *Building a more resilient and sustainable energy future*, EnergyNews (January 2022), available at https://www.fpl.com/#home (last visited Feb. 1, 2022); Sam Sachs, *Duke Energy Florida customers to have minimum $30 bills*, News Channel 8 (Jan. 28, 2022), https://www.wfla.com/news/florida/duke-energy-florida-customers-to-have-minimum-30-bills/ (last visited Feb. 1, 2022).

In 2020, Florida electric utilities reported 90,552 customer-owned renewable generation interconnections, reflecting more than 30,000 new interconnections since the 59,508 interconnections reported in 2019.[40] Of the 90,552 customer-owned renewable generation interconnections reported in 2020, Florida's four IOUs accounted for 71,567 of those interconnections.[41] Almost all customer-owned renewable generation installations in Florida are solar.[42] As of year-end 2020, less than one percent of Florida's 10,504,960 electric utility customers had installed renewable generation equipment.[43]

Concerns of cross-subsidization of customers who partake in net metering by non-net metering customers have been raised before the PSC.[44] There is debate as to the components of the utility's cost of service that are offset by energy generated by net metering customers and, accordingly, the appropriate credit to provide for such energy.[45]

Effect of the Bill

The bill requires the PSC to adopt a revised net metering rule that credits excess energy delivered to an IOU's system by customer-owned renewable generation at the full avoided cost rate.

The bill provides legislative findings that:

- It is in the public interest to promote the development of renewable energy resources in the state in a manner that is fair to all public utility customers;
- The development of the solar industry, the decline in the cost of solar panels, and the increase in customer-owned renewable generation support the redesign of net metering by the commission;
- Customer-owned and leased renewable generation is not available to public utility customers who lack the financial resources or who reside in multitenant buildings; and
- The growth of customer-owned renewable generation has resulted in increased cross-subsidization of the full cost of service onto the general body of ratepayers.

The bill requires the PSC to propose a redesigned net metering rate structure that ensures IOU customers who own or lease renewable generation pay their full cost of electric service and are not cross-subsidized by the general body of ratepayers.

Under the bill, the PSC must propose a revised net metering rule by January 1, 2023. The bill states that this proposed rule must comply with the following criteria:

- The net metering rate structures and billing must ensure that an IOU's net metering customers pay their full cost of electric service and are not subsidized by the IOU's general body of ratepayers;
- All energy delivered by the IOU is purchased at its applicable retail rate;
- All energy delivered by the customer-owned or leased renewable generation to the IOU is credited to the customer at the IOU's full avoided costs; and
- The net metering may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills.

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[40] Florida Public Service Commission, *Review of the 2021 Ten-Year Site Plans of Florida's Electric Utilities* (Oct. 2021), p. 29, available at http://www.psc.state.fl.us/Files/PDF/Utilities/Electricgas/TenYearSitePlans/2021/Review.pdf (last visited Jan. 20, 2022).

[41] Florida Public Service Commission, *Interconnection and Net Metering of Customer-Owned Renewable Generation* (2020), available at https://www.floridapsc.com/Files/PDF/Utilities/Electricgas/CustomerRenewable/2020/2020%20Net%20Metering%20Summary%20Spreadsheet/2020%20Net%20Metering%20Report.pdf (last visited Jan. 20, 2022).

[42] Florida Public Service Commission, *Review of the 2021 Ten-Year Site Plans of Florida's Electric Utilities*, *supra* at n. 38.

[43] Florida Public Service Commission, Agency Analysis of 2022 HB 741, supra at n. 11, p. 3.

[44] *Id.* at 4.

[45] *See Id.* ("For example, questions have been raised as to whether the excess energy offsets the utility's cost of power plants, given that power plants must be available to meet a renewable energy customer's electric needs when their systems are not operating or when their demand exceeds the capability of their renewable energy system.").

The bill allows any IOU customer who owns or leases renewable generation that is in service before January 1, 2023, pursuant to a standard interconnection agreement offered by an IOU, to continue to use the current net metering rate design and rates for ten years.

Thus, the effect of the bill is that:

- Customers that currently use net metering or begin to use net metering by the end of this year may continue to be credited at the IOU's retail rate for excess energy delivered to an IOU's system, and
- Beginning in 2023, customers that install renewable generation and wish to use net metering will be credited for the excess energy they deliver to an IOU's system at the IOU's full avoided cost rate as determined by the PSC.[46]

The bill directs the PSC to require an IOU requesting a change in base rates to report to the PSC the impact of net metering on the IOU's revenues and cost of service.

B. SECTION DIRECTORY:

Section 1: Amends s. 366.91, F.S., relating to renewable energy.

Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an insignificant impact on state government expenditures, because the bill requires the PSC to propose new rules establishing a new rate structure for net metering public utility customers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative impact on the revenues of private businesses that install customer-owned renewable generation systems, since customers may not purchase these systems if they cannot recoup as much of the costs through the new net metering rate design. Some current net metering customers may not achieve the expected payback on their renewable generation systems.

D. FISCAL COMMENTS:

None.

III. COMMENTS

[46] Avoided cost rates vary by utility.

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the PSC to propose a new rule for net metering customer rate design by January 1, 2023.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to net metering; amending s. 366.91, F.S.; revising and providing legislative findings relating to the redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers; requiring the Public Service Commission to propose new net metering rules that comply with specified criteria by a certain date; authorizing certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time; providing applicability; requiring certain public utilities to provide a specified report to the commission; providing an effective date.

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

Section 1. Subsections (6) through (9) of section 366.91, Florida Statutes, are renumbered as subsections (7) through (10), respectively, subsections (1) and present (7) of that section are amended, and a new subsection (6) is added to that section, to read:

366.91 Renewable energy.—

(1) The Legislature finds that:

(a) It is in the public interest to continue ~~promote~~ the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

development of renewable energy resources in this state in a manner that is fair and equitable to all public utility customers. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies. The development and maturation of the solar energy industry, the substantial decline in the cost of solar panels, and the increase in customer-owned and leased renewable generation support the redesign of net metering by the commission.

(b) Customer-owned and leased renewable generation are not available to many public utility customers who lack the financial resources to purchase or lease rooftop solar panels or who reside in multitenant buildings. The substantial growth of customer-owned and leased renewable generation has resulted in increased cross-subsidization of the full cost of electric service onto the public utility's general body of ratepayers. Therefore, the redesigned net metering rate structures required in paragraph (6)(a) must ensure that public utility customers who own or lease renewable generation pay the full cost of electric service and are not cross-subsidized by the public utility's general body of ratepayers.

(6)(a) On or before January 1, 2023, the commission shall

propose a revised net metering rule that complies with the following criteria:

1. The net metering rate structures and billing must ensure that public utility customers owning or leasing renewable generation pay the full cost of electric service and are not subsidized by the public utility's general body of ratepayers.

2. The net metering must ensure that all energy delivered by the public utility is purchased at the public utility's applicable retail rate and that all energy delivered by the customer-owned or leased renewable generation to the public utility is credited to the customer at the public utility's full avoided costs.

3. The net metering may include fixed charges, including base facilities charges, electric grid access fees, or monthly minimum bills, to help ensure that the public utility recovers the fixed costs of serving customers who engage in net metering and that the general body of public utility ratepayers do not subsidize customer-owned or leased generation.

(b) Any public utility customer who owns or leases renewable generation that is in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility, shall be granted 10 years to continue to use the net metering rate design and rates that applied before the revised net metering rule was adopted under paragraph (a). This paragraph applies to customers who purchase or lease real

property upon which customer-owned or leased renewable generation is installed for all or part of that 10-year period.

(c) The commission shall require a public utility requesting a change in base rates under s. 366.06 to report to the commission the impact of net metering on the public utility's revenues and cost of service.

(8) ~~(7)~~ Under the provisions of subsections (5) and (7) ~~(6)~~, when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location, so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves at retail.

Section 2. This act shall take effect July 1, 2022.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 741 by Rep. McClure
Net Metering

AMENDMENT SUMMARY
February 3, 2022

Amendment 1 by Rep. McClure (Lines 69-77):

- Changes the period in which customers who own or lease renewable generation prior to January 1, 2023, can utilize the existing net metering rate design from 10 years to 20 years.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative McClure offered the following:

Amendment

Remove lines 69-77 and insert:

(b) Any public utility customer who owns or leases renewable generation that is in service before January 1, 2023, pursuant to a standard interconnection agreement offered by a public utility, shall be granted 20 years to continue to use the net metering rate design and rates that applied before the revised net metering rule was adopted under paragraph (a). This paragraph applies to customers who purchase or lease real property upon which customer-owned or leased renewable generation is installed for all or part of that 20-year period.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 867 Towing, Storage, and Release of Motor Vehicles
SPONSOR(S): Rizo
TIED BILLS: **IDEN./SIM. BILLS:** SB 990

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Walsh	Keating
2) Civil Justice & Property Rights Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites. Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where a vehicle is towed at the request of a law enforcement officer.

When an officer has probable cause to believe that a vehicle should be seized under Florida law, was used to commit a crime, is evidence that a crime has been committed, or was involved in a traffic accident causing serious injury or death, an investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to 5 business days. The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer period.

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions.

The bill provides protections to ensure that wrecker operator companies are paid for the towing and storage charges of impounded vehicles. The bill also clarifies that a rental agreement is not sufficient to prove agency when a wrecker operator is releasing a vehicle to an owner's agent.

The bill does not appear to effect state or local government revenues or expenditures.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.[1] After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.[2] Any wrecker operator that is included in the wrecker operator system is an "authorized wrecker operator" in the jurisdiction, while any wrecker operation not included is an "unauthorized wrecker operator."[3]

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where a vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.[4]

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.[5] A hold may be applied when a law enforcement officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband and Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.[6]

An officer may also apply a hold when the vehicle is impounded under s. 316.193, F.S., (relating to driving under the influence), or s. 322.34, F.S., (relating to driving with a suspended or revoked license), or when the officer is complying with a court order.[7] The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.[8]

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[1] S. 323.002(1)(c), F.S. The definition of "vehicle" does not include a vessel or a trailer intended for the transport on land of a vessel. *See* s. 320.01, F.S. (defining "motor vehicle" for the purpose of issuance of motor vehicle licenses and separately defining a "marine boat trailer dealer" as a person engaged in "business of buying … trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.") *But see* s. 323.002(4)(b), F.S., which expressly authorizes a county or municipality to adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel that is towed by an authorized wrecker operator, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. This administrative fee, if imposed and collected by an authorized wrecker operator or towing business, must be remitted to the county or municipality after it is collected.

[2] *Id.*

[3] S. 323.002(1)(a)-(b), F.S.

[4] Ss. 125.0103(1)(c) and 166.043(1)(c), F.S.

[5] S. 323.001(1), F.S.

[6] S. 323.001(4)(a)-(e), F.S.

[7] S. 323.001(4)(f)-(g), F.S.

[8] S. 323.001(5), F.S.

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer period.[9] The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle is held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.[10]

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.[11]

Recovery of a Vehicle or Vessel from a Towing-Storage Operator

Pursuant to s. 713.78(10), F.S., towing and storage operators must permit vehicle or vessel owners, lienholders, insurance company representatives, or agents to inspect a towed vehicle or vessel and release to that person all personal property that was not affixed when the vehicle or vessel came into the custody of the towing or storage operator.[12] The authorization of agency must be documented in an original writing acknowledged by the owner before a notary public or someone authorized to administer oaths. However, this subsection does not provide guidance on how an interested party may take possession of the vehicle or vessel once it has been towed or stored.

Whoever violates these inspection provisions is guilty of a third-degree felony which is punishable by a fine that does not exceed $5,000[13] and a term of imprisonment that does not exceed five years.[14]

Towing from Private Property

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission.[15] A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:[16]

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.[17]

[9] S. 323.001(2), F.S.
[10] S. 323.001(2)(a)-(b), F.S.
[11] S. 713.78(2), F.S.
[12] S. 713.78(10), F.S.
[13] S. 775.083(1)(c), F.S.
[14] S. 775.082(3)(e), F.S.
[15] S. 715.07(2), F.S.
[16] S. 715.07(2)(a), F.S.
[17] S. 715.07(2)(a), F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operates within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm when the towing business is in operation and must post a telephone number where the operator

- The towing company must notify local law enforcement, within 30 minutes of completing the tow, of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operator is required to record the name of the law enforcement officer who received the information in the operator's trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks the return of the vehicle or vessel before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage before redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel to remove it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel, and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:[18]

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" is between three and six feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours before the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

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of the site can be reached when the site is closed. Upon receipt of a telephoned request to open the site and redeem a vehicle of vessel, the operator must return to the site within one hour.

[18] S. 715.07(2)(a), F.S.

- A property owner towing or removing vessels from real property must post a notice, consistent with the requirements in the statute which apply to vehicles,[19] that unauthorized vehicles or vessels will be towed away at the owners' expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of a business or restricts access to a private driveway and the business owner or lessee requests the tow.[20]

Effect of the Bill

The bill provides protections to ensure that wrecker operator companies are paid for the towing and storage charges of impounded vehicles and clarifies that a rental agreement is not sufficient to prove agency when releasing a vehicle to an owner's agent.

The bill clarifies that an investigating agency may have a wrecker operator tow a vehicle directly to the investigating agency's storage facility. If an investigating agency tows a vehicle directly to the agency's storage facility, the bill requires that, prior to releasing the vehicle to the owner or lienholder, the investigating agency must obtain proof of payment by the owner or lienholder of the vehicle of the towing and storage charges incurred by the wrecker operator. If an investigating agency does not obtain such proof of payment prior to releasing the vehicle, the investigating agency must pay the wrecker operator such towing and storage charges within 60 days after the vehicle is released.

Under the bill, an investigating agency that places a hold on an impounded vehicle beyond 5 days, excluding holidays and weekends, has the vehicle removed to a designated impound lot, and releases the vehicle to the owner or lienholder without obtaining proof of payment of the towing and storage charges incurred by the wrecker operator must pay the wrecker operator such charges within 60 days after the vehicle is released.

The bill requires that payment to a wrecker operator for accrued towing and storage charges by an investigating agency pursuant to a judicial finding that there is no probable cause to continue impoundment must be paid by the investigating agency within 60 days after the judicial finding.

The bill provides that for the purposes of a wrecker operator releasing a vehicle to the owner's agent, a rental agreement is insufficient to convey agency. A rental car company must appoint a person its agent by notarized writing.

B. SECTION DIRECTORY:

Section 1: Amends s. 323.001, F.S., relating to wrecker operator storage facilities; vehicle holds.

Section 2: Amends s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles and vessels.

Section 3: Amends s. 715.07, F.S., relating to vehicles or vessels parked on private property; towing.

Section 4: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[19] These requirements are contained in s. 715.07(2)(a), F.S.
[20] S. 715.07(2)(a), F.S.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may help ensure wrecker operators recover towing and storage fees.

D. FISCAL COMMENTS:

Under the bill, an investigating law enforcement agency may be required to pay the towing and storage charges of an impounded vehicle if the agency fails to obtain proof of payment prior to releasing the vehicle to the owner or lienholder.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the 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:

Not applicable.

B. RULE-MAKING AUTHORITY:

The bill does require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill and the existing statute the bill would amend use the term “investigating agency” without providing a definition of the term.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to towing, storage, and release of motor vehicles; amending s. 323.001, F.S.; providing construction; providing requirements for the release of a motor vehicle towed to an investigating agency's storage facility; requiring the investigating agency to pay towing and storage charges to a wrecker operator under certain circumstances; amending ss. 713.78 and 715.07, F.S.; prohibiting a towing company from releasing a motor vehicle owned by a rental car company to the person who rented the vehicle unless the person is appointed as an agent of the rental car company; providing requirements for evidence of such agency; providing an effective date.

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

Section 1. Subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 323.001, Florida Statutes, are amended to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(1)(a) An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to ~~a period not to exceed~~ 5 days, excluding holidays and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

weekends, unless extended in writing as provided in subsection (2).

(b) This section does not prohibit an investigating agency from having a wrecker operator tow a vehicle directly from the scene of the tow to the investigating agency's storage facility. If a vehicle is towed directly from the scene of the tow to the investigating agency's storage facility, the investigating agency may not release the vehicle to the owner or lienholder of the vehicle until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle to the owner or lienholder without obtaining such proof of payment, the investigating agency must pay the wrecker operator such towing and storage charges within 60 days after the vehicle is released.

(2) The investigating agency must notify the wrecker operator in writing within 5 days, excluding holidays and weekends, whether the hold is to be continued. If no notification follows this period of time, the wrecker operator may release the vehicle to the designated person pursuant to s. 713.78.

(a) If the hold is to continue beyond 5 days, excluding holidays and weekends, the investigating agency may have the vehicle removed to a designated impound lot, in which event the vehicle will not be released by the investigating agency to the

owner or lienholder of the vehicle until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the investigating agency. If the investigating agency releases the vehicle to the owner or lienholder without obtaining such proof of payment, the investigating agency must pay the wrecker operator such towing and storage charges within 60 days after the vehicle is released.

(3) If there is a judicial finding of no probable cause for having continued the immobilization or impoundment, the investigating agency ordering the hold must pay the wrecker operator the accrued charges for any towing and storage within 60 days after the judicial finding.

Section 2. Subsection (10) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(10)(a) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the

vehicle or vessel came into the custody of the person providing such services.

(b) Notwithstanding any provision of this section to the contrary, a rental car agreement does not constitute evidence that the person who rented a vehicle is an agent of the owner of the rental car. A towing company may not release a vehicle owned by a rental car company to the person who rented the vehicle unless the rental car company appoints the person who rented the vehicle as its agent, which agency is evidenced by an original writing acknowledged by the rental car company before a notary public or other person empowered by law to administer oaths, authorizing the person to inspect and redeem the towed vehicle.

Section 3. Paragraph (a) of subsection (2) of section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles or vessels parked on private property; towing.—

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following

circumstances:

(a) The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to substantial compliance with the following conditions and restrictions:

1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of fewer than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle or vessel must be stored at a site within a 20-mile radius of the point of removal in any county of 500,000 population or more, and within a 30-mile radius of the point of

removal in any county of fewer than 500,000 population.

2. The person or firm towing or removing the vehicle or vessel shall, within 30 minutes after completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff, of such towing or removal, the storage site, the time the vehicle or vessel was towed or removed, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 6. The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable consideration for the privilege of towing or removing vehicles

or vessels from a particular location.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, before towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within 10 feet from the road, as defined in s. 334.03(22). If there are no curbs or access barriers, the signs must be posted not fewer than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not fewer than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not fewer than 4-inch high letters.

c. The notice must also provide the name and current

telephone number of the person or firm towing or removing the vehicles or vessels.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not fewer than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not fewer than 24 hours before the towing or removal of any vehicles or vessels.

e. The local government may require permitting and inspection of these signs before any towing or removal of vehicles or vessels being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not fewer than 4-inch high, light-reflective letters on a contrasting background.

g. A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-f., which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

A business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when the vehicle or vessel

is parked in such a manner that restricts the normal operation of business; and if a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control or custody of a vehicle or vessel to pay the costs of towing and storage before redemption of the vehicle or vessel must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

7. Any person or firm towing or removing any vehicles or vessels from private property without the consent of the owner or other legally authorized person in control or custody of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(c), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The

name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

9.a. When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or person in control or custody within 1 hour after requested. Any vehicle or vessel owner or person in control or custody has the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or person in control or custody at the time of the redemption may be required from any vehicle or vessel owner or person in control or custody as a condition of release of the vehicle or vessel to its owner or person in control or custody.

b. Notwithstanding any provision of this section to the contrary, a towing company may not release a vehicle owned by a rental car company to the person who rented the vehicle unless the rental car company appoints the person who rented the

vehicle as its agent, which agency is evidenced by an original writing acknowledged by the rental car company before a notary public or other person empowered by law to administer oaths, authorizing the person to inspect and redeem the towed vehicle.

c. A detailed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not requested.

Section 4. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 871 Department of Highway Safety and Motor Vehicles
SPONSOR(S): Brannan
TIED BILLS: **IDEN./SIM. BILLS:** SB 914

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill addresses several matters involving the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Provides law enforcement agencies additional time to submit required data concerning violations of the Ban on Texting While Driving Law and provides DHSMV additional time to compile this information and submit an annual report.
- Requires any operator of a motor vehicle to provide proof of insurance when requested by a law enforcement officer.
- Extends the private rebuilt vehicle inspection program, currently only authorized in Miami-Dade County, to 11 additional counties.
- Prohibits collection of title fees and service charges (except for expedited title fees) from a surviving spouse transferring a motor vehicle title into his or her name when only the deceased spouse's name is on the title.
- Provides that a charter bus is an "apportionable vehicle" to make Florida law consistent with the International Registration Plan.
- Prohibits persons with certain unpaid violations from obtaining a replacement motor vehicle registration or license plate to avoid a registration stop.
- Establishes time frames within which various dealers and manufacturers of recreational vehicles and mobile homes must report to DHSMV changes in required insurance and surety bonds.
- Adds minimum insurance requirements for commercial motor vehicles carrying passengers, referring to requirements in federal regulations.

The bill will have an indeterminate fiscal impact on state government revenues and an insignificant impact on state government expenditures. It does not appear to impact local government revenues or expenditures.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Texting While Driving Report Due Date

Current Situation

Florida's Ban on Texting While Driving Law prohibits, with specified exceptions, a person from operating a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device[1] or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication. This includes texting, e-mailing, and instant messaging.[2]

When a law enforcement officer issues a citation for a violation of this law, the officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain and report such information to the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV must annually, by February 1 of each year, report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This data must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.[3]

Effect of the Bill

The bill revises the deadline for DHSMV's annual report on violations of the Ban on Texting While Driving Law. It requires law enforcement agencies to provide the race and ethnicity of violators to DHSMV by April 1 of each year. On July, 1, 2023, and on July 1 of each year thereafter, DHSMV must report the data to the Governor, the President of the Senate, and the Speaker of the House or Representatives.

Proof of Motor Vehicle Insurance

Current Situation

Under Florida law, any person required to carry motor vehicle insurance must have proof of such insurance in his or her immediate possession while operating a motor vehicle.[4]

If it appears to a law enforcement officer or other person authorized to issue traffic citations that vehicle operator is also the owner or registrant of the vehicle, the operator must show proper proof of insurance upon demand.[5]

Effect of the Bill

The bill requires any operator of a motor vehicle, regardless of whether the person is the owner of the vehicle, to show proof of insurance upon the demand of a law enforcement officer or other person authorized to issue traffic violations.

[1] For purposes of s. 316.305, F.S., the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications.
[2] S. 316.305(3), F.S.
[3] S. 316.305(5), F.S. A copy of the report for January 1, 2020, through December 31, 2020 is available at: https://www3.flhsmv.gov/pdf/cabinetreports/TextingWhileDrivingReport_2020.pdf (last visited Jan. 12, 2022).
[4] S. 316.646(1), F.S.
[5] S. 316.646(2), F.S.

Private Rebuilt Vehicle Inspection Program

Current Situation

A rebuilt vehicle inspection is an examination of a rebuilt vehicle, specified documents, photographs of damage, receipts and invoices of certain repairs made, and proof that notice of rebuilding of the vehicle has been reported to the National Motor Vehicle Title Information System.[6]

In 2013, the Legislature directed DHSMV to implement and evaluate a pilot program allowing rebuilt vehicle inspection services to be offered by the private sector. The Private Rebuilt Vehicle Inspection Program (PRVIP) was implemented in Miami-Dade County from October 1, 2013, through June 30, 2015, and was subsequently extended through June 30, 2018. The program expired on July 1, 2018, since no legislation was enacted to continue it. Consequently, all rebuilt vehicle inspections reverted to DHSMV, resulting in an increase in DHSMV-provided rebuilt vehicle inspection services for fiscal year 2018-2019.[7] In 2019, the pilot program was reenacted and amended.[8] The program still applies to only Miami-Dade County.[9]

A PRVIP participant must sign a memorandum of understanding with DHSMV allowing the participant to conduct rebuilt motor vehicle inspections and specifying the requirements for oversight, bonding and insurance, procedures, and forms, and requiring the electronic transmission of documents. The annual authorization period for PRVIP participation runs from October 1 through September 30 each year and requires participants to annually renew their authorizations. Currently, there are 14 authorized facilities operating under PRVIP.[10]

Under PRVIP, DHSMV must conduct an onsite facility inspection at least once per quarter and must immediately terminate any participant from the program who fails to meet the minimum eligibility requirements.[11]

In July 2021, DHSMV issued its report on the effectiveness of the PRVIP Program. Although the program was only authorized for Miami-Dade County, customers from other counties also utilize the PRVIPs. Therefore, to meet customer demand, DHSMV recommended that locations in additional counties be authorized in statute. In addition to Miami-Dade County, DHSMV has offices in Escambia, Bay, Leon, Marion, Duval, Orange, Hillsborough, Volusia, Palm Beach, Broward and Manatee Counties and could provide required oversight to prospective PRVIPs in those counties.[12]

Effect of the Bill

The bill requires DHSMV, by October 1, 2022, to expand the PRVIP to Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Orange, Palm Beach and Volusia Counties.

The bill also removes an obsolete requirement that DHSMV, by July 1, 2021, submit a report on PRVIP.

Surviving Spouse Title Transfer

Current Situation

A certificate of title is a record that proves ownership of a vehicle, which can be a certificate in either paper or electronic form, and is authorized or stored by DHSMV.[13] In Florida, most vehicles are

[6] S. 319.141(1)(b), F.S.
[7] Department of Highway Safety and Motor Vehicles (DHSMV), *Private Rebuilt Inspection Program*, July 1, 2021. p. 2. https://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf (last visited Dec. 16, 2021).
[8] Ch. 2019-169, Laws of Fla.
[9] S. 319.141(2), F.S.
[10] DHSMV, *supra* note 7.
[11] S. 319.141(8), F.S
[12] DHSMV *supra* note 7 at 4.
[13] S. 319.001(1), F.S.

required to have a certificate of title. However, there are exceptions for mopeds, motorized bicycles, and trailers weighing less than 2,000 pounds.[14] A person is required to apply for a title in his or her name after purchasing a new vehicle, bringing a vehicle into Florida, or at any time the ownership of a vehicle changes.[15]

For transferring a motor vehicle title, a fee of $75.25 applies. The fee is distributed as follows:

- Base Title fee of $48 goes to General Revenue.
- Odometer Fee of $1 goes to the Highway Safety Operating Trust Fund.
- Title Security Fee of $1 goes to General Revenue.
- State Transportation Title Fee of $21 goes to the Department of Transportation.
- Title Service Fee of $4.25 goes to the agency processing the certificate of title, which may be either DHSMV or the county tax collector.[16]

In 2017, the Legislature passed CS/SB 164[17] prohibiting DHSMV and county tax collectors from charging any fee or service charge, except for an expedited title fee, for removing a deceased spouse from a motor vehicle title when the co-owner is the surviving spouse.[18] This exemption does not apply when only the deceased spouse's name is on the title.

Effect of the Bill

The bill prohibits DHSMV and county tax collectors from charging any fee or service charge, except for an expedited title fee, to issue a certificate of title solely to change the ownership of a motor vehicle from a deceased spouse's name to the surviving spouse's name.

Charter Buses/Apportionable Vehicles

Current Situation

The International Registration Plan (IRP) is a reciprocity agreement among states of the United States, the District of Columbia, and provinces of Canada which recognizes the registration of commercial motor vehicles (CMVs) registered by other jurisdictions. The plan provides for payment of apportioned licensing fees based on the total distance that these vehicles are operated in all member jurisdictions.[19]

For purposes of motor vehicle licensing, Florida law defines the term "apportionable vehicle" as any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more IRP member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property meets certain weight and axle requirements.[20]

In 2016, the IRP removed the charter bus exemption from its definition of apportionable vehicle. Therefore, Florida statutes are inconsistent with the current IRP definitions.[21]

Effect of the Bill

The bill provides that charter buses are no longer excepted from the statutory definition of "apportionable vehicle," making Florida's statutory definition consistent with the IRP.

Motor Vehicle Registration Stop

[14] DHSMV, *Liens and Titles,* http://www.flhsmv.gov/dmv/faqtitle.html (last visited Nov. 18, 2021).
[15] *Id.*
[16] Ss. 319.32 and 319.324, F.S.
[17] Ch. 2017-89, Laws of Fla.
[18] S. 319.32(7), F.S.
[19] International Registration Plan, Inc., *Welcome to IRP, Inc.* https://www.irponline.org/ (last visited Nov. 3, 2021).
[20] S. 320.01(24), F.S.
[21] DHSMV, Agency Analysis of 2022 House Bill 871, p. 3. (Dec. 17, 2021).

Current Situation

Under Florida law, if the name of an applicant for a motor vehicle registration appears on a DHSMV list of persons with unpaid tolls,[22] unpaid parking fines,[23] unpaid red light camera violations,[24] or wrecker liens,[25] a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the governmental entity or the clerk of court showing that the outstanding fines have been paid or liens have been satisfied. This applies only to the annual renewal of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a licensed motor vehicle dealer, except for the transfer of registrations which include the annual renewals.[26]

While current law prohibits individuals with the above stops from renewing their registration, the law lets them obtain a replacement license plate, allowing them to circumvent the collection process.[27]

According to DHSMV, between October 2019 and October 2021, 3,994 registrations had their license plates replaced via a "replace registration" transaction while an open stop existed. Of these, over 3,700 were for unpaid toll violations.[28]

Effect of the Bill

The bill provides that these prohibitions against renewing a motor vehicle registration apply both to an annual renewal of a registration and the replacement of the motor vehicle registration or license plate.

Garage Liability Insurance/Surety Bonds

Current Situation

Florida law requires mobile home dealers, recreational vehicle dealers, mobile home manufacturers, and recreational vehicle manufacturers, distributors, or importers to provide certain surety bonds, cash bonds, or irrevocable letters of credit to DHSMV, which must be conditioned on the dealer, manufacturer, distributor, or importer's compliance with specified laws and certain provisions in contracts regarding the sale of mobile homes or recreational vehicles.[29]

An application for a license as a recreational vehicle dealer must contain a statement that the applicant is insured under a garage liability insurance[30] policy, which must include, at a minimum, $25,000 combined single limit liability coverage, including bodily injury and property damage protection, and $10,000 personal injury protection, if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles.[31]

Current law does not provide a timeframe for mobile home dealers, recreational vehicle dealers, mobile home manufacturers, or recreational vehicle manufacturers, importers, or distributors to submit to DHSMV the required surety or cash bonds or irrevocable letters of credit. Further, there is no required timeframe for recreational vehicle dealers to submit to DHSMV the required proof of garage liability insurance. Thus, DHSMV often must contact these entities to obtain this information. Failure to have

[22] S. 316.1001(4), F.S.
[23] S. 316.1967(6), F.S.
[24] S. 318.15(3), F.S.
[25] S. 713.78(13), F.S.
[26] S. 320.03(8), F.S.
[27] Attachment to E-mail from Kevin Jacobs, Legislative Affairs Director, DHSMV, 2022 Legislative Concepts, p. 1. (Jan. 25, 2022).
[28] Email from Kevin Jacobs, Legislative Affairs Director, DHSMV, fyi – toll stop legislation part of HSMV bill (Jan. 10, 2022).
[29] Ss. 320.77(16), 320.771(16), and 320.8225(5), F.S.
[30] Garage liability insurance is specifically designed for automotive repair shops, dealerships, towing companies, and service s tations. This insurance includes general liability which covers bodily injury and property damage for others.
[31] S. 320.771(3)(j), F.S.

the required garage liability insurance or surety bond, cash bond, or letter of credit submitted violates Florida law and may expose consumers and other stakeholders to financial loss.[32]

In 2021, the Legislature codified insurance and surety bond requirements for motor vehicle dealers but did not include mobile home dealers, or recreational vehicle dealers, manufacturers, importers, and distributors.[33]

Effect of the Bill

The bill requires that, within 10 calendar days of any renewal or continuation of or material change in a surety bond, a cash bond, or irrevocable letter of credit or issuance of a new surety bond, mobile home dealers and mobile home and recreational vehicle manufacturers, distributors, and importers must deliver to DHSMV, in a DHSMV-prescribed manner, a copy of the renewed, continued, changed, or new surety bond, cash bond, or irrevocable letter of credit.

The bill requires recreational vehicle dealers and mobile home dealers who deal in recreational vehicles to carry garage liability insurance for the period of their DHSMV license and within 10 calendar days after any renewal, continuation of, or material change to such policy, or issuance of a new policy, to deliver to DHSMV, in a DHSMV-prescribed manner, the new policy.

According to DHSMV, this timeframe will help ensure that mobile home and recreational vehicle manufacturers, distributors, and importers submit and maintain any required garage liability insurance or surety bonds, cash bonds, or letters of credit in place at the time of an original application or renewal of a dealer license and when changes take place during the period of DHSMV licensure.[34]

Commercial Motor Vehicle – Liability Insurance

Current Situation

Under Florida law, commercial motor vehicles must be insured with the following minimum levels of combined bodily liability insurance and property damage liability insurance in addition to any other insurance requirements:

- $50,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds.
- $100,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds.
- $300,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 44,000 pounds or more.
- All commercial motor vehicles subject to regulations of the United States Department of Transportation must be insured in an amount equivalent to the minimum levels of financial responsibility as set forth in those regulations.

A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.[35]

Federal regulations separately provide the minimum required levels of financial responsibility for motor carriers carrying property and for motor carriers carrying passengers.[36]

The minimum levels currently required by federal regulations for-hire motor carriers of passengers operating in interstate or foreign commerce are:[37]

[32] DHSMV, *supra* note 21 at 4.
[33] Attachment to E-mail from Kevin Jacobs, Legislative Affairs Director, DHSMV, 2022 Legislative Concepts, p. 2. (Jan. 25, 2022).
[34] DSHMV, *supra* note 21 at 6.
[35] S. 627.7415, F.S.
[36] 49 C.FR. part 387, subpart A, provides minimum levels of financial responsibility for commercial motor carriers carrying property. Subpart B, provides minimum levels of financial responsibility for motor carriers carrying passengers.
[37] 80 FR 63709, Oct. 21, 2015, as amended at 83 FR 22876, May 17, 2018.

Vehicle Seating Capacity	Minimum Limits
(1) Any vehicle with a seating capacity of 16 passengers or more, including the driver	$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less, including the driver	$1,500,000

Currently, Florida law does not incorporate these federal regulations; therefore; Florida law does not conform with federal regulations.

Effect of the Bill

The bill requires all commercial motor vehicles subject to the regulations of the United States Department of Transportation, 49 C.F.R., part 387, subpart B, relating to motor carriers of passengers, as these regulations may be amended, to be insured in an amount equivalent to the minimum levels of financial responsibility set forth in federal regulations. This will allow DHSMV to enforce federal insurance requirements on buses and other commercial motor vehicles carrying passengers.[38]

Effective Date

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 316.03, F.S., relating to wireless communications devices; prohibition.

Section 2 Amends s. 316.646, F.S., relating to security required; proof of security and display thereof.

Section 3 Amends s. 319.141, F.S., relating to the rebuilt motor vehicle inspection program.

Section 4 Amends s. 319.32, F.S., relating to fees; service charges; disposition.

Section 5 Amends s. 320.01, F.S., providing definitions.

Section 6 Amends s. 320.03, F.S., relating to registration; duties of tax collectors; International Registration Plan.

Section 7 Amends s. 320.77, F.S., relating to license required of mobile home dealers.

Section 8 Amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.

Section 9 Amends s. 320.8225, F.S., relating to mobile home and recreational vehicle manufacturer, distributor, and importer license.

Section 10 Amends s. 627.7415, F.S., relating to commercial motor vehicles, additional liability insurance coverage.

Section 11 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[38] DHSMV, *supra* note 21 at 6.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate.

   Including charter buses in the definition of an apportionable vehicle may result in an indeterminate decrease in revenues to DHSMV, as registration fees for charter buses will be apportioned between the states within which these vehicles operate.

   Prohibiting individuals who have motor vehicle registration stops from replacing their vehicle registration and license plate until satisfying the stop may result in increased payments of fees and fines. This may result in an indeterminate increase in revenues to the state and collection authorities.

   Allowing a surviving spouse to transfer a vehicle title into his or her name when only the deceased spouse is named on the title without the payment of a title transfer fee may result in a decrease in revenues to tax collectors, the Highway Safety Operating Trust Fund, the State Transportation Trust Fund and the General Revenue Fund.

2. Expenditures:

   Expanding PRVIP will require a minimal increase of staffing and resources at regional offices where the program is implemented. Staffing and resource needs would be determined based on the number of authorized PRVIP facilities in each region. This oversight could be accomplished using existing resources.[39]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Allowing a surviving spouse to transfer a vehicle title into his or her name when only the deceased spouse is named on the title without the payment of a title transfer fee may result in a decrease in revenues to tax collectors.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the PRVIP to additional counties may have a positive impact on business opportunities for residents in those counties and simultaneously may have a negative impact on PRVIP operators in Miami-Dade County, as vehicles may be inspected at locations in counties closer the registered owner's location.

Surviving spouses transferring a vehicle title into their name when only the deceased spouse is named on the title will be exempt from the $70 title transfer fee.

D. FISCAL COMMENTS:

According to DHSMV, the bill will have a moderate impact on its technology resources and resources dedicated to its motorist modernization projects.[40] These costs are associated with training, updated procedures, and programming costs. According to DHSMV, these costs can be absorbed using existing resources.[41]

[39] DHSMV *supra* note 9 at 4.
[40] DSHMV, *supra* note 22 at 8.
[41] Email from Kevin Jacobs, Legislative Affairs Director, DHSMV, RE: HB 871 DHSMV Package (Jan. 3, 2022).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.305, F.S.; requiring law enforcement agencies to annually report race and ethnicity data of certain violators to the department; revising the date by which the department must begin annually reporting such data to the Governor and the Legislature; amending s. 316.646, F.S.; deleting a precondition to a requirement that the operator of a motor vehicle display proof of maintenance of security to a law enforcement officer or certain other persons; amending s. 319.141, F.S.; extending the date by which the department must implement a rebuilt motor vehicle inspection program; adding counties where the program must be implemented; deleting an obsolete provision; amending s. 319.32, F.S.; prohibiting the department and a tax collector from charging fees or service charges, except a certain fee, under certain circumstances; amending s. 320.01, F.S.; revising the definition of the term "apportionable vehicle"; amending s. 320.03, F.S.; revising applicability; amending s. 320.77, F.S.; requiring licensed mobile home dealers to deliver certain documents to the department within a certain timeframe; amending s. 320.771, F.S.; specifying the

required term of a certain garage liability insurance policy; requiring licensed recreational vehicle dealers to deliver certain documents to the department within a certain timeframe; amending s. 320.8225, F.S.; requiring licensed mobile home manufacturers and recreational vehicle manufacturers, distributors, and importers to submit certain documents to the department within a certain timeframe; amending s. 627.7415, F.S.; requiring that certain commercial motor vehicles meet certain federal financial responsibility requirements; providing an effective date.

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

Section 1. Subsection (5) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(5) When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and report the information to the department by April 1 annually in a form and manner determined by the department. Beginning July 1, 2023 ~~February 1, 2020~~, the department shall annually report the data

collected under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies shall combine the data for the county sheriffs and the municipal law enforcement agencies.

Section 2. Subsection (2) of section 316.646, Florida Statutes, is amended to read:

316.646 Security required; proof of security and display thereof.—

(2) ~~If, upon a comparison of the vehicle registration certificate or other evidence of registration or ownership with the operator's driver license or other evidence of personal identity, it appears to a law enforcement officer or other person authorized to issue traffic citations that the operator is also the owner or registrant of the vehicle,~~ Upon the demand of a ~~the~~ law enforcement officer or other person authorized to issue traffic citations, the operator shall display proper proof of maintenance of security as specified by subsection (1).

Section 3. Subsections (2) and (10) of section 319.141, Florida Statutes, are amended to read:

319.141 Rebuilt motor vehicle inspection program.—

(2) By October 1, 2022 ~~2019~~, the department shall

implement a program in Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Miami-Dade, Orange, Palm Beach, and Volusia Counties ~~County~~ for rebuilt inspection services offered by private sector participants.

~~(10) On or before July 1, 2021, the department shall submit a written report to the President of the Senate and the Speaker of the House of Representatives evaluating the effectiveness of the program and whether to expand the program to other counties.~~

Section 4. Subsection (7) of section 319.32, Florida Statutes, is amended to read:

319.32 Fees; service charges; disposition.—

(7) Notwithstanding any other provision of this section, the department and tax collector may not charge any fee or service charge, except for the expedited title fee, if applicable:~~,~~

(a) For a certificate of title issued for a motor vehicle solely to remove a deceased co-owner from a title registered in the names of two persons if the other co-owner is the surviving spouse; or

(b) To issue a certificate of title solely to change the ownership of a motor vehicle from a deceased spouse's name to the surviving spouse's name.

Section 5. Subsection (24) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(24) "Apportionable vehicle" means any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, ~~buses used in transportation of chartered parties,~~ and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds;

(b) Is a power unit having three or more axles, regardless of weight; or

(c) Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

Vehicles, or combinations thereof, having a gross vehicle weight of 26,000 pounds or less and two-axle vehicles may be proportionally registered.

Section 6. Subsection (8) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(8) If the applicant's name appears on the list referred to in s. 316.1001(4), s. 316.1967(6), s. 318.15(3), or s. 713.78(13), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the governmental entity or the clerk of court that provided the data showing that the fines outstanding have been paid. This subsection does not apply to the owner of a leased vehicle if the vehicle is registered in the name of the lessee of the vehicle. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. As used in this subsection, the term "civil penalties and fines" does not include a wrecker operator's lien as described in s. 713.78(13). If the tax collector has private tag agents, such tag agents are entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies both ~~only~~ to the annual renewal ~~in the owner's birth month~~ of a motor vehicle registration and the replacement

of the motor vehicle registration or license plate, but does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which includes the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

Section 7. Paragraph (a) of subsection (16) of section 320.77, Florida Statutes, is amended to read:

320.77 License required of mobile home dealers.—

(16) SURETY BOND, CASH BOND, OR IRREVOCABLE LETTER OF CREDIT REQUIRED.—

(a) Before any license shall be issued or renewed, the applicant or licensee shall deliver to the department a good and sufficient surety bond, cash bond, or irrevocable letter of credit, executed by the applicant or licensee as principal. Within 10 calendar days after any renewal or continuation of or material change in such surety bond, cash bond, or irrevocable letter of credit or issuance of a new surety bond, a licensee shall deliver to the department, in a manner prescribed by the department, a copy of the renewed, continued, changed, or new surety bond, cash bond, or irrevocable letter of credit. The bond or irrevocable letter of credit shall be in a form to be approved by the department and shall be conditioned upon the dealer's complying with the conditions of any written contract made by the dealer in connection with the sale, exchange, or

improvement of any mobile home and his or her not violating any of the provisions of chapter 319 or this chapter in the conduct of the business for which the dealer is licensed. The bond or irrevocable letter of credit shall be to the department and in favor of any retail customer who shall suffer any loss as a result of any violation of the conditions contained in this section. The bond or irrevocable letter of credit shall be for the license period, and a new bond or irrevocable letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one license year shall in no event exceed the sum of such bond, or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit. The amount of the bond required shall be as follows:

1. A single dealer who buys, sells, or deals in mobile homes and who has four or fewer supplemental licenses shall provide a surety bond, cash bond, or irrevocable letter of credit executed by the dealer applicant or licensee in the amount of $25,000.

2. A single dealer who buys, sells, or deals in mobile homes and who has more than four supplemental licenses shall provide a surety bond, cash bond, or irrevocable letter of credit executed by the dealer applicant or licensee in the amount of $50,000.

For the purposes of this paragraph, any person who buys, sells, or deals in both mobile homes and recreational vehicles shall provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.

Section 8. Paragraph (j) of subsection (3) and paragraph (a) of subsection (16) of section 320.771, Florida Statutes, are amended to read:

320.771 License required of recreational vehicle dealers.—

(3) APPLICATION.—The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(j) Evidence ~~A statement~~ that the applicant is insured under a garage liability insurance policy, which shall include, at a minimum, $25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and $10,000 personal injury protection, if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles. Such policy must be for the license period. Within 10 calendar days after any renewal or continuation of or material change in such policy or issuance of a new policy, the licensee shall deliver to the department, in a manner prescribed by the department, a copy of such renewed, continued, changed, or new policy. However, a garage liability policy is not required for

the licensure of a mobile home dealer who sells only park trailers.

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

(16) BOND.—

(a) Before any license shall be issued or renewed, the applicant shall deliver to the department a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in the state as surety. Within 10 calendar days after any renewal or continuation of or material change in such surety bond or issuance of a new surety bond, a licensee shall deliver to the department, in a manner prescribed by the department, a copy of such renewed, continued, changed, or new surety bond. The bond shall be in a form to be approved by the department and shall be conditioned upon the dealer's complying with the conditions of any written contract made by that dealer in connection with the sale, exchange, or improvement of any recreational vehicle and his or her not violating any of the provisions of chapter 319 or this chapter in the conduct of the business for which he or she is licensed. The bond shall be to the department and in favor of any retail

customer who shall suffer any loss as a result of any violation of the conditions hereinabove contained. The bond shall be for the license period, and a new bond or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one license year shall in no event exceed the sum of such bond. The amount of the bond required shall be as follows:

1. A single dealer who buys, sells, or deals in recreational vehicles and has four or fewer supplemental licenses shall provide a surety bond in the amount of $10,000.

2. A single dealer who buys, sells, or deals in recreational vehicles and who has more than four supplemental licenses shall provide a surety bond in the amount of $20,000.

For the purposes of this paragraph, any person who buys, sells, or deals in both mobile homes and recreational vehicles shall provide the same surety bond required of dealers who buy, sell, or deal in mobile homes only.

Section 9. Paragraphs (a) and (b) of subsection (5) of section 320.8225, Florida Statutes, are amended to read:

320.8225 Mobile home and recreational vehicle manufacturer, distributor, and importer license.—

(5) REQUIREMENT OF ASSURANCE.—

(a) Annually, prior to the receipt of a license to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

manufacture mobile homes, the applicant or licensee shall submit a surety bond, cash bond, or letter of credit from a financial institution, or a proper continuation certificate, sufficient to assure satisfaction of claims against the licensee for failure to comply with appropriate code standards, failure to provide warranty service, or violation of any provisions of this section. The amount of the surety bond, cash bond, or letter of credit must be $50,000. Only one surety bond, cash bond, or letter of credit shall be required for each manufacturer, regardless of the number of factory locations. The surety bond, cash bond, or letter of credit must be to the department, in favor of any retail customer who suffers a loss arising out of noncompliance with code standards or failure to honor or provide warranty service. The department may disapprove any bond or letter of credit that does not provide assurance as provided in this section. Within 10 calendar days after any renewal or continuation of or material change in such surety bond, cash bond, or letter of credit or issuance of a new surety bond, cash bond, or letter of credit, a licensee shall deliver to the department, in a manner prescribed by the department, a copy of such renewed, continued, changed, or new surety bond, cash bond, or letter of credit.

(b) Annually, prior to the receipt of a license to manufacture, distribute, or import recreational vehicles, the applicant or licensee shall submit a surety bond, or a proper

continuation certificate, sufficient to assure satisfaction of claims against the licensee for failure to comply with appropriate code standards, failure to provide warranty service, or violation of any provisions of this section. The amount of the surety bond must be $10,000 per year. The surety bond must be to the department, in favor of any retail customer who suffers loss arising out of noncompliance with code standards or failure to honor or provide warranty service. The department may disapprove any bond that does not provide assurance as provided in this section. Within 10 calendar days after any renewal or continuation of or material change in such surety bond or issuance of a new surety bond, a licensee shall deliver to the department, in a manner prescribed by the department, a copy of such renewed, continued, changed, or new surety bond.

Section 10. Subsection (4) of section 627.7415, Florida Statutes, is amended to read:

627.7415 Commercial motor vehicles; additional liability insurance coverage.—Commercial motor vehicles, as defined in s. 207.002 or s. 320.01, operated upon the roads and highways of this state shall be insured with the following minimum levels of combined bodily liability insurance and property damage liability insurance in addition to any other insurance requirements:

(4) All commercial motor vehicles subject to regulations of the United States Department of Transportation, 49 C.F.R.

part 387, subparts ~~subpart~~ A and B, and as may be hereinafter amended, shall be insured in an amount equivalent to the minimum levels of financial responsibility as set forth in such regulations.

A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.

Section 11. This act shall take effect July 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1287 Pub. Rec./Information Held by a Utility Owned or Operated by a Unit of Local Government
SPONSOR(S): Botana and Yarborough
TIED BILLS: **IDEN./SIM. BILLS:** SB 1740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Neuffer	Keating
2) Government Operations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Under current law, certain information held by a utility owned or operated by a unit of local government, is exempt from disclosure as a public record. This information includes:

- Information related to the security of technology, processes, or practices designed to protect the utility's networks, computers, programs, and data, which, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources; and
- Information related to existing or proposed information technology systems or industrial control systems which, if disclosed, would facilitate alteration or destruction of such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

The bill expands this public record exemption to include the following:

- Information related to threat detection, defense, deterrence, or response plans and action for information technology (IT) and operational technology (OT) systems, including plans and actions made or taken in response to a ransomware or cyberattack on or threat to IT or OT systems.
- Information related to insurance or other risk mitigation products or coverages for the protection of the IT and OT systems and data.
- Critical energy infrastructure information, whether created or received by the utility.

Critical energy infrastructure information is defined as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure which:

- Includes details about the production, generation, transportation, transmission, or distribution of energy.
- Could be useful in planning an attack on critical infrastructure.
- Provides more than a general location of critical energy infrastructure.

Critical infrastructure is defined as existing or proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, health, or public safety.

The bill provides that these public record exemptions are subject to repeal under the Open Government Sunset Review Act unless the Legislature reviews and reenacts the exemptions by October 2, 2027. The bill provides a public necessity statement for each exemption as required by the Florida Constitution.

The bill may have an insignificant positive impact on local government expenditures.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution.[1] The general law must state with specificity the public necessity justifying the exemption[2] and must be no broader than necessary to accomplish its purpose.[3]

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act[4] provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and significantly administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[5]

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment of the exemption, unless the Legislature reenacts the exemption.[6]

Cybersecurity

Operational technology (OT) is the hardware and software which monitors and controls devices, processes, and infrastructure.[7] Informational technology (IT) combines two or more technologies to manage data and applications.[8] IT is used to monitor, manage, and secure core functions and data which are stored in the data center or cloud of an organization. OT, on the other hand, is used for connecting, monitoring, managing and securing an organization's industrial operations.[9] OT devices are distinct from most IT devices as they generally contain specialized software. Within the OT sector are industrial control systems (ICS) which function to monitor and control the actual operation of physical equipment and plant process automation and production.[10] Essentially, ICS are a combination of OT and IT technologies.

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[1] Art. 1, s. 24(a), Fla. Const.
[2] This portion of a public record exemption is commonly referred to as a "public necessity statement."
[3] Art. 1, s. 24(c). Fla. Const.
[4] S. 119.15, F.S.
[5] S. 119.15(6)(b), F.S.
[6] S. 119.15(3), F.S.
[7] Cisco, *How Do OT and IT Differ?*, https://www.cisco.com/c/en/us/solutions/internet-of-things/what-is-ot-vs-it.html (last visited January 27, 2022).
[8] https://www.cisco.com/c/en/us/solutions/internet-of-things/what-is-ot-vs-it.html
[9] *Id.*
[10] David Meltzer & Jeff Lund, Industrial Cyber Security for Dummies 5 (John Wiley & Sons, Inc., Belden/Tripwire Special ed. 2017).

ICS are vital across a vast number of industries to ensure that processes and systems run effectively, making them a target for cyber threats in recent years.[11] On May 29, 2019, Riviera Beach was the target of a ransomware attack which paralyzed their computer systems, including the water utility.[12] The systems controlling both the pumping stations and water quality testing were compromised in the ransomware attack. The city council approved their insurance company to pay approximately $600,000 to the attackers in order to regain control of the systems.[13] The city paid an additional $25,000 to the insurance company for the cybersecurity policy deductible.[14] Due to the increased numbers of ransomware attacks in recent years, and the resulting claims to insurance companies, premiums are expected to increase by 25 percent to 40 percent across many industries.[15] Ransomware operators are taking advantage of the increased insurance coverage, viewing insured companies as key targets for cyberattacks.[16]

Existing Public Record Exemptions for Information Held by a Local Government Utility

Under current law, certain information held by a utility owned or operated by a unit of local government, is exempt from disclosure as a public record. This information includes:

- Information related to the security of technology, processes, or practices designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which, if disclosed, would facilitate the alteration, disclosure, or destruction of such data or information technology resources;[17] and
- Information related to existing or proposed information technology systems or industrial control systems which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.[18]

Critical Infrastructure Protection Act

In 2011, the federal government enacted the Critical Infrastructure Protection Act (act) to protect the increasingly relied upon critical physical and information infrastructures across a vast number of industries.[19] These include telecommunications, energy, financial services, water, and transportation sectors.[20] The act aimed to create a comprehensive and effective program to ensure the continuity of essential functions.[21] Critical infrastructure is defined in the act as "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."[22] Recently, the federal government has launched an ICS initiative in an attempt to encourage electric utilities and natural gas pipelines to deploy control

[11] *See* https://www.cisa.gov/uscert/ics/content/cyber-threat-source-descriptions for more in-depth discussion about the threats targeting ICS.
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] Laura Sanicola, *After Colonial Attack, Energy Companies Rush to Secure Cyber Insurance*, Reuters, (May 28, 2021) https://www.reuters.com/technology/after-colonial-attack-energy-companies-rush-secure-cyber-insurance-2021-05-28/ (last visited January 27, 2022).
[16] *See* Matthew Delman, *Cyber Insurance May Be Making Ransomware Worse, Here's Why*, Morphisec (July 1, 2021), https://blog.morphisec.com/cyber-insurance-may-be-making-ransomware-worse-heres-why (last visited January 27, 2022) (explaining that ransomware groups target insured companies because insurers are more likely to pay the ransom).
[17] S. 119.0713(5)(a)(1), F.S.
[18] S. 119.0713(5)(a)(2), F.S.
[19] *See* 42 U.S.C. § 5195c.
[20] 42 U.S.C. § 5195c(b)(3).
[21] 42 U.S.C. § 5195c(c)(3).
[22] 42 U.S.C. § 5195c(e).

system cybersecurity technologies to bolster the security and resilience of their facilities.[23] The initiative will be expanded to include the water sector as well.[24]

Effect of the Bill

The bill expands the public record exemption for certain information held by a utility owned or operated by a unit of local government to include:

- Information related to threat detection, defense, deterrence, or response plans and action for information technology (IT) and operational technology (OT) systems, including, but not limited to, plans and actions made or taken in response to a ransomware or cyberattack direct towards IT or OT systems.
- Information related to insurance or other risk mitigation products or coverages for the protection of IT and OT systems and data, including, but not limited to, deductible or self-insurance amounts, coverage limits, and policy terms and conditions.
- Critical energy infrastructure information, whether created or received by the utility.

Critical energy infrastructure information is defined in the bill as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure which:

- Includes details about the production, generation, transportation, transmission, or distribution of energy.
- Could be useful in planning an attack on critical infrastructure.
- Provides more than a general location of critical energy infrastructure.

Critical infrastructure is defined as existing or proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

These exemptions are subject to the Open Government Sunset Review Act and stands repealed on October 2, 2027, unless reviewed and saved from repeal by the Legislature.

The bill provides a public necessity statement as required by article 1, section 24(c) of the Florida Constitution. The statement provides that:

- The sensitivity of information being shared and threats from increased connectivity will continue to grow as the electric grid integrates more information and communication technologies and as states look to partner more closely with utilities on energy assurance and resiliency.
- The maintenance of functional and safe utility systems is important to protecting public health, safety, and economic well-being of the state.

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1 Amends s. 119.0713, F.S., relating to local government agency exemptions from inspection or copying of public records.

Section 2 Provides statement of public necessity.

Section 3 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[23] The White House, *Fact Sheet: Ongoing Public U.S. Efforts to Counter Ransomware* (October 13, 2021), https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/13/fact-sheet-ongoing-public-u-s-efforts-to-counter-ransomware/ (last visited January 27, 2022).
[24] *Id.*

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an insignificant negative fiscal impact on local governments because staff responsible for complying with public record requests may require training related to the newly created public record exemptions. These costs, however, would be absorbed, as they are part of the day-to-day responsibilities of each local government.

   The bill may lower the risk of cyberattacks on local government utility infrastructure, in turn lowering costs to the local government and its utility customers associated with such attacks.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the 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:

   Vote Requirement
   Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

   Public Necessity Statement
   Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill includes a public necessity statement for each newly created exemption in the bill.

   Breadth of Exemption
   Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

B. RULE-MAKING AUTHORITY:

This bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify if the elements forming the definition of “critical energy infrastructure” at lines 55-60 are conjunctive or disjunctive.

The statement of public necessity does not explain with specificity why each exemption is needed to address the specific information exempted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to public records; amending s. 119.0713, F.S.; providing an exemption from public records requirements for certain information held by a utility owned or operated by a unit of local government; providing definitions; providing applicability; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (5) of section 119.0713, Florida Statutes, is amended to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

(5)(a) The following information held by a utility owned or operated by a unit of local government is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information related to the security of the technology, processes, or practices of a utility owned or operated by a unit of local government that are designed to protect the utility's networks, computers, programs, and data from attack, damage, or unauthorized access, which information, if disclosed, would facilitate the alteration, disclosure, or destruction of such

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

data or information technology resources.

2. Information related to the security of existing or proposed information technology systems or industrial control technology systems of a utility owned or operated by a unit of local government, which, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, such systems in a manner that would adversely impact the safe and reliable operation of the systems and the utility.

3. Information related to threat detection, defense, deterrence, or response plans and actions for information technology and operational technology systems of a utility owned or operated by a unit of local government, including, but not limited to, plans and actions made or taken in response to a ransomware or cyberattack on or threat to information technology or operational technology systems.

4. Information related to insurance or other risk mitigation products or coverages, including, but not limited to, deductible or self-insurance amounts, coverage limits, and policy terms and conditions, for the protection of the information technology and operational technology systems and data of a utility owned or operated by a unit of local government.

5. Critical energy infrastructure information created or received by a utility owned or operated by a unit of local government. As used in this subparagraph, the term:

a. "Critical energy infrastructure information" means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure which:

(I) Includes details about the production, generation, transportation, transmission, or distribution of energy.

(II) Could be useful in planning an attack on critical infrastructure.

(III) Provides more detailed location information than the general location of the critical infrastructure.

b. "Critical infrastructure" means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

6.~~3.~~ Customer meter-derived data and billing information in increments less than one billing cycle.

(b) This exemption applies to such information held by a utility owned or operated by a unit of local government before, on, or after the effective date of this exemption.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that information related to threat detection, defense,

deterrence, or response plans and actions for information technology and operational technology systems of a utility owned or operated by a unit of local government; information related to insurance or other risk mitigation products or coverages for the protection of the information technology and operational technology systems and data of a utility owned or operated by a unit of local government; and critical energy infrastructure information created or received by a utility owned or operated by a unit of local government be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Multiple states are developing rules to better facilitate the exchange of sensitive information needed to protect critical energy, water, natural gas, and wastewater infrastructure from cyber and other threats. As the electric grid continues to integrate more information and communication technologies, and as states look to partner more closely with utilities on energy assurance and resiliency, the sensitivity of information being shared and threats from increased connectivity will grow. Maintaining safe and reliable utility systems is vital to protecting public health and safety and to ensuring the economic well-being of the state.

Section 3. This act shall take effect July 1, 2022.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 1287 by Rep. Botana
Pub. Rec./Information Held by a Utility Owned or Operated by a Unit of Local Government

AMENDMENT SUMMARY
February 3, 2022

Amendment 1 by Rep. Botana (line 55):

- Clarifies that the elements listed in the definition of critical energy infrastructure information are conjunctive.
- Elaborates on the public necessity for the bill.

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Botana offered the following:

Amendment

Remove lines 55-96 and insert:

(I) Includes details about the production, generation, transportation, transmission, or distribution of energy;

(II) Could be useful in planning an attack on critical infrastructure; and

(III) Provides more detailed location information than the general location of the critical infrastructure.

b. "Critical infrastructure" means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

6.~~3.~~ Customer meter-derived data and billing information in increments less than one billing cycle.

(b) This exemption applies to such information held by a utility owned or operated by a unit of local government before, on, or after the effective date of this exemption.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027 ~~2024~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that information held by a utility owned or operated by a unit of local government and relating to the utility's threat detection, defense, or deterrence of increasing ransomware or cyber-attacks from foreign or domestic terrorists; information regarding the insurance coverage amounts, premium amount paid, self-insurance amounts, and policy terms and conditions of such cyber-security insurance policies held by a utility owned or operate by a unit of local government; and critical energy infrastructure information created or received by the utility, which consists of details about the production, generation, transportation, transmission, or distribution of energy, be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Such information held by a utility owned or operated by a local government is critical information, the release of which could lead to extreme

danger or harm to the citizens of this state. Typical critical energy infrastructure information held by a utility consists of critical asset location, vulnerable electric grid transmission information, emerging technologies utilized by the utility to prevent a cyber-attack, and secure information that utilities in Florida share with regional and federal entities. The exposure or leak of such information could lead to interruptions in the delivery of essential services, as well as financial or physical harm to the citizens of this state. Critical energy infrastructure information has been defined and codified in law in over half of the states in the United States of America in conjunction with the Federal Energy Regulatory Commission. Utilities in Florida have recently been attacked by criminals who hold hostage critical data and operability of the utility for ransom. Public disclosure of insurance coverages provides information to potential attackers as to the monetary limits to which they may seek ransom from these utilities. These vulnerabilities leave all utilities owned and operated by a unit of local government, which control water, electricity, wastewater, and natural gas utilities throughout this state, exposed to cyber-attacks and ransom demands. The Legislature finds that the harm that may result from the release of such information outweighs any public benefit that may be derived from disclosure of the information.

HB 1531

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1531 Free Trade Agreement Between the United States and the United Kingdom
SPONSOR(S): Barnaby
TIED BILLS: **IDEN./SIM. BILLS:** CS/SM 174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Neuffer	Keating
2) Commerce Committee			

SUMMARY ANALYSIS

The United Kingdom (UK) officially left the European Union (EU) Single Market and Customs Union on January 31, 2020.

Effective on its official departure from the EU, any EU trade agreements, including trade agreements with the United States (US), no longer applied to the UK. Three separate trade agreements were reached between the UK and EU prior to the UK's official exit from the EU.

As the sixth-largest economy in the world and a major financial center, the UK maintains a vital role in assuring economic stability across the globe. On December 31, 2020, the US and UK entered into the US-UK Trade and Investment Working Group to ensure no disruption to trade for specific products resulted from Brexit. Since its decision to leave the EU, the UK has conducted negotiations with the US in an effort to form new, broader free trade agreements, but negotiations have not been completed.

The US-UK bilateral investment relationship is the largest in the world. In 2019, the US foreign direct investment (FDI) in the UK was $851.4 billion, and the UK FDI in the US was $505.1 billion. More than 1.27 million Americans are employed by UK-owned firms based in the US. In 2019, US exports of goods and services to the UK was worth $147.4 billion, and imports of goods and services from the UK was worth $125.6 billion. In 2018, 67,800 citizens of Florida were employed by UK subsidiaries. The UK ranked as the third largest export market for Florida, with a total value of goods and services exports in 2019 of $5.4 billion.

The memorial urges the Congress of the United States to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements. Additionally, it urges the executive branch to complete a timely and successful free trade negotiation with the UK for Congress to ratify.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Current Trade Situation

On June 23, 2016, the United Kingdom (UK) held a referendum on the issue of whether to leave the European Union (EU), which received support from 51.89% of the voters.[1] This referendum would later become known as Brexit.[2] The UK officially left the EU Single Market and Customs Union on January 31, 2020.[3]

Effective on its official departure from the EU, any EU trade agreements, including trade agreements with the US, no longer applied to the UK. Three separate trade agreements were reached between the UK and EU prior to the UK's official exit from the EU.

As the sixth-largest economy in the world and a major financial center, the UK maintains a vital role in assuring economic stability across the globe. The instability caused by Brexit meant the UK sought to reinforce its close ties with the United States (US).[4] On December 31, 2020, the US and UK entered into the US-UK Trade and Investment Working Group to ensure Brexit did not disturb the trade of specific products.[5] Since its decision to leave the EU, the UK has conducted negotiations with the US in an effort to form new, broader, free trade agreements. As the US and UK entered trade agreement negotiations, Congress expressed its awareness of the implications the UK's withdrawal from the EU will mean for the global economy, trade relations, and other political and security issues.[6] That recognized, the US has expressed grave concern over the impact the 2020 Brexit treaty could have on the Belfast Agreement, commonly known as the Good Friday Agreement.

The Belfast Agreement was signed on April 10, 1998. It led to the establishment of a system of government in Northern Ireland and related institutions.[7] The agreement created a political framework for Northern Ireland centered on power-sharing between competing groups.[8] Of importance was the confirmation that Northern Ireland was part of the UK, but a stipulation set forth that Ireland could be united only if supported by a vote in both Northern Ireland and the Republic of Ireland.[9] When the UK voted to leave the EU, the border between Northern Ireland and the Republic of Ireland caused concern. Since the Belfast Agreement, the border between these two countries, which was once heavily militarized, has become almost invisible. Following Brexit, an agreement was reached between

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[1] *See* Government of the Netherlands, *Questions and Answers on Brexit*, https://www.government.nl/topics/brexit/question-and-answer/what-is-brexit (last visited January 28, 2022).
[2] See *Id.* (explaining the term is a combination of 'Britain' and 'exit').
[3] *See* Alasdair Sanford, *Post-Brexit Guide: Where Are We Now – And How Did We Get Here?*, Euronews (January 17, 2022), https://www.euronews.com/2021/06/23/brexit-draft-deal-first-of-many-hurdles-to-a-smooth-exit (last visited January 28, 2022).
[4] Congressional Research Service, *The United Kingdom: Background, Brexit, and Relations with the United States* (updated April 1, 2021).
[5] *See* Office of the United States Trade Representative, *U.S.-UK Trade Agreement Negotiations*, https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom/us-uk-trade-agreement-negotiations (last visited January 28, 2022).
[6] *Id.*
[7] *See* Citizens Information, *The Good Friday Agreement*, March 31, 2021, https://www.citizensinformation.ie/en/government_in_ireland/ireland_and_the_uk/good_friday_agreement.html (last visited January 25, 2022).
[8] *See* Charles Landow and James McBride, *Moving Past the Troubles: The Future of Northern Ireland Peace*, Council on Foreign Relations, April 23, 2021, https://www.cfr.org/backgrounder/moving-past-troubles-future-northern-ireland-peace (last visited January 25, 2022).
[9] *Id.*

the EU and UK to avoid the reappearance of a hard border.[10] Stipulated in the agreement, there would be no new check on goods crossing the border between Northern Ireland and the Republic of Ireland.[11]

The current US administration has made clear that a trade deal with the UK will only be considered if Brexit does not undermine the Belfast Agreement.[12] Additional sticking points of the trade agreement negotiations include the tariffs on steel and aluminum imposed during the previous US administration, as well as the UK's regulations on chicken washed in chlorine.[13]

US Trade Relations with the UK

The US-UK bilateral investment relationship is one of the largest in the world. In 2019, US foreign direct investment (FDI) in the UK was $851.4 billion[14], and UK FDI in the US was $505.1 billion.[15] More than 1.27 million Americans are employed by UK-owned firms based in the US.[16] In 2019, US exports of goods and services to the UK was worth $147.4 billion[17], and imports of goods and services from the UK was worth $125.6 billion.[18]

In 2018, 67,800 citizens of Florida were employed by UK subsidiaries.[19] The UK ranked as the third largest export market for Florida, with a total value of exports of goods and services in 2019 reaching $5.4 billion.[20]

Trade Promotion Authority

The President of the US has the authority to negotiate treaties with foreign countries, but Congress has the sole authority to regulate international trade.[21] Trade Promotion Authority (TPA) is a time-limited authority that Congress may use to establish trade negotiating objectives, notification and consultation requirements, and procedures to consider when implementing legislation for certain reciprocal trade agreements.[22] TPA does not provide new power to the executive branch, but is a legislative procedure written by Congress, though which it defines US negotiating objectives and sets forth a detailed oversight and consultation process to be followed during trade negotiations.[23] TPA acts as a fast-track process made available by Congress to the President for limited periods to enable legislation to approve and implement certain international trade agreements to be considered under expedited

[10] Nidirect, *EU Exit and the Northern Ireland Protocol*, nidirect government services, https://www.nidirect.gov.uk/articles/eu-exit-and-northern-ireland-protocol (last visited January 25, 2020).
[11] *Id.*
[12] Megan Boyanton, *How the Post-Brexit U.S.-U.K. Trade Deal Lost Momentum*, The Washington Post, October 14, 2021, https://www.washingtonpost.com/business/how-thepost-brexit-us-uk-trade-deal-lost-momentum/2021/10/14/8216a67c-2cc5-11ec-b17d-985c186de338_story.html (last visited January 25, 2022).
[13] *Id.*
[14] Office of the United States Trade Representative, *United Kingdom*, United States Government, https://ustr.gov/countries-regions/europe-middle-east/europe/united-kingdom (last visited January 28, 2022).
[15] *Id.*
[16] United States Department of State, *U.S. Relations with United Kingdom*, United States Government (February 6, 2020), https://www.state.gov/u-s-relations-with-united-kingdom/ (last visited January 28, 2022).
[17] Office of the United States Trade Representative, *supra* note 18.
[18] *Id.*
[19] Enterprise Florida, *United Kingdom*, https://www.enterpriseflorida.com/for-international-companies/international-offices/uk/#:~:text=Florida%2DUK%20Bilateral%20Merchandise%20Trade,-Both%20the%20United&text=A%20Vital%20Trade%20Relationship%3A%20The,in%202019%20reaching%20%243.5%20billion (last visited January 28, 2022).
[20] Gov.uk, *UK-Florida Trade and Investment Highlights*, Government Digital Service (updated June 25, 2021), https://www.gov.uk/government/publications/uk-florida-trade-and-investment-highlights/uk-florida-trade-and-investment-highlights (last visited January 28, 2022).
[21] U.S. Const. art. 1, § 8.
[22] Congressional Research Service, *Trade Promotion Authority (TPA)*, December 14, 2020.
[23] Office of the United States Trade Representative, *Trade Promotion Authority*, United States Government, https://ustr.gov/trade-topics/trade-promotion-authority (last visited January 28, 2022).

legislative procedures.[24] Under TPA, Congress retains the authority to review and decide whether any proposed US trade agreement will be implemented.[25]

The most recent TPA was authorized through July 1, 2021, by the Bipartisan Congressional Trade Priories Act of 2015.[26]

Free Trade Agreements

A Free Trade Agreement (FTA) is an agreement between two or more countries where the signed parties agree on certain trade obligations for the purpose of reducing barriers to trade.[27] As a result of reduced barriers, a more stable and transparent trading environment is created for business actors.

The US currently has FTAs with 20 countries, of which the EU and UK are not included.[28] In 2013, the US and EU attempted negotiations for the Transatlantic Trade and Investment Partnership (TTIP) but ended in 2016 without conclusion.[29]

Effect of the Memorial

The memorial urges:

- The Congress of the United States to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements
- The executive branch to complete a timely and successful free trade negotiation with the UK
- The Congress of the United States to ratify the agreement

Copies of the memorial will be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[24] Congressional Research Center, *Trade Promotion Authority (TPA): Frequently Asked Questions* (updated June 21, 2019).
[25] *Id.*
[26] *Id.*
[27] International Trade Administration, *Free Trade Agreement Overview*, United States Department of Commerce, https://www.trade.gov/free-trade-agreement-overview (last visited January 28, 2022).
[28] *Id.*
[29] European Commission, *United States* (updated September 6, 2021), https://ec.europa.eu/trade/policy/countries-and-regions/countries/united-states/#:~:text=Despite%20the%20US%20being%20the,at%20the%20end%20of%202016. (last visited January 28, 2022).

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This memorial does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

House Memorial

A memorial to the Congress of the United States and the President of the United States encouraging Congress to reenact Trade Promotion Authority laws to guide the executive branch, urging the executive branch to negotiate a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and urging Congress to ratify such agreement.

WHEREAS, the United States is the United Kingdom's largest single-country trade partner with a relationship valued at over $200 billion; both countries are each other's largest foreign direct investors, having approximately $1 trillion invested in each other's economies; and the UK-US Trade and Investment Working Group has laid the groundwork to strengthen trade and investment ties for the present and in the future, including through the use of a free trade agreement, and

WHEREAS, expansion of global trade, especially with the United Kingdom, is of vital importance to the growth of the United States' economy, small business participation in the international marketplace, and job creation, and

WHEREAS, the state would benefit greatly from the ratification of a comprehensive free trade agreement, which, since the United Kingdom is currently the largest foreign direct

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

employer in the state and is the second largest market for tourism, would create employment opportunities for residents of the state as a direct result of removing and reducing barriers to trade and free markets, and

WHEREAS, the successful implementation of a free trade agreement will increase exports to the United Kingdom from the state, and

WHEREAS, the United States Constitution grants the United States Congress exclusive authority to regulate commerce with foreign nations, and

WHEREAS, the negotiation of a successful free trade agreement between the United States and the United Kingdom will require bipartisan cooperation between state, federal, and foreign governments, NOW, THEREFORE,

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

That Congress of the United States is requested to reenact Trade Promotion Authority laws to guide the executive branch in pursuing trade agreements, the executive branch is requested to complete a timely and successful negotiation of a comprehensive and mutually beneficial free trade agreement between the United States and the United Kingdom, and the Congress of the United States is further requested to ratify such agreement.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 1543

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1543 Broadband Infrastructure
SPONSOR(S): Tomkow
TIED BILLS: HB 1545 **IDEN./SIM. BILLS:** CS/SB 1800

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Keating	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In 2021, the Legislature took steps to improve broadband Internet access in unserved areas of the state. Among other things, the Legislature:

- Created the Broadband Opportunity Program to be administered by the Office of Broadband (Office) within the Department of Economic Opportunity (DEO). Subject to appropriation, the program would award grants to applicants, regardless of technology, who seek to expand access to broadband service in unserved areas of the state. This grant program has not yet received funding.
- Provided for a promotional rate of $1 per wireline attachment per pole, per year for any new pole attachment necessary to make broadband service available to an unserved or underserved end user within a municipal electric utility service territory.
- Appropriated $1.5 million to DEO to develop geographic information system maps of broadband service availability, including transmission speeds. These maps continue to be developed and updated.

The Office is currently developing a strategic plan for increasing the availability and use of broadband service in the state. Florida law requires this plan to be completed by June 30, 2022.

The bill creates the Broadband Pole Replacement Program, to be administered by the Office. The program will reimburse fixed, wireline broadband service providers for their costs incurred for the removal and replacement of existing utility poles in areas of Florida that are unserved by broadband Internet service. Reimbursements under the program are limited to 50 percent of the broadband Internet service provider's eligible pole replacement cost or $5,000, whichever is less, in addition to their administrative costs related to the preparation and submission of the application for reimbursement.

The bill directs the Secretary of DEO to apply for $100 million in federal funding from the Coronavirus Capital Projects Fund and directs any such funds received to be placed into the Broadband Pole Replacement Trust Fund, which is created by linked bill, HB 1545.

For the 2022-2023 fiscal year, the bill appropriates $400 million in nonrecurring funds from the General Revenue Fund to DEO for the purpose of administering the Broadband Opportunity Program created in 2021.

The bill takes effect upon becoming law, if HB 1545 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Broadband Internet Deployment

Fixed and mobile broadband Internet services provide access to numerous employment, education, entertainment, and health care opportunities.[1] Communities that lack broadband access can have difficulty attracting new capital investment. While Florida's urban areas are served at a fixed broadband coverage rate of 98 percent, its rural areas are served at a rate of 78.6 percent.[2] This disparity is caused primarily by high per-unit construction costs required to build broadband infrastructure across larger swaths of rural geographic areas.[3]

The recent COVID-19 pandemic has enhanced the need for broadband Internet access in everyday life. Studies indicate that broadband Internet access matters for jobs, income, business relocation, civic engagement, and health.[4] In addressing broadband Internet access issues, states have established broadband offices and created special funding programs to offer financial incentives for broadband in lower density areas.[5] Additionally, as schools go online, data indicates that low income households disproportionally lack access to broadband Internet service, which puts their children at risk of falling behind.[6]

Federal Broadband Initiatives

FCC Rural Digital Opportunity Fund

In January 2020, the Federal Communications Commission (FCC) established the Rural Digital Opportunity Fund (Fund) to fund the deployment of broadband networks in rural America over the next decade. The program will consist of two phases. Using data from the FCC's previous mapping efforts, the first phase began in 2020 and made available up to $16 billion to target census blocks that are wholly unserved with fixed broadband speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps).[7] The winning bidders from the first round under Phase I were announced in December 2020, with entities that bid to provide service in Florida receiving over $190 million over the next 10 years.[8]

Phase II of the Fund will target underserved localities, as identified by the FCC's Digital Opportunity Data Collection Program.[9] Using this more precise data, the second phase of FCC grants will make

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[1] U.S. Federal Communications Commission (FCC), *2018 Broadband Deployment Report*, at 1 (Feb. 2, 2018), *available at* https://docs.fcc.gov/public/attachments/FCC-18-10A1.pdf (last visited Feb. 1, 2022).

[2] FCC, *2021 Broadband Deployment Report* at 63 (Jan. 19, 2021), *available at* https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf (last visited Feb. 1, 2022). For purposes of this data, 'fixed broadband services' are measured at 25 megabits per second downstream and 3 megabits per second upstream.

[3] American Broadband Initiative, *Milestones Report*, at 11 (Feb. 13, 2019), *available at* https://www.ntia.doc.gov/files/ntia/publications/american_broadband_initiative_milestones_report.pdf (last visited Feb. 1, 2022).

[4] *COVID-19 lockdowns expose the digital have-nots in rural areas – here's which policies can get them connected* (Sep. 2, 2020), https://theconversation.com/covid-19-lockdowns-expose-the-digital-have-nots-in-rural-areas-heres-which-policies-can-get-them-connected-144324 (last visited Feb. 1, 2022).

[5] *Id.*

[6] New American Economy Research Fund, *Back to School: A Look at the Internet Access Gap.* (Aug. 6, 2020), https://research.newamericaneconomy.org/report/internet-access-covid-19/ (last visited Feb. 1, 2022).

[7] FCC, *FCC Launches $20 Billion Rural Digital Opportunity Fund*, https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0 (last visited Feb. 1, 2022).

[8] FCC, *Auction 904 Winning Bidders*, https://www.fcc.gov/document/auction-904-winning-bidders (last visited Feb. 1, 2022).

[9] *See*, FCC, *FCC Launches $20 Billion Rural Digital Opportunity Fund*, *supra* note 7 at 3. In August 2019, the FCC adopted the Digital Opportunity Data Collection Program, which modernized the collection of broadband deployment data by creating granular coverage maps, as opposed to census tract maps, and by implementing a process to accept public data to confirm the maps' accuracy.

available at least $4.4 billion to target geographic areas where some locations lack access to 25/3 Mbps broadband.[10] Grants from both phases of the Fund are provided directly to service providers.

Department of Commerce Coronavirus Capital Projects Fund

The 2021 American Rescue Plan[11] allocated $10 billion to eligible governments to carry out capital projects to meet critical needs, with an emphasis on broadband infrastructure.[12] Each state is eligible for a fixed amount of $100 million plus an additional allocation based on the state's population, the proportion of its population that lives in rural areas, and the proportion of individuals who receive a household income below 150 percent of the poverty line.[13]

Eligible states must have applied by December 27, 2021, and submit a grant plan by September 24, 2022.[14] Capital Projects Fund recipients may pass the funds on to subrecipients, such as other levels of government, non-profits, or private entities. Florida's allocation of these funds is $366 million,[15] for which Florida's Department of Economic Opportunity (DEO) timely applied.

Presumptively eligible projects under the program include the construction and deployment of broadband infrastructure that is designed to deliver service that reliably meets or exceeds symmetrical speeds of 100 Mbps, or if impracticable, speeds of 100 Mbps downstream and 20 Mbps upstream.[16] Projects that may be eligible on a case-by-case review include investments in capital assets, such as buildings, towers, digital devices and equipment, fiber-optic lines, and broadband networks.[17]

USDA Programs

The U.S. Department of Agriculture (USDA) has several rural utilities programs to provide a variety of loans and grants to build and expand broadband networks.[18] The ReConnect Program offers federal loans, grants, and loan/grant combinations to facilitate broadband deployment to rural areas without access to sufficient broadband service. Eligible entities include cooperatives and nonprofits, for-profit companies, and state and local governments and their agencies and political subdivisions. Applicants for a grant or a loan/grant combination under the ReConnect Program must submit a scoring sheet by which USDA may analyze nine separate evaluation criteria to score the application. One of the evaluation criteria is whether the proposed project is in a state with a broadband plan that has been updated within the previous 5 years.[19]

Additional Federal Broadband Funding and Initiatives

In March 2020, Congress ratified the FCC's Data Collection Program with passage of the Broadband Data Act, which requires the FCC to establish a semiannual collection of geographically granular broadband coverage data to use to create coverage maps. Congress allocated $65 million to the FCC to achieve this mapping project in December 2020.

[10] *Id*. at 4.

[11] Pub. L. 117-2 (117th Congress) (H.R. 1319).

[12] U.S. Dep't. of Treasury, *Capital Projects Fund*, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund (last visited Feb. 1, 2022).

[13] U.S. Dep't. of Treasury, *Coronavirus Capital Projects Fund: Allocations Methodology for States, Territories, and Freely Associated States* (Aug. 2021), https://home.treasury.gov/system/files/136/Allocations-Methodology-States-Territories-Freely-Associated-States.pdf (last visited Feb. 1, 2022).

[14] *Id*. *See also*, U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States*, 1, 14 (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf (last visited Feb. 1, 2022).

[15] U.S. Dep't. of Treasury, *Coronavirus Capital Projects Fund: Allocations for States, District of Columbia, and Puerto Rico*, https://home.treasury.gov/system/files/136/Allocations-States.pdf (last visited Feb. 1, 2022).

[16] U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States, supra* note 14 at 3.

[17] *Id*. at 7.

[18] USDA, *Telecom Programs, available at* https://www.rd.usda.gov/programs-services/all-programs/telecom-programs (last visited Feb. 1, 2022).

[19] *See* USDA, *ReConnect Loan and Grant Program, available at* https://www.usda.gov/reconnect#anchor1 (last visited Feb. 1, 2022).

Multiple federal assets have been made available to assist with the expansion of broadband, for example:[20]

- The U.S. Department of Housing and Urban Development[21] offers block grants that can support broadband infrastructure;
- The Department of the Interior launched a mapping tool to allow service providers to locate federal property available for infrastructure development;[22] and
- The National Telecommunications and Information Administration (NTIA) within the U.S. Department of Commerce is working to improve coordination between federal programs that fund broadband and statewide efforts.[23]

The Consolidated Appropriations Act passed by Congress in December 2020[24] included the following funding to expand broadband Internet access for students, families, and unemployed workers:[25]

- $300 million for areas lacking broadband, especially rural areas;[26]
- $250 million for the FCC's telehealth program;[27]
- $285 million to fund a pilot program to assist with broadband issues at historically Black colleges and universities;[28] and
- $1 billion in grants for tribal broadband programs.[29]

The American Rescue Plan, signed into law on March 11, 2021, includes multiple appropriations that can be used for broadband infrastructure, including $10 billion for the Coronavirus Capital Projects Fund (discussed above) to provide grants to states for the costs of capital projects, like broadband infrastructure, and $130.2 billion for Community Development Block Grants that can be used for community development projects, including broadband infrastructure.[30]

Additionally, the Infrastructure Investment and Jobs Act,[31] signed into law on November 15, 2021, contains $64 billion in funding for broadband expansion and access. The law:[32]

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[20] *See generally*, National Telecommunications and Information Administration (NTIA), American Broadband Initiative, *Progress Report* (June 2020), *available at* https://www.ntia.doc.gov/files/ntia/publications/abi_progress_report_june2020.pdf (last Jan. 21, 2022).

[21] U.S. Department of Housing and Urban Development, *State CDBG Program Broadband Infrastructure FAQs* (Jan. 7, 2016), *available at* https://files.hudexchange.info/resources/documents/State-CDBG-Program-Broadband-Infrastructure-FAQs.pdf (last visited Feb. 1, 2022).

[22] U.S. Department of Interior, *Supporting Broadband Tower Facilities in Rural America on Federal Properties Managed at Interior*, *available at* https://www.doi.gov/broadband (last visited Feb. 1, 2022).

[23] Broadband USA, *State Broadband Leaders Network* (Dec. 19, 2018), *available at* https://broadbandusa.ntia.doc.gov/ntia-resources/state-broadband-leaders-network-sbln (last visited Feb. 1, 2022).

[24] Consolidated Appropriations Act of 2020, H.R. 1865, 116th Cong. (2020).

[25] NCSL, *COVID-19 Economic Relief Bill: Broadband*, (Jan. 4, 2021) https://www.ncsl.org/ncsl-in-dc/publications-and-resources/covid-19-economic-relief-bill-stimulus.aspx#:~:text=Erlinda%20Doherty-,Overview,agency%20operations%20through%20September%202021. (last visited Feb. 1, 2022).

[26] *See generally*, NTIA, *Overview of Consolidated Appropriations Act, 2021: Broadband Infrastructure Deployment Grants*, *available at* https://broadbandusa.ntia.doc.gov/ntia-common-content/overview-consolidated-appropriations-act-2021 (last visited Feb. 1, 2022). These grants will be available to support infrastructure for the deployment of fixed broadband service in a census block with at least one household or business that does not have access to internet at 25/3Mbps or higher.

[27] FCC, *COVID-19 Telehealth Program* (Feb. 9, 2021), *available at* https://www.fcc.gov/covid-19-telehealth-program (last visited Feb. 1, 2022).

[28] *See generally*, NTIA, *Minority Broadband Initiative*, *available at* https://www.ntia.doc.gov/category/minority-broadband-initiative (last visited Feb. 1, 2022).

[29] *See generally*, NTIA, *NTIA Announces Tribal Consultations on New Program to Increase Broadband Access Across Indian Country* (Feb. 5, 2021), *available at* https://www.ntia.gov/blog/2021/ntia-announces-tribal-consultations-new-program-increase-broadband-access-across-indian (last visited Feb. 1, 2022).

[30] Pub. L. No. 112-2, ss. 603 and 604 (117th Congress) (H.R. 1319). U.S. Treasury, *FACT SHEET: The American Rescue Plan Will Deliver Immediate Economic Relief to Families*, https://home.treasury.gov/news/press-releases/jy0069 (last visited Feb. 1, 2022).

[31] Pub. L. No. 117-58 (117th Congress) (H.R. 3684). See also, Congressional Research Service, *The Infrastructure Investment and Jobs Act (P.L. 117-58): Summary of the Broadband Provisions in Division F* (Nov. 16, 2021), https://crsreports.congress.gov/product/pdf/R/R46967 (last visited Feb. 1, 2022).

[32] NTIA, *Infrastructure Investment and Jobs Act Overview*, https://www.ntia.doc.gov/category/grants (last visited Feb. 1, 2022).

- Establishes the Broadband Equity, Access, and Development Program to be administered by the NTIA to states through matching grants;
- Allocates $2.75 billion to the Digital Equity Act Competitive Grant Programs administered by the Department of Commerce;
- Invests $2 billion in the Tribal Broadband Connectivity Program; and
- Funds the Middle Mile Grants program, administered by the NTIA, with $1 billion, especially to support construction, improvement, or acquisition of broadband infrastructure.

Florida Broadband Initiatives

Florida's Office of Broadband

In 2020, the Legislature designated the Department of Economic Opportunity (DEO) as the lead state agency to facilitate the expansion of broadband Internet service in the state.[33] The Florida Office of Broadband (Office) was created within DEO's Division of Community Development for purposes of developing, marketing, and promoting broadband Internet service in the state.[34]

The Office must:[35]

- Create a strategic plan[36] for increasing the availability and use of broadband Internet service in the state, which must identify federal funding sources for the expansion of broadband and include a process to review and verify public input regarding transmission speeds and availability of broadband Internet service throughout the state;
- Build local technology planning teams representing, among others, libraries, schools, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture to identify needs and resources to reduce barriers to the deployment of broadband Internet services;
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved[37] areas of the state through grant programs; and
- Monitor, participate in, and provide input in proceedings of the FCC and other federal agencies related to the geographic availability and deployment of broadband Internet service as necessary to ensure that Florida's rural, unserved, and underserved areas are best positioned to benefit from federal and state broadband deployment programs; and
- Administer Florida's Broadband Opportunity Program.[38]

DEO may apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any committee or workgroup to administer the program to further the above goals.[39]

In 2021, the Legislature appropriated $1.5 million to DEO to develop geographic information system maps of broadband Internet service availability, including transmission speeds, consistent with the FCC's data collection program standards.[40] DEO must collaborate with broadband service providers, state agencies, local government entities, private businesses, educational institutions, and community organizations to develop these maps.[41] Through its website, DEO allows for public input concerning the speed, connectivity, and access to broadband Internet service in areas throughout the state to help

[33] Ch. 2002-26, Laws of Fla.
[34] *Id*.
[35] S. 288.9961(4), F.S.
[36] The strategic plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2022, and updated biennially thereafter. S. 288.9961(4)(a), F.S.
[37] Section 288.9961(2)(f), F.S., defines the term "underserved" to mean a geographic area of this state in which there is no provider of broadband Internet service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 10 Mbps downstream and at least 1 Mbps upstream.
[38] The Broadband Opportunity Program is established in s. 288.9962, F.S., to award grants to those who seek to expand broadband Internet service to unserved areas of Florida.
[39] S. 288.9961(5), F.S.
[40] Ch. 2021-24, Laws of Fla.
[41] *Id*.

identify unserved and underserved areas. DEO's mapping efforts are not complete and will continue to be updated as more data is added.[42]

Broadband Opportunity Program

In 2021, the Legislature created the Broadband Opportunity Program[43] (grant program) to award grants to applicants who seek to expand access to broadband Internet service[44] in unserved[45] areas of the state, regardless of the technology to be used. Grant funds may not be used to provide broadband Internet service to a geographic area where broadband Internet is already deployed by at least one provider. Applicants eligible for grant awards include corporations, limited liability companies, general partnerships, limited partnerships, political subdivisions, and Indian tribes.

In evaluation grant applications and awarding grants, the Office must prioritize applications that:

- Offer broadband Internet service to important community institutions, including, but not limited to, libraries, educational institutions, public safety facilities, and healthcare facilities;
- Facilitate the use of telemedicine and electronic health records;
- Serve economically distressed areas of the state, as measured by indices of unemployment, poverty, or population loss that are significantly greater than the statewide average;
- Provide for scalability to transmission speeds of at least 100 megabits per second download and 10 megabits per second upload;
- Include a component to actively promote the adoption of the newly available broadband Internet services in the community;
- Provide evidence of strong support for the project from citizens, government, businesses, and institutions in the community;
- Provide access to broadband Internet service to the greatest number of unserved households and businesses;
- Leverage greater amounts of funding for the project from private sources; or
- Demonstrate consistency with the Office's strategic plan.[46]

The Office must endeavor to award grants to qualified applicants in all regions of the state. The Office may not award any grant to an otherwise eligible grant applicant to provide broadband Internet service in a project area for which any other federal funding has been awarded. A grant, when combined with any state or local funds, may not fund more than 50 percent of the total cost of a project, and a single project may not be awarded a grant in excess of $5 million.

The Office has not yet received funding for the grant program.

Promotional Pole Attachment Rates

The term "pole attachment" refers to the process by which communications companies can collocate communications infrastructure on existing electric utility poles. Utility poles are divided into various "spaces" for specific uses, and different vertical portions of the pole serve different functions.[47] Utility poles often accommodate equipment used to provide a variety of services, including electric power, telephone, cable, wireline broadband, and wireless, which benefits the public by minimizing "unnecessary and costly duplication of plant for all pole users."[48]

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[42] DEO, *Office of Broadband,* https://floridajobs.org/community-planning-and-development/broadband/office-of-broadband (last visited Feb. 1, 2022).
[43] Section 288.9962, F.S.
[44] Section 288.9961(2)(a), F.S., defines the term "broadband Internet service" to mean any service that provides access to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits per second download and 3 megabits per second upload.
[45] Section 288.9961(2)(g), F.S., defines the term "unserved" to mean a geographic area of the state without access to broadband Internet service.
[46] The Office is in the process of developing a strategic plan for submission by June 30, 2022, as required by section 288.9961(4)(a), F.S.
[47] *See* Florida Public Service Commission, What's on a Utility Pole? http://www.psc.state.fl.us/ConsumerAssistance/UtilityPole (last visited Feb. 1, 2022).
[48] S. REP. NO. 95-580, at 13 (1977), *as reprinted in* 1978 U.S.C.C.A.N. 109, 121.

When a new attacher, such as a broadband Internet service provider, seeks access to a pole, it is necessary to evaluate whether adding the attachment will be safe and whether there is room for it. In many cases, existing attachments must be moved to make room for the new attachment. In some cases, it is necessary to install a larger pole to accommodate a new attachment.[49]

Except for certain small cell wireless facilities, attachments of cable and telecommunications carrier facilities to utility poles owned by a municipal electric utility are not regulated at the state or federal level.

In 2021, the Legislature provided for a promotional rate of $1 per wireline attachment per pole, per year for any new attachment necessary to make broadband Internet service available to an unserved or underserved end user within a municipal electric utility service territory. This rate began July 1, 2021, and ends July 1, 2024.[50]

Under this promotional program, if a municipal electric utility is required to replace a utility pole due to a broadband provider's attachment, the municipal electric utility may require the broadband provider to reimburse all reasonable costs attributable to the new attachment, minus the salvage value of the pole. A utility cannot require pole replacement to accommodate the broadband provider's pole attachment unless it is necessary to comply with applicable engineering and safety standards. Additionally, if the pole replacement is necessary to correct an existing violation, to bring the pole into compliance with changes in applicable standards, or because the pole is at the end of its useful life, the replacement cost may not be passed on to the broadband provider.[51]

Effect of Proposed Changes

Broadband Pole Replacement Program

The bill creates the Broadband Pole Replacement Program within the Office. The Office will accept applications for the reimbursement of eligible pole replacement costs, and distribute payments from the Broadband Pole Replacement Trust Fund (trust fund) until the funds are exhausted.

Eligibility

Private businesses or nonprofit corporations that currently provide, or will provide, qualifying broadband service to Florida are eligible for reimbursements under the Program. These entities must provide, or commit to providing broadband Internet service that can deliver Internet access at speeds of at least 100 Mbps downstream and 100 Mbps upstream with a latency at a level sufficient to allow real-time, interactive applications. Additionally, the applicants' pole replacements must occur in unserved areas[52] for the purpose of attaching facilities to provide qualifying broadband service to residences or businesses in that area.

Reimbursements

The Office must reimburse an applicant within 60 days after it receives its completed application. The Office will reimburse according to availability of funds in the trust fund. Any application that is pending when the trust fund is exhausted is denied, but the applicant may reapply if funds are later added to the trust fund.

[49] FCC-CIRC1808-03 at 4-5.
[50] S. 288.9963, F.S.
[51] *Id*.
[52] The bill defines an "unserved area" as a location in which: (1) fixed, terrestrial, or retail wireline broadband Internet service is unavailable at the time that the broadband service provider requests to attach its facilities to a pole in that location, and no other person has committed to providing qualifying broadband service; or (2) the applicant is committed under the terms of a state or federal grant to provide qualifying broadband service, provided that the availability of the grant is limited to areas that lack access to fixed, terrestrial, or retail wireline broadband Internet service.

An application for reimbursement must include the following:

- Information sufficient to establish the number and cost of eligible pole replacements;
- Documentation sufficient to establish that the eligible pole replacements are completed;
- The total reimbursement amount requested, and any state or federal grant funding or accounting information required to justify the amount requested;
- A notarized statement from an officer or agent of the applicant which certifies that the application's contents are true and accurate, and that the applicant will comply with applicable law as a condition of receiving reimbursement under the Program; and
- Receipts to verify the amount of eligible pole replacement costs paid by the applicant.

An eligible pole replacement cost is the actual cost paid by the applicant to perform a pole replacement, excluding any amount that is otherwise reimbursed through another state or federal broadband grant program or other governmental entity. Specifically, the cost includes:

- The removal and disposal of the existing utility pole;
- The purchase and installation of a replacement utility pole: and
- The transfer of any existing facilities to the replacement utility pole.

An eligible applicant shall receive a reimbursement of up to 50 percent of the total amount it paid for each eligible pole replacement, or $5,000, whichever is less, and up to 100 percent of its actual and reasonable administrative expenses paid to prepare and submit the application. Reimbursement of administrative expenses may be provided in an amount up to 5 percent of the eligible pole replacement costs that the applicant requests in its application.

If the applicant cannot provide the information required by the application, it may request that the pole owner that performed the pole replacement submit the required information, including the pole replacement costs paid by the applicant. A pole owner that submits this information on behalf of a broadband Internet service provider may require reimbursement of its administrative expenses from the applicant.

As a condition of receiving reimbursement, the applicant must certify its compliance with the terms of reimbursement program and agree to refund with interest any reimbursements or portions thereof if the Office finds that the applicant materially violated any requirement of the program.

Administrative Duties

The bill directs the Secretary of DEO to apply for $100 million in federal funding for the reimbursement program, including funds available under the Coronavirus Capital Projects Fund. If Florida receives any such funds, they must be deposited into the trust fund created by linked bill, HB 1545. If Florida receives federal funds from the Coronavirus Capital Projects Fund, state funds allocated to the reimbursement program must be reduced by an equal amount. The bill does not allocate state funds to the program.

The Office must publish and update the following information on its website within 60 days after the trust fund receives its first deposit of funds:

- Statistics on the number of applications received, processed, and rejected by the reimbursement program;
- Statistics on the value, number, and status of reimbursements provided under the program, including the names of pole owners and retail providers of qualifying broadband service which received reimbursements under the program; and
- The amount of funds remaining in the trust fund.

The Office must further provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives within one year after the trust fund is exhausted of its funds. This report must identify and examine the deployment of broadband infrastructure and technology facilitated by reimbursements from the program.

The bill expressly prohibits rulemaking by DEO, the Office, or any other agency, to administer the reimbursement program.

The Office of the Auditor General must perform an audit of the trust fund and its administration for compliance with pertinent law within one year after funds are deposited into the trust fund.

Broadband Opportunity Program Funding

For the 2022-2023 fiscal year, the bill appropriates $400 million in nonrecurring funds from the General Revenue Fund, from payments received by the state pursuant to the Federal Coronavirus State Fiscal Recovery Fund, to the Office for the purpose of administering the Broadband Opportunity Program established in s. 288.9962, F.S.

Effective Date

The bill takes effect upon becoming law, if HB 1545 or similar legislation is adopted in the same legislative session or an extension thereof and also becomes law.

B. SECTION DIRECTORY:

Section 1 Amends s. 288.9961, F.S., relating to promotion of broadband adoption and the Florida Office of Broadband.

Section 2 Creates s. 288.9964, F.S., establishing the Broadband Pole Replacement Program.

Section 3 Provides an appropriation.

Section 4 Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appropriates $400 million in nonrecurring funds from the General Revenue Fund, from payments received by the state pursuant to the federal Coronavirus State Fiscal Recovery Fund, to the Office to administer the grant program created by the Legislature in 2021. The bill does not appropriate funds to the reimbursement program created by the bill. It is unclear whether the Department will require additional funds or FTE's to administer the program. However, linked bill HB 1545 allows funds deposited into the Broadband Pole Replacement Trust Fund to be used to administer the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The reimbursement program created by the bill, if funded, will lower the costs of fixed, terrestrial, retail wireline broadband service providers, i.e., companies that provide broadband via coaxial cable, fiber, or other wireline technology, to extend broadband service to unserved areas in the state. This may encourage the extension of service to such areas, providing greater access to broadband service in those areas.

The grant program created by the Legislature in 2021 and funded by the bill will lower the costs for broadband service providers, regardless of technology, to extend broadband service to unserved areas in the state. This may encourage the extension of service to such areas, providing greater access to broadband service in those areas.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill expressly prohibits rulemaking by DEO, the Office, or any other agency to administer the reimbursement program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that an applicant shall receive a reimbursement of up to 50 percent of the total amount it paid for eligible pole replacement costs, or $5,000, whichever is less. It is not clear whether the $5,000 cap is intended to apply on a per pole or per application basis.

DEO will be limited in its administration of the reimbursement program, as it is not granted rulemaking authority to administer the program. This may result in a less agile or responsive program that may require further legislative action to address any implementation issues that arise.

The Office's strategic plan for increasing the availability and use of broadband Internet service in the state is due to be completed by June 30, 2022. Funds from the reimbursement program will be distributed on a first-come, first-serve basis, and may be distributed without regard for a project's consistency with the state's strategic plan.

The allowance for reimbursement program applicants or pole owners to recover administrative expenses (up to 5% of eligible pole replacement costs) may conflict with guidance from the U.S. Department of the Treasury concerning eligible costs under the Coronavirus Capital Projects Fund. That guidance defines eligible program administrative costs as the costs to the recipient (i.e., the state) to administer the funds, to provide technical assistance to subrecipients (i.e., broadband service providers), and complying with grant administration and audit requirements.[53]

[53] U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States*, *supra* note 14 at 10.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to broadband infrastructure; amending s. 288.9961, F.S.; revising the duties of the Florida Office of Broadband to include administering the Broadband Pole Replacement Program; creating s. 288.9964, F.S.; providing legislative findings; providing definitions; establishing the Broadband Pole Replacement Program within the office; providing responsibilities of the office; providing eligibility requirements for reimbursements under the program; providing that reimbursements are subject to the availability of certain funds; providing that certain denied applicants may reapply in certain circumstances; providing requirements for the program application; requiring the office to provide certain reimbursements within a specified timeframe; requiring an applicant to meet certain conditions; requiring the Secretary of Economic Opportunity to apply for certain federal funding for the program; requiring that the amount of state funds allocated to the program be reduced by the amount of certain federal funds provided to the program; requiring the office to publish and continually update certain information on its public website; requiring an audit of the Broadband Pole Replacement Trust Fund within a

specified timeframe; requiring the office to provide a report containing certain information to the Governor and Legislature within a specified timeframe; prohibiting rulemaking; providing an appropriation; providing a contingent effective date.

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

Section 1. Paragraph (g) is added to subsection (4) of section 288.9961, Florida Statutes, to read:

288.9961 Promotion of broadband adoption; Florida Office of Broadband.—

(4) FLORIDA OFFICE OF BROADBAND.—The Florida Office of Broadband is created within the Division of Community Development in the department for the purpose of developing, marketing, and promoting broadband Internet services in this state. The office, in the performance of its duties, shall do all of the following:

(g) Administer the Broadband Pole Replacement Program established in s. 288.9964.

Section 2. Section 288.9964, Florida Statutes, is created to read:

288.9964 Broadband Pole Replacement Program.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that a broadband pole replacement program administered by the Florida

Office of Broadband is necessary to further the state's goal of expanding and accelerating access to broadband service in unserved areas throughout the state.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Applicant" means any private business, including a corporation, limited liability company, partnership, nonprofit corporation, or other entity, which provides or will provide qualifying broadband service in the state.

(b) "Application" means an application made under this section for reimbursement of eligible pole replacement costs.

(c) "Broadband Pole Replacement Trust Fund" means the trust fund established pursuant to s. 288.9965.

(d) "Eligible pole replacement" means the removal of an existing utility pole and replacement with a new utility pole in an unserved area in order to accommodate the attachment to such new utility pole of facilities used in whole or in part by a retail provider of qualifying broadband service for the purpose of providing qualifying broadband service access to residences or businesses in an unserved area. The term does not include the removal and replacement of an existing utility pole by the pole's owner, or an affiliated company, unless the removal and replacement is performed as an accommodation to a provider of qualifying broadband service.

(e) "Eligible pole replacement costs" means the actual costs to perform an eligible pole replacement which are paid by

an applicant, excluding any amount separately reimbursed through another state or federal broadband grant program or by a governmental entity other than the office. The term includes the costs to remove and dispose of the existing utility pole, to purchase and install a replacement utility pole, and to transfer any existing facilities to the replacement utility pole.

(f) "Office" means the Florida Office of Broadband.

(g) "Pole" means any pole used in whole or in part for wire communications or electric distribution.

(h) "Pole owner" means any electric utility as defined in s. 366.02(2), public utility as defined in s. 366.02(1), communications services provider as defined in s. 366.02(5), cable television operator, or local exchange carrier that owns or controls a pole.

(i) "Program" means the Broadband Pole Replacement Program established under this section.

(j) "Qualifying broadband service" means a fixed, terrestrial, retail wireline broadband Internet service capable of delivering Internet access at speeds of at least 100 megabits per second both downstream and upstream with latency at a level sufficient to allow real-time, interactive applications.

(k) "Reimbursed through another state or federal broadband grant program" means, with respect to eligible pole replacement costs, that an applicant paying such costs has received or is entitled to receive reimbursement for such costs under the terms

of another state or federal broadband grant program for the deployment of broadband facilities, whether through a specific reimbursement for such costs or through support payments that equal or exceed the applicant's actual deployment costs, including eligible pole replacement costs. The term does not include the receipt of a state or federal grant that covers only a portion of the applicant's actual deployment costs, including eligible pole replacement costs, if the applicant pays the eligible pole replacement costs with its own funds.

(l) "Unserved area" means a location in which:

1. Fixed, terrestrial, retail wireline broadband Internet service is unavailable according to the latest available broadband deployment data from the Federal Communications Commission, provided that no person other than the applicant has committed to providing qualifying broadband service in such area; or

2. An applicant is committed under the terms of a federal or state grant to provide qualifying broadband service, provided that the availability of such grant is limited to areas lacking access to fixed, terrestrial, retail wireline broadband Internet service.

As used in this paragraph, "broadband Internet service" means a service that offers a connection to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits

per second downstream and 3 megabits per second upstream.

(3) BROADBAND POLE REPLACEMENT PROGRAM.—

(a) The Broadband Pole Replacement Program is established within the office. The office shall administer the program and is responsible for receiving and reviewing applications and distributing reimbursements under the program.

(b) Any applicant that pays eligible pole replacement costs is eligible for reimbursement of such costs under the program and may submit an application for reimbursement in accordance with this section.

(c) Reimbursements provided under the program are subject to the availability of funds in the Broadband Pole Replacement Trust Fund. The office shall accept applications for reimbursement until all funds in the Broadband Pole Replacement Trust Fund are exhausted.

(d) An application pending when all funds in the Broadband Pole Replacement Trust Fund are exhausted is deemed denied; however, the applicant may reapply if sufficient funds are later made available in the trust fund.

(e) Within 60 days after the first deposit of funds into the Broadband Pole Replacement Trust Fund, the office shall publish an application form for reimbursement of eligible pole replacement costs under the program. The application must require the following:

1. Information sufficient to establish the number and

costs of eligible pole replacements that qualify for reimbursement under the program.

2. Documentation sufficient to establish that the claimed eligible pole replacements have been completed.

3. The total reimbursement amount requested and any state or federal grant funding or accounting information required to justify the amount requested.

4. A notarized statement from an officer or agent of the applicant certifying that the contents of the application are true and accurate and that such applicant will comply with the requirements of this section as a condition of receiving a reimbursement under the program.

5. Receipts verifying the amount of eligible pole replacement costs paid by the applicant.

(f) Within 60 days after receipt of a complete application that establishes an applicant's eligible pole replacement costs, the office shall reimburse the applicant in an amount equal to:

1. Up to 50 percent of the total amount paid by such applicant for eligible pole replacement costs or $5,000, whichever is less; and

2. Up to 100 percent of the documented actual and reasonable administrative expenses paid by such applicant in preparing and submitting the application, including any reimbursement of administrative expenses required by a pole owner pursuant to paragraph (g). However, the amount reimbursed

under this subparagraph may not exceed 5 percent of the amount of eligible pole replacement costs verified by receipts submitted with the application.

(g) An applicant may request that a pole owner performing an eligible pole replacement provide information sufficient to establish the number and costs of eligible pole replacements and receipts verifying the amount of eligible pole replacement costs paid by the applicant if such information is not otherwise reasonably available. A pole owner providing such information and receipts may require the applicant to reimburse the pole owner's administrative expenses, which may not exceed 5 percent of the amount of eligible pole replacement costs.

(h) As a condition of receiving a reimbursement under the program, an applicant must:

1. Certify its compliance with the requirements of this section; and

2. Agree to refund with interest at the applicable Federal Funds rate as specified in s. 670.506 any reimbursements or portions thereof received under the program to the Broadband Pole Replacement Trust Fund or the General Revenue Fund, at the direction of the office, if the office, after providing the applicant with notice and an opportunity to respond, finds that substantial evidence exists to support that such applicant materially violated a requirement of this section with respect to such reimbursements or portions thereof.

(i) As applicable, if an applicant that is a pole owner calculates its pole rental and other fees on the basis of a formula required or approved by federal or state law or regulation that includes consideration of the pole owner's expenses, the applicant, as a condition of receiving reimbursement under the program, must exclude from such expenses any eligible pole replacement costs that were reimbursed by the program, paid for by a retail provider of qualifying broadband service, or funded by another state or federal grant.

(4) PROGRAM FUNDING.—

(a) The Secretary of Economic Opportunity shall apply for $100 million in federal funding, including funds available from the Coronavirus Capital Projects Fund pursuant to the authorization set forth in s. 9901 of the American Rescue Plan Act of 2021 and codified at s. 604, Title VI of the Social Security Act, 42 U.S.C. s. 801, et seq., for the program. Any such funds received must be deposited into the Broadband Pole Replacement Trust Fund.

(b) The amount of state funds allocated to the program must be reduced by the amount of federal funds provided to the program from the Coronavirus Capital Projects Fund.

(5) TRANSPARENCY.—Within 60 days after the initial deposit of funds into the Broadband Pole Replacement Trust Fund, the office shall publish, and thereafter continually update, the following information on its public website:

(a) Statistics on the number of applications received, processed, and rejected under the program.

(b) Statistics on the value, number, and status of reimbursements provided under the program, including the names of pole owners and retail providers of qualifying broadband service that received reimbursements under the program.

(c) The amount of funds remaining in the Broadband Pole Replacement Trust Fund.

(6) AUDIT.—Within 1 year after the initial deposit of funds into the Broadband Pole Replacement Trust Fund, the Auditor General shall audit the fund and its administration for compliance with the requirements of this section and s. 288.9965.

(7) REPORT.—Within 1 year after all funds in the Broadband Pole Replacement Trust Fund are exhausted, the office shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which identifies and examines the deployment of broadband infrastructure and technology facilitated by reimbursements provided under the program.

(8) RULEMAKING PROHIBITED.—Notwithstanding any provision of law to the contrary, the department, the office, and other agencies may not adopt rules to administer this section.

Section 3. For the 2022-2023 fiscal year, the sum of $400 million in nonrecurring funds is appropriated from the General

Revenue Fund from payments received by the state pursuant to the Coronavirus State Fiscal Recovery Fund established in 42 U.S.C. s. 802 to the Florida Office of Broadband within the Department of Economic Opportunity for the purpose of administering the Broadband Opportunity Program established in s. 288.9962, Florida Statutes.

Section 4. This act shall take effect upon becoming a law, if HB 1545 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1545 Trust Funds/Broadband Pole Replacement Trust Fund/DEO
SPONSOR(S): Tomkow
TIED BILLS: HB 1543 **IDEN./SIM. BILLS:** CS/SB 1802

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

HB 1543 (2022), to which this bill is linked, creates the Broadband Pole Replacement Program, administered by the Florida Broadband Office (Office) within the Department of Economic Opportunity (DEO). The program will reimburse fixed, terrestrial, wireline broadband service providers for their costs incurred for the removal and replacement of existing utility poles in areas of Florida that are unserved by broadband Internet service. Reimbursements under the program are limited to 50 percent of the broadband Internet service provider's eligible pole replacement cost or $5,000, whichever is less, in addition to their administrative costs related to the preparation and submission of the application for reimbursement.

HB 1543 (2022) also directs the Secretary of DEO to apply for $100 million in federal funding from the Coronavirus Capital Projects Fund and directs any such funds received to be placed into the Broadband Pole Replacement Trust Fund.

This bill creates the Broadband Pole Replacement Trust Fund within DEO and provides that the trust fund is established as a depository for funds appropriated by the Legislature, federal funds received from the federal Coronavirus Capital Projects Fund, funds transferred by DEO, interest earnings, and grants, gifts, and other contributions made directly to the fund. In accordance with article III, section 19(f)(2) of the Florida Constitution, the trust fund terminates four years after the effective date of the bill. Before its scheduled termination, the trust fund must be reviewed pursuant to state law.

Article III, s. 19(f)(1) of the State Constitution specifies that a trust fund of the State of Florida or other public body may only be created or recreated by law in a separate bill. The bill creating or recreating the trust fund must pass with a three-fifths vote of the membership of each house of Legislature. Thus, this bill requires a three-fifths vote for passage.

This bill takes effect on the same date that HB 1543 takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Trust Funds

Article III, section 19(f) of the Florida Constitution requires that state trust funds may only be created by the Legislature if passed by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. Each trust fund must be created by general law that specifies at a minimum all of the following:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes the trust fund is established to meet;
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.[1]

State trust funds terminate no more than four years after the effective date of the act authorizing the initial creation of the trust fund.[2] The Legislature is required to review all state trust funds at least once every four years.[3] If the Legislature does not re-create a trust fund, it will be abolished four years after its initial creation pursuant to the Florida Constitution.[4]

Department of Commerce Coronavirus Capital Projects Fund

In 2021, the American Rescue Plan[5] allocated $10 billion to eligible governments to carry out capital projects to meet critical needs, with an emphasis on broadband infrastructure.[6] Each state is eligible for a fixed amount of $100 million plus an additional allocation based on the state's population, the proportion of its population that lives in rural areas, and the proportion of individuals who receive a household income below 150 percent of the poverty line.[7]

Eligible states must have applied by December 27, 2021, and submit a grant plan by September 24, 2022.[8] Capital Projects Fund recipients may pass the funds on to subrecipients, such as other levels of government, non-profits, or private entities. Florida's allocation of these funds is $366 million,[9] for which Florida's Department of Economic Opportunity (DEO) timely applied.

Presumptively eligible projects under the program include the construction and deployment of broadband infrastructure that is designed to deliver service that reliably meets or exceeds symmetrical speeds of 100 Mbps, or if impracticable, speeds of 100 Mbps downstream and 20 Mbps upstream.[10]

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[1] S. 215.3207, F.S.
[2] Art III, s. 19. Fla. Const.
[3] Section 215.3208, F.S.
[4] Art III, s. 19. Fla. Const.
[5] Pub. L. 117-2 (117th Congress) (H.R. 1319).
[6] U.S. Dep't. of Treasury, *Capital Projects Fund*, https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund (last visited Feb. 1, 2022).
[7] U.S. Dep't. of Treasury, *Coronavirus Capital Projects Fund: Allocations Methodology for States, Territories, and Freely Associated States* (Aug. 2021), https://home.treasury.gov/system/files/136/Allocations-Methodology-States-Territories-Freely-Associated-States.pdf (last visited Feb. 1, 2022).
[8] *Id*. *See also*, U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States,* 1, 14 (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf (last visited Feb. 1, 2022).
[9] U.S. Dep't. of Treasury, *Coronavirus Capital Projects Fund: Allocations for States, District of Columbia, and Puerto Rico,* https://home.treasury.gov/system/files/136/Allocations-States.pdf (last visited Feb. 1, 2022)
[10] U.S. Dep't. of Treasury, *Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States,* at 3. (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf (last visited Feb. 1, 2022).

Projects that may be eligible on a case-by-case review include investments in capital assets, such as buildings, towers, digital devices and equipment, fiber-optic lines, and broadband networks.[11]

HB 1543 (2022)

HB 1543 (2022), to which this bill is linked, creates the Broadband Pole Replacement Program to be administered by the Office. The program will reimburse fixed, terrestrial, wireline broadband service providers for their costs incurred for the removal and replacement of existing utility poles in areas of Florida that are unserved by broadband Internet service. Reimbursements under the program are limited to 50 percent of the broadband Internet service provider's eligible pole replacement cost or $5,000, whichever is less, in addition to their administrative costs related to the preparation and submission of the application for reimbursement.

That bill directs the Secretary of DEO to apply for $100 million in federal funding from the Coronavirus Capital Projects Fund and directs any such funds received to be placed into the Broadband Pole Replacement Trust Fund.

Effect of the Bill

This bill creates the Broadband Pole Replacement Trust Fund within DEO for the deposit of funds appropriated by the Legislature; federal funds received from the Coronavirus Capital Projects Fund for the Broadband Pole Replacement Program; funds transferred by DEO; interest earnings; and grants, gifts, and other contributions made directly to the fund.

The bill provides that funds from the trust fund will be used to provide reimbursements to qualified applicants from the Broadband Pole Replacement Program, created by linked bill HB 1543, and for use by the Office to administer the program.

The bill further provides that any balance that is in the trust fund at the end of any fiscal year shall be carried forward in the trust fund for the purposes of continued administration of the Broadband Pole Replacement Program.

Pursuant to the requirements of the Florida Constitution, the trust fund will terminate four years after its effective date, but must first be reviewed as provided in s. 215.3206(1) and (2), F.S.

The bill directs the Division of Law Revision to replace the phrase "4 years after the effective date of this act" with the date that the trust fund will terminate.

The bill provides that the act takes effect on the same date that HB 1543, relating to the Broadband Pole Replacement Program, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. SECTION DIRECTORY:

Section 1 Creates s. 288.9965, F.S., creating the Broadband Pole Replacement Trust Fund.

Section 2 Provides a directive to the Division of Law Revision.

Section 3 Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

[11] *Id*. at 7.

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Trust Funds

Article III, s. 19(f), of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds terminate no more than four years after the initial creation, unless they are re-created.

B. RULE-MAKING AUTHORITY:

This bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Broadband Pole Replacement Trust Fund; creating s. 288.9965, F.S.; creating the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity; providing the purpose of the trust fund; providing that moneys credited to the trust fund shall consist of certain funds; requiring that funds in the trust fund be used in a manner consistent with federal law; providing that the balance in the trust fund at the end of a fiscal year remains in the trust fund and is available for carrying out the purposes of the trust fund; providing for future legislative review and termination or re-creation of the trust fund; providing a directive to the Division of Law Revision; providing a contingent effective date.

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

Section 1. Section 288.9965, Florida Statutes, is created to read:

288.9965 Broadband Pole Replacement Trust Fund.—

(1) The Broadband Pole Replacement Trust Fund is created within the Department of Economic Opportunity for the purpose of providing reimbursements to qualified applicants under the

CODING: Words stricken are deletions; words underlined are additions.

Broadband Pole Replacement Program pursuant to s. 288.9964 and for use by the Florida Office of Broadband in the administration of that program. Moneys credited to the trust fund shall consist of funds appropriated by the Legislature; federal funds received from the Coronavirus Capital Projects Fund for the Broadband Pole Replacement Program; funds transferred by the department; interest earnings; and grants, gifts, and other contributions made directly to the trust fund. Funds in the trust fund must be used in a manner consistent with federal law.

(2) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, unless terminated sooner, the Broadband Pole Replacement Trust Fund shall be terminated 4 years after the effective date of this act. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. The Division of Law Revision is directed to replace the phrase "4 years after the effective date of this act" wherever it occurs in this act with the date the trust fund will terminate.

Section 3. This act shall take effect on the same date that HB 1543 or similar legislation takes effect, if such

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legislation is adopted in the same legislative session or an extension thereof and becomes a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 445 Transportation Network Companies
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating

SUMMARY ANALYSIS

In 2017, the Legislature adopted a regulatory framework for the operation of transportation network companies (TNCs) in the state. Pursuant to Florida law, a TNC is an entity that provides prearranged rides through the use of a digital network that connects a TNC driver with riders. Examples of TNCs operating in Florida include Uber and Lyft.

Florida law prohibits most local regulations of TNCs, but does not prohibit airports and seaports from charging reasonable pickup fees to TNCs for the use of airport or seaport facilities, provided that those fees are consistent with fees charged to taxicab companies.

The bill limits the pickup fee that an airport or seaport may charge a TNC to $2 per pickup. The bill appears to effectively limit the pickup fees for taxicab companies at $2 per pickup, given the requirement that pickup fees charged to TNCs be consistent with those charged to taxicab companies.

The bill does not appear to have a fiscal impact on state government. The bill may have a negative fiscal impact on counties, municipalities, and special districts that operate airports and seaports that currently impose TNC pickup fees of greater than $2 per pickup.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Transportation Network Companies

In 2017, the Legislature adopted a regulatory framework for the operation of transportation network companies (TNCs) in the state.[1] Pursuant to Florida law, a TNC is an entity that provides prearranged rides through the use of a digital network that connects a TNC driver with riders.[2] A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association.[3]

Florida law prohibits a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision from:

- Imposing a tax on, or requiring a license for a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides;
- Subjecting a TNC, a TNC driver, or a TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Requiring a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.[4]

However, the law does not prohibit an airport or seaport from charging reasonable pickup fees to TNCs consistent with any pickup fees charged to taxicab companies at that airport or seaport for the use of the airports' or seaports' facilities.[5]

Airports

Florida is home to 20 commercial service airports and 100 general aviation airports.[6] Commercial service airports are publicly-owned airports that have at least 2,500 passenger boardings each year and receive scheduled passenger service. General aviation airports are airports that do not have scheduled service or have less than 2,500 passenger boardings each year.[7]

Florida's commercial service airports range in size from large-hub airports[8] with over 20 million annual passenger boardings to small municipal airports with approximately 10,000 annual passenger boardings.[9] In Florida, commercial service airports operate as either departments of a municipality or county or as a special district.

Federal Aviation Administration grant assurances require an airport to maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as

[1] Ch. 2017-12, Laws of Fla.
[2] S. 627.748(1)(e), F.S.
[3] S. 627.748(1), F.S.
[4] S. 627.748(17)(a), F.S.
[5] S. 627.748(17)(b), F.S.
[6] Florida Department of Transportation, *Florida Aviation System Plan 2021 Annual Report*, p. 3. https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/aviation/fasp-elevate-2021-brochure_final.pdf (last visited Nov. 15, 2021)
[7] 49 U.S.C. § 47102.
[8] A subset of commercial airports is large-hub airports. Large-hub airports are commercial service airports that have at least 1 percent of the passenger boardings in the United States.
[9] FAA, Commercial Service Airports, Rank Order based on calendar year 2019, Sep. 25, 2020, https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy19-commercial-service-enplanements.pdf (last visited Nov. 15, 2021).

possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection.[10]

The table below shows a sample of the current TNC pickup fees being charged at Florida commercial service airports as of August 2020:[11]

Airport	Owner/Operator	Pickup Fee
Orlando	Greater Orlando Aviation Authority	$5.80
Tampa	Hillsborough County Aviation Authority	$5
St. Pete/Clearwater	Pinellas County	$4
Jacksonville	Jacksonville Aviation Authority	$3.25
Ft. Lauderdale/Hollywood	Broward County	$3
Tallahassee	City of Tallahassee	$3
Punta Gorda	Charlotte County Airport Authority	$3
Key West	Monroe County	$3
Southwest Florida (Ft. Myers)	Lee County Port Authority	$3
Orlando/Sanford	Sanford Airport Authority	$2.75
Sarasota/Bradenton	Sarasota Manatee Airport Authority	$2.50
Miami	Miami-Dade County	$2.50
Daytona Beach	Volusia County	$1.50
Gainesville	Gainesville Alachua County Regional Airport Authority	$1

Seaports

Florida is home to 15 deepwater seaports,[12] which may be operated as a department of a municipality or county or as a special district. Five of the state's deepwater seaports offer cruise ship departures and arrivals. The table below shows current TNC pickup fees being charged at Florida seaports offering cruise ship departures and arrivals:[13]

Seaport	Owner/Operator	Pickup Charge
Port Canaveral	Canaveral Port Authority	$4
Miami	Miami-Dade County	$2
Everglades (Ft. Lauderdale)	Broward County	$2
JAXPORT	Jacksonville Port Authority	$3
Tampa Bay	Tampa Port Authority	$0

Effect of the Bill

This bill limits the pickup fees that airports and seaports may charge TNCs to $2 per pickup. Due to existing law requiring that pickup fees charged to TNCs be consistent with those charged to taxicab companies at the same airport or seaport, the bill appears to effectively limit the pickup fees for taxicab companies to $2 per pickup.

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1 Amends s. 627.478, F.S., relating to transportation network companies.

[10] Federal Aviation Administration, Airport Sponsor Assurances, February 2020, p. 11. https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf (last visited Jan 30, 2022).
[11] Attachment to e-mail from Lisa Waters, President, Florida Airports Council, RE HB 445 - Transportation Network Companies. (Nov. 12, 2021).
[12] Florida Ports Council, *The Florida System of Seaports,* https://flaports.org/about/the-florida-system-of-seaports/ (last visited Nov. 15, 2021).
[13] E-mail from Mike Rubin, President, Florida Ports Council, RE:HB 455 – Transportation Network Companies (Nov. 19, 2021).

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Municipalities, counties, and special districts operating airports and seaports may see a significant reduction in revenues associated with TNC and taxicab pickup fees.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

At most airports and some seaports, TNCs and taxicab companies will see cost savings associated with the $2 limit on pickup fees. These savings may or may not be passed along to consumers.

To adjust for lost revenue from TNC and taxicab pickup fees and maintain self-sustainability, airports and seaports may increase charges to other users or tenants.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply to the extent that airports and seaports subject to the bill are operated by counties and municipalities whose authority to raise total aggregate revenues, as such authority existed on February 1, 1989, is reduced by the bill; however an exemption may apply if the bill creates an insignificant fiscal impact.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

This bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to transportation network companies; amending s. 627.748, F.S.; providing a limitation on certain fees charged by airports or seaports; providing an effective date.

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

Section 1. Paragraph (b) of subsection (17) of section 627.748, Florida Statutes, is amended to read:

627.748 Transportation network companies.—

(17) PREEMPTION.—

(b) This subsection does not prohibit an airport or seaport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport or seaport for their use of the airport's or seaport's facilities, provided such fees do not exceed $2 per pickup, or prohibit the airport or seaport from designating locations for staging, pickup, and other similar operations at the airport or seaport.

Section 2. This act shall take effect July 1, 2022.

CODING: Words stricken are deletions; words underlined are additions.

PCS for HB 915

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 915 Commercial Motor Vehicle Registration
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1582

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating

SUMMARY ANALYSIS

Under current law, each commercial motor vehicle (CMV) registered under the International Registration Plan (IRP) must pay a $28 fee annually for a new license plate along with a cab card denoting its declared vehicle weight.

Effective January 1, 2024, the bill requires vehicles registered under the IRP to be issued a license plate for a three-year period. At the end of the three-year period, the plate must be replaced upon renewal. Each license plate must include a validation sticker reflecting the month that the plate expires. Under the bill, an annually issued cab card, including payment of a $28 annual fee, is still required. The bill provides that the $28 annual fee must be deposited into the Highway Safety Operating Trust Fund and authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to replace a damaged or worn license plate at no cost to an applicant surrendering the current license plate.

The bill does not appear to impact state government revenues but may have an indeterminate positive impact to DHSMV due to a reduced cost in printing license plates for CMVs. The bill does not appear to have a fiscal impact to local governments.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The International Registration Plan (IRP) is a reciprocity agreement among states of the United States, the District of Columbia and provinces of Canada which recognizes the registration of commercial motor vehicles (CMVs) [1] registered by other jurisdictions. The plan provides for payment of apportioned licensing fees based on the total distance operated in all member jurisdictions.[2]

Current law requires the Department of Highway Safety and Motor Vehicles (DHSMV), upon receipt of an application and payment of the appropriate fees, to issue to a vehicle owner or lessee a certificate of registration and a license plate.[3] License plates are issued for a ten-year period and must be replaced upon renewal at the end of the ten-year period. The fee for license plate replacement is $28, $2.80 of which is paid each year before the plate is replaced, and such fees must be deposited into the Highway Safety Operating Trust Fund. A validation sticker must also be issued, reflecting the owner's birth month, license plate number, and the year of expiration, or the appropriate renewal period if the owner is not a natural person.[4]

CMVs registered in accordance with the IRP,[5] known as "apportioned vehicles,"[6] are issued an *annual* license plate, as well as a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.[7] The $28 license plate replacement fee is paid annually upon initial registration and subsequent renewal and includes issuance of a cab card.

Effect of the Bill

The bill removes the requirement that vehicles registered under the IRP must be issued an *annual* license plate and cab card effective December 31, 2023.

The bill provides that effective January 1, 2024, apportioned vehicles must be issued a license plate for a three-year period. The license plate must be replaced upon renewal at the end of the three-year period and, as under current law, each license plate must include a validation sticker reflecting the month that the license plate expires.

Under the bill, an annually issued cab card, including payment of a $28 annual fee, is still required. The $28 fee must be deposited into Highway Safety Operating Trust Fund.

Finally, the bill provides that if the license plate is damaged or worn, the license plate may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill has an effective date of July 1, 2022.

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[1] Section 320.01(25), F.S., defines the term "commercial motor vehicle' to mean any vehicle not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds o r more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight.

[2] International Registration Plan, Inc., *Welcome to IRP, Inc.* https://www.irponline.org/ (last visited Nov. 3, 2021).

[3] Section 320.06(1)(a), F.S. *See* s. 320.0706, F.S., for license plate display requirements for commercial trucks with a gross vehicle weight of 26,001 pounds or more, and for dump trucks and truck tractors.

[4] Section 320.06(1)(b), F.S.

[5] Department of Highway Safety and Motor Vehicles, *Commercial Motor Vehicle Drivers*, *International Registration Plan*, available at https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-registration-plan/ (last visited Jan 28, 2022).

[6] Section 320.0715(1), F.S., requires all apportionable vehicles domiciled in this state to be registered in accordance with the International Registration Plan and to display license plates.

[7] S. 316.06(1)(b), F.S.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. DHSMV will likely see a reduction in expenditures associated with a reduced cost in printing CMV license plates.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CMV owners with vehicles registered under the International Registration Plan may see a reduction in costs associated with only having to replace the license plate on each vehicle once every three years instead of annually.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None

B. RULE-MAKING AUTHORITY:

This bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to commercial motor vehicle registration; amending s. 320.06, F.S.; providing for future expiration of a provision relating to vehicles with apportioned registrations; providing, beginning on a specified date, license plate and cab card requirements for vehicles registered in accordance with the International Registration Plan; specifying the fee for an original or renewal cab card and the trust fund where the fee is deposited; providing for the replacement at no charge of damaged or worn license plates; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b)1. Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate shall be replaced. The department shall extend the scheduled license plate replacement date from a 6-

year period to a 10-year period. The fee for such replacement is $28, $2.80 of which shall be paid each year before the plate is replaced, to be credited toward the next $28 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund may not be given for any prior years' payments of the prorated replacement fee if the plate is replaced or surrendered before the end of the 10-year period, except that a credit may be given if a registrant is required by the department to replace a license plate under s. 320.08056(8)(a). With each license plate, a validation sticker shall be issued showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The validation sticker shall be placed on the upper right corner of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period is 12 months, the extended registration period is 24 months, and all expirations occur based on the applicant's appropriate registration period. Rental vehicles taxed pursuant to s. 320.08(6)(a) may elect a permanent registration period, provided payment of the appropriate license taxes and fees occurs annually.

2. A vehicle that has an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction

in which the vehicle is authorized to operate. This subparagraph expires December 31, 2023.

3. Beginning January 1, 2024, a vehicle registered in accordance with the International Registration Plan must be issued a license plate for a 3-year period. At the end of the 3-year period, upon renewal, the license plate must be replaced. Each license plate must include a validation sticker showing the month of expiration. A cab card denoting the declared gross vehicle weight for each apportioned jurisdiction must be issued annually. The fee for an original or a renewal cab card is $28, which must be deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn, it may be replaced at no charge by applying to the department and surrendering the current license plate.

4.~~2.~~ In order to retain the efficient administration of the taxes and fees imposed by this chapter, the 80-cent fee increase in the replacement fee imposed by chapter 2009-71, Laws of Florida, is negated as provided in s. 320.0804.

Section 2. This act shall take effect July 1, 2022.