Florida Metropolitan Planning Organization Advisory Council

MPOAC

2009 Summary of State Legislation

May 20, 2009

(Revised June 10, 2009)

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Summary of the General Transportation Bill (HB 1021)

Items of Interest to MPOs

Section 3 (s. 163.3177, F.S.)

- **Revises requirements relating to comprehensive plans by providing for airports, land adjacent to airports, and certain interlocal agreements relating thereto in certain elements of the plan.**

  - "The future land use plan shall be based upon … lands adjacent to an airport as defined in s. 330.35 and consistent with provisions in s. 333.02…"

  - "The future land use plan element shall include criteria to be used to achieve the compatibility of adjacent or closely proximate lands with military installations; lands adjacent to an airport as defined in s. 330.35 and consistent with provisions in s. 333.02."

  - "Local governments required to update or amend their comprehensive plan to include criteria and address compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with provisions in s. 333.02 in their future land use plan element shall transmit the update or amendment to the state land planning agency by June 30, 2011."

  - "The intergovernmental coordination element shall provide for recognition of campus master plans prepared pursuant to s. 1013.30, and airport master plans pursuant to paragraph (k)."

  - "The intergovernmental coordination element shall provide for interlocal agreements, as established pursuant to s. 333.03(1)(b)."

  - "For each unit of local government within an urbanized area designated for purposes of s. 339.175, a transportation element, which shall be prepared and adopted in lieu of the requirements of paragraph (b) and paragraphs (7)(a), (b), (c), and (d) and which shall address the following issues: … Airports, projected airport and aviation development, and land use compatibility around airports that includes areas defined in ss. 333.01 and 333.02."

Section 4 (s. 163.3178, F.S.)

- **Exempts certain port-related land uses from DRI status subject to specific criteria.**

  - "… facilities determined by the Department of Community Affairs and the applicable general purpose local government to be port-related industrial or commercial projects located within 3 miles of or in a port master plan area which

rely upon the utilization of port and intermodal transportation facilities shall not be designated as developments of regional impact if such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section."

Section 5 (s. 163.3180, F.S.)

- **Provides a definition for the term "backlog" as it relates to concurrency.**

    - "… the term "backlog" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing trips, plus additional projected background trips from any source other than the development project under review that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review."

Section 6 (s. 163.3182, F.S.)

- **Makes a variety of changes to statute related to transportation concurrency backlog authorities. Guidelines are provided for incurring debt, raising funds, and formation/dissolution.**

  Key features of the section include:

    - Provides a declaration of the purpose for transportation concurrency backlog authorities.

      "The Legislature finds and declares that there exists in many counties and municipalities areas that have significant transportation deficiencies and inadequate transportation facilities; that many insufficiencies and inadequacies severely limit or prohibit the satisfaction of transportation concurrency standards; that the transportation insufficiencies and inadequacies affect the health, safety, and welfare of the residents of these counties and municipalities; that the transportation insufficiencies and inadequacies adversely affect economic development and growth of the tax base for the areas in which these insufficiencies and inadequacies exist; and that the elimination of transportation deficiencies and inadequacies and the satisfaction of transportation concurrency standards are paramount public purposes for the state and its counties and municipalities."

    - Expands the power of authorities to borrow money to include issuing debt obligations.

"Each transportation concurrency backlog authority has the powers necessary or convenient to carry out the purposes of this section, including the following powers … borrow money, including, but not limited to, issuing debt obligations such as, but not limited to, bonds, notes, certificates, and similar debt instruments …"

- Provides a maximum maturity date for certain debt incurred to finance or refinance certain transportation concurrency backlog projects and authorizes authorities to continue operations and administer trust funds for the period of the remaining outstanding debt.

  "Each transportation concurrency backlog authority shall adopt a transportation concurrency backlog plan as a part of the local government comprehensive plan … The plan must … Establish a schedule for financing and construction of transportation concurrency backlog projects that will eliminate transportation concurrency backlogs within the jurisdiction of the authority within 10 years after the transportation concurrency backlog plan adoption. The schedule shall be adopted as part of the local government comprehensive plan. Notwithstanding such schedule requirements, as long as the schedule provides for the elimination of all transportation concurrency backlogs within 10 years after the adoption of the concurrency backlog plan, the final maturity date of any debt incurred to finance or refinance the related projects may be no later than 40 years after the date the debt is incurred and the authority may continue operations and administer the trust fund established … for as long as such debt remains outstanding."

- The bill also requires local transportation concurrency backlog trust funds to continue to be funded for as long as projects in the backlog plan remain to be completed or until any debt is no longer outstanding, whichever occurs later.

  "The transportation concurrency backlog authority shall establish a local transportation concurrency backlog trust fund upon creation of the authority. Each local trust fund shall be administered by the transportation concurrency backlog authority within which a transportation concurrency backlog has been identified. Each local trust fund must continue to be funded under this section for as long as the projects set forth in the related transportation concurrency backlog plan remain to be completed or until any debt incurred to finance or refinance the related projects are no longer outstanding, whichever occurs later."

- Provides for increased ad valorem tax increment funding for trust funds as specified.

  "Beginning in the first fiscal year after the creation of the authority, each local trust fund shall be funded by the proceeds of an ad valorem tax increment collected within each transportation concurrency backlog area to be determined annually and shall be a minimum of 25 percent of the difference between the amounts set forth in paragraphs (a) and (b), except that if all of the affected taxing

authorities agree under an interlocal agreement, a particular local trust fund may be funded by the proceeds of an ad valorem tax increment greater than 25 percent of the difference between the amounts set forth in paragraphs (a) and (b):

> (a) The amount of ad valorem tax levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the jurisdiction of the transportation concurrency backlog authority and within the transportation backlog area; and
>
> (b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property within the transportation concurrency backlog area as shown on the most recent assessment roll used in connection with the taxation of such property of each taxing authority prior to the effective date of the ordinance funding the trust fund."

- Revises provisions relating to the dissolution of an authority.

  "Upon completion of all transportation concurrency backlog projects and repayment or defeasance of all debt issued to finance or refinance such projects, a transportation concurrency backlog authority shall be dissolved, and its assets and liabilities transferred to the county or municipality within which the authority is located."

Section 7 (s. 337.11, F.S.)

- **Authorizes FDOT to pay a stipend to non-selected design-build firms that have submitted responsive proposals for construction contracts and establishes a procurement goal for design-build contracts.**

  - "If the department determines that it is in the best interest of the public, the department may pay a stipend to non-selected design-build firms that have submitted responsive proposals for construction contracts. The decision and amount of a stipend shall be based upon department analysis of the estimated proposal development costs and the anticipated degree of engineering design during the procurement process. The department retains the right to use those designs from responsive non-selected design-build firms that accept a stipend."

Section 10 (s. 337.403, F.S.)

- **Expands the circumstances under which the Department or local governmental entity must pay the costs of removal or relocation of a utility facility that is**

found to be interfering with the use, maintenance, improvement, extension, or expansion of a public road or publicly owned rail corridor.

- "If the utility facility being removed or relocated was initially installed to exclusively serve the department, its tenants, or both, the department shall bear the costs of removing or relocating that utility facility. However, the department is not responsible for bearing the cost of removing or relocating any subsequent additions to that facility for the purpose of serving others."

- "If, under an agreement between a utility and the authority entered into after July 1, 2009, the utility conveys, subordinates, or relinquishes a compensable property right to the authority for the purpose of accommodating the acquisition or use of the right-of-way by the authority, without the agreement expressly addressing future responsibility for the cost of removing or relocating the utility, the authority shall bear the cost of removal or relocation. This paragraph does not impair or restrict, and may not be used to interpret, the terms of any such agreement entered into before July 1, 2009."

- "If the utility is an electric facility being relocated underground in order to enhance vehicular, bicycle, and pedestrian safety and in which ownership of the electric facility to be placed underground has been transferred from a private to a public utility within the past 5 years, the department shall incur all costs of the relocation."

Section 11 (s. 337.408, F.S.)

- **Provides for public pay telephones and advertising thereon to be installed within the right-of-way limits of any municipal, county, or state road. Extends regulations pertaining to benches, transit shelters, street light poles, waste disposal receptacles and modular news racks within rights-of-way to public pay telephones.**

  - "A public pay telephone, including advertising displayed thereon, may be installed within the right-of-way limits of any municipal, county, or state road, except on a limited access highway, if the pay telephone is installed by a provider duly authorized and regulated by the Public Service Commission under s. 364.3375, if the pay telephone is operated in accordance with all applicable state and federal telecommunications regulations, and if written authorization has been given to a public pay telephone provider by the appropriate municipal or county government. Each advertisement must be limited to a size no greater than 8 square feet and a public pay telephone booth may not display more than three advertisements at any given time. An advertisement is not allowed on public pay telephones located in rest areas, welcome centers, or other such facilities located on an interstate highway."

Section 12 (s. 338.01, F.S.)

- **Requires all new limited access facilities and existing transportation facilities on which new or replacement electronic toll collection systems are installed to be interoperable with FDOT's electronic toll collection system.**

  - "All new limited access facilities and existing transportation facilities on which new or replacement electronic toll collection systems are installed shall be interoperable with the department's electronic toll-collection system."

Section 14 (s. 338.166, F.S.)

- **Creates a section pertaining to the creation and management of tolled HOT lanes and/or express lanes and revenue generated from tolls collected on HOT lanes and/or express lanes.**

  Key features of the section include:

  - "…the department may request the Division of Bond Finance to issue bonds secured by toll revenues collected on high-occupancy toll lanes or express lanes located on Interstate 95 in Miami-Dade and Broward Counties."

  - "The department may continue to collect the toll on the high-occupancy toll lanes or express lanes after the discharge of any bond indebtedness related to such project. All tolls so collected shall first be used to pay the annual cost of the operation, maintenance, and improvement of the high-occupancy toll lanes or express lanes project or associated transportation system."

  - "Any remaining toll revenue from the high-occupancy toll lanes or express lanes shall be used by the department for the construction, maintenance, or improvement of any road on the State Highway System."

  - "The department is authorized to implement variable rate tolls on high-occupancy toll lanes or express lanes. "
  - "Except for high-occupancy toll lanes or express lanes, tolls may not be charged for use of an interstate highway where tolls were not charged as of July 1, 1997."

  - "This section does not apply to the turnpike system as defined under the Florida Turnpike Enterprise Law."

Section 15 (s. 338.2216, F.S.)

- **Directs the Florida Turnpike Enterprise to pursue and implement new technologies and processes in its operations and collection of tolls and specifies the use of video billing and variable pricing.**

- "The Florida Turnpike Enterprise is directed to pursue and implement new technologies and processes in its operations and collection of tolls and the collection of other amounts associated with road and infrastructure usage. Such technologies and processes shall include, without limitation, video billing and variable pricing."

Section 16 (s. 338.231, F.S.)

- **Revises existing statutory provisions pertaining to establishing and collecting tolls, including allowing the department to establish lower toll rates for economic considerations. Also, authorizes the collection of amounts to cover costs of toll collection and payment methods, and requires public notices and hearings.**

    - "The department may at any time for economic considerations establish lower temporary toll rates for a new or existing toll facility for a period not to exceed 1 year, after which the toll rates adopted pursuant to s. 120.54 shall become effective."

    - "The department shall also fix, adjust, charge, and collect such amounts needed to cover the costs of administering the different toll-collection and payment methods, and types of accounts being offered and used, in the manner provided for in s. 120.54 which will provide for public notice and the opportunity for a public hearing before adoption…"

Section 17 (s. 339.12, F.S.)

- **Increases from $100 to $250 million the existing total amount of agreements FDOT may enter into at any time with local governments for projects or project phases not included in the adopted work program. Also authorizes the Department to enter into certain long-term repayment agreements.**

    - "The total amount of project agreements for projects or project phases not included in the adopted work program authorized by this paragraph may not at any time exceed $250 million."

    - "The department may enter into agreements under this subsection with any county that has a population of 150,000 or less as determined by the most recent official estimate … for a project or project phase not included in the adopted work program."

    - "The term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases."

    - "The project or project phase must be a high priority of the governmental entity."

- "Reimbursement for a project or project phase must be made from funds appropriated by the Legislature…"

- "The total amount of project agreements for projects or project phases not included in the adopted work program authorized by this paragraph may not at any time exceed $200 million."

- "The project must be included in the local government's adopted comprehensive plan."

- "The department is authorized to enter into long-term repayment agreements of up to 30 years."

Section 18 (s. 339.135, F.S.)

- **Requires FDOT to notify each affected county, each municipality within the county, and each affected MPO when it proposes any amendment to the adopted work program that would delete or defer a construction phase on a capacity project. Counties and municipalities are encouraged to coordinate with each other to determine how the amendment effects local concurrency management and regional transportation planning efforts and provided 14 days to notify the department of the their determination. This notice is intended to detect concurrency issues before the work program amendment is adopted.**

  - "Whenever the department proposes any amendment to the adopted work program … which deletes or defers a construction phase on a capacity project, it shall notify each county affected by the amendment and each municipality within the county."

  - "The notification shall be issued in writing to the chief elected official of each affected county, each municipality within the county, and the chair of each affected metropolitan planning organization."

  - "Each affected county and each municipality in the county, is encouraged to coordinate with each other to determine how the amendment effects local concurrency management and regional transportation planning efforts."

  - "Each affected county, and each municipality within the county, shall have 14 days to provide written comments to the department regarding how the amendment will affect its respective concurrency management systems, including whether any development permits were issued contingent upon the capacity improvement, if applicable."

  - "After receipt of written comments from the affected local governments, the department shall include any written comments submitted by such local governments in its preparation of the proposed amendment."

- "Following the 14-day comment period … whenever the department proposes any amendment to the adopted work program … it [the department] shall submit the proposed amendment to the Governor for approval and shall immediately notify the chairs of the legislative appropriations committees, the chairs of the legislative transportation committees, and each member of the Legislature who represents a district affected by the proposed amendment. It [the department] shall also notify, each metropolitan planning organization affected by the proposed amendment, and each unit of local government affected by the proposed amendment, unless it provided to each the notification required by subparagraph 1."

Section 19 (s. 339.2816, F.S.)

- **Resumes funding of the Small County Road Assistance Program, currently set to expire in fiscal year 2009-2010, beginning with fiscal year 2012-2013. The bill also revises the criteria for counties eligible to participate in the program by deleting any reference to ad valorem millage rate and adding as a criterion whether a road is located in a fiscally constrained county.**

Section 20 (s. 348.0003, F.S.)

- **Requires members of each expressway, transportation, bridge, or toll authority created pursuant to chs. 343, 348, or 349, F.S., to comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution.**

Section 24 (s. 479.156, F.S.)

- **Authorizes a municipality or county to make a determination of customary use with respect to regulations governing commercial wall murals and that such determination must be accepted in lieu of any agreement between the state and the United States Department of Transportation. Also, removes a provision of state statute that wall murals may not violate any agreement between the state and the United States Department of Transportation and provides for approval of wall murals by the department and the Federal Highway Administration only when required by federal law and federal regulation under any agreement between the state and the United States Department of Transportation. Per Section 23 USC 131(d) implementing the federal Highway Beautification Act of 1965, the state entered into an agreement with the United States Department of Transportation in January 1972 determining the size, lighting and spacing of signs consistent with customary use for signs within 660 feet of interstate and federal-aid primary highways. The department is concerned that the approved revisions in state statute contained in this bill may cause the state to be in non-compliance with guidance received from the Federal Highway Administration regarding their interpretation of "customary use" and a determination that the state failed to maintain effective control of signs. The potential result of such a**

violation would be the loss of 10% of federal funding for transportation for each year there is a lack of effective control – approximately $160 million per year.

- "Notwithstanding any other provision of this chapter, a municipality or county may permit and regulate wall murals within areas designated by such government. If a municipality or county permits wall murals, a wall mural that displays a commercial message and is within 660 feet of the nearest edge of the right-of-way within an area adjacent to the interstate highway system or the federal-aid primary highway system shall be located in an area that is zoned for industrial or commercial use and the municipality or county shall establish and enforce regulations for such areas that, at a minimum, set forth criteria governing the size, lighting, and spacing of wall murals consistent with the intent of the Highway Beautification Act of 1965 and with customary use."

- "Whenever a municipality or county exercises such control and makes a determination of customary use pursuant to 23 U.S.C. s. 131(d), such determination shall be accepted in lieu of controls in the agreement between the state and the United States Department of Transportation, and the department shall notify the Federal Highway Administration pursuant to the agreement, 23 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c)."

- "A wall mural that is subject to municipal or county regulation and the Highway Beautification Act of 1965 must be approved by the Department of Transportation and the Federal Highway Administration when required by federal law and federal regulation under the agreement between the state and the United States Department of Transportation and federal regulations enforced by the Department of Transportation under s. 479.02(1)."

Section 26 (statute number not specified)

- **Requires FDOT, in consultation with metropolitan planning organizations (MPOs) and other identified agencies, to complete a study of transportation alternatives for the travel corridor parallel to I-95. The report must be sent to the Governor, Senate President, House Speaker, and each affected MPO by June 30, 2010.**

  Key features of the section include:

  - "The Department of Transportation, in consultation with the Department of Law Enforcement, Department of Environmental Protection, the Division of Emergency Management of the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, affected metropolitan planning organizations, and regional planning councils within whose jurisdictional area the I-95 corridor lies, shall complete a study of transportation alternatives for the travel corridor parallel to Interstate 95 which takes into account the transportation,

emergency management, homeland security, and economic development needs of the state."

- "The report must include identification of cost-effective measures that may be implemented to alleviate congestion on Interstate 95, facilitate emergency and security responses, and foster economic development."

- The Department of Transportation shall send the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each affected metropolitan planning organization by June 30, 2010."

Section 27 (s. 343, F.S)

- **Repeals part III of ch. 343 F.S., relating to the Tampa Bay Commuter Transit Authority and transfers any assets of the Tampa Bay Commuter Transit Authority to the Tampa Bay Area Regional Transportation Authority.**

  - Part III of chapter 343, Florida Statutes, consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75, 343.76, and 343.77, is repealed.

  - Any assets or liabilities of the Tampa Bay Commuter Transit Authority are transferred to the Tampa Bay Area Regional Transportation Authority as created under s. 343.92, Florida Statutes.

(Approved by the Governor on May 27, 2009)

An Act Related to Transportation (HB 5013)

Section 1 (s. 334.044, F.S.)

- **Revises the powers and duties of the Department to provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation, enhancement, stabilization, and programs. Provides that no less than 1.5 percent of the amount contracted for construction projects be allocated for the purchase of plant materials. Further provides that, to the greatest extent practical, a minimum of 50 percent of the 1.5 percent set aside be used for large plant materials and the remaining funds for other plant materials. Requires that all plant materials be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis.**

    - "The department shall have the following general powers and duties … to provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation, enhancement, stabilization, and programs. No less than 1.5 percent of the amount contracted for construction projects shall be allocated by the department for the purchase of plant materials, with, to the greatest extent practical, a minimum of 50 percent of these funds for large plant materials and the remaining funds for other plant materials. All such plant materials shall be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis …"

Section 2 (s. 337.025, F.S.)

- **Exempts transportation projects funded by the American Recovery and Reinvestment Act of 2009 from the $120 million annual cap on contracts the Department is authorized to enter into for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance.**

    - "The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects … The annual cap on contracts … shall not apply to … Transportation projects funded by the American Recovery and Reinvestment Act of 2009."

Section 3 (s. 337.0261, F.S.)

- **Revises legislative intent to recognize that construction aggregate materials mining is an industry of critical importance to the state and that the mining of construction aggregate materials is in the public interest.**

    - "… In addition, the Legislature recognizes that construction aggregate materials mining is an industry of critical importance to the state and that the mining of construction aggregate materials is in the public interest."

Section 4 (s. 337.2818, F.S.)

- **Expands the purpose of the Small County Outreach Program (SCOP) to include repairing or rehabilitating county bridges, paving unpaved roads and addressing road-related drainage improvements. Provides that a county's eligibility for assistance under SCOP may be evidenced through an established pavement management plan. Adds information as evidenced through an established pavement management plan to the list of criteria used to prioritize road projects for funding under SCOP.**

    - "There is created within the Department of Transportation the Small County Outreach Program. The purpose of this program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstructing county roads, or constructing capacity or safety improvements to county roads."

    - "In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, which may be evidenced through an established pavement management plan."

    - "The following criteria shall be used to prioritize road projects for funding under the program … Information as evidenced to the department through an established pavement management plan."

Section 7 (statute number not specified)

- **Requires the Department of Community Affairs, in consultation with the Department of Transportation, to implement the Energy Economic Zone Pilot Program. Outlines the program purpose to discourage sprawl and develop energy-efficient land-use patterns and greenhouse gas reduction strategies including the integration of multimodal transportation facilities with land use and development patterns to reduce automobile reliance. The Office of Tourism, Trade, and Economic Development and the Florida Energy and Climate Commission are required to provide technical assistance in developing and**

administering the program. The bill specifies pilot project application requirements and requires the Department of Community Affairs to submit certain reports.

- "The Department of Community Affairs, in consultation with the Department of Transportation, shall implement an Energy Economic Zone Pilot Program for the purpose of developing a model to help communities cultivate green economic development, encourage renewable electric energy generation, manufacture products that contribute to energy conservation and green jobs, and further implement chapter 2008- 191, Laws of Florida, relative to discouraging sprawl and developing energy-efficient land use patterns and greenhouse gas reduction strategies. The Office of Tourism, Trade, and Economic Development and the Florida Energy and Climate Commission shall provide technical assistance to the departments in developing and administering the program."

- "The strategic plan … must include mixed-use and form-based standards that integrate multimodal transportation facilities with land use and development patterns to reduce reliance on automobiles, encourage certified green building developments and renewable energy systems, encourage creation of green jobs, and demonstrate how local financial and regulatory incentives will be used in the energy economic zone."

Section 8 (statute number not specified)

- **Authorizes the Northwest Florida Regional Transportation Planning Organization (NWFRTPO) to study the feasibility of advance-funding the costs of capacity projects in its member counties. The NWFRTPO must make recommendations to the legislature based on the feasibility study by February 1, 2010. The Department may assist with the feasibility study.**

  - "The Northwest Florida Regional Transportation Planning Organization … is authorized to study the feasibility of advance-funding the costs of capacity projects in its member counties and making recommendations to the Legislature by February 1, 2010. The Department of Transportation may assist the organization in conducting the study.

- **The feasibility study must be provided to the Governor, the president of the Senate, the Speaker of the House of Representatives, the Department, any metropolitan planning organization in any county served by the NWFRTPO and the counties served by the NWFRTPO.**

  - "Results of any study authorized by this section shall be provided to the Governor, the President of the Senate, the Speaker of the House of Representatives, the department, any metropolitan planning organization in

any county served by the organization, and the counties served by the organization …"

- **The study must discuss the financial feasibility of advance-funding the costs of capacity projects in NWFTPO member counties and be based on specific assumptions as outlined in the bill.**

    - "… shall discuss the financial feasibility of advance-funding the costs of capacity projects in the Northwest Florida Regional Transportation Planning Organization's member counties."
    - "The study must be based on the following assumptions:
        (a) Any advanced projects must be consistent with the Northwest Florida Regional Transportation Planning Organization's 5-year plan and the department's work program.
        (b) Any bonds shall have a maturity not to exceed 30 years
        (c) A maximum of 25 percent of the department's capacity funds allocated annually to the counties served by the Northwest Florida Regional Transportation Planning Organization may be used to pay debt service on the bonds.
        (d) Bond proceeds may only be used for the following components of a construction project on a state road: planning, engineering, design, right-of-way acquisition, and construction.
        (e) The cost of the projects must be balanced with the proceeds available from the bonds.
        (f) The department shall have final approval of the projects financed through the sale of bonds."

- **The study is required to contain a variety of specific information items including an analysis of the financial feasibility of advancing capacity projects, a cost-feasible finance plan, a tentative list of capacity projects and the priority in which they are to be advanced, a 5-year work program of the projects to be advanced and a report of any statutory changes that would be needed to give the NWFTPO the ability to advance construction projects. The study is required to include a draft bill, if required, and details a variety of items the draft bill must address.**

    - "The study shall contain:
        (a) An analysis of the financial feasibility of advancing capacity projects in the Northwest Florida Regional Transportation Planning Organization's member counties.
        (b) A long-range, cost-feasible finance plan that identifies the project cost, revenues by source, financing, major assumptions, and a total cash flow analysis beginning with implementation of the project and extending through final completion of the project.

(c) A tentative list of capacity projects and the priority in which they would be advanced. These projects must be consistent with the criteria in s. 339.135(2)(b), Florida Statutes.
(d) A 5-year work program of the projects to be advanced. This program must be consistent with chapter 339, Florida Statutes.
(e) A report of any statutory changes, including a draft bill, needed to give the Northwest Florida Regional Transportation Planning Organization the ability to advance construction projects."

- "The draft bill language shall address, at a minimum:
  1. Developing a list of road projects to be advanced, consistent with the organization's 5-year plan.
  2. Giving the department the authority to review projects to determine consistency with its current work program.
  3. Giving the organization the authority to issue bonds with a maturity of not greater than 30 years.
  4. Requiring proceeds of the bonds to be delivered to the department to pay the cost of completing the projects.
  5. Requiring the road projects to be consistent with the organization's 5-year plan.
  6. Permitting any participating county to elect to undertake responsibility for the payment of a portion of the cost of any project in the county pursuant to an agreement with the organization and the department.
  7. Providing that, in each year that the bonds are outstanding, no more than 25 percent of the state transportation funds appropriated for capacity projects advanced pursuant to the terms of this section and within the area of operation of the organization shall be paid over to the organization for the purpose of paying debt service on bonds the organization issued for such capacity projects. Such payments shall be made in lieu of programming any new projects in the work program.
  8. Providing that, in the event that the capacity funds allocated to the member counties of the organization are less than the amount needed to satisfy the payment requirements under the contract, the department shall defer the funded capacity on any other projects in the member counties of the organization to the extent necessary to make up such deficiency, so as to enable the organization to make the required debt service payments on the bonds or to replenish the reserves established for the bonds which may have been used to make up such deficiency. Under no circumstances shall the department provide any funds for these capacity projects in excess of the amount that would be allocated to the member counties pursuant to statutory formula and legislative appropriation.
  9. Providing that the bonds shall state on their face that they do not constitute a pledge of the full faith or taxing power of the state, and no holder of any bond shall have the right to compel payment of the bonds from any funds of the state, other than amounts required to be

paid to the organization under the contract. The bonds shall be limited and special obligations payable solely from the sources described herein. 10. Establishing such other terms and provisions as may be deemed reasonable and necessary to enable the organization to market the bonds at the most advantageous rates possible."

- **Provides that the legislature may authorize the implementation of the NWFTPO feasibility study if the requirements of the bill have been met and that any source of funding for any bonds to be issued have been approved by the Department.**

    - "The Legislature may authorize the implementation of the Northwest Florida Regional Transportation Planning Organization's study after a satisfactory showing that these prerequisites have been met and that any source of funding for any bonds to be issued has been approved by the Department of Transportation."

(Approved by the Governor on May 27, 2009)

Summary of Other Items of Interest to MPOs Included in Bills Passed by the 2009 Florida Legislature

Community Renewal Act (SB 360 – an act relating to growth management)

Section 2 (s. 163.3164, F.S.)

- **Revises the definition of the term "existing urban service area" to read "Urban Service Area" and eliminates references to schools and recreation areas in the definition. Provides a definition for the term "dense urban land area." Requires the Office of Economic and Demographic Research to annually determine which jurisdictions qualify as dense urban land areas and to convey that information to the state land planning agency, starting July 1, 2009 and every year thereafter.**

    - "Urban service area" means built-up areas where public facilities and services, including, but not limited to, central water and sewer capacity and roads are already in place or are committed in the first 3 years of the capital improvement schedule. In addition, for counties that qualify as dense urban land areas … the nonrural area of a county which has adopted into the county charter a rural area designation or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July 1, 2009, are also urban service areas under this definition."

    - "Dense urban land area" means:
      (a) A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;
      (b) A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or
      (c) A county, including the municipalities located therein, which has a population of at least 1 million."

    - "The Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to s. 186.901. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with s. 171.091. The Office of Economic and Demographic Research shall submit to the state land planning agency a list of jurisdictions that meet the total population and density criteria necessary for designation as a dense urban land area by July 1, 2009, and every year thereafter. The state land planning agency shall publish the list of jurisdictions on its Internet

website within 7 days after the list is received. The designation of jurisdictions that qualify or do not qualify as a dense urban land area is effective upon publication on the state land planning agency's Internet website."

Section 4 (s. 163.3180, F.S.)

- **Revises legislative intent as it relates to countervailing planning and public policy goals in providing for adequate public transportation facilities while encouraging urban infill. Further expands legislative intent to discuss the effective management of the mobility needs of urban areas through the provision of a range of transportation services and not solely the expansion of roadway capacity.**

    - "The Legislature finds that under limited circumstances, countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that the unintended result of the concurrency requirement for transportation facilities is often the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers."

- **Provides for the applicability of transportation concurrency exception areas under section 163.3164 (as described in section 2 of this summary).**

    - "The following are transportation concurrency exception areas:
        a. A municipality that qualifies as a dense urban land area under s. 163.3164;
        b. An urban service area under s. 163.3164 that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area under s. 163.3164; and
        c. A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area under s. 163.3164, but does not have an urban service area designated in the local comprehensive plan."

    - "A municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:
        a. Urban infill as defined in s. 163.3164;

b. Community redevelopment areas as defined in s. 163.340;
c. Downtown revitalization areas as defined in s. 163.3164;
d. Urban infill and redevelopment under s. 163.2517; or
e. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14)."

- "A county that does not qualify as a dense urban land area pursuant to s. 163.3164 may designate in its local comprehensive plan the following areas as transportation concurrency exception areas:
  a. Urban infill as defined in s. 163.3164;
  b. Urban infill and redevelopment under s. 163.2517; or
  c. Urban service areas as defined in s. 163.3164."

- **Requires all local governments that have designated a transportation concurrency exception area to adopt land use and transportation strategies that support and fund mobility. The strategies must be adopted within two years after the areas become exempt. If a local government fails to adopt the required land use and transportation strategies, sanctions may be imposed.**

  - "A local government that has a transportation concurrency exception area designated … shall, within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future. If the state land planning agency finds insufficient cause for the failure to adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area after 2 years, it shall submit the finding to the Administration Commission, which may impose any of the sanctions set forth in s. 163.3184(11)(a) and (b) against the local government."

- **Exempts designated transportation concurrency exception areas in certain counties (Broward and Miami-Dade) from the requirements of transportation concurrency exception areas designated in the manner outlined in this bill (as described in this summary).**

  - "Transportation concurrency exception areas designated … do not apply to designated transportation concurrency districts located within a county that has a population of at least 1.5 million, has implemented and uses a transportation-related concurrency assessment to support alternative modes of transportation, including, but not limited to, mass transit, and does not levy transportation impact fees within the concurrency district."

  - "Transportation concurrency exception areas designated … do not apply in any county that has exempted more than 40 percent of the area inside the

urban service area from transportation concurrency for the purpose of urban infill."

- **Provides local governments not having a transportation concurrency exception area designated in the manner described in this bill with the authority to grant an exemption from the concurrency requirement for transportation facilities if the proposed development meets specific criteria.**

    - "A local government that does not have a transportation concurrency exception area designated … may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:
      a. Urban infill development;
      b. Urban redevelopment;
      c. Downtown revitalization;
      d. Urban infill and redevelopment under s. 163.2517; or
      e. An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period, and which is served or is planned to be served with public facilities and services as provided by the capital improvements element."

- **Requires the Office of Program Policy Analysis and Government Accountability to prepare a report on the effects of the transportation concurrency exception areas created by this bill (as described in this summary).**

    - "The Office of Program Policy Analysis and Government Accountability shall submit to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015, a report on transportation concurrency exception areas created pursuant to this subsection. At a minimum, the report shall address the methods that local governments have used to implement and fund transportation strategies to achieve the purposes of designated transportation concurrency exception areas, and the effects of the strategies on mobility, congestion, urban design, the density and intensity of land use mixes, and network connectivity plans used to promote urban infill, redevelopment, or downtown revitalization."

- **Requires local governments to adopt the level-of-service standards established by the Florida Department of Transportation for roadway facilities on the Strategic Intermodal System, except in designated transportation concurrency exception areas. Authorizes local governments, in consultation with the Florida Department of Transportation, to provide for a waiver of transportation**

concurrency requirements if the local government and the Office of Tourism, Trade and Economic Development agree that a proposed development is for a qualified job creation project as described in s. 288. 0656 (REDI projects) or s. 403.973 (expedited permitting), F.S.

- "Except in transportation concurrency exception areas, with regard to roadway facilities on the Strategic Intermodal System designated in accordance with s. 339.63, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. However, if the Office of Tourism, Trade, and Economic Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may provide for a waiver of transportation concurrency for the project."

Section 12, (s. 380.06, F.S.)

- **Specifies that the level of service required in the transportation methodology for developments of regional impact be the same as that used to evaluate transportation concurrency.**
  - "The levels of service required in the transportation methodology shall be the same levels of service used to evaluate concurrency in accordance with s. 163.3180."

- **Creates an exemption from the development of regional impact process for developments located in dense urban land areas as defined in this section of the bill (section 2 of this summary).**
  - "The following are exempt from this section [related to developments of regional impact]:
    1. Any proposed development in a municipality that qualifies as a dense urban land area as defined in s. 163.3164;
    2. Any proposed development within a county that qualifies as a dense urban land area as defined in s. 163.3164 and that is located within an urban service area defined in s. 163.3164 which has been adopted into the comprehensive plan; or
    3. Any proposed development within a county, including the municipalities located therein, which has a population of at least 900,000, which qualifies as a dense urban land area under s. 163.3164, but which does not have an urban service area designated in the comprehensive plan."
  - "If a municipality that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan,

any proposed development within the designated area is exempt from the development-of-regional-impact process:

1. Urban infill as defined in s. 163.3164;
2. Community redevelopment areas as defined in s. 163.340;
3. Downtown revitalization areas as defined in s. 163.3164;
4. Urban infill and redevelopment under s. 163.2517; or
5. Urban service areas as defined in s. 163.3164 or areas within a designated urban service boundary under s. 163.3177(14)."

- "If a county that does not qualify as a dense urban land area pursuant to s. 163.3164 designates any of the following areas in its comprehensive plan, any proposed development within the designated area is exempt from the development-of-regional-impact process:
  1. Urban infill as defined in s. 163.3164;
  2. Urban infill and redevelopment under s. 163.2517; or
  3. Urban service areas as defined in s. 163.3164."

Section 13, (statute number not specified)

- **Legislative intent regarding transportation concurrency and addressing transportation needs.**
  - "The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, inequitable, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals."

- **The Florida Department of Transportation (FDOT) and the state land planning agency (DCA) are directed to evaluate and consider a mobility fee system to replace the existing transportation concurrency system. FDOT and DCA are directed to continue their respective Mobility Fee studies and to submit a report to the legislature by December 1, 2009.**
  - "The Legislature determines that the state shall evaluate and consider the implementation of a mobility fee to replace the existing transportation concurrency system. The mobility fee should be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and promote compact, mixed-use, and energy-efficient development."

- "The state land planning agency and the Department of Transportation shall continue their respective current mobility fee studies and develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector."

(Approved by the Governor on June 1, 2009)

Charter County Transportation System Surtax (HB 1205)

Section 1 (s. 212.055, F.S.)

- **Changes the name of the surtax to the "Charter County Transportation System Surtax" and expands eligibility to all charter counties, not just those chartered prior to January 1, 1984. Also requires interlocal agreements to be updated no less than every 5 years to include new municipalities.**

  - "Any charter county that has entered into interlocal agreements for distribution of proceeds to one or more municipalities in the county shall revise such interlocal agreements no less than every 5 years in order to include any municipalities that have been created since the prior interlocal agreements were executed."

Dori Slosberg and Katie Marchetti Safety Belt Law (SB 344)

Section 1 (s. 316.614, F.S.)

- **Changes the "Florida Safety Belt Law" citation to the "Dori Slosberg and Katie Marchetti Safety Belt Law."**

Section 2 (s. 316.614, F.S.)

- **Deletes a provision of law requiring state and local law enforcement agencies to enforce the Safety Belt Law as a secondary action, thereby becoming a primary enforcement action. Also, deletes a provision exempting passengers in a pickup truck from the requirement to use a safety belt and adds a provision providing an exemption for certain vehicles from provisions of state law relating to the use of safety belts. The passage of a primary seat belt law will make the State of Florida eligible for a single, nonrecurring payment of approximately $35 million from the federal government for safety programs.**

- "The requirements of this section do not apply to motor vehicles that are not required to be equipped with safety belts under federal law."

(Approved by the Governor on May 6, 2009)

Relating to Seaport Security (HB 7141)

Section 2 (s 311.12-124, F.S.)

- **Over two dozen reforms are made that update Florida's port security laws. A major focus of these changes is to more closely align Florida's procedures, licensure, and law enforcement with the Federal government. The Florida Uniform Port Access Credential was eliminated. Instead, the state will perform background checks and follow the rules of the Transportation Worker Identification Credential (TWIC). Further, each seaport is given responsibility for granting and enforcing access to its port facilities.**

Jacksonville Transportation Authority (HB 1213)

Sections 1- 17 (various subsections of s. 349, F.S.)

- **Numerous changes are made to the section of state statute relating to the Jacksonville Transportation Authority. Modifications are made to sections pertaining to definitions, service area, bonding and other financial authority, public hearings, acquisition of land and property and public-private partnerships. The cumulative effect of these changes is to more closely align the powers and duties of the Jacksonville Transportation Authority with those of other transportation authorities in Florida.**

Section 18 (s. 20.23, F.S.)

- **Revises the functions of the Florida Transportation Commission (FTC) to add the Jacksonville Transportation Authority as an agency monitored by the FTC.**

Section 19 (s. 334.30, F.S.)

- **Exempts the private sector partner in a public-private partnership from ad valorem, intangibles, and documentary stamp taxes. The private sector partners are not except from corporate, unemployment, sales and other standard taxes.**

  - "Because the Legislature recognizes that private entities or consortia thereof would perform a governmental or public purpose or function when they enter into agreements with the department to design, build, operate, own, or finance transportation facilities, the transportation facilities, including leasehold

interests thereof, are exempt from ad valorem taxes as provided in chapter 196 to the extent property is owned by the state or other government entity, and from intangible taxes as provided in chapter 199 and special assessments of the state, any city, town, county, special district, political subdivision of the state, or any other governmental entity. The private entities or consortia thereof are exempt from tax imposed by chapter 201 on all documents or obligations to pay money which arise out of the agreements to design, build, operate, own, lease, or finance transportation facilities …"

Section 20 (statute number not specified)

- **Requires that the Department of Transportation direct a study conducted and paid for by the Jacksonville Transportation Authority to recommend the framework for a regional transportation authority that would cover the seven county area of northeast Florida. The recommendations of the study must be delivered to the Legislature by February 2010.**

    - "The Department of Transportation shall direct a study to be conducted and funded by the authority created in chapter 349, Florida Statutes, [the Jacksonville Transportation Authority] for the purpose of recommending to the Legislature the framework for a regional transportation authority for the northeast region of Florida, composed of the following counties and each of the municipalities located therein: Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns. The study shall include, at a minimum, the existing powers and duties of the authority, as well as the additional powers and duties necessary for the agency to plan, design, finance, construct, operate, and maintain transportation facilities providing a safe, adequate, and efficient surface transportation network for the region, consistent with the statewide transportation network. In addition, the study shall address agency revenue sources, governance, coordination of work plans, and coordination with local comprehensive plans for all transportation facilities of the agency. Recommendations shall be delivered to the President of the Senate and Speaker of the House of Representatives no later than February 1, 2010."

(Approved by the Governor on June 1, 2009)

Summary of SB 2430- Taxation of Documents bill

This bill alters s. 201.031 F.S. to close a loophole that was allowing large real estate transactions to avoid paying documentary stamp taxes. The Florida Supreme Court had previously found that it was within the existing law for a person or corporation to transfer ownership of real estate to an entity that was wholly owned by the same person without paying doc stamp tax. This bill expresses the legislature's intent that most real estate transactions be required to pay documentary stamp taxes, and fixes the law so that such transactions must pay the tax. Exceptions are provided for "short sales" of foreclosed property, property held for three years, family transfers, and small business property. The reason this fix is needed is explained in this example published in the October 2005 issue of *The Florida Bar Journal*:

> "Assume seller (S) and purchaser (P) have entered into a purchase and sale contract with a purchase price of $5 million in connection with the sale of real estate. Absent any documentary stamp tax planning, the sale of the real estate would generate documentary stamp tax of $35,000. However, the transaction could alternatively be structured as follows: 1) S contributes the real estate to a wholly owned special purpose limited liability company formed solely for the transaction (S LLC); 2) S then sells the membership interest in S LLC to P for the $5 million purchase price; 3) P then dissolves S LLC and takes title to the real estate. S and P end up in the same exact place, except that the documentary stamp tax has been avoided."

Transportation revenue impact:

- Approximately $9.8 million additional dollars per year can be expected to be deposited into the State Transportation Trust Fund due to closure of this loophole. The Committee on Ways and Means expected $28.5 million per year in previously unpaid taxes would be collected if the loophole was closed, of which the STTF receives 38.2%. The following four programs are listed in statute (Section 201.15 (c)) as beneficiaries of the doc stamp tax money from the STTF. Each is shown next to the amount of additional funds that can be expected per year:
  - Transit Capital (New Starts)- 10% or $980,000
  - Small County Outreach Program (SCOP)- 5% or $490,000
  - Strategic Intermodal System (SIS)- 64% or $6,247,000
  - Transportation Regional Incentive Program (TRIP)- 21% or $2,083,000