

**Florida Metropolitan Planning
Organization Advisory Council**



2008 Summary of State Legislation

May 29, 2008

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Summary of the General Transportation Bill (SB 682)

Items of Interest to MPOs

Section 1 (no statute number assigned to date)

- **Requires FDOT, in consultation with 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 metropolitan planning organization (MPO) by June 30, 2009.**

Key features of the section include:

- “The Department of Transportation, in consultation with the Department of Law Enforcement, the Division of Emergency Management of the Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development, 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, 2009.”

Section 4 (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 5 (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 three miles of or in a port master plan area which rely upon the utilization of port and intermodal transportation facilities shall not be developments of regional impact where such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section..”

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

- **Makes a variety of changes to statutes 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 with significant transportation deficiencies and inadequate

transportation facilities; that many such insufficiencies and inadequacies severely limit or prohibit the satisfaction of transportation concurrency standards; that such transportation insufficiencies and inadequacies affect the health, safety, and welfare of the residents of such counties and municipalities; that such transportation insufficiencies and inadequacies adversely affect economic development and growth of the tax base for the areas in which such 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 shall ... 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 such 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 shall continue to be funded pursuant to 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 pursuant to 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 shall be transferred to the county or municipality within which the authority is located.”

Section 17 (s. 337.11, F.S.)

- **Authorizes FDOT to pay a stipend to unsuccessful firms that have submitted responsive proposals for construction or maintenance 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 unsuccessful firms who have submitted responsive proposals for construction or maintenance contracts. The decision and amount of a stipend will be based upon department analysis of the estimated proposal development costs and the anticipated degree of competition during the procurement process. Stipends shall be used to encourage competition and compensate unsuccessful firms for a portion of their proposal development costs. The department shall retain the right to use ideas from unsuccessful firms that accept a stipend.”
- “The department's goal shall be to procure up to 25 percent of the construction contracts which add capacity in the 5-year adopted work program as design-build contracts by July 1, 2013.”

Section 24 (s. 338.01, F.S.)

- **Require that all new limited access facilities and existing transportation facilities on which new or replacement electronic toll collection systems are installed shall 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 26 (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 27 (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 provides specific guidance related to retail vendor contracting.**
 - “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 30 (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.**
 - “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 31 (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.**
 - “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 effect 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 ... 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 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.”

- “The Governor shall not approve a proposed amendment until 14 days following the notification ...”
- “If either of the chairs of the legislative appropriations committees or the President of the Senate or the Speaker of the House of Representatives objects in writing to a proposed amendment within 14 days following notification and specifies the reasons for such objection, the Governor shall disapprove the proposed amendment.”

Section 32 (s. 339.155, F.S.)

- **Makes technical changes to requirements for the development of the Florida Transportation Plan. The bill deletes a listing of planning factors that states are required to follow to avoid the need for repeated statutory change each time the federal factors are revised. The bill also deletes the short-range component of the long-range plan and the annual performance report requirements from state law.**

Section 33 (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 37 (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 38 (s. 348.0004, F.S.)

- **Authorize expressway authorities created pursuant to ch. 348, F.S., to index toll rates on toll facilities to the annual Consumer Price Index or similar inflation indicators.**
 - “Notwithstanding any other provision of law, expressway authorities created under parts I-X of chapter 348 may index toll rates on toll facilities to the annual Consumer Price Index or similar inflation indicators.
 - “Once a toll rate index has been implemented ... the toll rate index shall remain in place and may not be revoked.”

- “Toll rate index for inflation . . . must be adopted and approved by the expressway authority board at a public meeting and may be made no more frequently than once a year and must be made no less frequently than once every 5 years as necessary to accommodate cash toll rate schedules.”
- “Toll rates may be increased beyond these limits as directed by bond documents, covenants, or governing body authorization or pursuant to department administrative rule.”

Section 46 (s. 120.52, F.S.)

- **Excludes from the definition of “agency” any transportation authority created under ch. 343, F.S. for the purposes of the Administrative Procedure Act.**

Section 47 (no statute number assigned to date)

- **Directs FDOT to establish an approved transportation methodology which recognizes that a planned, sustainable development of regional impact will likely achieve an internal capture rate greater than 30% when fully developed.**
 - “The Legislature directs the Department of Transportation to establish an approved transportation methodology which recognizes that a planned, sustainable development of regional impact will likely achieve an internal capture rate greater than 30 percent when fully developed.”
 - “The transportation methodology must use a regional transportation model that incorporates professionally accepted modeling techniques applicable to well-planned, sustainable communities of the size, location, mix of uses, and design features consistent with such communities.
 - “The adopted transportation methodology shall serve as the basis for sustainable development traffic impact assessments by the department.
 - “The methodology review must be completed and in use by March 1, 2009.”

Summary of Other Items of Interest to MPOs Included in Bills Passed by the 2008 Florida Legislature

Energy Bill (HB 7135)

Section 4 (s. 186.007 , F.S.)

- **Adds “energy” and “global climate change” to the program areas that the Executive Office of the Governor may include in the state comprehensive plan and expands the air quality, energy, and land use goals in the state comprehensive plan.**

Section 23 (s. 286.29 , F.S.)

- **Creates rules and guidance relating to climate-friendly public business practices.**
 - “The Department of Management Services shall develop the "Florida Climate-Friendly Preferred Products List." In maintaining that list, the department, in consultation with the Department of Environmental Protection, shall continually assess products currently available for purchase under state term contracts to identify specific products and vendors that offer clear energy efficiency or other environmental benefits over competing products. When procuring products from state term contracts, state agencies shall first consult the Florida Climate-Friendly Preferred Products List and procure such products if the price is comparable.”
 - “Effective July 1, 2008, state agencies shall contract for meeting and conference space only with hotels or conference facilities that have received the "Green Lodging" designation from the Department of Environmental Protection for best practices in water, energy, and waste efficiency standards, unless the responsible state agency head makes a determination that no other viable alternative exists. The Department of Environmental Protection is authorized to adopt rules to implement the "Green Lodging" program.”

Section 30 (s. 339.175 , F.S.)

- **Amends the existing MPO statute to include “greenhouse gas emissions” as a specific consideration in MPO planning practice.**
 - “It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas of this state while minimizing transportation-related fuel consumption, and air pollution, and greenhouse gas emissions through metropolitan transportation planning processes...”

- “Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.” (please note that the section language pertains to the preparation of long-range transportation plans)

Building Code Standards Bill (HB 697)

Section 2 (s. 163.3177, F.S.)

- **Requires local government comprehensive plan elements to discourage urban sprawl, promote energy-efficient land use patterns and the use of renewable energy resources, and incorporate transportation strategies to address greenhouse gas reductions.**
 - “The traffic circulation element shall incorporate transportation strategies to address reduction in greenhouse gas emissions from the transportation sector.”

Pedestrian Safety Bill (SB 154)

Section 1 (s. 316.075 & 316.130, F.S.)

- **Requires a driver to stop at certain intersections to allow a pedestrian to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk.**
 - “The driver of a vehicle facing a steady red signal shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”
 - “The driver of a vehicle at an intersection that has a traffic control signal in place shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”
 - “The driver of a vehicle at any crosswalk where signage so indicates shall stop and remain stopped to allow a pedestrian to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”
 - “When traffic control signals are not in place or in operation and there is no signage indicating otherwise, the driver of a vehicle shall yield the right-of-way,

slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.”

Transportation Disadvantaged Services Bill (HB 1175)

Section 6 (s.427.015, F.S.)

- **Clarifies the role of the MPO in the Transportation Disadvantaged statutes.**
 - “Each metropolitan planning organization or designated official planning agency shall recommend to the commission a single community transportation coordinator. However, a purchasing agency member department may not serve as the community transportation coordinator in any designated service area.”
 - “Each metropolitan planning organization or designated official planning agency shall request each local government in its jurisdiction to provide the actual expenditures ~~an estimate~~ of all local and direct federal funds to be expended for transportation for the disadvantaged. The metropolitan planning organization or designated official planning agency shall consolidate this information into a single report and forward it, by September 15, ~~the beginning of each fiscal year~~, to the commission.”

Section 7 (s.427.0155, F.S.)

- **Adds the development of eligibility guidelines to the powers and duties of the community transportation coordinators in the Transportation Disadvantaged statutes.**
 - “In cooperation with the coordinating board and pursuant to criteria developed by the Commission for the Transportation Disadvantaged, establish eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.”

Section 8 (s.427.0157, F.S.)

- **Adds assisting in the development of eligibility guidelines to the powers and duties of the transportation disadvantaged coordinating boards in the Transportation Disadvantaged statutes.**
 - “Assist the community transportation coordinator in establishing eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.”

Financial Impact of Legislation

The recently completed Legislative Session ended with passage of three bills which could negatively impact funding levels in the Amended Tentative Work Program.

- **CS for SB 1882** amends s. 201.15 F.S. to reduce the amount of documentary stamp proceeds received by the FDOT from \$541.75 million per year to 38.2% of documentary stamp proceeds remaining after other take downs or \$541.75 million per year, whichever is less.

The cash impact of CS for SB 1882 based on the March Revenue Estimating Conference per year would be (in millions):

FY09	FY10	FY11	FY12	FY13	FY14
(\$302.2)	(\$266.3)	(\$189.9)	(\$112.7)	(\$59.4)	(\$18.9)

For a total cash impact of \$949.1 million through FY 2013-14.

- **HB 5067** amends s. 320.06 and 320.0805 F.S. to redirect the \$2 processing fee for personalized prestige license plates (specialty plates) and the 50 cent reflective material fee from the State Transportation Trust Fund to the Highway Safety Operating Trust Fund. This bill also “notwithstands” the requirement that 15% of certain revenues from the State Transportation Trust Fund be used for Public Transportation.

The cash impact of HB 5067 based on the March Revenue Estimating Conference per year would be (in millions):

FY09	FY10	FY11	FY12	FY13	FY14
(\$12.6)	(\$12.9)	(\$13.2)	(\$13.5)	(\$13.8)	(\$14.1)

For a cash impact of \$80.1 million through FY 2013-14.

- **CS for HB 1027** amends s 320.089 to redirect an additional \$100,000 annually from Motor Vehicle License fees to the State Homes for Veterans Trust Fund. This represents a minor reduction to cash for the annual \$100,000.