

2007 Legislative Session Report

Budget: The House originally diverted \$100 million recurring dollars from transportation to General Revenue. The Senate held tough in opposing the diversion and in the end won. The \$100 million for transportation was restored.

Transportation Issues

[CS/CS/HB 985](#) -- **Transportation and Infrastructure**

CS/CS/HB 985 is an omnibus bill that addresses a variety of transportation financing, planning, and administrative issues. Effective Date is July 1, 2007, pending approval by the Governor. Below are some of the provisions of the bill.

Aggregates Task Force

- Establishes the Strategic Aggregates Review Task Force. Provides for membership, staffing, reporting, and expiration. Requires state agencies to consider the effect of decision-making on the availability of construction aggregate materials. Includes limitations on local governments' mining moratorium and language permitting DOT to contract for future mineral rights

Turnpike Bonding Authority

- Increases the maximum dollar amount of bonds issued for Turnpike projects from \$4.5 billion to \$10.0 billion

Transportation Concurrency Backlog Authority

- Allows local governments to create Transportation Concurrency Backlog Authorities to adopt plans to eliminate backlogs funded by Tax Increment Financing;

Public Private Partnerships

The bill provides for the implementation of Public-Private Partnerships to strengthen the state's transportation system by providing the Department of Transportation (DOT) with innovative financing techniques including public-private partnerships and leasing existing toll facilities. The bill makes the following changes:

- Revises current application fees for proposals submitted under this section to be required only for unsolicited proposals;
- Requires that agreements for leasing existing toll facilities must be approved by the Legislative Budget Commission;
- Allows DOT to enter into Public-Private Partnership agreements to develop new toll roads or to increase capacity;
- Requires that DOT submit a summary of Public-Private Partnership projects as a part of the Tentative Work Program annual submittal to the Legislature and Governor's office;

- Requires minimum operation and maintenance standards for toll facilities included in Public-Private Partnerships;
- Provides for regulation of toll rates and revenue sharing as part of the negotiated agreement;
- Requires an investment grade traffic and revenue study, a finance plan, and a cash-flow analysis;
- Exempts Public-Private Partnerships from traditional contracting requirements included in chapter 311, F.S. However, these agreements must specify the qualification of firms and the contracting requirements through the procurement process;
- Extends the advertisement period from 60 days to 120 days for interested parties to submit a competitive bid in response to DOT's receipt of unsolicited proposals;
- Requires that Public-Private Partnership agreements include a balanced security package;
- Requires the private entity and DOT to perform a cost-benefit, value-for money analysis showing the cost effectiveness and public benefit of proposed projects;
- Authorizes availability payments by DOT on an annual basis as part of a project finance plan;
- Provides project selection and prioritization processes for specific roadways associated with DOT's work program;
- Establishes contract term limits for Public-Private Partnership agreements of 50 years, or 75 years with the DOT Secretary's written findings and approval. Over 75 years requires legislative approval and specifies that any leased facility would be owned by DOT at the end of the term of the agreement; Establishes maximum annual obligation of state and federal funds to Public- Private Partnership contracts of 15 percent of funding for any given year; and
- Applies indexing toll rates to all DOT owned toll facilities, including the Turnpike system.

Other Transportation Issues

A number of other transportation issues are included in the bill which provides the state with additional flexibility and programs to accomplish needs related to contracting, bonding, productivity, construction material availability, and law enforcement support through efficient and beneficial methods. The bill:

- Requires the DOT to expand the general advertising of projects for bid;
- Allows the DOT to waive surety bond requirements on projects \$250,000 or less;
- Allows the DOT to waive contractor pre-qualification to bid requirements on projects \$500,000 or less;
- Allows the DOT to accept multi-year surety bonds for multi-year maintenance contracts;
- Allows the DOT to waive surety bond requirements on projects \$250 million or more;
- Creates the Enhanced Bridge Program to authorize use of transportation funds or the purpose of improving the sufficiency rating of local bridges and to improve congested roads on the State Highway System or local corridors on high high-cost bridges are located in order to improve a corridor or provide an alternative corridor

SB 1134 is a conforming bill to the General Appropriations Act for Fiscal Year 2007-2008. Among other provisions, the bill raises the Turnpike Enterprise's revenue bond cap from \$4.5 billion in bonds issued to \$10 billion in bonds outstanding.

Growth Management

HB 7203 – Growth Management

The bill recognizes the varying needs of Florida's local governments and streamlines the state's growth management oversight in specific areas. A pilot program for state review of local comprehensive plans in urban areas is created in order to provide an alternative review process for densely developed areas. The bill provides a more efficient process for adoption and review of comprehensive plan amendments for Pinellas and Broward Counties, and their cities; and the cities of Jacksonville, Miami, Tampa, and Hialeah. The pilot exempts them from the formal compliance reviews by the state land planning agency. The bill retains the authority of affected parties and the Department of Community Affairs (DCA) to challenge plan amendments in these areas, and encourages the DCA to focus any challenges on issues of statewide importance. The Office of Program Policy Analysis and Governmental Accountability (OPPAGA) is given the responsibility for developing a report and recommendations for implementing a statewide program that addresses the stated legislative findings. The report is due December 1, 2008. As part of the report, OPPAGA shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program.

The bill expands the eligibility criteria for transportation concurrency exception areas to include certain urban service areas that meet the requirements of the law. Associated with this issue, the bill revises the definitions of "urban redevelopment" to include community redevelopment areas. The bill adds airport facilities in the list of transit facilities that are not subject to transportation concurrency.

SB 1624 -- Insurance/Public Construction Projects

CS/CS/SB 1624 restricts the use of an owner-controlled insurance program (OCIP) for a public construction project. The law currently prohibits state and local governments constructing public works from requiring a contractor or subcontractor to participate in an OCIP, with certain exceptions. The bill requires coverage for completed operations up to ten years and clarifies that OCIP's are appropriate on large projects. Smaller projects cannot be "stacked" to meet the threshold.

Specifically, current law provides that an OCIP must meet a \$75 million threshold in order for the construction project to be eligible to use an OCIP. The bill provides that a capital infrastructure improvement program for which the OCIP is used must be for a single public service, system, or facility cannot be combined with another public agency service, system, facility, or other public work to meet \$75 million threshold unless the services, systems, facilities, or other public works are part of:

- A capital infrastructure improvement program that will be performed under a single prime contract; or

- An interrelated capital infrastructure improvement program that interconnects the housing or transportation of persons or cargo arriving via an airport or seaport, when the combined estimated costs of the construction projects exceed \$125 million.

Owner-controlled insurance programs issued prior to October 1, 2007 are exempt from the provisions of the bill.

Bills that did not pass:

Tort Reform [HB 733](#) and [SB 1558](#)

Attempts were made to undo some of the gains made by the elimination of joint and several liability which passed last year. The bills were opposed by FTBA and the business community. The bills failed to pass.

Immigration Issues [HB 119](#), [HB 999](#), [HB 1085](#), [SB 1338](#), [SB 1810](#)

There were 5 bills filed this session that would have required contractors to comply with the Department of Homeland Security Pilot Program to clear prospective employees. FTBA opposed these bills as the error rate in the pilot program is more than 20% and the time for response from the system exceeds two weeks in many cases.

Crane Operator's Certification [HB 1347](#), [SB 2068](#)

In response to threats of licensure of crane operators at the local level, Associated Builders; and Contractors (ABC) supported a bill that would provide for a certification of crane operators as opposed to licensure. In working with ABC, we were able to reach an agreement to apply the certification to tower crane operators only. The bill passed the House but was never heard on the Senate floor.

NOTE: To access a copy of the actual bill, please click on the bill number.

Legislature to hold Special Session on Property Tax Relief

Meaningful property tax relief did not pass during the 2007 Regular Legislative Session. The Legislature will reconvene in Special Session June 12 – 122 to address this issue.

To see what was proposed as of April 24, 2007, please click below:

[Side-by-side Comparison of Senate and House Proposed Tax Savings](#)

(thanks to ABC for use of the side-by-side)