

## CHAPTER 2017-42

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 865

An act relating to the Department of Transportation; creating s. 316.0898, F.S.; requiring the department, in consultation with the Department of Highway Safety and Motor Vehicles, to develop the Florida Smart City Challenge Grant Program; providing requirements for grant applicants; establishing goals for the grant program; requiring the Department of Transportation to develop specified criteria for receipt of grants and a plan for promotion of the grant program; authorizing the department to contract with a third party for certain purposes; requiring the department to submit certain information to the Governor and Legislature; providing for future repeal; amending s. 316.545, F.S.; providing for assessment and calculation of a fine for unlawful weight and load of a vehicle fueled by natural gas; requiring written certification of certain weight information; providing gross vehicle weight requirements; providing an exception; amending s. 335.074, F.S.; requiring inspection of certain bridges at intervals required by the Federal Highway Administration; amending s. 337.11, F.S.; revising the amount for which the department may enter into certain construction and maintenance contracts; amending s. 337.401, F.S.; authorizing the department and certain local governmental entities to prescribe and enforce rules or regulations regarding the placing and maintaining of certain voice or data communications services lines or wireless facilities on certain rights-of-way; amending s. 338.227, F.S.; providing requirements for the validation of turnpike revenue bonds and related complaints; requiring the department to undertake an economic feasibility study relating to the acquisition of the Garcon Point Bridge; requiring a report to the Governor and Legislature; amending s. 339.135, F.S.; waiving requirements for approval of certain work program amendments by the Legislative Budget Commission under certain conditions; amending s. 339.2405, F.S.; deleting provisions relating to the Florida Highway Beautification Council; transferring certain powers and duties of the council to the department; amending s. 343.52, F.S.; defining the term “department”; amending s. 343.53, F.S.; conforming a cross-reference; amending s. 343.54, F.S.; prohibiting the South Florida Regional Transportation Authority from entering into certain contracts or agreements without department approval of the authority’s expenditures; amending s. 343.58, F.S.; providing that certain funds provided to the authority constitute state financial assistance; requiring a written agreement for provision of such funds; authorizing the department to advance a certain amount of funds under certain circumstances; requiring the department to submit to the Governor and Legislature a review of the boundaries and headquarters of department districts and a study on the expenses associated with creating an additional district; authorizing the Secretary of Transportation to enroll the state in federal pilot programs or projects for the collection and study of certain data; amending s. 215.82,

F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 316.0898, Florida Statutes, is created to read:

316.0898 Florida Smart City Challenge Grant Program.—

(1) The Department of Transportation, in consultation with the Department of Highway Safety and Motor Vehicles, shall, subject to appropriation, develop the Florida Smart City Challenge Grant Program and establish grant award requirements for municipalities or regions for the purpose of receiving grant awards. Grant applicants must demonstrate and document the adoption of emerging technologies and their impact on the transportation system and must address at least the following focus areas:

- (a) Autonomous vehicles.
- (b) Connected vehicles.
- (c) Sensor-based infrastructure.
- (d) Collecting and using data.
- (e) Electric vehicles, including charging stations.
- (f) Developing strategic models and partnerships.

(2) The goals of the grant program include, but are not limited to:

(a) Identifying transportation challenges and identifying how emerging technologies can address those challenges.

(b) Determining the emerging technologies and strategies that have the potential to provide the most significant impacts.

(c) Encouraging municipalities to take significant steps to integrate emerging technologies into their day-to-day operations.

(d) Identifying the barriers to implementing the grant program and communicating those barriers to the Legislature and appropriate agencies and organizations.

(e) Leveraging the initial grant to attract additional public and private investments.

(f) Increasing the state's competitiveness in the pursuit of grants from the United States Department of Transportation, the United States Department of Energy, and other federal agencies.

(g) Committing to the continued operation of programs implemented in connection with the grant.

(h) Serving as a model for municipalities nationwide.

(i) Documenting the costs and impacts of the grant program and lessons learned during implementation.

(j) Identifying solutions that will demonstrate local or regional economic impact.

(3) The Department of Transportation shall develop eligibility, application, and selection criteria for the receipt of grants and a plan for the promotion of the grant program to municipalities or regions of this state as an opportunity to compete for grant funding, including the award of grants to a single recipient and secondary grants to specific projects of merit within other applications. The Department of Transportation may contract with a third party that demonstrates knowledge and expertise in the focuses and goals of this section to provide guidance in the development of the requirements of this section.

(4) On or before January 1, 2018, the Department of Transportation shall submit the grant program guidelines and plans for promotion of the grant program to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(5) This section expires July 1, 2018.

Section 2. Paragraphs (c) and (d) of subsection (3) of section 316.545, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(3)

(c)1. For a vehicle fueled by natural gas, the fine is calculated by reducing the actual gross vehicle weight by the certified weight difference between the natural gas tank and fueling system and a comparable diesel tank and fueling system. Upon request by any weight inspector or law enforcement officer, the vehicle operator must present written certification that identifies the weight of the natural gas tank and fueling system and the difference in weight of a comparable diesel tank and fueling system. The written certification must originate from the vehicle manufacturer or the installer of the natural gas tank and fueling system.

2. The actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds, excluding the weight allowed for idle-reduction technology under paragraph (b).

3. This paragraph does not apply to those vehicles described in s. 316.535(6).

Section 3. Subsection (2) of section 335.074, Florida Statutes, is amended to read:

335.074 Safety inspection of bridges.—

(2) At regular intervals as required by the Federal Highway Administration ~~not to exceed 2 years~~, each bridge on a public transportation facility shall be inspected for structural soundness and safety for the passage of traffic on such bridge. The thoroughness with which bridges are to be inspected shall depend on such factors as age, traffic characteristics, state of maintenance, and known deficiencies. The governmental entity responsible for having maintenance of responsibility ~~for any such bridge is~~ shall be responsible for having inspections performed and reports prepared in accordance with this section ~~the provisions contained herein~~.

Section 4. Paragraph (c) of subsection (6) of section 337.11, Florida Statutes, is amended to read:

337.11 Contracting authority of department; bids; emergency repairs, supplemental agreements, and change orders; combined design and construction contracts; progress payments; records; requirements of vehicle registration.—

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work, the department may, up to the amount of \$250,000 ~~\$120,000~~, enter into contracts for construction and maintenance without advertising and receiving competitive bids. The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

1. To ensure timely completion of projects or avoidance of undue delay for other projects;

2. To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or

3. To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.

The department shall make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract. The department shall give consideration to disadvantaged business enterprise participation. However, when the work exists within the limits of an existing

contract, the department shall make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract.

Section 5. Paragraph (a) of subsection (1) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(1)(a) The department and local governmental entities, referred to in this section and in ss. 337.402, 337.403, and 337.404 as the “authority,” that have jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any electric transmission, ~~voice telephone~~, telegraph, ~~data~~, or other communications services lines or ~~wireless facilities~~; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404 as the “utility.” The department may enter into a permit-delegation agreement with a governmental entity if issuance of a permit is based on requirements that the department finds will ensure the safety and integrity of facilities of the Department of Transportation; however, the permit-delegation agreement does not apply to facilities of electric utilities as defined in s. 366.02(2).

Section 6. Subsection (5) is added to section 338.227, Florida Statutes, to read:

338.227 Turnpike revenue bonds.—

(5) Notwithstanding s. 215.82, bonds issued pursuant to this section are not required to be validated pursuant to chapter 75 but may be validated at the option of the Division of Bond Finance. A complaint about such validation must be filed in the circuit court of the county in which the seat of state government is situated. The notice required to be published by s. 75.06 must be published only in the county in which the complaint is filed. The complaint and order of the circuit court must be served only on the state attorney of the circuit in which the action is pending.

Section 7. The Department of Transportation shall undertake an economic feasibility study relating to the acquisition of the Garcon Point Bridge. The department shall submit the completed study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2018.

Section 8. Paragraph (e) of subsection (7) of section 339.135, Florida Statutes, is amended to read:

339.135 Work program; legislative budget request; definitions; preparation, adoption, execution, and amendment.—

## (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

(e) Notwithstanding paragraphs (d), ~~and (g), and (h)~~ and ss. 216.177(2) and 216.351, the secretary may request the Executive Office of the Governor to amend the adopted work program when an emergency exists, as defined in s. 252.34, and the emergency relates to the repair or rehabilitation of any state transportation facility. The Executive Office of the Governor may approve the amendment to the adopted work program and amend that portion of the department's approved budget if a delay incident to the notification requirements in paragraph (d) would be detrimental to the interests of the state. However, the department shall immediately notify the parties specified in paragraph (d) and provide such parties written justification for the emergency action within 7 days after approval by the Executive Office of the Governor of the amendment to the adopted work program and the department's budget. The adopted work program may not be amended under this subsection without certification by the comptroller of the department that there are sufficient funds available pursuant to the 36-month cash forecast and applicable statutes.

Section 9. Section 339.2405, Florida Statutes, is amended to read:

339.2405 Florida highway beautification grants Council.—

(1) ~~The department shall~~ There is created within the Department of Transportation the Florida Highway Beautification Council. It shall consist of seven members appointed by the Governor. ~~All appointed members must be residents of this state. One member must be a licensed landscape architect, one member must be a representative of the Florida Federation of Garden Clubs, Inc., one member must be a representative of the Florida Nurserymen and Growers Association, one member must be a representative of the department as designated by the head of the department, one member must be a representative of the Department of Agriculture and Consumer Services, and two members must be private citizens. The members of the council shall serve at the pleasure of the Governor.~~

(2) ~~Each chair shall be selected by the council members and shall serve a 2-year term.~~

(3) ~~The council shall meet no less than semiannually at the call of the chair or, in the chair's absence or incapacity, at the call of the head of the department. Four members shall constitute a quorum for the purpose of exercising all of the powers of the council. A vote of the majority of the members present shall be sufficient for all actions of the council.~~

(4) ~~The council members shall serve without pay but shall be entitled to per diem and travel expenses pursuant to s. 112.061.~~

(5) ~~A member of the council may not participate in any discussion or decision to recommend grants to any qualified local government with which the member is associated as a member of the governing body or as an~~

~~employee or with which the member has entered into a contractual arrangement.~~

~~(6) The council may prescribe, amend, and repeal bylaws governing the manner in which the business of the council is conducted.~~

~~(7)(a) The duties of the council shall be to:~~

~~(a)1. Provide information to local governments and local highway beautification councils regarding the state highway beautification grants program.~~

~~(b)2. Accept grant requests from local governments.~~

~~(c)3. Review grant requests for compliance with department council rules.~~

~~(d)4. Establish rules for evaluating and prioritizing the grant requests. The rules must include, but are not limited to, an examination of each grant’s aesthetic value, cost-effectiveness, level of local support, feasibility of installation and maintenance, and compliance with state and federal regulations. Rules adopted by the department council which it uses to evaluate grant applications must take into consideration the contributions made by the highway beautification project in preventing litter.~~

~~(e)5. Maintain a prioritized list of approved grant requests. The list must include recommended funding levels for each request and, if staged implementation is appropriate, provide funding requirements for each stage shall be provided.~~

~~6. Assess the feasibility of planting and maintaining indigenous wildflowers and plants, instead of sod groundcovers, along the rights-of-way of state roads and highways. In making such assessment, the council shall utilize data from other states which include indigenous wildflower and plant species in their highway vegetative management systems.~~

~~(b) The council may, at the request of the head of the department, review and make recommendations on any other highway beautification matters relating to the State Highway System.~~

~~(8) The head of the department shall provide from existing personnel such staff support services to the council as are necessary to enable the council to fulfill its duties and responsibilities.~~

~~(2)(9) Local highway beautification councils may be created by local governmental entities or by the Legislature. Before ~~Prior to~~ being submitted to the department council, a grant request must be approved by the local government or governments of the area in which the project is located.~~

~~(3)(10) The head of the department, after receiving recommendations from the council, shall award grants to local governmental entities that have~~

submitted grant requests for beautification of roads on the State Highway System and which requests are on the council's approved list. The grants shall be awarded in the order they appear on the council's prioritized list and in accordance with available funding.

~~(4)~~(11) State highway beautification grants may be requested only for projects to beautify through landscaping roads on the State Highway System. The grant request shall identify all costs associated with the project, including sprinkler systems, plant materials, equipment, and labor. A grant shall provide for the costs of purchase and installation of a sprinkler system and, the cost of plant materials and fertilizer, and may provide for the costs for labor associated with the installation of the plantings. Each local government that receives a grant shall be responsible for any costs for water, for the maintenance of the sprinkler system, for the maintenance of the landscaped areas in accordance with a maintenance agreement with the department, and, except as otherwise provided in the grant, for any costs for labor associated with the installation of the plantings. The department may provide, by contract, services to maintain such landscaping at a level not to exceed the cost of routine maintenance of an equivalent unlandscaped area.

~~(12) The council shall annually submit to the head of the Department of Transportation a proposal recommending the level of grant funding.~~

Section 10. Section 343.52, Florida Statutes, is amended to read:

343.52 Definitions.—As used in this part, the term:

~~(1)~~(3) “Area served” means Miami-Dade, Broward, and Palm Beach Counties. However, this area may be expanded by mutual consent of the authority and the board of county commissioners of Monroe County. The authority may not expand into any additional counties without the department's prior written approval.

~~(2)~~(1) “Authority” means the South Florida Regional Transportation Authority.

~~(3)~~(2) “Board” means the governing body of the authority.

(4) “Department” means the Department of Transportation.

~~(5)~~(7) “Feeder transit services” means a transit system that transports passengers to or from stations within or across counties.

~~(6)~~ “Member” means the individuals constituting the board.

~~(7)~~(5) “Transit facilities” means property, avenues of access, equipment, or buildings built and installed in Miami-Dade, Broward, and Palm Beach Counties which are required to support a transit system.

~~(8)~~(4) “Transit system” means a system used for the transportation of people and goods by means of, without limitation, a street railway, an



elevated railway having a fixed guideway, a commuter railroad, a subway, motor vehicles, or motor buses, and includes a complete system of tracks, stations, and rolling stock necessary to effectuate passenger service to or from the surrounding regional municipalities.

Section 11. Paragraph (d) of subsection (2) of section 343.53, Florida Statutes, is amended to read:

343.53 South Florida Regional Transportation Authority.—

(2) The governing board of the authority shall consist of 10 voting members, as follows:

(d) If the authority's service area is expanded pursuant to s. 343.54(6) ~~343.54(5)~~, the county containing the new service area shall have two members appointed to the board as follows:

1. The county commission of the county shall elect a commissioner as that commission's representative on the board. The commissioner must be a member of the county commission when elected and for the full extent of his or her term.

2. The Governor shall appoint a citizen member to the board who is not a member of the county commission but who is a resident and a qualified elector of that county.

Section 12. Subsections (4) and (5) of section 343.54, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section to read:

343.54 Powers and duties.—

(4) Notwithstanding any other provision of this part, the authority may not enter into, extend, or renew any contract or other agreement that may be funded, in whole or in part, with funds provided by the department without the prior review and written approval by the department of the authority's proposed expenditures.

Section 13. Paragraph (c) of subsection (4) of section 343.58, Florida Statutes, is amended to read:

343.58 County funding for the South Florida Regional Transportation Authority.—

(4) Notwithstanding any other provision of law to the contrary and effective July 1, 2010, until as provided in paragraph (d), the department shall transfer annually from the State Transportation Trust Fund to the South Florida Regional Transportation Authority the amounts specified in subparagraph (a)1. or subparagraph (a)2.

(c)1. ~~Funds provided to the authority by the department under this subsection constitute state financial assistance provided to a nonstate entity to carry out a state project subject to ss. 215.97 and 215.971. The department shall provide the funds in accordance with the terms of a written agreement to be entered into between the authority and the department, which shall provide for department review, approval, and audit of authority expenditure of such funds and shall include such other provisions as are required by applicable law. The department is specifically authorized to agree to advance the authority 25 percent of the total funds provided under this subsection for a state fiscal year at the beginning of each state fiscal year, with monthly payments over the fiscal year on a reimbursement basis as supported by invoices and such additional documentation and information as the department may reasonably require and a reconciliation of the advance against remaining invoices in the last quarter of the fiscal year may not be committed by the authority without the approval of the department, which may not be unreasonably withheld. At least 90 days before advertising any procurement or renewing any existing contract that will rely on state funds for payment, the authority shall notify the department of the proposed procurement or renewal and the proposed terms thereof. If the department, within 60 days after receipt of notice, objects in writing to the proposed procurement or renewal, specifying its reasons for objection, the authority may not proceed with the proposed procurement or renewal. Failure of the department to object in writing within 60 days after notice shall be deemed consent. This requirement does not impair or cause the authority to cancel contracts that exist as of June 30, 2012.~~

2. To enable the department to evaluate the authority's proposed uses of state funds, the authority shall annually provide the department with its proposed budget for the following authority fiscal year and shall promptly provide the department with any additional documentation or information required by the department for its evaluation of the proposed uses of the state funds.

Section 14. On or before October 31, 2017, the Department of Transportation shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report providing a comprehensive review of the boundaries and headquarters of each of the department's districts. Along with its report, the department shall provide a study on the expenses associated with creating an additional district with the department's Fort Myers urban office as the district headquarters.

Section 15. The Secretary of Transportation may enroll the State of Florida in any federal pilot program or project for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, autonomous vehicle technology, or capacity challenges.

Section 16. Subsection (2) of section 215.82, Florida Statutes, is amended to read:

## 215.82 Validation; when required.—

(2) Any bonds issued pursuant to this act which are validated shall be validated in the manner provided by chapter 75. In actions to validate bonds to be issued in the name of the State Board of Education under s. 9(a) and (d), Art. XII of the State Constitution and bonds to be issued pursuant to chapter 259, the Land Conservation Program, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. In any action to validate bonds issued pursuant to s. 1010.62 or issued pursuant to s. 9(a)(1), Art. XII of the State Constitution or issued pursuant to s. 215.605 ~~or s. 338.227~~, the complaint shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published in a newspaper of general circulation in the county where the complaint is filed and in two other newspapers of general circulation in the state, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending; provided, however, that if publication of notice pursuant to this section would require publication in more newspapers than would publication pursuant to s. 75.06, such publication shall be made pursuant to s. 75.06.

Section 17. This act shall take effect July 1, 2017.

Approved by the Governor May 31, 2017.

Filed in Office Secretary of State May 31, 2017.