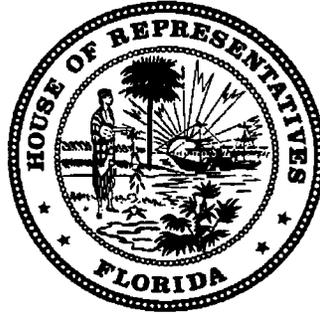




Transportation & Economic Development Appropriations Subcommittee

Meeting Packet

**February 2, 2016
1:30 p.m. – 3:30 p.m.
Reed Hall**



AGENDA

Transportation & Economic Development Appropriations Subcommittee
February 2, 2016
1:30 p.m. – 3:30 p.m.
Reed Hall

- I. **Call to Order/Roll Call**
- II. **Consideration of Bills**

CS/HB 155 Central Florida Regional Transportation Authority by Government Operations Subcommittee, Cortes, B.

HB 961 Transportation by Artiles

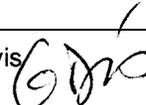
CS/HB 1349 Specialty License Plates/Specified Sororities & Fraternities by Highway & Waterway Safety Subcommittee, Williams, A.

HJR 1395 Purchase of Personal Firearms by Qualified Law Enforcement Officers by Avila

- III. **Closing Remarks/Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 155 Central Florida Regional Transportation Authority
SPONSOR(S): Government Operations Subcommittee; Cortes
TIED BILLS: IDEN./SIM. BILLS: SB 738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	10 Y, 2 N	Willson	Vickers
2) Government Operations Subcommittee	10 Y, 1 N, As CS	Moore	Williamson
3) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
4) Economic Affairs Committee			

SUMMARY ANALYSIS

The Central Florida Regional Transportation Authority (LYNX) is an agency of the state created pursuant to the Central Florida Regional Transportation Authority Act. Its governing board is composed of the following five members:

- The chair of the Orange County Board of County Commissioners or another member designated by the chair;
- The chair of the Osceola County Board of County Commissioners or another member designated by the chair;
- The chair of the Seminole County Board of County Commissioners or another member designated by the chair;
- The mayor of the City of Orlando or a member of the Orlando City Council designated by the mayor; and
- The Department of Transportation (DOT) district secretary, or his or her designee, for the district within which the area served by LYNX is located.

The bill increases the number of governing board members from five to nine and provides that the board is composed as follows:

- The mayor of the City of Orlando must serve for the full extent of his or her term;
- The chairs of the boards of county commissioners of Orange, Osceola, and Seminole Counties must each appoint one member of the respective board of county commissioners;
- The board of county commissioners of Orange County must appoint one member of the board additional to the member appointed by the chair;
- The Speaker of the House of Representatives and the President of the Senate must alternate the appointment of one legislator whose district includes at least a portion of Orange, Osceola, or Seminole County; and
- The Governor must appoint three citizen members, one from Orange County, one from Osceola County, and one from Seminole County.

The bill provides that the district secretary of DOT within the area served by LYNX will serve as a nonvoting advisor to LYNX's governing board.

The bill establishes the terms of the board members, provides for expiration of the terms of standing board members, and establishes quorum requirements.

The bill may have an indeterminate, but likely minimal fiscal impact on state travel expenditures, but does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Central Florida Regional Transportation Authority

In 1993, the Legislature created the Central Florida Regional Transportation Authority, which replaced the Central Florida Commuter Rail Authority, and gave it the right to own, operate, maintain, and manage a public transportation system in the area of Seminole, Orange, and Osceola Counties.¹ On October 1, 1994, the Orange-Seminole-Osceola Transportation Authority, which provided transportation services under the name "LYNX," merged with the Central Florida Regional Transportation Authority. The consolidated Central Florida Regional Transportation Authority continued the practice of providing transportation services under the name "LYNX."²

The Central Florida Regional Transportation Authority (LYNX) is established in Part III of Ch. 343, F.S. It is created and established as a body politic and corporate and an agency of the state.³ Its governing board consists of five members:

- The chair of the Seminole County Commission or another member designated by the chair;
- The chair of the Orange County Commission or another member designated by the chair;
- The chair of the Osceola County Commission or another member designated by the chair;
- The mayor of the City of Orlando or a member of the Orlando City Council designated by the mayor; and
- The Department of Transportation (DOT) district secretary, or his or her designee, for the district within which the area served by LYNX is located.⁴

LYNX provides public transportation services to the greater Orlando metropolitan area, which covers Orange, Seminole, and Osceola Counties. LYNX also offers some out-of-county express service to Lake and Volusia Counties and flexible and fixed-route service to Polk County. LYNX provides alternative transportation services in the form of fixed-route bus services, bus rapid transit, neighborhood circulators, paratransit services, and vanpool services.

LYNX has an operating budget for Fiscal Year 2016 of approximately \$127 million and operates a fleet of 300 air-conditioned coaches. In Fiscal Year 2014, LYNX provided 30.1 million passenger trips and traveled more than 16.5 million vehicle miles.⁵

Section 343.64, F.S., authorizes LYNX to employ a secretary, an executive director, professional staff, and other employees as it may require⁶ and to delegate its powers to these employees, subject to the supervision and control of the governing board.⁷

In 2014, LYNX employed 744 transportation staff, 200 maintenance staff, and 161 administrative and general staff, for a total of 1,105 employees.⁸ The LYNX chief executive officer is responsible for

¹ Ch. 93-103, Laws of Fla.

² CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY D/B/A/ LYNX, *Comprehensive Annual Financial Report for Years Ended Sept. 30, 2014 and 2013*, http://www.golynx.com/core/fileparse.php/143255/urlt/2014-cfrta-d_b_a-lynx.pdf (last visited Dec. 18, 2015).

³ s. 343.63(1), F.S.

⁴ s. 343.63(2), F.S.

⁵ *LYNX Facts at a Glance*, <http://www.golynx.com/corporate-info/facts-glance.shtml> (last visited Dec. 18, 2015).

⁶ s. 343.64(4), F.S.

⁷ s. 343.64(5), F.S.

administration and operations, and is supported by a general manager, a government affairs officer, and a compliance manager, as well as nine directors who oversee the departments of Engineering and Construction, Human Resources, Information Technology, Communications, Planning, Procurement and Contracts, Risk Management and Safety, Transportation and Vehicle Maintenance including the Paratransit division, and Finance including the Accounting and Finance, Budgets, and Material Control divisions.⁹

Dual Officeholding

Article II, s. 5(a) of the State Constitution prohibits a state, county, or municipal officer from holding another state, county, or municipal office at the same time. In a 1994 advisory opinion, the Supreme Court of Florida concluded that an officer of a special district is not a state, county, or municipal officer within the meaning of Art. II, s. 5(a), and the dual officeholding prohibition therefore does not apply to such officer.¹⁰ In addition, the Attorney General's Office has consistently opined that the dual officeholding prohibition does not apply to officers of independent special districts.¹¹

Effect of Proposed Changes

The bill revises the membership of the governing board of LYNX. The number of voting members is increased from five to nine, and the board is composed as follows:

- The mayor of the City of Orlando must serve for the full extent of his or her term;
- The chairs of the boards of county commissioners of Orange, Osceola, and Seminole Counties must each appoint a member of the respective board of county commissioners;
- The board of county commissioners of Orange County must appoint one member of the board additional to the member appointed by the chair;
- The Speaker of the House of Representatives and the President of the Senate must alternate the appointment of one legislator whose district includes at least a portion of Orange, Osceola, or Seminole County; and
- The Governor must appoint three citizen members, one from Orange County, one from Osceola County, and one from Seminole County.

The bill requires the district secretary of DOT within the area served by LYNX to serve as a nonvoting advisor to LYNX's governing board.¹² The bill specifies that members appointed by the Governor will serve three-year terms and all other appointed members will serve two-year terms. The terms of standing board members expire on the effective date of the bill.

The bill requires the LYNX governing board to elect a chair, vice chair, and treasurer from among its membership. The bill provides that five members constitute a quorum, and that the vote of five members is required for any action taken by the board. A vacancy on the board will not impair the ability of the board to obtain a quorum.

B. SECTION DIRECTORY:

Section 1 Amends s. 343.63, F.S., relating to the governing body of the Central Florida Regional Transportation Authority.

⁸ CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY D/B/A/ LYNX, *Comprehensive Annual Financial Report for Years Ended Sept. 30, 2014 and 2013*, http://www.golynx.com/core/fileparse.php/143255/urlt/2014-cfrta-d_b_a-lynx.pdf (last visited Dec. 18, 2015).

⁹ *Id.*

¹⁰ See *In re Advisory Opinion to the Governor—Dual Office-holding*, 630 So. 2d 1055, 1058 (Fla. 1994).

¹¹ See, e.g., AGO 08-06 Fla. Op. Att'y Gen. (2008), available at

<http://www.myfloridalegal.com/ago.nsf/Opinions/9FB5875C4283A845852573E90059C7C4>; 13-02 Fla. Op. Att'y Gen. (2013), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/4E2D2F1DA93A8C5885257B03005C0F49>.

¹² District 5 includes Orange, Osceola, and Seminole Counties. FLORIDA DEPARTMENT OF TRANSPORTATION, *About District Five*, <http://www.dot.state.fl.us/publicinformationoffice/moreDOT/districts/dist5.shtm> (last visited Dec. 18, 2015).

Section 2 Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal fiscal impact on state travel expenditures resulting from the addition of four members to the governing board.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities of counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 20, 2016, the Government Operations Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The proposed committee substitute:

- Revised the composition of LYNX's governing board by removing the mayor or designee of the largest municipalities in Osceola and Seminole Counties, adding an additional member of the Orange County Board of County Commissioners, and adding a member of the Legislature whose district includes at least a portion of Orange, Osceola, or Seminole County;
- Removed the requirement for LYNX to develop a request for proposals and negotiate a service contract for the management and supervision of LYNX; and
- Removed the requirement for OPPAGA to study the organizational structure and operational effectiveness of LYNX.

This analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

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A bill to be entitled
An act relating to the Central Florida Regional
Transportation Authority; amending s. 343.63, F.S.;
revising membership and organization of the governing
board of the authority; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 343.63, Florida Statutes, is amended to
read:

343.63 Central Florida Regional Transportation Authority.—

(1) There is created and established a body politic and
corporate, an agency of the state, to be known as the "Central
Florida Regional Transportation Authority," hereinafter referred
to as the "authority."

(2) The governing board of the authority shall consist of
nine ~~five~~ voting members as follows:

~~(a) The chairs of the county commissions of Seminole,
Orange, and Osceola Counties, or another member of the
commission designated by the county chair, shall each serve as a
representative on the board for the full extent of his or her
term.~~

(a) ~~(b)~~ The mayor of the City of Orlando, ~~or a member of
the Orlando City Council designated by the mayor,~~ shall serve as
a representative on the board for the full extent of his or her
term.

27 (b) The chairs of the boards of county commissioners of
 28 Orange, Osceola, and Seminole Counties shall each appoint
 29 himself or herself or another member of the respective board of
 30 county commissioners.

31 (c) The board of county commissioners of Orange County
 32 shall appoint one member of the board in addition to the member
 33 appointed pursuant to paragraph (b).

34 (d) The Speaker of the House of Representatives or the
 35 President of the Senate shall appoint one legislator whose
 36 district includes at least a portion of Orange, Osceola, or
 37 Seminole County. The Speaker of the House of Representatives
 38 shall appoint the first legislator to serve following the
 39 effective date of this act. The President of the Senate shall
 40 appoint the next legislator to serve at the expiration of the
 41 first legislator's term. Thereafter, the appointment of the
 42 legislator shall continue to alternate between the Speaker of
 43 the House of Representatives and the President of the Senate. A
 44 vacancy occurring during a term must be filled by appointment by
 45 the presiding officer who appointed the member whose vacancy is
 46 to be filled.

47 (e) The Governor shall appoint three citizen members, one
 48 of whom shall be a citizen of Orange County, one of whom shall
 49 be a citizen of Osceola County, and one of whom shall be a
 50 citizen of Seminole County.

51 (3) Appointed members shall serve for 2 years, except that
 52 each citizen member appointed by the Governor shall serve for 3

53 years. An appointed member's term expires December 31 of his or
 54 her last year of service. The terms of standing board members
 55 expire on the effective date of this act. Each appointed member
 56 shall hold office until his or her successor is appointed and
 57 qualified. A vacancy occurring during a term must be filled for
 58 only the balance of the unexpired term. Each appointed member of
 59 the board shall be a person of outstanding reputation for
 60 integrity, responsibility, and business ability. Except as
 61 otherwise provided in subsection (2), a person who is an officer
 62 or employee of a municipality or county may not be an appointed
 63 member of the board. Any member of the board is eligible for
 64 reappointment.

65 (4) The district secretary of the Department of
 66 Transportation district within the area served by the authority
 67 shall serve as a nonvoting advisor to the governing board of the
 68 authority.

69 (5) The governing board of the authority shall elect a
 70 chair, vice chair, and treasurer from among its membership, who
 71 shall each hold his or her office at the pleasure of the board.
 72 Five members of the board constitute a quorum, and the vote of
 73 five members is necessary for any action taken by the board. A
 74 vacancy on the board does not impair the right of a quorum to
 75 exercise all rights and perform all duties of the authority.

76 ~~(c) The Secretary of Transportation shall appoint the~~
 77 ~~district secretary, or his or her designee, for the district~~
 78 ~~within which the area served by the authority is located and~~

79 | ~~this member shall be a voting member.~~

80 | ~~(3) A vacancy during a term shall be filled in the same~~
81 | ~~manner as the original appointment and only for the balance of~~
82 | ~~the unexpired term.~~

83 | (6)~~(4)~~ The members of the authority shall not be entitled
84 | to compensation, but shall be reimbursed for travel expenses
85 | actually incurred in their duties as provided by law.

86 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 961 Transportation
SPONSOR(S): Artilles
TIED BILLS: IDEN./SIM. BILLS: SB 1690

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	11 Y, 0 N	Willson	Vickers
2) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 961 relates to the operations of various toll agencies and facilities. In summary, the bill:

- Provides for the application of specified requirements to the transportation and expressway authorities of the state, counties, and municipalities.
- Requires toll agencies to adopt a policy for removal of directors due to ethical violations or lack of attendance.
- Requires toll agencies to post audio and video records of certain meetings to their website within 30 days after the meeting is held.
- Requires toll agencies to provide an accounting for the disbursement of certain penalties.
- Directs the Florida Transportation Commission (FTC) to conduct a study relating to the potential for the display of estimated travel times in addition to toll rates.
- Authorizes the FTC to retain experts as necessary to complete the study and requires the Department of Transportation to pay for such experts.
- Directs the FTC to provide a written report of its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committees of the Legislature by October 31, 2016.
- Provides that an electronic toll collection system must make information available to enrollees for a specified period of time.
- Provides that paper invoices and online statements for electronic toll collection systems must disclose applicable processing fees in a specified manner.

The bill does not appear to have a significant impact on state or local government.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Toll Agencies

In addition to the Department of Transportation (DOT), various authorities are currently operating toll facilities and collecting and reinvesting toll revenues. Aside from Florida's Turnpike Enterprise (which is part of DOT), most, but not all, of the toll authorities are established under ch. 348, F.S., entitled "Expressway and Bridge Authorities." Section 343.1002, F.S., defines "Transportation authorities" as the department and any entity created under chapter 343, chapter 348, or chapter 349.

Regional Transportation Authorities

The following regional transportation authorities are created in and governed by chapter 343, F.S.:

- Northeast Florida Regional Transportation Authority
- South Florida Regional Transportation Authority
- Central Florida Regional Transportation Authority
- Northwest Florida Transportation Corridor Authority
- Tampa Bay Area Regional Transportation Authority

The Regional Transportation Authorities were created to improve mobility, promote economic development, and implement transportation projects, including multimodal and public transit systems, within their respective jurisdictions. They are governed by boards composed of as few as 5 to as many as 16 voting members, who are drawn from both the public and private sector either as appointees or by virtue of their position.

Expressway and Bridge Authorities

Toll facilities have been used throughout Florida as a means of financing road and bridge construction for many years. Early in the state's history, most toll roads and bridges were constructed by private individuals or firms. Later, state governmental entities (DOT and the Florida Turnpike Authority) began constructing toll facilities.

More recently, toll facilities have been financed and constructed by specially created units of government operating primarily under local government control through boards or commissions. Those units under local government control, usually characterized as expressway or bridge authorities, arrange for construction of the facilities, including the required debt financing. Generally, toll facilities are designed to be self-supporting projects, i.e., the costs of construction, operation, and maintenance are recovered from toll revenues generated by users of the facility.

Chapter 348, F.S., creates various expressway and bridge authorities, and also contains the model expressway authority under which the Miami-Dade Expressway Authority is created. Each expressway authority act contains various provisions regarding the governance of the individual authority.

The expressway and bridge authorities governed by chapter 348, F.S. include:

- Miami-Dade Expressway Authority
- Tampa-Hillsborough Expressway Authority
- Central Florida Expressway Authority
- Santa Rosa Bay Bridge Authority
- Osceola County Expressway Authority

The Expressway and Bridge Authorities were created to construct, improve, maintain and operate the expressway systems and facilitate transportation for the benefit of the people within their respective jurisdictions. They are governed by boards composed of as few as 6 to as many as 13 voting members, who are drawn from both the public and private sector either as appointees or by virtue of their position.

Florida Turnpike Enterprise

Florida's Turnpike Enterprise (FTE), part of the Florida Department of Transportation, oversees a 483-mile system of limited-access toll highways: Florida's Turnpike, extending north from Homestead in Miami-Dade County to Wildwood in Sumter County, the Seminole Expressway and Southern Connector (Toll 417) in Seminole, Orange and Osceola counties, the Beachline Expressway West (Toll 528) in Orange County, the Polk Parkway (Toll 570) in Polk County, the Veterans Expressway and Suncoast Parkway in Hillsborough, Pasco and Hernando counties (Toll 589), the Sawgrass Expressway (Toll 869) in Broward County, and the Daniel Webster Western Beltway (Toll 429) in Orange and Osceola Counties and the I-4 Connector in Hillsborough County.¹ FTE also collects tolls for eight off-system facilities.

The members of each expressway authority, transportation authority, bridge authority, or toll authority must comply with the financial disclosure requirements of article II, section 8 of the Florida Constitution.² Many of the authorities are subject to additional ethical provisions as provided for in their respective statutory enacting sections.

Tolling

Transportation and expressway authorities provide limited access facilities for public use.³ Limited access facilities are designed to allow high-speed and high-volume traffic movements within the state.⁴ These authorities may exist at the state, county, or municipal level.⁵

Federal law generally prohibits the imposition of tolls on facilities constructed with federal funds; however, exemptions are provided. For example, 23 USC 129 permits the imposition of tolls on free non-Interstate highways, bridges, and tunnels and certain tolled facilities pursuant to the provisions of this section. In addition, 23 USC 166 permits the conversion of high occupancy vehicle lanes into high occupancy toll lanes. The federal authorization act passed in 2005 (SAFETEA-LU) also continued and established new exemptions to 23 USC 301 (e.g., Value Pricing Pilot Program, Express Lanes Demonstration Program).

Chapter 338, F.S., sets forth several provisions related to tolling. Section 338.155, F.S., requires the payment of tolls on toll facilities with some exceptions (e.g., any person operating a fire or rescue vehicle when on official business). Section 338.165, F.S., authorizes the collection of tolls on a revenue-producing project after the discharge of any bond indebtedness, and allows tolls to be increased. Except for high occupancy toll lanes or express lanes, no tolls may be charged for the use of an interstate highway where tolls were not charged as of July 1, 1997.⁶ DOT's toll rate schedule is published by rule.⁷

In order to help offset project costs, the DOT may establish tolls on the following facilities:

- New limited access facilities on the State Highway System (SHS)

¹ See <http://www.dot.state.fl.us/contractsadministrationturnpike/> (last visited January 12, 2016)

² s 348.0003(4)(c), F.S.

³ s 338.01(2), F.S.

⁴ s 338.01(1), F.S.

⁵ s 338.01(2), F.S.

⁶ s. 338.165(5), F.S.

⁷ See Rule 14-15.0081, F.A.C. "Toll Facilities Description and Toll Rate Schedule" Facilities included in the schedule are as follows: Alligator Alley (Everglades Parkway), Sunshine Skyway Bridge, Pinellas Bayway, Florida Department of Transportation segment of Wekiva Parkway, Florida's Turnpike Mainline (Southern Coin, Ticket, and Northern Coin Systems, the Homestead Extension of Florida's Turnpike, and Beachline West Expressway), Polk Parkway, Sawgrass Expressway, Southern Connector Extension, Seminole Expressway, Suncoast Parkway, Veterans Expressway, Florida's Turnpike System segment of the Western Beltway Part C, I-4 Connector, Beachline East Expressway and First Coast Expressway.

- Lanes added to existing limited access facilities on the SHS
- New major bridges over waterways on the SHS
- Replacements for existing major bridges on the SHS⁸

Section 338.151, F.S., prohibits DOT from establishing a new toll on an untolled lane that existed prior to July 1, 2012. However, high-occupancy vehicle lanes, express lanes, and the turnpike system are exempted from this prohibition.

Toll revenues collected on Alligator Alley, the Sunshine Skyway Bridge, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway may be used to secure bonds that fund transportation projects located within the county(s) where the facility is located.⁹

If toll revenues are collected on a county road system, any remaining tolls must be used for the construction, maintenance, or improvement of a state or county road in the same county(s) as the toll was collected.¹⁰ The Miami-Dade Expressway (MDX) is exempted from this requirement. Surplus revenues from tolls collected by MDX may be used for the following purposes:

- To finance or refinance the planning, design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of a public transportation facility or transportation facilities owned or operated by the county,
- An intermodal facility or facilities, multimodal corridor or corridors, including, but not limited to, bicycle facilities or greenways that will improve transportation services within the county, or
- Any programs or projects that will improve the levels of service on an expressway system, subject to approval of the governing body of such county after public hearing.¹¹

Nontoll Revenues

Section 338.161(3)(c), F.S., provides that if DOT finds that it can increase nontoll revenues or add convenience or other value to its customers, it is authorized to enter into agreements with private or public entities for DOT's use of its electronic toll collection and video billing systems to collect tolls, fares, administrative fees, or other applicable charges imposed in connection with transportation facilities of the private or public entities that become interoperable with DOT's electronic toll collection system. DOT may modify its rules regarding toll collection and procedures and the imposition of an administrative charge to be applicable to toll facilities that are not part of the turnpike system or otherwise owned by DOT.¹² This is not to be construed to limit the authority of DOT under any other provision of law or any agreement entered into prior to July 1, 2012.

Records

Section 338.231(3)(c), F.S., provides that notwithstanding any other provision of law to the contrary, any prepaid toll account of any kind which has remained inactive for three years is presumed unclaimed and its disposition is handled by the Department of Financial Services in accordance with the applicable statutory provisions regarding the disposition of unclaimed property and the prepaid toll account is closed.

Electronic Tolling Systems

Electronic Toll Collection (ETC) systems use vehicle-to-roadside communication technologies to perform an electronic monetary transaction between a vehicle passing through a toll station and the toll agency. ETC systems require onboard units (such as a transponder), vehicle detection and classification, as well as enforcement technologies. ETC equipment removes the need for manual collection of tolls at toll booths. ETC also allows transactions to be performed while vehicles travel at almost highway cruising speed. SunPass is an ETC system used by DOT. Florida motorists may

⁸ s. 338.151, F.S.

⁹ s. 338.165(4), F.S.

¹⁰ s. 338.165(5), F.S.

¹¹ ss. 348.0004(2)(e), and 348.0004(7), F.S.

¹² See Rule Chapter 14-100, F.A.C., Toll Enforcement.

purchase a SunPass transponder which can be used electronically to pay tolls on Florida's toll roads and most toll bridges.

Drivers passing through a SunPass toll station may encounter one or more of the following types of toll collection lane:¹³

- SunPass Only Lanes
- SunPass Express Lanes
- Exact Change/SunPass Lanes
- Change Provided/SunPass Lanes
- Change Provided Lanes
- Exact Change Lanes

“All-electronic tolling” refers to a toll station that uses open-road toll collection exclusively, without an option for cash payment. All-electronic tolling is expanding within the tolling industry in Florida, and many all-electronic locations already exist, including:

- Florida’s Turnpike between Ft. Lauderdale and Miami/Homestead
- Sawgrass Expressway, west of Ft. Lauderdale
- Veteran’s Expressway
- I-4 Connector
- Lee-Roy Selmon Expressway
- the MDX expressways¹⁴

When a motor vehicle passes through a toll collection facility and the toll payment is not made by either using cash or an electronic transponder, a photographic image of the vehicle's license plate will be captured at the toll lane.¹⁵ An invoice is mailed to the vehicle’s registered owner for the monthly accumulated toll amounts and a \$2.50 administrative charge.

Express Lanes¹⁶

According to FTE, Turnpike express lanes are managed lanes that utilize a combination of driver choice and pricing to offer a transportation benefit to the traveling public while simultaneously improving traffic management efficiency in the corridor. Toll rates are based on traffic volume, operating speeds and level of service, and rates will be adjusted up or down based on the supply of free-flow traffic as well as driver demand.¹⁷

Section 338.166, F.S., authorizes DOT to request the issuance of bonds secured by revenues collected on high occupancy toll lanes or express lanes. DOT is authorized to implement variable rate tolls on these lanes, which run parallel to the general purpose lanes. Prior to reaching the entrance to the express lane, dynamic message signs alert drivers to the current toll price from the point of entry to one or more exit locations.¹⁸

FTE operates variable rate express lanes on I-595 in Broward County and Interstate 95 in Broward and Miami-Dade Counties (95 Express). Express lane tolls must be paid electronically using a SunPass (or interoperable¹⁹ transponder) linked to a prepaid account.²⁰ If a driver uses an express lane in a vehicle

¹³ SUNPASS, <https://www.sunpass.com/howLanesWork>, (last visited January 14, 2016)

¹⁴ The last remaining MDX cash plazas closed on November 14, 2014. MDX operates and maintains the: SR 924/Gratigny Parkway, SR 112/Airport Expressway, SR 836/Dolphin Expressway, SR 924/Don Shula Expressway and SR 878/Snapper Creek Expressway.

¹⁵ TOLL-BY-PLATE, <https://www.tollbyplate.com/faq>, (last visited January 14, 2016)

¹⁶ Section 316.0741(6) provides that “Vehicles having decals by virtue of compliance with the minimum fuel economy standards under 23 U.S.C. s. 166(f)(3)(B), and which are registered for use in high-occupancy-vehicle toll lanes or express lanes in accordance with Department of Transportation rule, shall be allowed to use any HOV lanes redesignated as high-occupancy-vehicle toll lanes or express lanes without requiring payment of a toll.”

¹⁷ Florida’s Turnpike System, *Comprehensive Annual Financial Report for fiscal years 2015 and 2014*, at 10

¹⁸ Rule 14-100.003(6), F.A.C. establishes criteria for the display of toll amounts for express lane tolling by DOT.

¹⁹ Interoperable transponders include E-PASS and LeeWay transponders (Florida-based), as well as Peach Pass (GA) and NC Quick Pass transponders (NC).

that does not have prepaid SunPass account, the driver is charged \$25 per trip plus the applicable toll amount.²¹ Certain vehicle types may qualify for a toll exemption on the 95 Express system.²²

Once outstanding bonds are discharged, toll revenue must first be used to pay for the operation, maintenance and improvement costs of the high-occupancy toll or express lanes, or associated transportation system. Any remaining revenues are to be used by DOT for the construction, maintenance, or improvement of any road on the State Highway System within the county or counties in which the toll revenues were collected, or to support express bus service on the facility where the toll revenues were collected.

Florida Transportation Commission

The Florida Transportation Commission is created under s. 20.23, F.S., to serve as a citizen's oversight board for DOT, provide policy guidance on issues of statewide importance, maintain oversight and public accountability for DOT, and other statutorily specified transportation authorities. The Commission is assigned to DOT for administrative and fiscal purposes; otherwise, it functions independently of the control and direction of DOT.

Proposed Changes

The bill creates s. 338.162(1), F.S., requiring that each toll agency adopt a policy for the removal of directors due to ethical violations or lack of attendance. Comprehensive information concerning the policy must be posted on the toll agency's website.

The bill creates s. 338.162(2), F.S., providing that, within 30 days of a board meeting or a board committee meeting, a toll agency must post to its website both video and audio files of the meeting. The files must be in a format that can be viewed or listened to within the user's Internet browser.

The bill creates s. 338.162(3), F.S., providing that when a toll payer is assessed a penalty, the toll agency must provide an accounting of how the penalties are disbursed.

The bill creates s. 338.162(4), F.S., providing that s. 338.162, F.S., applies to the transportation and expressway authorities of the state, counties, and municipalities.

The bill creates s. 338.168(1), F.S., requiring the Florida Transportation Commission to study the potential for express toll lanes to display estimated travel times. The bill authorizes FTC to retain such experts as are reasonably necessary to complete the study, and provides that DOT must pay for the experts. A written report of the findings and conclusions of the study must be provided to the Governor, the president of the Senate, the Speaker of the House of Representatives, and the chairs of the respective Legislative appropriation committees by October 31, 2016.

The bill creates s. 338.168(2), F.S., providing that an electronic tolling system must offer a minimum of 18 months of information to system enrollees in a simple search, including monthly and annual totals.²³

The bill creates s. 338.168(3), F.S., providing that paper invoices and online statements from electronic toll systems must disclose any applicable processing fees. Such fees must be expressed in both percentage and total dollar amounts.

B. SECTION DIRECTORY:

²⁰ Rule 14-100.003, F.A.C.

²¹ Rule 14-100.003(7), F.A.C. If a violator does not pay the invoice within 30 days, a second invoice will be sent. If the toll violations amounts are not paid within 30 days from the date of the second invoice, a Uniform Traffic Citation will be issued or the amounts owed by the violator will be pursued to collection.

²² Rule 14-100.004, F.A.C. Upon proper registration, exempt vehicles include carpools, vanpools, Inherently Low Emission Vehicles or Hybrid vehicles, certain transit and school buses, Over-the-Road buses, and motorcycles.

²³ According to DOT, 18 months is the industry standard for such information.

- Section 1 Creates s. 338.162, F.S., relating to toll agencies and facilities.
- Section 2 Creates s. 338.168, F.S., relating to toll facilities and collection systems.
- Section 3 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate, but insignificant negative fiscal impact on state workload and expenditures. The FTC is required to study the display of travel times for express toll lanes and the DOT is further required to pay for such experts as are reasonably necessary to complete the study. Toll agencies may also incur additional workload and expenses associated with the provisions relating to posting files online, reporting the disbursement of penalties, and the recording of applicable fees and other tolling information. These costs will be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate, but likely insignificant negative impact on local governments. Toll agencies may incur additional workload and expenses associated with the provisions relating to posting files online, reporting the disbursement of penalties, and the recording of applicable fees and other tolling information.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction to the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 338.162(3), F.S. refers to “a penalty” and “penalties”. It is unclear whether this term applies to administrative fees, variable rate pricing, the pricing difference between SunPass rates and Toll-By-Plate Rates, express lane violations, unpaid toll violations or other traffic infraction or noncriminal citation related to toll facilities, or another type of penalty not mentioned here.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to transportation; creating s.
3 338.162, F.S.; requiring toll agencies to adopt a
4 policy regarding removal of directors under certain
5 circumstances; requiring toll agencies to post meeting
6 recordings on the Internet within a specified time and
7 in a format suitable for the user's browser; requiring
8 toll agencies to provide an accounting of
9 disbursements of penalty amounts; providing
10 applicability; creating s. 338.168, F.S.; directing
11 the Florida Transportation Commission to conduct a
12 study of the potential for express toll lanes to
13 display estimated travel times; directing the
14 Department of Transportation to pay expenses of
15 necessary experts; requiring a report to the Governor
16 and the Legislature; providing requirements for
17 certain toll collection systems; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 338.162, Florida Statutes, is created
23 to read:

24 338.162 Toll agencies and facilities.--Notwithstanding any
25 other provision of law:

26 (1) Each toll agency shall adopt a policy for removal of

27 directors due to ethical violations or lack of attendance and
 28 post comprehensive information about the policy on its website.

29 (2) Each toll agency shall post board meeting and board
 30 committee meeting video and audio files on its website within 30
 31 days after the meeting is held. Such files shall be in a format
 32 that can be viewed or listened to within the user's Internet
 33 browser.

34 (3) When a toll payer is assessed a penalty, the toll
 35 agency shall provide an accounting of how the penalties are
 36 disbursed.

37 (4) This section applies to the transportation and
 38 expressway authorities of the state, counties, and
 39 municipalities.

40 Section 2. Section 338.168, Florida Statutes, is created
 41 to read:

42 338.168 Toll facilities and collection systems.-

43 (1) The Florida Transportation Commission shall conduct a
 44 study of the potential for express toll lanes operated by the
 45 department or any transportation or expressway authority of the
 46 state, counties, or municipalities to display estimated travel
 47 times in addition to toll rates. The commission may retain such
 48 experts as are reasonably necessary to complete the study, and
 49 the department shall pay the expenses of such experts. The
 50 commission shall complete the study and provide a written report
 51 of its findings and conclusions to the Governor, the President
 52 of the Senate, the Speaker of the House of Representatives, and

53 | the chairs of each of the appropriations committees of the
54 | Legislature by October 31, 2016.

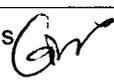
55 | (2) An electronic toll collection system shall provide
56 | enrollees a minimum of 18 months of information in a simple
57 | search on its website, including, at a minimum, monthly and
58 | annual totals.

59 | (3) Electronic toll collection system paper invoices and
60 | online statements shall disclose any applicable processing fees,
61 | each expressed as a percentage and as a total dollar amount.

62 | Section 3. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1349 Specialty License Plates/National Pan-Hellenic Council Sorority or Fraternity
SPONSOR(S): Williams
TIED BILLS: IDEN./SIM. **BILLS:** SB 1008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	13 Y, 0 N, As CS	Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee		Cobb 	Davis 
3) Education Committee			

SUMMARY ANALYSIS

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to create the below eight National Pan-Hellenic Council Sorority and Fraternity specialty license plates, with an annual use fee of \$25 for each plate:

- Alpha Phi Alpha Fraternity
- Omega Psi Phi Fraternity
- Kappa Alpha Psi Fraternity
- Phi Beta Sigma Fraternity
- Zeta Phi Beta Sorority
- Delta Sigma Theta Sorority
- Alpha Kappa Alpha Sorority
- Sigma Gamma Rho Sorority

The annual use fees from the sale of each plate will be distributed as follows:

- Ten percent to the respective Fraternity or Sorority organization, solely for marketing of the plate.
- Eighty-five percent to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

The new plates will display the word "Florida" at the top of the plate and the name of the respective sorority or fraternity must appear at the bottom of the plate.

According to DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures. See fiscal comments.

An effective date of October 1, 2016, is provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.¹ The collected fees are distributed by the DHSMV to statutorily designated organizations in support of a particular cause or charity. Vehicles registered under the International Registration Plan, a commercial truck required to display two license plates, or truck tractors are not eligible for specialty license plates.²

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.³
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.⁴
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.⁵

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (does not apply to collegiate license plates).⁶

Organizations in receipt of specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.⁷

A moratorium on the issuance of specialty license plates was imposed by lawmakers in 2008, originally set to expire in 2011. The moratorium has subsequently been extended to July 1, 2016.⁸

Effect of Proposed Changes

Pan-Hellenic Sorority or Fraternity

The bill directs the Department of Highway Safety and Motor Vehicles (DHSMV) to create the below eight National Pan-Hellenic Council Sorority and Fraternity specialty license plates, with an annual use fee of \$25 for each plate:

- Alpha Phi Alpha Fraternity

¹ Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index*, <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 22, 2016)

² s. 320.08056(2), F.S.

³ s. 320.08053(1), F.S.

⁴ s. 320.08053(2)(a), F.S.

⁵ s. 320.08053(2)(b), F.S.

⁶ s. 320.08056 (8)(a), F.S.

⁷ s. 320.08062, F. S.

⁸ Ch. 2008-176, Laws of Fla., as amended by Ch. 2010-223 and Ch. 2014-216, Laws of Fla.

- Omega Psi Phi Fraternity
- Kappa Alpha Psi Fraternity
- Phi Beta Sigma Fraternity
- Zeta Phi Beta Sorority
- Delta Sigma Theta Sorority
- Alpha Kappa Alpha Sorority
- Sigma Gamma Rho Sorority

The annual use fees from the sale of each respective plate will be distributed as follows:

Alpha Phi Alpha Fraternity, Inc.

- Ten percent shall be distributed to the Florida Federation of Alpha Chapters, solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Florida Federation of Alpha Chapters to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Alpha Phi Alpha Fraternity was founded on December 4, 1906 at Cornell University and was the first intercollegiate Greek-letter fraternity established for African-Americans.⁹ The mission for Alpha Phi Alpha Fraternity, Inc. is to develop leaders, promote brotherhood and academic excellence, while providing service and advocacy for communities.¹⁰

Omega Psi Phi Fraternity, Inc.

- Ten percent shall be distributed to the State of Florida Omega Friendship Foundation, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the State of Florida Omega Friendship Foundation, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Omega Psi Phi Fraternity, Inc., founded in 1911, was the first international fraternal organization on the campus of Howard University with “manhood, scholarship, perseverance and uplift” adopted as the cardinal principles.¹¹

Kappa Alpha Psi Fraternity, Inc.

- Ten percent shall be distributed to Southern Province of Kappa Alpha Psi Foundation, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Southern Province of Kappa Alpha Psi Foundation, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

⁹ Florida Federation of Alpha Chapters, *Brief History of Alpha Phi Alpha, Inc.*, <http://flfederation.org/about-us/history/> (last visited January 11, 2016)

¹⁰ Florida Federation of Alpha Chapters, *About Alpha Phi Alpha Fraternity, Inc.*, <http://flfederation.org/about-us/> (last visited January 11, 2016)

¹¹ Omega Psi Phi Fraternity, Inc., *About Omega*, http://www.oppf.org/about_omega.asp (last visited January 11, 2016)

Kappa Alpha Psi Fraternity is a college Fraternity chartered and incorporated originally under the laws of the State of Indiana as Kappa Alpha Nu on May 15, 1911. Its name changed to Kappa Alpha Psi effective April 15, 1915.¹²

Phi Beta Sigma Fraternity, Inc.

- Ten percent shall be distributed to TMB Charitable Foundation, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the TMB Charitable Foundation, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Phi Beta Sigma Fraternity was founded at Howard University January 9, 1914. Its mission statement provides that in order to accomplish the Fraternity's objectives, it is essential that systems are instituted that effectively embody "Culture For Service and Service For Humanity" and promote brotherhood, scholarship and service.¹³

Zeta Phi Beta Sorority, Inc.

- Ten percent shall be distributed to Florida Pearls, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Florida Pearls, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Zeta Phi Beta Sorority was founded January 16, 1920, at Howard University. Zeta Phi Beta Sorority's national and local programs include the endowment of its National Educational Foundation community outreach services and support of multiple affiliate organizations. Zeta Phi Beta Sorority chapters and auxiliaries give hours of voluntary service to educate the public, assist youth, provide scholarships, support organized charities, and promote legislation for social and civic change.¹⁴

Delta Sigma Theta Sorority, Inc.

- Ten percent shall be distributed to the Delta Research and Educational Foundation, solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Delta Research and Educational Foundation, to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Delta Sigma Theta Sorority was founded on January 13, 1913 by 22 collegiate women at Howard University.¹⁵ Its purpose is to provide assistance and support through established programs in local communities throughout the world.¹⁶

¹² Kappa Alpha Psi, *A Brief History*, <http://www.kappaalphapsi1911.com/?page=history> (last visited January 11, 2016)

¹³ Phi Beta Sigma Fraternity, Inc., *About Us*, <http://www.phibetasigma1914.org/our-history/> (last visited January 11, 2016)

¹⁴ Zeta Phi Beta Sorority, Inc., *About Zeta Phi Beta*, <http://www.zphib1920.org/our-history/> (last visited January 11, 2016)

¹⁵ Delta Sigma Theta Sorority, Inc., *Founders*, http://www.deltasigmatheta.org/about_founders.html (last visited January 11, 2016)

Alpha Kappa Alpha Sorority, Inc.

- Ten percent shall be distributed to Alpha Kappa Alpha Educational Advancement Foundation, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Alpha Kappa Alpha Educational Advancement Foundation, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Alpha Kappa Alpha Sorority began as the vision of nine college students on the campus of Howard University in 1908.¹⁷ Alpha Kappa Alpha's mission is to cultivate and encourage high scholastic and ethical standards, to promote unity and friendship among college women, to study and help alleviate problems concerning girls and women in order to improve their social stature, to maintain a progressive interest in college life, and to be of "Service to All Mankind".¹⁸

Sigma Gamma Rho Sorority, Inc.

- Ten percent shall be distributed to the Sigma Gamma Rho Sorority National Education Fund, Inc., solely for marketing of the plate.
- Eighty-five percent shall be distributed to the Sigma Gamma Rho Sorority National Education Fund, Inc., to promote community awareness and action through educational, economic, and cultural service activities.
- Five percent shall be distributed to the United Negro College Fund to be used for college scholarships for Florida residents attending Historically Black Colleges and Universities.

Sigma Gamma Rho Sorority was established November 12, 1922, at Butler University in Indianapolis, Indiana. Its mission is to enhance the quality of life for women and their families in the U.S. and globally through community service. Its goal is to achieve greater progress in the areas of education, healthcare, and leadership development.¹⁹

The new license plates will display the word "Florida" at the top of the plate and the name of the respective sorority or fraternity must appear at the bottom of the plate.

National Pan-Hellenic Council

The National Pan-Hellenic Council, Incorporated (NPHC) is currently composed of nine International Greek letter Sororities and Fraternities: Alpha Kappa Alpha Sorority, Inc., Alpha Phi Alpha Fraternity, Inc., Delta Sigma Theta Sorority, Inc., Zeta Phi Beta Sorority, Inc., Iota Phi Theta Fraternity, Inc., Kappa Alpha Psi Fraternity, Inc., Sigma Gamma Rho Sorority, Inc., Phi Beta Sigma Fraternity, Inc. and Omega Psi Phi Fraternity, Inc. NPHC promotes interaction through forums, meetings and other mediums for the exchange of information, and engages in cooperative programming and initiatives through various activities and functions.²⁰

B. SECTION DIRECTORY:

Section 1 Amends s. 320.08056, F.S., establishing an annual use fee of \$25 for the Pan-Hellenic sorority or fraternity specialty license plates.

¹⁶ Delta Sigma Theta Sorority, Inc., *Statement of Purpose*, http://www.deltasigmatheta.org/about_mission.html (last visited January 11, 2016)

¹⁷ Alpha Kappa Alpha Sorority, Inc., *About*, <http://www.aka1908.com/about> (last visited January 11, 2016)

¹⁸ Alpha Kappa Alpha Sorority, Inc., *Mission*, <http://www.aka1908.com/about/mission> (last visited January 11, 2016)

¹⁹ Sigma Gamma Rho Sorority, Inc., *History*, <http://www.sgrho1922.org/about-sigma> (last visited January 11, 2016)

²⁰ National Pan-Hellenic Council, Incorporated, *Mission*, <http://www.nphcq.org/mission/> (last visited January 11, 2016)

Section 2 Amends s. 320.08058, F.S., directing the Department of Highway Safety and Motor Vehicles to create Pan-Hellenic sorority or fraternity specialty license plate and provides for the distribution of the annual use fees collected.

Section 3 Provides an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

DHSMV estimates that 996 programming hours, or \$51,450 in FTE and contracted resources will be required in order to implement the bill. These costs can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenue generated from the sales of specialty license plates are distributed to various organizations as provided in statute.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Highway and Waterway Safety Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Makes some technical changes and makes the language consistent with the creation of other specialty plates.

This analysis is written to the Committee Substitute as it was reported out of the Highway & Waterway Safety Subcommittee.

1 A bill to be entitled
 2 An act relating to specialty license plates; amending
 3 ss. 320.08056 and 320.08058, F.S.; directing the
 4 Department of Highway Safety and Motor Vehicles to
 5 develop certain specialty license plates; establishing
 6 annual use fees for the plates; providing for
 7 distribution and use of fees collected from the sale
 8 of the plates; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraphs (ffff) through (mmmm) are added to
 13 subsection (4) of section 320.08056, Florida Statutes, to read:

14 320.08056 Specialty license plates.—

15 (4) The following license plate annual use fees shall be
 16 collected for the appropriate specialty license plates:

17 (ffff) Alpha Phi Alpha Fraternity license plate, \$25.

18 (gggg) Omega Psi Phi Fraternity license plate, \$25.

19 (hhhh) Kappa Alpha Psi Fraternity license plate, \$25.

20 (iiii) Phi Beta Sigma Fraternity license plate, \$25.

21 (jjjj) Zeta Phi Beta Sorority license plate, \$25.

22 (kkkk) Delta Sigma Theta Sorority license plate, \$25.

23 (llll) Alpha Kappa Alpha Sorority license plate, \$25.

24 (mmmm) Sigma Gamma Rho Sorority license plate, \$25.

25 Section 2. Subsections (84) through (91) are added to
 26 section 320.08058, Florida Statutes, to read:

27 | 320.08058 Specialty license plates.—

28 | (84) ALPHA PHI ALPHA FRATERNITY LICENSE PLATES.—

29 | (a) The department shall develop an Alpha Phi Alpha
 30 | Fraternity license plate as provided in this section and s.
 31 | 320.08053. The plates must bear the colors and design approved
 32 | by the department. The word "Florida" must appear at the top of
 33 | the plate, and the name of the fraternity must appear at the
 34 | bottom of the plate.

35 | (b) The annual use fees from the sale of the plate shall
 36 | be distributed as follows:

37 | 1. Ten percent shall be distributed to the Florida
 38 | Federation of Alpha Chapters and used solely for marketing of
 39 | the Alpha Phi Alpha Fraternity license plate.

40 | 2. Eighty-five percent shall be distributed to the Florida
 41 | Federation of Alpha Chapters and used to promote community
 42 | awareness and action through educational, economic, and cultural
 43 | service activities.

44 | 3. Five percent shall be distributed to the United Negro
 45 | College Fund to be used for college scholarships for Florida
 46 | residents attending historically black colleges and
 47 | universities.

48 | (85) OMEGA PSI PHI FRATERNITY LICENSE PLATES.—

49 | (a) The department shall develop an Omega Psi Phi
 50 | Fraternity license plate as provided in this section and s.
 51 | 320.08053. The plates must bear the colors and design approved
 52 | by the department. The word "Florida" must appear at the top of

53 | the plate, and the name of the fraternity must appear at the
 54 | bottom of the plate.

55 | (b) The annual use fees from the sale of the plate shall
 56 | be distributed as follows:

57 | 1. Ten percent shall be distributed to the State of
 58 | Florida Omega Friendship Foundation, Inc., and used solely for
 59 | marketing of the Omega Psi Phi Fraternity license plate.

60 | 2. Eighty-five percent shall be distributed to the State
 61 | of Florida Omega Friendship Foundation, Inc., and used to
 62 | promote community awareness and action through educational,
 63 | economic, and cultural service activities.

64 | 3. Five percent shall be distributed to the United Negro
 65 | College Fund to be used for college scholarships for Florida
 66 | residents attending historically black colleges and
 67 | universities.

68 | (86) KAPPA ALPHA PSI FRATERNITY LICENSE PLATES.-

69 | (a) The department shall develop a Kappa Alpha Psi
 70 | Fraternity license plate as provided in this section and s.
 71 | 320.08053. The plates must bear the colors and design approved
 72 | by the department. The word "Florida" must appear at the top of
 73 | the plate, and the name of the fraternity must appear at the
 74 | bottom of the plate.

75 | (b) The annual use fees from the sale of the plate shall
 76 | be distributed as follows:

77 | 1. Ten percent shall be distributed to the Southern
 78 | Province of Kappa Alpha Psi Foundation, Inc., and used solely

79 for marketing of the Kappa Alpha Psi Fraternity license plate.

80 2. Eighty-five percent shall be distributed to the
 81 Southern Province of Kappa Alpha Psi Foundation, Inc., and used
 82 to promote community awareness and action through educational,
 83 economic, and cultural service activities.

84 3. Five percent shall be distributed to the United Negro
 85 College Fund to be used for college scholarships for Florida
 86 residents attending historically black colleges and
 87 universities.

88 (87) PHI BETA SIGMA FRATERNITY LICENSE PLATES.—

89 (a) The department shall develop a Phi Beta Sigma
 90 Fraternity license plate as provided in this section and s.
 91 320.08053. The plates must bear the colors and design approved
 92 by the department. The word "Florida" must appear at the top of
 93 the plate, and the name of the fraternity must appear at the
 94 bottom of the plate.

95 (b) The annual use fees from the sale of the plate shall
 96 be distributed as follows:

97 1. Ten percent shall be distributed to TMB Charitable
 98 Foundation, Inc., and used solely for marketing of the Phi Beta
 99 Sigma Fraternity license plate.

100 2. Eighty-five percent shall be distributed to TMB
 101 Charitable Foundation, Inc., and used to promote community
 102 awareness and action through educational, economic, and cultural
 103 service activities.

104 3. Five percent shall be distributed to the United Negro

105 College Fund to be used for college scholarships for Florida
 106 residents attending historically black colleges and
 107 universities.

108 (88) ZETA PHI BETA SORORITY LICENSE PLATES.—

109 (a) The department shall develop a Zeta Phi Beta Sorority
 110 license plate as provided in this section and s. 320.08053. The
 111 plates must bear the colors and design approved by the
 112 department. The word "Florida" must appear at the top of the
 113 plate, and the name of the sorority must appear at the bottom of
 114 the plate.

115 (b) The annual use fees from the sale of the plate shall
 116 be distributed as follows:

117 1. Ten percent shall be distributed to Florida Pearls,
 118 Inc., and used solely for marketing of the Zeta Phi Beta
 119 Sorority license plate.

120 2. Eighty-five percent shall be distributed to Florida
 121 Pearls, Inc., and used to promote community awareness and action
 122 through educational, economic, and cultural service activities.

123 3. Five percent shall be distributed to the United Negro
 124 College Fund to be used for college scholarships for Florida
 125 residents attending historically black colleges and
 126 universities.

127 (89) DELTA SIGMA THETA SORORITY LICENSE PLATES.—

128 (a) The department shall develop a Delta Sigma Theta
 129 Sorority license plate as provided in this section and s.
 130 320.08053. The plates must bear the colors and design approved

131 by the department. The word "Florida" must appear at the top of
 132 the plate, and the name of the sorority must appear at the
 133 bottom of the plate.

134 (b) The annual use fees from the sale of the plate shall
 135 be distributed as follows:

136 1. Ten percent shall be distributed to the Delta Research
 137 and Educational Foundation and used solely for marketing of the
 138 Delta Sigma Theta Sorority license plate.

139 2. Eighty-five percent shall be distributed to the Delta
 140 Research and Educational Foundation and used to promote
 141 community awareness and action through educational, economic,
 142 and cultural service activities.

143 3. Five percent shall be distributed to the United Negro
 144 College Fund to be used for college scholarships for Florida
 145 residents attending historically black colleges and
 146 universities.

147 (90) ALPHA KAPPA ALPHA SORORITY LICENSE PLATES.—

148 (a) The department shall develop an Alpha Kappa Alpha
 149 Sorority license plate as provided in this section and s.
 150 320.08053. The plates must bear the colors and design approved
 151 by the department. The word "Florida" must appear at the top of
 152 the plate, and the name of the sorority must appear at the
 153 bottom of the plate.

154 (b) The annual use fees from the sale of the plate shall
 155 be distributed as follows:

156 1. Ten percent shall be distributed to the Alpha Kappa

157 Alpha Educational Advancement Foundation, Inc., and used solely
 158 for marketing of the Alpha Kappa Alpha Sorority license plate.

159 2. Eighty-five percent shall be distributed to the Alpha
 160 Kappa Alpha Educational Advancement Foundation, Inc., and used
 161 to promote community awareness and action through educational,
 162 economic, and cultural service activities.

163 3. Five percent shall be distributed to the United Negro
 164 College Fund to be used for college scholarships for Florida
 165 residents attending historically black colleges and
 166 universities.

167 (91) SIGMA GAMMA RHO SORORITY LICENSE PLATES.—

168 (a) The department shall develop a Sigma Gamma Rho
 169 Sorority license plate as provided in this section and s.
 170 320.08053. The plates must bear the colors and design approved
 171 by the department. The word "Florida" must appear at the top of
 172 the plate, and the name of the sorority must appear at the
 173 bottom of the plate.

174 (b) The annual use fees from the sale of the plate shall
 175 be distributed as follows:

176 1. Ten percent shall be distributed to the Sigma Gamma Rho
 177 Sorority National Education Fund, Inc., and used solely for
 178 marketing of the Sigma Gamma Rho Sorority license plate.

179 2. Eighty-five percent shall be distributed to the Sigma
 180 Gamma Rho Sorority National Education Fund, Inc., and used to
 181 promote community awareness and action through educational,
 182 economic, and cultural service activities.

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183 3. Five percent shall be distributed to the United Negro
184 College Fund to be used for college scholarships for Florida
185 residents attending historically black colleges and
186 universities.

187 Section 3. This act shall take effect October 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1395 Purchase of Personal Firearms by Qualified Law Enforcement Officers
SPONSOR(S): Avila
TIED BILLS: HB 1397 **IDEN./SIM. BILLS:** SJR 1134

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	9 Y, 0 N	White	White
2) Transportation & Economic Development Appropriations Subcommittee		Cobb <i>PC</i>	Davis <i>GD</i>
3) Judiciary Committee			

SUMMARY ANALYSIS

Since 1990, article 1, section 8(b) of the Florida Constitution, has required a purchaser of a handgun to wait three days, excluding weekends and holidays, before delivery of the handgun, unless the purchaser holds a concealed weapon permit (CWP). Additionally, since 1998, counties in this state have been authorized pursuant to article 8, section (5)(b) of the Florida Constitution, to adopt waiting periods of three to five days for the purchase of a firearm by an individual other than a CWP holder.

According to an Attorney General Opinion, which construed the constitutional statewide three-day wait period, the exception for a holder of a CWP applies exclusively to individuals who hold such permit, and does not apply to individuals who are exempt from the requirements of CWP licensure. Thus, even though active and retired law enforcement officers in this state may carry concealed firearms without a CWP pursuant to state and federal law, such officers must obtain a CWP if they wish to avoid the three-day waiting period to purchase a handgun.

HJR 1395 proposes a constitutional amendment to article 1, section 8(b) and article 8, section (5)(b) of the Florida Constitution, to authorize qualified law enforcement officers and qualified retired law enforcement officers to be exempted, like holders of a CWP, from the waiting periods for a handgun or firearm purchase. Under the amendment, the requirements to constitute a "qualified" officer must be prescribed by general law.

A joint resolution to amend the constitution must be passed by a three-fifths vote of the membership of both the House of Representatives and the Senate. The proposed joint resolution, if passed by the Legislature, would be considered by the electorate at the next general election on November 8, 2016.

The joint resolution requires a nonrecurring expense for the publication of the proposed constitutional amendment in newspapers of general circulation in each county, and the Department of State estimates a minimum of \$69,888.58 is needed in FY 2016-17 for this purpose. The House proposed General Appropriations Act, PCB APC 16-01, provides an appropriation of \$69,889 contingent upon adoption of this joint resolution.

If adopted at the 2016 general election, the effective date of this resolution is January 3, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Waiting Periods for Handgun and Firearm Purchases

Statewide Waiting Period

In 1990, the electors approved an amendment to the Florida Constitution, which requires a purchaser of a handgun to wait three days, excluding weekends and holidays, before delivery of the handgun, unless the purchaser holds a concealed weapon permit (CWP). Specifically, article 1, section 8(b) through (d) of the Florida Constitution, states:

(b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, "purchase" means the transfer of money or other valuable consideration to the retailer, and "handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph.

(c) The legislature shall enact legislation implementing subsection (b) of this section, effective no later than December 31, 1991, which shall provide that anyone violating the provisions of subsection (b) shall be guilty of a felony.

(d) This restriction shall not apply to a trade in of another handgun.

The Legislature implemented this constitutional provision by adopting s. 790.0655, F.S. This section of law defines "handgun" and "purchase" in the same manner as the Florida Constitution, and also states that the term "retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02(13).^{1, 2} The section further provides that:

- There is a mandatory three-day waiting period, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun.³
- The section does not apply to the purchase of a handgun by a holder of a CWP as defined in s. 790.06, F.S.,⁴ or to a trade-in of another handgun.⁵
- Records of handgun sales must be available for inspection by any law enforcement agency during normal business hours.⁶
- It is a third degree felony⁷ for any retailer or employee or agent of a retailer to deliver a handgun before expiration of the 3-day waiting period, and for a purchaser to obtain delivery of a handgun by fraud, false pretense, or false representation.⁸

In 1991, an Attorney General Opinion stated that the exclusion from the three-day waiting day period for holders of a CWP did not apply to law enforcement officers even though such officers are statutorily-exempt from CWP licensure requirements. According to the AGO, s. 790.0655, F.S., reiterates the

¹ s. 790.0655(1)(a), F.S.

² Section 212.03(13), F.S., specifies the identical definition of "retailer" specified in s. 790.0655(1)(a), F.S.

³ s. 790.0655(1)(a), F.S.

⁴ Section 790.06(1), F.S., authorizes the Department of Agriculture and Consumer Services to issue permits to carry concealed weapons or concealed firearms in this state to persons 21 years of age or older who meet specified criteria. Such permit holders may carry a concealed handgun, electronic weapon or device, tear gas gun, knife, or billie, subject to other restrictions provided by law. *Id.*

⁵ s. 790.0655(2), F.S.

⁶ s. 790.0655(1)(b), F.S.

⁷ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082 and 775.083, F.S.

⁸ s. 790.0655(3), F.S.

constitutionally-prescribed exemptions for CWP holders and trade-ins, and, as such, “[w]here the Legislature creates specific exceptions to language in a statute, no other exceptions may be inferred.”⁹

Local-Option Waiting Periods

In 1998, the electors approved an amendment to the Florida Constitution, which authorizes each county to require a criminal history records check and a 3 to 5-day waiting period, excluding weekends and holidays, for the sale of a firearm, unless the purchaser holds a CWP. Specifically, article VIII, section (5)(b) of the Florida Constitution, states:

Each county shall have the authority to require a criminal history records check and a 3 to 5-day waiting period, excluding weekends and legal holidays, in connection with the sale of any firearm occurring within such county. For purposes of this subsection, the term “sale” means the transfer of money or other valuable consideration for any firearm when any part of the transaction is conducted on property to which the public has the right of access. Holders of a concealed weapons permit as prescribed by general law shall not be subject to the provisions of this subsection when purchasing a firearm.

Summary of Waiting Periods in Florida

While there is uniformly a 3-day waiting period throughout the state for the purchase of a handgun from a “retailer,” there may be additional waiting periods from three to five days on a county-by-county basis, which apply to the sale of a firearm on any property in the county to which the public has the right of access. For example, Miami-Dade Ordinance 21-20.18, specifies that a purchaser of a firearm¹⁰ must wait five days after the purchase of a firearm on county property to which the public has the right of access¹¹ for delivery of the firearm, and must have complied with specified criminal history check requirements.

The state and local-option waiting periods do not apply to holders of a CWP.

Law Enforcement Officers - Authority to Carry without a CWP

As discussed below, active and retired law enforcement officers are authorized to carry a firearm under specified circumstances without a CWP pursuant to a variety of provisions in state and federal law.

State Law – Actively Certified Law Enforcement Officers

With respect to individuals holding an **active** certification from the Criminal Justice Standards and Training Commission:

- As a law enforcement or correctional officer,¹² s. 790.052, F.S., provides that such individual has the right to carry, on or about his or her person, a concealed firearm, during off-duty hours, at the discretion of his or her superior officers, and may perform those law enforcement functions that he or she normally performs during duty hours, utilizing his or her weapon in a manner which is reasonably expected of on-duty officers in similar situations.
- As a law enforcement officer, correctional officer, or correctional probation officer,¹³ s. 790.06(5)(b), F.S., provides that such individual is exempt from the section’s CWP requirements for carrying a concealed weapon or concealed firearm. It further specifies that if such individual

⁹ 91-65 Fla. Op. Att’y Gen. 1(1991).

¹⁰ The term “firearm” is defined to mean, “any weapon which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; and firearm muffler or firearm silencer; any destructive device; or any machine gun. Such term does not include an antique firearm.” Miami-Dade Ordinance 21-20.18(a)(3).

¹¹ The term “property to which the public has the right of access” is defined to mean, “any real or personal property to which the public has a right of access, including property owned by either public or private individuals, firms and entities and expressly includes, but is not limited to, flea markets, gun shows and firearms exhibitions.” Miami-Dade Ordinance 21-20.18(a)(4).

¹² Such officers include the following types as defined in s. 943.10(1), (2), (6), (7), (8), or (9), F.S.: (a) a law enforcement or correctional officer; and (b) a part-time or auxiliary law enforcement or correctional officer. s. 790.052(1), F.S.

¹³ Such officers include the following types as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.: (a) a law enforcement or correctional officer; (b) correctional probation officer; and (c) a part-time or auxiliary law enforcement or correctional officer.

wishes to receive a CWP that he or she is exempt from the background investigation and related fees, but must pay the CWP fees regularly required to be paid by nonexempt applicants, which are currently \$70 for an initial permit.

Finally, s. 790.051, F.S., provides that a law enforcement officer is exempt from the licensing and penal provisions of ch. 790, F.S., when acting at any time within the scope or course of his or her official duties or in the line of or performance of duty.

Federal Law – Qualified Officers

Under the federal Law Enforcement Officers Safety Act of 2004 and state implementing law, a qualified law enforcement officer and a qualified retired law enforcement officer may carry a concealed firearm if he or she possesses a firearms proficiency verification card issued to persons who achieve a passing score on the firing range test.^{14, 15}

The term “qualified law enforcement officer” is defined as an individual who:

- Is authorized to investigate persons for violations of law and has powers of arrest;
- Is authorized by his or her employing agency to carry a firearm;
- Is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers; and
- Meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm.¹⁶

The term “qualified retired law enforcement officer” is defined as an individual who:

- Separated from service in good standing as a law enforcement officer and before such separation:
 - Was authorized to investigate persons for violations of law and had powers of arrest; and
 - Served as a law enforcement officer for an aggregate of 10 years or more or separated earlier due to a service-connected disability;
- During the most recent 12-month period, has met the standards for qualification in firearms training for active law enforcement officers;¹⁷ and
- Has not been found by a qualified medical professional employed by his or her former employing public agency to be unqualified for reasons relating to mental health^{18, 19}

Effect of Bill

The joint resolution amends article 1, section 8(b) and article 8, section (5)(b) of the Florida Constitution, to authorize qualified law enforcement officers and qualified retired law enforcement officers to be exempted, like holders of a CWP, from statewide and county waiting periods for a handgun or firearm purchase. Under the amendment, the requirements to constitute a “qualified” officer must be prescribed by general law.

The joint resolution also amends these constitutional provisions to delete an obsolete date and make technical changes to eliminate unnecessary terminology and improve grammar.

¹⁴ 42 U.S.C. §§926B and C (2016); s. 943.132(1), F.S.

¹⁵ The term “firearm” is defined as, “(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.” 18 U.S.C. §921C(3) (2016).

¹⁶ 42 U.S.C. §926B(c) (2016).

¹⁷ These standards are set forth in Rule 11B-27.014, F.A.C.

¹⁸ 42 U.S.C. §926C(c) (2016).

¹⁹ In addition to the above-referenced requirements, a qualified law enforcement officer and a qualified retired law enforcement officer may not be under the influence of alcohol or another intoxicating or hallucinatory drug or substance and may not be prohibited by federal law from receiving a firearm. 42 U.S.C. §§926B(c)(5) and (6) and C(c)(6) and (7) (2016).

The joint resolution does not provide an effective date.²⁰ Therefore, it would take effect on the first Tuesday after the first Monday in January following the election at which it was approved by the electorate,²¹ which is January 3, 2017.

B. SECTION DIRECTORY:

N/A

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Department of State provided the following fiscal analysis for HJR 1395 as originally filed:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2014 general election was \$135.97 per word. Using 2014 rates, the cost to advertise this amendment for the 2016 general election could be \$69,888.58 at a minimum.²²

The House proposed General Appropriations Act, PCB APC 16-01, provides an appropriation of \$69,889 contingent upon adoption of this joint resolution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

²⁰ While an amendment can specify its effective date, it is common practice in constitutional amendments to simply allow the default effective date to apply.

²¹ art. XI, s. 5, Fla. Const.

²² Department of State analysis dated January 13, 2016, on file with the Transportation and Economic Development Appropriations Subcommittee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This section does not apply to proposed constitutional amendments.

2. Other:

Article XI of the Florida Constitution sets forth various methods for proposing amendments to the constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.²³ Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.²⁴ If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure, it becomes effective as an amendment to the Florida Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.²⁵

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

²³ art. XI, s. 1, Fla. Const.

²⁴ art. XI, s. 5(a), Fla. Const.

²⁵ art. XI, s. 5(e), Fla. Const.

1 House Joint Resolution

2 A joint resolution proposing amendments to Section 8
3 of Article I and Section 5 of Article VIII of the
4 State Constitution to remove restrictions on the
5 purchase of personal firearms by qualified law
6 enforcement officers.

7
8 Be It Resolved by the Legislature of the State of Florida:

9
10 That the following amendments to Section 8 of Article I and
11 Section 5 of Article VIII of the State Constitution are agreed
12 to and shall be submitted to the electors of this state for
13 approval or rejection at the next general election or at an
14 earlier special election specifically authorized by law for that
15 purpose:

16 ARTICLE I

17 DECLARATION OF RIGHTS

18 SECTION 8. Right to bear arms.-

19 (a) The right of the people to keep and bear arms in
20 defense of themselves and of the lawful authority of the state
21 shall not be infringed, except that the manner of bearing arms
22 may be regulated by law.

23 (b) There shall be a mandatory period of three days,
24 excluding weekends and legal holidays, between the purchase and
25 delivery at retail of any handgun. For the purposes of this
26 section, "purchase" means the transfer of money or other

27 | valuable consideration to the retailer, and "handgun" means a
 28 | firearm capable of being carried and used by one hand, such as a
 29 | pistol or revolver. A person who is a holder ~~holders~~ of a
 30 | concealed weapon permit or who is a qualified law enforcement
 31 | officer or qualified retired law enforcement officer as
 32 | prescribed by general ~~in Florida~~ law is ~~shall~~ not ~~be~~ subject to
 33 | this restriction ~~the provisions of this paragraph~~.

34 | (c) ~~The legislature shall enact~~ Legislation implementing
 35 | subsection (b) must ~~of this section, effective no later than~~
 36 | ~~December 31, 1991, which shall provide that~~ a person who
 37 | violates ~~anyone violating the provisions of~~ subsection (b)
 38 | commits ~~shall be guilty of~~ a felony.

39 | (d) This restriction does ~~shall~~ not apply to a trade in of
 40 | another handgun.

41 | ARTICLE VIII

42 | LOCAL GOVERNMENT

43 | SECTION 5. Local option.-

44 | (a) Local option on the legality or prohibition of the
 45 | sale of intoxicating liquors, wines or beers shall be preserved
 46 | to each county. The status of a county with respect thereto
 47 | shall be changed only by vote of the electors in a special
 48 | election called upon the petition of twenty-five per cent of the
 49 | electors of the county, and not sooner than two years after an
 50 | earlier election on the same question. Where legal, the sale of
 51 | intoxicating liquors, wines and beers shall be regulated by law.

52 | (b) Each county may ~~shall have the authority to~~ require a

53 criminal history records check and a 3 to 5-day waiting period,
 54 excluding weekends and legal holidays, in connection with the
 55 sale of any firearm occurring within such county. For purposes
 56 of this subsection, the term "sale" means the transfer of money
 57 or other valuable consideration for any firearm when any part of
 58 the transaction is conducted on property to which the public has
 59 the right of access. A person who is a holder ~~holders~~ of a
 60 concealed weapon ~~weapons~~ permit or who is a qualified law
 61 enforcement officer or qualified retired law enforcement officer
 62 as prescribed by general law is ~~shall~~ not ~~be~~ subject to ~~the~~
 63 ~~provisions of this restriction on the purchase of subsection~~
 64 ~~when purchasing~~ a firearm.

65 BE IT FURTHER RESOLVED that the following statement be
 66 placed on the ballot:

67 CONSTITUTIONAL AMENDMENT

68 ARTICLE I, SECTION 8

69 ARTICLE VIII, SECTION 5

70 PURCHASE OF PERSONAL FIREARMS BY QUALIFIED LAW ENFORCEMENT
 71 OFFICERS.—The Florida Constitution provides for waiting periods
 72 in connection with certain sales of firearms. The waiting
 73 periods do not apply to holders of a concealed weapon permit,
 74 but the waiting periods do apply to law enforcement officers.
 75 The amendment exempts qualified law enforcement officers and
 76 qualified retired law enforcement officers from the waiting
 77 periods.