

By the Committee on Transportation; and Senator Sebesta

306-2056C-02

1                                   A bill to be entitled  
2           An act relating to transportation; amending s.  
3           20.23, F.S.; revising provisions relating to  
4           the organization of the Department of  
5           Transportation; deleting certain  
6           responsibilities of the secretary; requiring  
7           the secretary to submit a report on major  
8           actions at each meeting of the Florida  
9           Transportation Commission; revising provisions  
10          relating to assistant secretaries; reducing the  
11          number of assistant secretaries; creating the  
12          Office of Comptroller; eliminating provisions  
13          relating to the inspector general and  
14          comptroller; creating the Dori Slosberg Driver  
15          Education Safety Act; providing penalties for  
16          the illegal conveyance of fuel; amending s.  
17          110.205, F.S.; conforming cross-references;  
18          amending s. 189.441, F.S., relating to  
19          contracts with an authority under the Community  
20          Improvement Authority Act; removing an  
21          exemption from s. 287.055, F.S., relating to  
22          procurement of specified services; amending s.  
23          206.46, F.S.; increasing the right-of-way bond  
24          cap; amending s. 215.615, F.S., relating to  
25          funding of fixed-guideway transportation  
26          systems; eliminating obsolete provisions;  
27          amending s. 255.20, F.S.; exempting certain  
28          transportation projects from certain  
29          competitive bidding requirements; amending s.  
30          287.055, F.S.; increasing the amount defining a  
31          continuing contract; amending s. 311.09, F.S.;

1 providing that certain seaports are subject to  
2 the requirements of s. 287.055, F.S.; amending  
3 s. 315.02, F.S.; authorizing ports to spend  
4 certain funds on security measures; altering  
5 the definition of the word "unit"; amending s.  
6 315.03, F.S.; authorizing federal loan  
7 participation for certain entities; amending s.  
8 2, ch. 2001-349, Laws of Florida; extending the  
9 deadline for providing economic assistance to  
10 airports; amending s. 2, ch. 88-418, Laws of  
11 Florida; providing ingress and egress for  
12 emergency vehicles on Crandon Boulevard;  
13 amending s. 332.004, F.S.; providing that  
14 off-airport noise mitigation is an airport or  
15 aviation development project; amending s.  
16 334.044, F.S.; authorizing the department to  
17 expend money on items that promote scenic  
18 highway projects; authorizing the department to  
19 delegate its drainage permitting  
20 responsibilities to other governmental entities  
21 under certain circumstances; creating s.  
22 335.066, F.S.; creating the Safe Paths to  
23 Schools Program; amending s. 336.41, F.S.;  
24 providing for counties to certify or qualify  
25 persons to perform work under certain  
26 contracts; clarifying that a contractor already  
27 qualified by the department is presumed  
28 qualified to perform work described under  
29 contract on county road projects; amending s.  
30 336.44, F.S.; providing that certain contracts  
31 shall be let to the lowest responsible bidder;

1           amending s. 337.11, F.S., relating to  
2           design-build contracts; adding, for a specified  
3           period, right-of-services to activities that  
4           may be part of a design-build contract;  
5           amending s. 337.14, F.S.; revising provisions  
6           for qualifying persons to bid on certain  
7           construction contracts; providing for  
8           expressway authorities to certify or qualify  
9           persons to perform work under certain  
10          contracts; clarifying that a contractor  
11          qualified by the department is presumed  
12          qualified to perform work described under  
13          contract on projects for expressway  
14          authorities; amending s. 337.401, F.S.;  
15          providing that for certain projects under the  
16          department's jurisdiction, a utility relocation  
17          schedule and relocation agreement may be  
18          executed in lieu of a written permit; amending  
19          s. 337.408, F.S.; revising provisions with  
20          respect to the regulation of benches, transit  
21          shelters, and waste disposal receptacles within  
22          rights-of-way; providing for regulation of  
23          street light poles; amending s. 339.08, F.S.;  
24          revising provisions with respect to the use of  
25          moneys in the State Transportation Trust Fund;  
26          amending s. 339.12, F.S.; raising the amount of  
27          funds which may be loaned to the Department of  
28          Transportation by local governments; providing  
29          grant preference for certain counties; revising  
30          provisions relating to compensation to local  
31          governments that perform projects for the

1 department; amending s. 339.2817, F.S.;

2 authorizing counties to retain or delegate

3 oversight with respect to certain projects

4 under the County Incentive Grant Program;

5 amending s. 339.55, F.S.; expanding the

6 eligibility for the state-funded infrastructure

7 bank; amending s. 341.031, F.S.; conforming

8 cross-references; amending s. 341.051, F.S.,

9 relating to financing of public transit capital

10 projects, and s. 341.053, F.S., relating to

11 projects eligible for funding under the

12 Intermodal Development Program; eliminating

13 obsolete provisions; amending s. 341.501, F.S.;

14 authorizing the department to match funds from

15 other states or jurisdictions; amending s.

16 348.0003, F.S.; authorizing a county governing

17 body to set qualifications, terms of office,

18 and obligations and rights for the members of

19 expressway authorities within their

20 jurisdictions; amending s. 348.0008, F.S.;

21 authorizing certain persons to enter premises

22 to make examinations necessary for property

23 acquisition; creating s. 348.545, F.S.;

24 authorizing bonding for the Tampa-Hillsborough

25 County Expressway Authority; amending s.

26 348.565, F.S.; specifying roads that may be

27 refinanced; amending s. 373.4137, F.S.;

28 providing for certain expressway, bridge, or

29 transportation authorities to create

30 environmental impact inventories and

31 participate in a mitigation program to offset

1           adverse impacts caused by their transportation  
2           projects; amending s. 496.425, F.S.; redefining  
3           the term "facility"; creating s. 496.4256,  
4           F.S.; providing that a governmental entity or  
5           authority that owns or operates certain  
6           facilities on the State Highway System is not  
7           required to issue a permit or grant access to  
8           any person for the purpose of soliciting funds;  
9           creating s. 768.0701, F.S.; providing  
10          limitations on fixed-rail historic street car  
11          service liability; amending s. 768.28, F.S.;  
12          providing that certain operators of rail  
13          services and providers of security for rail  
14          services are agents of the state for certain  
15          purposes; providing for indemnification;  
16          requiring any county or municipality that  
17          receives more than a specified percentage of  
18          its total annual revenue for the prior year  
19          from civil penalties collected from traffic  
20          violations to deposit such excess revenue into  
21          the Highway Safety Operating Trust Fund and the  
22          Brain and Spinal Cord Injury Rehabilitation  
23          Trust Fund; providing a loan extension for  
24          certain airports; providing an effective date.

25  
26       Be It Enacted by the Legislature of the State of Florida:

27  
28               Section 1. Subsections (1), (2), (3), (6), and (7) of  
29       section 20.23, Florida Statutes, are amended to read:

30  
31

1           20.23 Department of Transportation.--There is created  
2 a Department of Transportation which shall be a decentralized  
3 agency.

4           (1)(a)~~1~~. The head of the Department of Transportation  
5 is the Secretary of Transportation. The secretary shall be  
6 appointed by the Governor from among three persons nominated  
7 by the Florida Transportation Commission and shall be subject  
8 to confirmation by the Senate. The secretary shall serve at  
9 the pleasure of the Governor.

10           **(b)2**. The secretary shall be a proven, effective  
11 administrator who by a combination of education and experience  
12 shall clearly possess a broad knowledge of the administrative,  
13 financial, and technical aspects of the development,  
14 operation, and regulation of transportation systems and  
15 facilities or comparable systems and facilities.

16           ~~(b)1. The secretary shall employ all personnel of the~~  
17 ~~department. He or she shall implement all laws, rules,~~  
18 ~~policies, and procedures applicable to the operation of the~~  
19 ~~department and may not by his or her actions disregard or act~~  
20 ~~in a manner contrary to any such policy. The secretary shall~~  
21 ~~represent the department in its dealings with other state~~  
22 ~~agencies, local governments, special districts, and the~~  
23 ~~Federal Government. He or she shall have authority to sign and~~  
24 ~~execute all documents and papers necessary to carry out his or~~  
25 ~~her duties and the operations of the department. At each~~  
26 ~~meeting of the Florida Transportation Commission, the~~  
27 ~~secretary shall submit a report of major actions taken by him~~  
28 ~~or her as official representative of the department.~~

29           ~~2. The secretary shall cause the annual department~~  
30 ~~budget request, the Florida Transportation Plan, and the~~  
31 ~~tentative work program to be prepared in accordance with all~~

1 ~~applicable laws and departmental policies and shall submit the~~  
2 ~~budget, plan, and program to the Florida Transportation~~  
3 ~~Commission. The commission shall perform an in-depth~~  
4 ~~evaluation of the budget, plan, and program for compliance~~  
5 ~~with all applicable laws and departmental policies. If the~~  
6 ~~commission determines that the budget, plan, or program is not~~  
7 ~~in compliance with all applicable laws and departmental~~  
8 ~~policies, it shall report its findings and recommendations~~  
9 ~~regarding such noncompliance to the Legislature and the~~  
10 ~~Governor.~~

11 (c)~~3~~. The secretary shall provide to the Florida  
12 Transportation Commission or its staff, such assistance,  
13 information, and documents as are requested by the commission  
14 or its staff to enable the commission to fulfill its duties  
15 and responsibilities.

16 (d)~~(c)~~ The secretary shall appoint two ~~three~~ assistant  
17 secretaries who shall be directly responsible to the secretary  
18 and who shall perform such duties as are specified in this  
19 section and such other duties as are assigned by the  
20 secretary. ~~The secretary may delegate to any assistant~~  
21 ~~secretary the authority to act in the absence of the~~  
22 ~~secretary. The department has the authority to adopt rules~~  
23 ~~necessary for the delegation of authority beyond the assistant~~  
24 ~~secretaries. The assistant secretaries shall serve at the~~  
25 ~~pleasure of the secretary.~~

26 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and  
27 the assistant secretaries shall be exempt from the provisions  
28 of part III of chapter 110 and shall receive compensation  
29 commensurate with their qualifications and competitive with  
30 compensation for comparable responsibility in the private  
31 sector. When the salary of any assistant secretary exceeds the

1 limits established in part III of chapter 110, the Governor  
2 shall approve said salary.

3 (2)(a)1. The Florida Transportation Commission is  
4 hereby created and shall consist of nine members appointed by  
5 the Governor subject to confirmation by the Senate. Members of  
6 the commission shall serve terms of 4 years each.

7 2. Members shall be appointed in such a manner as to  
8 equitably represent all geographic areas of the state. Each  
9 member must be a registered voter and a citizen of the state.  
10 Each member of the commission must also possess business  
11 managerial experience in the private sector.

12 3. A member of the commission shall represent the  
13 transportation needs of the state as a whole and may not  
14 subordinate the needs of the state to those of any particular  
15 area of the state.

16 4. The commission is assigned to the Office of the  
17 Secretary of the Department of Transportation for  
18 administrative and fiscal accountability purposes, but it  
19 shall otherwise function independently of the control and  
20 direction of the department.

21 (b) The commission shall have the primary functions  
22 to:

23 1. Recommend major transportation policies for the  
24 Governor's approval, and assure that approved policies and any  
25 revisions thereto are properly executed.

26 2. Periodically review the status of the state  
27 transportation system including highway, transit, rail,  
28 seaport, intermodal development, and aviation components of  
29 the system and recommend improvements therein to the Governor  
30 and the Legislature.

31



1           3. Perform an in-depth evaluation of the annual  
2 department budget request, the Florida Transportation Plan,  
3 and the tentative work program for compliance with all  
4 applicable laws and established departmental policies. Except  
5 as specifically provided in s. 339.135(4)(c)2., (d), and (f),  
6 the commission may not consider individual construction  
7 projects, but shall consider methods of accomplishing the  
8 goals of the department in the most effective, efficient, and  
9 businesslike manner.

10           4. Monitor the financial status of the department on a  
11 regular basis to assure that the department is managing  
12 revenue and bond proceeds responsibly and in accordance with  
13 law and established policy.

14           5. Monitor on at least a quarterly basis, the  
15 efficiency, productivity, and management of the department,  
16 using performance and production standards developed by the  
17 commission pursuant to s. 334.045.

18           6. Perform an in-depth evaluation of the factors  
19 causing disruption of project schedules in the adopted work  
20 program and recommend to the Legislature and the Governor  
21 methods to eliminate or reduce the disruptive effects of these  
22 factors.

23           7. Recommend to the Governor and the Legislature  
24 improvements to the department's organization in order to  
25 streamline and optimize the efficiency of the department. In  
26 reviewing the department's organization, the commission shall  
27 determine if the current district organizational structure is  
28 responsive to Florida's changing economic and demographic  
29 development patterns. The initial report by the commission  
30 must be delivered to the Governor and Legislature by December  
31 15, 2000, and each year thereafter, as appropriate. The

1 commission may retain such experts as are reasonably necessary  
2 to effectuate this subparagraph, and the department shall pay  
3 the expenses of such experts.

4 (c) The commission or a member thereof may not enter  
5 into the day-to-day operation of the department and is  
6 specifically prohibited from taking part in:

7 1. The awarding of contracts.

8 2. The selection of a consultant or contractor or the  
9 prequalification of any individual consultant or contractor.  
10 However, the commission may recommend to the secretary  
11 standards and policies governing the procedure for selection  
12 and prequalification of consultants and contractors.

13 3. The selection of a route for a specific project.

14 4. The specific location of a transportation facility.

15 5. The acquisition of rights-of-way.

16 6. The employment, promotion, demotion, suspension,  
17 transfer, or discharge of any department personnel.

18 7. The granting, denial, suspension, or revocation of  
19 any license or permit issued by the department.

20 (d)1. The chair of the commission shall be selected by  
21 the commission members and shall serve a 1-year term.

22 2. The commission shall hold a minimum of 4 regular  
23 meetings annually, and other meetings may be called by the  
24 chair upon giving at least 1 week's notice to all members and  
25 the public pursuant to chapter 120. Other meetings may also be  
26 held upon the written request of at least four other members  
27 of the commission, with at least 1 week's notice of such  
28 meeting being given to all members and the public by the chair  
29 pursuant to chapter 120. Emergency meetings may be held  
30 without notice upon the request of all members of the  
31 commission. At each meeting of the commission, the secretary

1 or his or her designee shall submit a report of major actions  
2 taken by him or her as official representative of the  
3 department.

4           3. A majority of the membership of the commission  
5 constitutes a quorum at any meeting of the commission. An  
6 action of the commission is not binding unless the action is  
7 taken pursuant to an affirmative vote of a majority of the  
8 members present, but not fewer than four members of the  
9 commission at a meeting held pursuant to subparagraph 2., and  
10 the vote is recorded in the minutes of that meeting.

11           4. The chair shall cause to be made a complete record  
12 of the proceedings of the commission, which record shall be  
13 open for public inspection.

14           (e) The meetings of the commission shall be held in  
15 the central office of the department in Tallahassee unless the  
16 chair determines that special circumstances warrant meeting at  
17 another location.

18           (f) Members of the commission are entitled to per diem  
19 and travel expenses pursuant to s. 112.061.

20           (g) A member of the commission may not have any  
21 interest, direct or indirect, in any contract, franchise,  
22 privilege, or other benefit granted or awarded by the  
23 department during the term of his or her appointment and for 2  
24 years after the termination of such appointment.

25           (h) The commission shall appoint an executive director  
26 and assistant executive director, who shall serve under the  
27 direction, supervision, and control of the commission. The  
28 executive director, with the consent of the commission, shall  
29 employ such staff as are necessary to perform adequately the  
30 functions of the commission, within budgetary limitations. All  
31 employees of the commission are exempt from part II of chapter

1 110 and shall serve at the pleasure of the commission. The  
2 salaries and benefits of all employees of the commission shall  
3 be set in accordance with the Selected Exempt Service;  
4 provided, however, that the commission shall have complete  
5 authority for fixing the salary of the executive director and  
6 assistant executive director.

7 (i) The commission shall develop a budget pursuant to  
8 chapter 216. The budget is not subject to change by the  
9 department, but such budget shall be submitted to the Governor  
10 along with the budget of the department.

11 (3)(a) The central office shall establish departmental  
12 policies, rules, procedures, and standards and shall monitor  
13 the implementation of such policies, rules, procedures, and  
14 standards in order to ensure uniform compliance and quality  
15 performance by the districts and central office units that  
16 implement transportation programs. Major transportation policy  
17 initiatives or revisions shall be submitted to the commission  
18 for review. ~~The central office monitoring function shall be~~  
19 ~~based on a plan that clearly specifies what areas will be~~  
20 ~~monitored, activities and criteria used to measure compliance,~~  
21 ~~and a feedback process that assures monitoring findings are~~  
22 ~~reported and deficiencies corrected. The secretary is~~  
23 ~~responsible for ensuring that a central office monitoring~~  
24 ~~function is implemented, and that it functions properly. In~~  
25 ~~conjunction with its monitoring function, the central office~~  
26 ~~shall provide such training and administrative support to the~~  
27 ~~districts as the department determines to be necessary to~~  
28 ~~ensure that the department's programs are carried out in the~~  
29 ~~most efficient and effective manner.~~

30 (b) ~~The resources necessary to ensure the efficiency,~~  
31 ~~effectiveness, and quality of performance by the department of~~

1 ~~its statutory responsibilities shall be allocated to the~~  
2 ~~central office.~~

3 (b)~~(c)~~ The secretary shall appoint an Assistant  
4 Secretary for Transportation Policy and~~an~~ Assistant  
5 Secretary for Finance and Administration, ~~and an Assistant~~  
6 ~~Secretary for District Operations~~, each of whom shall serve at  
7 the pleasure of the secretary. ~~The positions are responsible~~  
8 ~~for developing, monitoring, and enforcing policy and managing~~  
9 ~~major technical programs. The responsibilities and duties of~~  
10 ~~these positions include, but are not limited to, the following~~  
11 ~~functional areas:~~

12 1. ~~Assistant Secretary for Transportation Policy.--~~

13 a. ~~Development of the Florida Transportation Plan and~~  
14 ~~other policy planning;~~

15 b. ~~Development of statewide modal systems plans,~~  
16 ~~including public transportation systems;~~

17 c. ~~Design of transportation facilities;~~

18 d. ~~Construction of transportation facilities;~~

19 e. ~~Acquisition and management of transportation~~  
20 ~~rights-of-way;~~ and

21 f. ~~Administration of motor carrier compliance and~~  
22 ~~safety.~~

23 2. ~~Assistant Secretary for District Operations.--~~

24 a. ~~Administration of the eight districts;~~ and

25 b. ~~Implementation of the decentralization of the~~  
26 ~~department.~~

27 3. ~~Assistant Secretary for Finance and~~  
28 ~~Administration.--~~

29 a. ~~Financial planning and management;~~

30 b. ~~Information systems;~~

31 c. ~~Accounting systems;~~

1           ~~d. Administrative functions; and~~  
2           ~~e. Administration of toll operations.~~  
3           ~~(d)1. Policy, program, or operations offices shall be~~  
4 ~~established within the central office for the purposes of:~~  
5           ~~a. Developing policy and procedures and monitoring~~  
6 ~~performance to ensure compliance with these policies and~~  
7 ~~procedures;~~  
8           ~~b. Performing statewide activities which it is more~~  
9 ~~cost-effective to perform in a central location;~~  
10           ~~c. Assessing and ensuring the accuracy of information~~  
11 ~~within the department's financial management information~~  
12 ~~systems; and~~  
13           ~~d. Performing other activities of a statewide nature.~~  
14           (c)1.2. The following offices are established and  
15 shall be headed by a manager, each of whom shall be appointed  
16 by and serve at the pleasure of the secretary. The positions  
17 shall be classified at a level equal to a division director:  
18           a. The Office of Administration.†  
19           b. The Office of Policy Planning.†  
20           c. The Office of Design.†  
21           d. The Office of Highway Operations.†  
22           e. The Office of Right-of-Way.†  
23           f. The Office of Toll Operations.†  
24           g. The Office of Information Systems.† ~~and~~  
25           h. The Office of Motor Carrier Compliance.  
26           i. The Office of Management and Budget.  
27           j. The Office of Comptroller.  
28           2.3. Other offices may be established in accordance  
29 with s. 20.04(7). The heads of such offices are exempt from  
30 part II of chapter 110. No office or organization shall be  
31

1 created at a level equal to or higher than a division without  
2 specific legislative authority.

3 3.4. During the construction of a major transportation  
4 improvement project or as determined by the district  
5 secretary, the department may provide assistance to a business  
6 entity significantly impacted by the project if the entity is  
7 a for-profit entity that has been in business for 3 years  
8 prior to the beginning of construction and has direct or  
9 shared access to the transportation project being constructed.  
10 The assistance program shall be in the form of additional  
11 guarantees to assist the impacted business entity in receiving  
12 loans pursuant to Title 13 C.F.R. part 120. However, in no  
13 instance shall the combined guarantees be greater than 90  
14 percent of the loan. The department shall adopt rules to  
15 implement this subparagraph.

16 ~~(e) The Assistant Secretary for Finance and~~  
17 ~~Administration must possess a broad knowledge of the~~  
18 ~~administrative, financial, and technical aspects of a complete~~  
19 ~~cost-accounting system, budget preparation and management, and~~  
20 ~~management information systems. The Assistant Secretary for~~  
21 ~~Finance and Administration must be a proven, effective manager~~  
22 ~~with specialized skills in financial planning and management.~~  
23 ~~The Assistant Secretary for Finance and Administration shall~~  
24 ~~ensure that financial information is processed in a timely,~~  
25 ~~accurate, and complete manner.~~

26 ~~(f)1. Within the central office there is created an~~  
27 ~~Office of Management and Budget. The head of the Office of~~  
28 ~~Management and Budget is responsible to the Assistant~~  
29 ~~Secretary for Finance and Administration and is exempt from~~  
30 ~~part II of chapter 110.~~

31

1           ~~2. The functions of the Office of Management and~~  
2 ~~Budget include, but are not limited to:~~  
3           ~~a. Preparation of the work program;~~  
4           ~~b. Preparation of the departmental budget; and~~  
5           ~~c. Coordination of related policies and procedures.~~

6           ~~3. The Office of Management and Budget shall also be~~  
7 ~~responsible for developing uniform implementation and~~  
8 ~~monitoring procedures for all activities performed at the~~  
9 ~~district level involving the budget and the work program.~~

10           ~~(d)(g)~~ The secretary shall ~~may~~ appoint an inspector  
11 general pursuant to s. 20.055 who shall be directly  
12 responsible to the secretary and shall serve at the pleasure  
13 of the secretary.

14           ~~(h)1. The secretary shall appoint an inspector general~~  
15 ~~pursuant to s. 20.055. The inspector general may be~~  
16 ~~organizationally located within another unit of the department~~  
17 ~~for administrative purposes, but shall function independently~~  
18 ~~and be directly responsible to the secretary pursuant to s.~~  
19 ~~20.055. The duties of the inspector general shall include, but~~  
20 ~~are not restricted to, reviewing, evaluating, and reporting on~~  
21 ~~the policies, plans, procedures, and accounting, financial,~~  
22 ~~and other operations of the department and recommending~~  
23 ~~changes for the improvement thereof, as well as performing~~  
24 ~~audits of contracts and agreements between the department and~~  
25 ~~private entities or other governmental entities. The inspector~~  
26 ~~general shall give priority to reviewing major parts of the~~  
27 ~~department's accounting system and central office monitoring~~  
28 ~~function to determine whether such systems effectively ensure~~  
29 ~~accountability and compliance with all laws, rules, policies,~~  
30 ~~and procedures applicable to the operation of the department.~~  
31 ~~The inspector general shall also give priority to assessing~~



1 ~~the department's management information systems as required by~~  
2 ~~s. 282.318. The internal audit function shall use the~~  
3 ~~necessary expertise, in particular, engineering, financial,~~  
4 ~~and property appraising expertise, to independently evaluate~~  
5 ~~the technical aspects of the department's operations. The~~  
6 ~~inspector general shall have access at all times to any~~  
7 ~~personnel, records, data, or other information of the~~  
8 ~~department and shall determine the methods and procedures~~  
9 ~~necessary to carry out his or her duties. The inspector~~  
10 ~~general is responsible for audits of departmental operations~~  
11 ~~and for audits of consultant contracts and agreements, and~~  
12 ~~such audits shall be conducted in accordance with generally~~  
13 ~~accepted governmental auditing standards. The inspector~~  
14 ~~general shall annually perform a sufficient number of audits~~  
15 ~~to determine the efficiency and effectiveness, as well as~~  
16 ~~verify the accuracy of estimates and charges, of contracts~~  
17 ~~executed by the department with private entities and other~~  
18 ~~governmental entities. The inspector general has the sole~~  
19 ~~responsibility for the contents of his or her reports, and a~~  
20 ~~copy of each report containing his or her findings and~~  
21 ~~recommendations shall be furnished directly to the secretary~~  
22 ~~and the commission.~~

23       2. ~~In addition to the authority and responsibilities~~  
24 ~~herein provided, the inspector general is required to report~~  
25 ~~to the:~~

26       a. ~~Secretary whenever the inspector general makes a~~  
27 ~~preliminary determination that particularly serious or~~  
28 ~~flagrant problems, abuses, or deficiencies relating to the~~  
29 ~~administration of programs and operations of the department~~  
30 ~~have occurred. The secretary shall review and assess the~~  
31 ~~correctness of the preliminary determination by the inspector~~

1 ~~general. If the preliminary determination is substantiated,~~  
2 ~~the secretary shall submit such report to the appropriate~~  
3 ~~committees of the Legislature within 7 calendar days, together~~  
4 ~~with a report by the secretary containing any comments deemed~~  
5 ~~appropriate. Nothing in this section shall be construed to~~  
6 ~~authorize the public disclosure of information which is~~  
7 ~~specifically prohibited from disclosure by any other provision~~  
8 ~~of law.~~

9 ~~b. Transportation Commission and the Legislature any~~  
10 ~~actions by the secretary that prohibit the inspector general~~  
11 ~~from initiating, carrying out, or completing any audit after~~  
12 ~~the inspector general has decided to initiate, carry out, or~~  
13 ~~complete such audit. The secretary shall, within 30 days after~~  
14 ~~transmission of the report, set forth in a statement to the~~  
15 ~~Transportation Commission and the Legislature the reasons for~~  
16 ~~his or her actions.~~

17 ~~(i)1. The secretary shall appoint a comptroller who is~~  
18 ~~responsible to the Assistant Secretary for Finance and~~  
19 ~~Administration. This position is exempt from part II of~~  
20 ~~chapter 110.~~

21 ~~2. The comptroller is the chief financial officer of~~  
22 ~~the department and must be a proven, effective administrator~~  
23 ~~who by a combination of education and experience clearly~~  
24 ~~possesses a broad knowledge of the administrative, financial,~~  
25 ~~and technical aspects of a complex cost-accounting system. The~~  
26 ~~comptroller must also have a working knowledge of generally~~  
27 ~~accepted accounting principles. At a minimum, the comptroller~~  
28 ~~must hold an active license to practice public accounting in~~  
29 ~~Florida pursuant to chapter 473 or an active license to~~  
30 ~~practice public accounting in any other state. In addition to~~  
31 ~~the requirements of the Florida Fiscal Accounting Management~~

1 ~~Information System Act, the comptroller is responsible for the~~  
2 ~~development, maintenance, and modification of an accounting~~  
3 ~~system that will in a timely manner accurately reflect the~~  
4 ~~revenues and expenditures of the department and that includes~~  
5 ~~a cost-accounting system to properly identify, segregate,~~  
6 ~~allocate, and report department costs. The comptroller shall~~  
7 ~~supervise and direct preparation of a detailed 36-month~~  
8 ~~forecast of cash and expenditures and is responsible for~~  
9 ~~managing cash and determining cash requirements. The~~  
10 ~~comptroller shall review all comparative cost studies that~~  
11 ~~examine the cost-effectiveness and feasibility of contracting~~  
12 ~~for services and operations performed by the department. The~~  
13 ~~review must state that the study was prepared in accordance~~  
14 ~~with generally accepted cost-accounting standards applied in a~~  
15 ~~consistent manner using valid and accurate cost data.~~

16         ~~3. The department shall by rule or internal management~~  
17 ~~memoranda as required by chapter 120 provide for the~~  
18 ~~maintenance by the comptroller of financial records and~~  
19 ~~accounts of the department as will afford a full and complete~~  
20 ~~check against the improper payment of bills and provide a~~  
21 ~~system for the prompt payment of the just obligations of the~~  
22 ~~department, which records must at all times disclose:~~

23             ~~a. The several appropriations available for the use of~~  
24 ~~the department;~~

25             ~~b. The specific amounts of each such appropriation~~  
26 ~~budgeted by the department for each improvement or purpose;~~

27             ~~c. The apportionment or division of all such~~  
28 ~~appropriations among the several counties and districts, when~~  
29 ~~such apportionment or division is made;~~

30  
31

1           ~~d. The amount or portion of each such apportionment~~  
2 ~~against general contractual and other liabilities then~~  
3 ~~created;~~

4           ~~e. The amount expended and still to be expended in~~  
5 ~~connection with each contractual and other obligation of the~~  
6 ~~department;~~

7           ~~f. The expense and operating costs of the various~~  
8 ~~activities of the department;~~

9           ~~g. The receipts accruing to the department and the~~  
10 ~~distribution thereof;~~

11           ~~h. The assets, investments, and liabilities of the~~  
12 ~~department; and~~

13           ~~i. The cash requirements of the department for a~~  
14 ~~36-month period.~~

15           ~~4. The comptroller shall maintain a separate account~~  
16 ~~for each fund administered by the department.~~

17           ~~5. The comptroller shall perform such other related~~  
18 ~~duties as designated by the department.~~

19           (e)(j) The secretary shall appoint a general counsel  
20 who shall be employed full time and shall be directly  
21 responsible to the secretary and shall serve at the pleasure  
22 of the secretary. The general counsel is responsible for all  
23 legal matters of the department. The department may employ as  
24 many attorneys as it deems necessary to advise and represent  
25 the department in all transportation matters.

26           (f)(k) The secretary shall appoint a state  
27 transportation planner ~~who shall report to the Assistant~~  
28 ~~Secretary for Transportation Policy. The state transportation~~  
29 ~~planner's responsibilities shall include, but are not limited~~  
30 ~~to, policy planning, systems planning, and transportation~~

31

1 ~~statistics~~. This position shall be classified at a level equal  
2 to a deputy assistant secretary.

3 (g)~~(l)~~ The secretary shall appoint a state highway  
4 engineer ~~who shall report to the Assistant Secretary for~~  
5 ~~Transportation Policy. The state highway engineer's~~  
6 ~~responsibilities shall include, but are not limited to,~~  
7 ~~design, construction, and maintenance of highway facilities;~~  
8 ~~acquisition and management of transportation rights-of-way;~~  
9 ~~traffic engineering; and materials testing.~~ This position  
10 shall be classified at a level equal to a deputy assistant  
11 secretary.

12 (h)~~(m)~~ The secretary shall appoint a state public  
13 transportation administrator ~~who shall report to the Assistant~~  
14 ~~Secretary for Transportation Policy. The state public~~  
15 ~~transportation administrator's responsibilities shall include,~~  
16 ~~but are not limited to, the administration of statewide~~  
17 ~~transit, rail, intermodal development, and aviation programs.~~  
18 This position shall be classified at a level equal to a deputy  
19 assistant secretary. ~~The department shall also assign to the~~  
20 ~~public transportation administrator an organizational unit the~~  
21 ~~primary function of which is to administer the high-speed rail~~  
22 ~~program.~~

23 ~~(6)~~ ~~To facilitate the efficient and effective~~  
24 ~~management of the department in a businesslike manner, the~~  
25 ~~department shall develop a system for the submission of~~  
26 ~~monthly management reports to the Florida Transportation~~  
27 ~~Commission and secretary from the district secretaries. The~~  
28 ~~commission and the secretary shall determine which reports are~~  
29 ~~required to fulfill their respective responsibilities under~~  
30 ~~this section. A copy of each such report shall be submitted~~  
31 ~~monthly to the appropriations and transportation committees of~~

1 ~~the Senate and the House of Representatives. Recommendations~~  
2 ~~made by the Auditor General in his or her audits of the~~  
3 ~~department that relate to management practices, systems, or~~  
4 ~~reports shall be implemented in a timely manner. However, if~~  
5 ~~the department determines that one or more of the~~  
6 ~~recommendations should be altered or should not be~~  
7 ~~implemented, it shall provide a written explanation of such~~  
8 ~~determination to the Legislative Auditing Committee within 6~~  
9 ~~months after the date the recommendations were published.~~

10 (6)~~(7)~~ The department is authorized to contract with  
11 local governmental entities and with the private sector if the  
12 department first determines that:

13 (a) Consultants can do the work at less cost than  
14 state employees;

15 (b) State employees can do the work at less cost, but  
16 sufficient positions have not been approved by the Legislature  
17 as requested in the department's most recent legislative  
18 budget request;

19 (c) The work requires specialized expertise, and it  
20 would not be economical for the state to acquire, and then  
21 maintain, the expertise after the work is done;

22 (d) The workload is at a peak level, and it would not  
23 be economical to acquire, and then keep, extra personnel after  
24 the workload decreases; or

25 (e) The use of such entities is clearly in the  
26 public's best interest.

27  
28 Such contracts shall require compliance with applicable  
29 federal and state laws, and clearly specify the product or  
30 service to be provided.

31

1           Section 2. Dori Slosberg Driver Education Safety  
2 Act.--Effective October 1, 2002, notwithstanding the  
3 provisions of section 318.121, Florida Statutes, a board of  
4 county commissioners may require, by ordinance, that the clerk  
5 of the court collect an additional \$3 with each civil traffic  
6 penalty, which shall be used to fund traffic education  
7 programs in public and nonpublic schools. The ordinance shall  
8 provide for the board of county commissioners to administer  
9 the funds. The funds shall be used for direct educational  
10 expenses and shall not be used for administration.

11           Section 3. (1) It is unlawful for any person to  
12 maintain, or possess any conveyance or vehicle that is  
13 equipped with fuel tanks, bladders, drums, or other containers  
14 that do not conform to 49 C.F.R. or have not been approved by  
15 the U.S. Department of Transportation for the purpose of  
16 hauling, transporting, or conveying motor or diesel fuel over  
17 the public highways. Any person who violates this subsection  
18 commits a felony of the third degree, punishable as provided  
19 in section 775.082, section 775.083 or section 775.084,  
20 Florida Statutes, and is subject to the revocation of driver's  
21 license privileges as provided in section 322.26, Florida  
22 Statutes.

23           (2) Any person who violates subsection (1) commits a  
24 felony of the third degree, punishable as provided in section  
25 775.082, section 775.083, or section 775.084, Florida  
26 Statutes, if he or she has attempted to or has fraudulently  
27 obtained motor or diesel fuel, by presenting a credit card or  
28 a credit card account number, in violation of sections  
29 817.57-817.685, Florida Statutes, by using unauthorized access  
30 to any computer network, in violation of section 815.06, or by  
31

1 using a skimmed, lost, or stolen payment access device,  
2 whether a credit card or contactless device.

3 (3) All conveyances or vehicles, fuel tanks, related  
4 fuel, and other equipment described in subsection (1) are  
5 subject to seizure and forfeiture, as provided by the Florida  
6 Contraband Forfeiture Act.

7 (4) The law enforcement agency that seized the motor  
8 or diesel fuel under this section shall remove and reclaim,  
9 recycle, or dispose of all associated motor or diesel fuel  
10 from illegal containers as soon as practical in a safe and  
11 proper manner.

12 (5) Upon conviction of the person arrested for the  
13 violation of any of the provisions of this section, the judge  
14 shall issue an order adjudging and declaring that all fuel  
15 tanks and other equipment used in violation of this section  
16 are forfeited and directing its destruction, with the  
17 exception of the conveyance or vehicle.

18 (6) Any person convicted under this section, is  
19 responsible for all reasonable costs incurred by the  
20 investigating law enforcement agency, including the towing and  
21 storage of the conveyance or vehicle, the removal and disposal  
22 of the motor or diesel fuel, and the storage and destruction  
23 of all fuel tanks and other equipment described and used in  
24 violation of subsection (1) and for payment for the fuel to  
25 the party from whom any associated motor or diesel fuel was  
26 fraudulently obtained.

27 (7) This section does not apply to containers of 8  
28 gallons or less.

29 Section 4. Paragraphs (j) and (m) of subsection (2) of  
30 section 110.205, Florida Statutes, are amended to read:

31 110.205 Career service; exemptions.--



1           (2) EXEMPT POSITIONS.--The exempt positions that are  
2 not covered by this part include the following:

3           (j) The appointed secretaries, assistant secretaries,  
4 deputy secretaries, and deputy assistant secretaries of all  
5 departments; the executive directors, assistant executive  
6 directors, deputy executive directors, and deputy assistant  
7 executive directors of all departments; and the directors of  
8 all divisions and those positions determined by the department  
9 to have managerial responsibilities comparable to such  
10 positions, which positions include, but are not limited to,  
11 program directors, assistant program directors, district  
12 administrators, deputy district administrators, the Director  
13 of Central Operations Services of the Department of Children  
14 and Family Services, and the State Transportation Planner,  
15 State Highway Engineer, State Public Transportation  
16 Administrator, district secretaries, district directors of  
17 planning and programming, production, and operations, and the  
18 managers of the offices specified in s. 20.23(3)(c)1.~~(d)2.~~, of  
19 the Department of Transportation. Unless otherwise fixed by  
20 law, the department shall set the salary and benefits of these  
21 positions in accordance with the rules of the Senior  
22 Management Service.

23           (m) All assistant division director, deputy division  
24 director, and bureau chief positions in any department, and  
25 those positions determined by the department to have  
26 managerial responsibilities comparable to such positions,  
27 which positions include, but are not limited to, positions in  
28 the Department of Health, the Department of Children and  
29 Family Services, and the Department of Corrections that are  
30 assigned primary duties of serving as the superintendent or  
31 assistant superintendent, or warden or assistant warden, of an

1 institution; positions in the Department of Corrections that  
2 are assigned primary duties of serving as the circuit  
3 administrator or deputy circuit administrator; positions in  
4 the Department of Transportation that are assigned primary  
5 duties of serving as regional toll managers and managers of  
6 offices as defined in s. 20.23(3)(c)2.~~(d)3.~~ and (4)(d);  
7 positions in the Department of Environmental Protection that  
8 are assigned the duty of an Environmental Administrator or  
9 program administrator; those positions described in s. 20.171  
10 as included in the Senior Management Service; and positions in  
11 the Department of Health that are assigned the duties of  
12 Environmental Administrator, Assistant County Health  
13 Department Director, and County Health Department Financial  
14 Administrator. Unless otherwise fixed by law, the department  
15 shall set the salary and benefits of these positions in  
16 accordance with the rules established for the Selected Exempt  
17 Service.

18 Section 5. Section 189.441, Florida Statutes, is  
19 amended to read:

20 189.441 Contracts.--Contracts for the construction of  
21 projects and for any other purpose of the authority may be  
22 awarded by the authority in a manner that will best promote  
23 free and open competition, including advertisement for  
24 competitive bids; however, if the authority determines that  
25 the purposes of this act will be more effectively served  
26 thereby, the authority may award or cause to be awarded  
27 contracts for the construction of any project, including  
28 design-build contracts, or any part thereof, or for any other  
29 purpose of the authority upon a negotiated basis as determined  
30 by the authority. Each contractor doing business with the  
31 authority and required to be licensed by the state or local

1 general-purpose governments must maintain the license during  
2 the term of the contract with the authority. The authority may  
3 prescribe bid security requirements and other procedures in  
4 connection with the award of contracts which protect the  
5 public interest. ~~Section 287.055 does not apply to the~~  
6 ~~selection of professional architectural, engineering,~~  
7 ~~landscape architectural, or land surveying services by the~~  
8 ~~authority or to the procurement of design-build contracts.~~The  
9 authority may, and in the case of a new professional sports  
10 franchise must, by written contract engage the services of the  
11 operator, lessee, sublessee, or purchaser, or prospective  
12 operator, lessee, sublessee, or purchaser, of any project in  
13 the construction of the project and may, and in the case of a  
14 new professional sports franchise must, provide in the  
15 contract that the lessee, sublessee, purchaser, or prospective  
16 lessee, sublessee, or purchaser, may act as an agent of, or an  
17 independent contractor for, the authority for the performance  
18 of the functions described therein, subject to the conditions  
19 and requirements prescribed in the contract, including  
20 functions such as the acquisition of the site and other real  
21 property for the project; the preparation of plans,  
22 specifications, financing, and contract documents; the award  
23 of construction and other contracts upon a competitive or  
24 negotiated basis; the construction of the project, or any part  
25 thereof, directly by the lessee, purchaser, or prospective  
26 lessee or purchaser; the inspection and supervision of  
27 construction; the employment of engineers, architects,  
28 builders, and other contractors; and the provision of money to  
29 pay the cost thereof pending reimbursement by the authority.  
30 Any such contract may, and in the case of a new professional  
31 sports franchise must, allow the authority to make advances to

1 or reimburse the lessee, sublessee, or purchaser, or  
2 prospective lessee, sublessee, or purchaser for its costs  
3 incurred in the performance of those functions, and must set  
4 forth the supporting documents required to be submitted to the  
5 authority and the reviews, examinations, and audits that are  
6 required in connection therewith to assure compliance with the  
7 contract.

8 Section 6. Subsection (2) of section 206.46, Florida  
9 Statutes, is amended to read:

10 206.46 State Transportation Trust Fund.--

11 (2) Notwithstanding any other provisions of law, from  
12 the revenues deposited into the State Transportation Trust  
13 Fund a maximum of 7 percent in each fiscal year shall be  
14 transferred into the Right-of-Way Acquisition and Bridge  
15 Construction Trust Fund created in s. 215.605, as needed to  
16 meet the requirements of the documents authorizing the bonds  
17 issued or proposed to be issued under ss. 215.605 and 337.276  
18 or at a minimum amount sufficient to pay for the debt service  
19 coverage requirements of outstanding bonds. Notwithstanding  
20 the 7 percent annual transfer authorized in this subsection,  
21 the annual amount transferred under this subsection shall not  
22 exceed an amount necessary to provide the required debt  
23 service coverage levels for a maximum debt service not to  
24 exceed ~~\$200~~\$135 million. Such transfer shall be payable  
25 primarily from the motor and diesel fuel taxes transferred to  
26 the State Transportation Trust Fund from the Fuel Tax  
27 Collection Trust Fund.

28 Section 7. Subsection (2) of section 215.615, Florida  
29 Statutes, is amended to read:

30 215.615 Fixed-guideway transportation systems  
31 funding.--

1           (2) To be eligible for participation, fixed-guideway  
2 transportation system projects must ~~comply with the major~~  
3 ~~capital investment policy guidelines and criteria established~~  
4 ~~by the Department of Transportation under chapter 341;~~ must be  
5 found to be consistent, to the maximum extent feasible, with  
6 approved local government comprehensive plans of the local  
7 governments in which such projects are located, and must be  
8 included in the work program of the Department of  
9 Transportation pursuant to the provisions under s. 339.135.  
10 The department shall certify that the expected useful life of  
11 the transportation improvements will equal or exceed the  
12 maturity date of the debt to be issued.

13           Section 8. Paragraph (a) of subsection (1) of section  
14 255.20, Florida Statutes, is amended to read:

15           255.20 Local bids and contracts for public  
16 construction works; specification of state-produced lumber.--

17           (1) A county, municipality, special district as  
18 defined in chapter 189, or other political subdivision of the  
19 state seeking to construct or improve a public building,  
20 structure, or other public construction works must  
21 competitively award to an appropriately licensed contractor  
22 each project that is estimated in accordance with generally  
23 accepted cost-accounting principles to have total construction  
24 project costs of more than \$200,000. For electrical work,  
25 local government must competitively award to an appropriately  
26 licensed contractor each project that is estimated in  
27 accordance with generally accepted cost-accounting principles  
28 to have a cost of more than \$50,000. As used in this section,  
29 the term "competitively award" means to award contracts based  
30 on the submission of sealed bids, proposals submitted in  
31 response to a request for proposal, proposals submitted in

1 response to a request for qualifications, or proposals  
2 submitted for competitive negotiation. This subsection  
3 expressly allows contracts for construction management  
4 services, design/build contracts, continuation contracts based  
5 on unit prices, and any other contract arrangement with a  
6 private sector contractor permitted by any applicable  
7 municipal or county ordinance, by district resolution, or by  
8 state law. For purposes of this section, construction costs  
9 include the cost of all labor, except inmate labor, and  
10 include the cost of equipment and materials to be used in the  
11 construction of the project. Subject to the provisions of  
12 subsection (3), the county, municipality, special district, or  
13 other political subdivision may establish, by municipal or  
14 county ordinance or special district resolution, procedures  
15 for conducting the bidding process.

16 (a) The provisions of this subsection do not apply:

17 1. When the project is undertaken to replace,  
18 reconstruct, or repair an existing facility damaged or  
19 destroyed by a sudden unexpected turn of events, such as an  
20 act of God, riot, fire, flood, accident, or other urgent  
21 circumstances, and such damage or destruction creates:

22 a. An immediate danger to the public health or safety;

23 b. Other loss to public or private property which  
24 requires emergency government action; or

25 c. An interruption of an essential governmental  
26 service.

27 2. When, after notice by publication in accordance  
28 with the applicable ordinance or resolution, the governmental  
29 entity does not receive any responsive bids or responses.

30 3. To construction, remodeling, repair, or improvement  
31 to a public electric or gas utility system when such work on

1 the public utility system is performed by personnel of the  
2 system.

3 4. To construction, remodeling, repair, or improvement  
4 by a utility commission whose major contracts are to construct  
5 and operate a public electric utility system.

6 5. When the project is undertaken as repair or  
7 maintenance of an existing public facility.

8 6. When the project is undertaken exclusively as part  
9 of a public educational program.

10 7. When the funding source of the project will be  
11 diminished or lost because the time required to competitively  
12 award the project after the funds become available exceeds the  
13 time within which the funding source must be spent.

14 8. When the local government has competitively awarded  
15 a project to a private sector contractor and the contractor  
16 has abandoned the project before completion or the local  
17 government has terminated the contract.

18 9. When the governing board of the local government,  
19 after public notice, conducts a public meeting under s.  
20 286.011 and finds by a majority vote of the governing board  
21 that it is in the public's best interest to perform the  
22 project using its own services, employees, and equipment. The  
23 public notice must be published at least 14 days prior to the  
24 date of the public meeting at which the governing board takes  
25 final action to apply this subparagraph. The notice must  
26 identify the project, the estimated cost of the project, and  
27 specify that the purpose for the public meeting is to consider  
28 whether it is in the public's best interest to perform the  
29 project using the local government's own services, employees,  
30 and equipment. In deciding whether it is in the public's best  
31 interest for local government to perform a project using its

1 own services, employees, and equipment, the governing board  
2 may consider the cost of the project, whether the project  
3 requires an increase in the number of government employees, an  
4 increase in capital expenditures for public facilities,  
5 equipment or other capital assets, the impact on local  
6 economic development, the impact on small and minority  
7 business owners, the impact on state and local tax revenues,  
8 whether the private sector contractors provide health  
9 insurance and other benefits equivalent to those provided by  
10 the local government, and any other factor relevant to what is  
11 in the public's best interest.

12           10. When the governing board of the local government  
13 determines upon consideration of specific substantive criteria  
14 and administrative procedures that it is in the best interest  
15 of the local government to award the project to an  
16 appropriately licensed private sector contractor according to  
17 procedures established by and expressly set forth in a  
18 charter, ordinance, or resolution of the local government  
19 adopted prior to July 1, 1994. The criteria and procedures  
20 must be set out in the charter, ordinance, or resolution and  
21 must be applied uniformly by the local government to avoid  
22 award of any project in an arbitrary or capricious manner.  
23 This exception shall apply when all of the following occur:

24           a. When the governing board of the local government,  
25 after public notice, conducts a public meeting under s.  
26 286.011 and finds by a two-thirds vote of the governing board  
27 that it is in the public's best interest to award the project  
28 according to the criteria and procedures established by  
29 charter, ordinance, or resolution. The public notice must be  
30 published at least 14 days prior to the date of the public  
31 meeting at which the governing board takes final action to



1 apply this subparagraph. The notice must identify the project,  
2 the estimated cost of the project, and specify that the  
3 purpose for the public meeting is to consider whether it is in  
4 the public's best interest to award the project using the  
5 criteria and procedures permitted by the preexisting  
6 ordinance.

7         b. In the event the project is to be awarded by any  
8 method other than a competitive selection process, the  
9 governing board must find evidence that:

10             (I) There is one appropriately licensed contractor who  
11 is uniquely qualified to undertake the project because that  
12 contractor is currently under contract to perform work that is  
13 affiliated with the project; or

14             (II) The time to competitively award the project will  
15 jeopardize the funding for the project, or will materially  
16 increase the cost of the project or will create an undue  
17 hardship on the public health, safety, or welfare.

18         c. In the event the project is to be awarded by any  
19 method other than a competitive selection process, the  
20 published notice must clearly specify the ordinance or  
21 resolution by which the private sector contractor will be  
22 selected and the criteria to be considered.

23         d. In the event the project is to be awarded by a  
24 method other than a competitive selection process, the  
25 architect or engineer of record has provided a written  
26 recommendation that the project be awarded to the private  
27 sector contractor without competitive selection; and the  
28 consideration by, and the justification of, the government  
29 body are documented, in writing, in the project file and are  
30 presented to the governing board prior to the approval  
31 required in this paragraph.

1           11. To projects subject to chapter 336.

2           Section 9. Paragraph (g) of subsection (2) of section  
3 287.055, Florida Statutes, is amended to read:

4           287.055 Acquisition of professional architectural,  
5 engineering, landscape architectural, or surveying and mapping  
6 services; definitions; procedures; contingent fees prohibited;  
7 penalties.--

8           (2) DEFINITIONS.--For purposes of this section:

9           (g) A "continuing contract" is a contract for  
10 professional services entered into in accordance with all the  
11 procedures of this act between an agency and a firm whereby  
12 the firm provides professional services to the agency for  
13 projects in which construction costs do not exceed\$1 million  
14 ~~\$500,000~~, for study activity when the fee for such  
15 professional service does not exceed\$50,000~~\$25,000~~, or for  
16 work of a specified nature as outlined in the contract  
17 required by the agency, with no time limitation except that  
18 the contract must provide a termination clause.

19           Section 10. Subsection (12) of section 311.09, Florida  
20 Statutes, is amended to read:

21           311.09 Florida Seaport Transportation and Economic  
22 Development Council.--

23           (12) Members of the council shall serve without  
24 compensation but are entitled to receive reimbursement for per  
25 diem and travel expenses as provided in s. 112.061. The  
26 council may elect to provide an administrative staff to  
27 provide services to the council on matters relating to the  
28 Florida Seaport Transportation and Economic Development  
29 Program and the council. The cost for such administrative  
30 services shall be paid by all ports that receive funding from  
31 the Florida Seaport Transportation and Economic Development

1 Program, based upon a pro rata formula measured by each  
2 recipient's share of the funds as compared to the total funds  
3 disbursed to all recipients during the year. The share of  
4 costs for administrative services shall be paid in its total  
5 amount by the recipient port upon execution by the port and  
6 the Department of Transportation of a joint participation  
7 agreement for each council-approved project, and such payment  
8 is in addition to the matching funds required to be paid by  
9 the recipient port. Except as otherwise exempted by law, all  
10 moneys derived from the Florida Seaport Transportation and  
11 Economic Development Program shall be expended in accordance  
12 with the provisions of s. 287.057. Seaports subject to  
13 competitive negotiation requirements of a local governing body  
14 shall abide by the provisions of s. 287.055 ~~be exempt from~~  
15 ~~this requirement.~~

16 Section 11. Subsections (4) and (6) of section 315.02,  
17 Florida Statutes, are amended to read:

18 315.02 Definitions.--As used in this law, the  
19 following words and terms shall have the following meanings:

20 (4) The word "unit" shall mean any county, port  
21 district, port authority or municipality or any governmental  
22 unit created pursuant to s. 163.01(7)(d).

23 (6) The term "port facilities" shall mean and shall  
24 include harbor, shipping, and port facilities, and  
25 improvements of every kind, nature, and description,  
26 including, but without limitation, channels, turning basins,  
27 jetties, breakwaters, public landings, wharves, docks,  
28 markets, parks, recreational facilities, structures,  
29 buildings, piers, storage facilities, security measures  
30 identified pursuant to s. 311.12, including facilities that  
31 may be used for warehouse, storage, and distribution of cargo

1 transported or to be transported through an airport or port  
2 facility, public buildings and plazas, anchorages, utilities,  
3 bridges, tunnels, roads, causeways, and any and all property  
4 and facilities necessary or useful in connection with the  
5 foregoing, and any one or more or any combination thereof and  
6 any extension, addition, betterment or improvement of any  
7 thereof.

8 Section 12. Section 315.03, Florida Statutes, is  
9 amended to read:

10 315.03 Grant of powers.--Each unit is hereby  
11 authorized and empowered:

12 (1) To acquire, construct, lease, operate and maintain  
13 any port facilities either within or without or partly within  
14 and partly without the corporate limits of the unit, or within  
15 or partly within the corporate limits of any other unit on  
16 property owned or acquired by it; provided, however, that no  
17 unit shall acquire, construct, lease, operate or maintain port  
18 facilities other than channels or turning basins in any county  
19 of the state other than the county in which such unit is  
20 located without securing the prior approval or consent of the  
21 unit or units in which such port facilities are proposed to be  
22 located, which approval or consent, if given, shall be  
23 evidenced by a resolution or ordinance duly adopted.

24 (2) To acquire by purchase, grant, gift or lease or by  
25 the exercise of the right of eminent domain and to hold and  
26 dispose of any property, real or personal, tangible or  
27 intangible, or any right or interest in any such property, for  
28 or in connection with any port facilities, whether or not  
29 subject to mortgage, liens, charges or other encumbrances.

30 (3) To add to or extend, or cause or permit to be  
31 added to or extended, any existing lands or islands now or

1 hereafter owned by a unit bordering on or being in any waters  
2 by the pumping of sand or earth from any land under water or  
3 by any other means of construction, as a part of or for the  
4 purpose of providing any port facilities or for the purpose of  
5 improving, creating or extending any property of the unit for  
6 use of or disposal by the unit.

7 (4) To construct, or cause or permit to be  
8 constructed, an island or islands in any waters by the pumping  
9 of sand or earth from any land under water or by any other  
10 means of construction, as a part of or for the purpose of  
11 providing any port facilities.

12 (5) To construct any bridge, tunnel, road or causeway,  
13 or any combination thereof, to, from or between any port  
14 facilities.

15 (6) To dredge or deepen harbors, channels and turning  
16 basins, to cooperate with the United States or any agency  
17 thereof in the dredging or deepening of any harbor, channel or  
18 turning basin, to enter into contracts with the United States  
19 or with any agency thereof concerning any such dredging or  
20 deepening project, and to pay such amounts to the United  
21 States or any agency thereof or to others as shall be required  
22 by the terms of any such contract.

23 (7) To fill in, extend and enlarge, or cause or permit  
24 to be filled in, extended and enlarged, any existing port  
25 facilities, to demolish and remove any and all structures  
26 thereon or constituting a part thereof, and otherwise to  
27 prepare the same for sale or lease to provide funds for  
28 financing port facilities under the provisions of this law.

29 (8) To acquire any existing port facilities and to  
30 fill in, extend, enlarge or improve the same, or to cause or  
31 permit the same to be extended, enlarged or improved, for any

1 public purpose or for sale or lease for the purpose of  
2 providing funds for the acquisition by the unit of any port  
3 facilities or for the payment of bonds, notes or other  
4 obligations of the unit for or in connection with any port  
5 facilities.

6 (9) To sell at public or private sale or lease for  
7 public or private purposes all or any portion of any port  
8 facilities now or hereafter owned by the unit, including any  
9 such facilities as extended, enlarged or improved, and all or  
10 any portion of any property of the unit improved, created,  
11 extended or enlarged under the authority of this law, on such  
12 terms and subject to such conditions as the governing body  
13 shall determine to be in the best interests of the unit.

14 (10) To contract for the purchase by the unit of any  
15 port facilities to be constructed, enlarged, extended or  
16 improved by any public body, agency or instrumentality or by  
17 any private person, firm or corporation, and to provide for  
18 payment of the purchase price thereof in such manner as may be  
19 deemed by the governing body to be in the best interests of  
20 the unit, including, but without limitation, the sale or  
21 exchange of any property of the unit therefor or the issuance  
22 of bonds or other obligations of the unit.

23 (11) To accept loans or grants of money or materials  
24 or property at any time from the United States or the State of  
25 Florida or any agency, instrumentality or subdivision thereof,  
26 or participate in loan guarantees or lines of credit provided  
27 by the United States, upon such terms and conditions as the  
28 United States, the State of Florida, or such agency,  
29 instrumentality or subdivision may impose. Any entity created  
30 pursuant to s. 163.01(7)(d) may participate in the provisions  
31 of this subsection.

1           (12) To pay interest and other financing-related costs  
2 on federal loan guarantees, lines of credit or secured direct  
3 loans issued to finance eligible projects. Any entity created  
4 under s. 163.01(7)(d) may participate in the provisions of  
5 this subsection, and may establish a loan program that would  
6 provide for the reuse of loan proceeds for similar program  
7 purposes.

8           ~~(13)~~~~(12)~~ To exercise jurisdiction, control and  
9 supervision over any port facilities now or hereafter  
10 acquired, owned or constructed by the unit.

11           ~~(14)~~~~(13)~~ To operate and maintain, and to fix and  
12 collect rates, rentals, fees and other charges for any of the  
13 services and facilities provided by the port facilities now or  
14 hereafter acquired, owned or constructed by the unit excluding  
15 state bar pilots.

16           ~~(15)~~~~(14)~~ To lease or rent, or contract with others for  
17 the operation of all or any part of any port facilities now or  
18 hereafter acquired, owned or constructed by the unit, on such  
19 terms and for such period or periods and subject to such  
20 conditions as the governing body shall determine to be in the  
21 best interests of the units.

22           ~~(16)~~~~(15)~~ To contract debts for the acquisition or  
23 construction of any port facilities or for any other purposes  
24 of this law, to borrow money, to make advances, and to issue  
25 bonds or other obligations to finance all or any part of such  
26 acquisition or construction or in the carrying out of any  
27 other purposes of this law.

28           ~~(17)~~~~(16)~~ To make advances to the United States or any  
29 agency or instrumentality thereof in connection with any port  
30 facilities, including the dredging or deepening of any harbor,  
31 channel or turning basin to serve any port facilities.

1           ~~(18)~~~~(17)~~ To enter on any lands, waters or premises,  
2 within or without the unit or within the corporate limits of  
3 any other unit, for the purpose of making surveys, soundings  
4 and examinations with relation to any existing or proposed  
5 port facilities.

6           ~~(19)~~~~(18)~~ To contract with the United States or the  
7 State of Florida or any agency or instrumentality thereof or  
8 with any public body or political subdivision or with any  
9 private person, firm or corporation with reference to any of  
10 the powers hereby granted.

11           ~~(20)~~~~(19)~~ To perform any of the acts hereby authorized  
12 through or by means of its own officers, agents or employees  
13 or by contract.

14           ~~(21)~~~~(20)~~ To do all acts and things and to enter into  
15 all contracts and agreements necessary or convenient to carry  
16 out the purposes of this law.

17           ~~(22)~~~~(21)~~ To expend funds to finance the cost of  
18 implementing recommendations made pursuant to s. 161.161 to  
19 mitigate the adverse impacts of inlets on beaches.

20           Section 13. Subsection (8) of section 332.007, Florida  
21 Statutes, as created by section 1 of chapter 2001-349, Laws of  
22 Florida, to read:

23           332.007 Administration and financing of aviation and  
24 airport programs and projects; state plan.--

25           (8) Notwithstanding any other provision of law to the  
26 contrary, the department is authorized to provide operational  
27 and maintenance assistance to publicly owned public-use  
28 airports. Such assistance shall be to comply with enhanced  
29 federal security requirements or to address related economic  
30 impacts from the events of September 11, 2001. For projects in  
31 the current adopted work program, or projects added using the



1 available budget of the department, airports may request the  
2 department change the project purpose in accordance with this  
3 provision notwithstanding the provisions of s. 339.135(7). For  
4 purposes of this subsection, the department may fund up to 100  
5 percent of eligible project costs that are not funded by the  
6 federal government. Prior to releasing any funds under this  
7 section, the department shall review and approve the  
8 expenditure plans submitted by the airport. The department  
9 shall inform the Legislature of any change that it approves  
10 under this subsection. This subsection shall expire on June  
11 30, 2004.

12 Section 14. Subsection (2) of section 2 of chapter  
13 88-418, Laws of Florida, is amended to read:

14 Section 2. Crandon Boulevard is hereby designated as a  
15 state historic highway. No public funds shall be expended for:

16 (2) The alteration of the physical dimensions or  
17 location of Crandon Boulevard, the median strip thereof, or  
18 the land adjacent thereto, except for:

19 (a) The routine or emergency utilities maintenance  
20 activities necessitated to maintain the road as a utility  
21 corridor serving the Village of Key Biscayne; or-

22 (b) The modification or improvements made to provide  
23 for vehicular ingress and egress of governmental public safety  
24 vehicles.

25 Section 15. Section 332.004, Florida Statutes, is  
26 amended to read:

27 332.004 Definitions of terms used in ss.  
28 332.003-332.007.--As used in ss. 332.003-332.007, the term:

29 (1) "Airport" means any area of land or water, or any  
30 manmade object or facility located therein, which is used, or  
31 intended for public use, for the landing and takeoff of

1 aircraft, and any appurtenant areas which are used, or  
2 intended for public use, for airport buildings or other  
3 airport facilities or rights-of-way.

4 (2) "Airport hazard" means any structure or object of  
5 natural growth located on or in the vicinity of a public-use  
6 airport, or any use of land near such airport, which obstructs  
7 or causes an obstruction to the airspace required for the  
8 flight of aircraft in landing or taking off at such airport or  
9 is otherwise hazardous to landing or taking off at such  
10 airport.

11 (3) "Airport master planning" means the development,  
12 for planning purposes, of information and guidance to  
13 determine the extent, type, and nature of development needed  
14 at a specific airport.

15 (4) "Airport or aviation development project" or  
16 "development project" means any activity associated with the  
17 design, construction, purchase, improvement, or repair of a  
18 public-use airport or portion thereof, including, but not  
19 limited to: the purchase of equipment; the acquisition of  
20 land, including land required as a condition of a federal,  
21 state, or local permit or agreement for environmental  
22 mitigation; off-airport noise mitigation projects; the  
23 removal, lowering, relocation, marking, and lighting of  
24 airport hazards; the installation of navigation aids used by  
25 aircraft in landing at or taking off from a public airport;  
26 the installation of safety equipment required by rule or  
27 regulation for certification of the airport under s. 612 of  
28 the Federal Aviation Act of 1958, and amendments thereto; and  
29 the improvement of access to the airport by road or rail  
30 system which is on airport property and which is consistent,  
31 to the maximum extent feasible, with the approved local

1 government comprehensive plan of the units of local government  
2 in which the airport is located.

3 (5) "Airport or aviation discretionary capacity  
4 improvement projects" or "discretionary capacity improvement  
5 projects" means capacity improvements which are consistent, to  
6 the maximum extent feasible, with the approved local  
7 government comprehensive plans of the units of local  
8 government in which the airport is located, and which enhance  
9 intercontinental capacity at airports which:

10 (a) Are international airports with United States  
11 Customs Service;

12 (b) Had one or more regularly scheduled  
13 intercontinental flights during the previous calendar year or  
14 have an agreement in writing for installation of one or more  
15 regularly scheduled intercontinental flights upon the  
16 commitment of funds for stipulated airport capital  
17 improvements; and

18 (c) Have available or planned public ground  
19 transportation between the airport and other major  
20 transportation facilities.

21 (6) "Aviation system planning" means the development  
22 of comprehensive aviation plans designed to achieve and  
23 facilitate the establishment of a statewide, integrated  
24 aviation system in order to meet the current and future  
25 aviation needs of this state.

26 (7) "Eligible agency" means a political subdivision of  
27 the state or an authority which owns or seeks to develop a  
28 public-use airport.

29 (8) "Federal aid" means funds made available from the  
30 Federal Government for the accomplishment of airport or  
31 aviation development projects.

1           (9) "Florida airport system" means all existing  
2 public-use airports that are owned and operated within the  
3 state and those public-use airports which will be developed  
4 and made operational in the future.

5           (10) "Landing area" means that area used or intended  
6 to be used for the landing, takeoff, or surface maneuvering of  
7 an aircraft.

8           (11) "Planning agency" means any agency authorized by  
9 the laws of the state or by a political subdivision to engage  
10 in area planning for the areas in which assistance under this  
11 act is contemplated.

12           (12) "Project" means a project for the accomplishment  
13 of airport or aviation development or airport master planning.

14           (13) "Project cost" means any cost involved in  
15 accomplishing a project.

16           (14) "Public-use airport" means any publicly owned  
17 airport which is used or to be used for public purposes.

18           (15) "Sponsor" means any eligible agency which, either  
19 individually or jointly with one or more eligible agencies,  
20 submits to the department an application for financial  
21 assistance for an airport development project in accordance  
22 with this act.

23           Section 16. Subsection (5) and paragraph (b) of  
24 subsection (15) of section 334.044, Florida Statutes, are  
25 amended to read:

26           334.044 Department; powers and duties.--The department  
27 shall have the following general powers and duties:

28           (5) To purchase, lease, or otherwise acquire property  
29 and materials, including the purchase of promotional items as  
30 part of public information and education campaigns for the  
31 promotion of scenic highways, traffic and train safety

1 awareness, alternatives to single-occupant vehicle travel, and  
2 commercial motor vehicle safety; to purchase, lease, or  
3 otherwise acquire equipment and supplies; and to sell,  
4 exchange, or otherwise dispose of any property that is no  
5 longer needed by the department.

6 (15) To regulate and prescribe conditions for the  
7 transfer of stormwater to the state right-of-way as a result  
8 of manmade changes to adjacent properties.

9 (b) The department is specifically authorized to adopt  
10 rules which set forth the purpose; necessary definitions;  
11 permit exceptions; permit and assurance requirements; permit  
12 application procedures; permit forms; general conditions for a  
13 drainage permit; provisions for suspension or revocation of a  
14 permit; and provisions for department recovery of fines,  
15 penalties, and costs incurred due to permittee actions. In  
16 order to avoid duplication and overlap with other units of  
17 government, the department shall accept a surface water  
18 management permit issued by a water management district, the  
19 Department of Environmental Protection, or ~~a surface water~~  
20 ~~management permit issued by~~ a delegated local government, or a  
21 permit issued pursuant to an approved Stormwater Management  
22 Plan or Master Drainage Plan, provided issuance is based on  
23 requirements equal to or more stringent than those of the  
24 department. The department may enter into a permit delegation  
25 agreement with a governmental entity provided issuance is  
26 based on requirements that the department determines will  
27 ensure the safety and integrity of Department of  
28 Transportation facilities.

29 Section 17. Section 335.066, Florida Statutes, is  
30 created to read:

31 335.066 Safe Paths to Schools Program.--

1           (1) There is established in the Department of  
2 Transportation the Safe Paths to Schools Program to consider  
3 the planning and construction of bicycle and pedestrian ways  
4 to provide safe transportation for children from neighborhoods  
5 to schools, parks, and the state's greenways and trails  
6 system.

7           (2) As a part of the Safe Paths to Schools Program,  
8 the department may establish a grant program to fund local,  
9 regional, and state bicycle and pedestrian projects that  
10 support the program.

11           (3) The department may adopt appropriate rules  
12 pursuant to ss. 120.536(1) and 120.54 for the administration  
13 of the Safe Paths to Schools Program.

14           Section 18. Subsection (4) is added to section 336.41,  
15 Florida Statutes, to read:

16           336.41 Counties; employing labor and providing road  
17 equipment; accounting; when competitive bidding required.--

18           (4)(a) For contracts in excess of \$250,000, any county  
19 may require that persons interested in performing work under  
20 the contract first be certified or qualified to do the work.  
21 Any contractor prequalified and considered eligible to bid by  
22 the department to perform the type of work described under the  
23 contract shall be presumed to be qualified to perform the work  
24 so described. Any contractor may be considered ineligible to  
25 bid by the county if the contractor is behind an approved  
26 progress schedule by 10 percent or more on another project for  
27 that county at the time of the advertisement of the work. The  
28 county may provide an appeal process to overcome such  
29 consideration with de novo review based on the record below to  
30 the circuit court.

31

1           (b) The county shall publish prequalification criteria  
2 and procedures prior to advertisement or notice of  
3 solicitation. Such publications shall include notice of a  
4 public hearing for comment on such criteria and procedures  
5 prior to adoption. The procedures shall provide for an appeal  
6 process within the county for objections to the  
7 prequalification process with de novo review based on the  
8 record below to the circuit court.

9           (c) The county shall also publish for comment, prior  
10 to adoption, the selection criteria and procedures to be used  
11 by the county if such procedures would allow selection of  
12 other than the lowest responsible bidder. The selection  
13 criteria shall include an appeal process within the county  
14 with de novo review based on the record below to the circuit  
15 court.

16           Section 19. Subsection (2) of section 336.44, Florida  
17 Statutes, is amended to read:

18           336.44 Counties; contracts for construction of roads;  
19 procedure; contractor's bond.--

20           (2) Such contracts shall be let to the lowest  
21 responsible ~~competent~~ bidder, after publication of notice for  
22 bids containing specifications furnished by the commissioners  
23 in a newspaper published in the county where such contract is  
24 made, at least once each week for 2 consecutive weeks prior to  
25 the making of such contract.

26           Section 20. Effective July 1, 2003, paragraph (a) of  
27 subsection (7) of section 337.11, Florida Statutes, as amended  
28 by sections 2 and 4 of chapter 2001-350, Laws of Florida, is  
29 amended to read:

30           337.11 Contracting authority of department; bids;  
31 emergency repairs, supplemental agreements, and change orders;

1 combined design and construction contracts; progress payments;  
2 records; requirements of vehicle registration.--

3 (7)(a) If the head of the department determines that  
4 it is in the best interests of the public, the department may  
5 combine the right-of-way services and design and construction  
6 phases of a building, a major bridge, a limited access  
7 facility, or a rail corridor project into a single contract.  
8 Such contract is referred to as a design-build contract.

9 Design-build contracts may be advertised and awarded  
10 notwithstanding the requirements of paragraph (3)(c). However,  
11 construction activities may not begin on any portion of such  
12 projects until title to the necessary rights-of-way and  
13 easements for the construction of that portion of the project  
14 has vested in the state or a local governmental entity and all  
15 railroad crossing and utility agreements have been executed.  
16 Title to rights-of-way vests in the state when the title has  
17 been dedicated to the public or acquired by prescription.

18 Section 21. Effective July 1, 2005, paragraph (a) of  
19 subsection (4) of section 337.11, Florida Statutes, as amended  
20 by sections 2 and 4 of chapter 2001-350, Laws of Florida, and  
21 by this act is amended to read:

22 337.11 Contracting authority of department; bids;  
23 emergency repairs, supplemental agreements, and change orders;  
24 combined design and construction contracts; progress payments;  
25 records; requirements of vehicle registration.--

26 (7)(a) If the head of the department determines that  
27 it is in the best interests of the public, the department may  
28 combine the ~~rights-of-way services and~~ design and construction  
29 phases of a building, a major bridge, a limited access  
30 facility, or a rail corridor project into a single contract.  
31 Such contract is referred to as a design-build contract.



1 Design-build contracts may be advertised and awarded  
2 notwithstanding the requirements of paragraph (3)(c). However,  
3 construction activities may not begin on any portion of such  
4 projects until title to the necessary rights-of-way and  
5 easements for the construction of that portion of the project  
6 has vested in the state or a local governmental entity and all  
7 railroad crossing and utility agreements have been executed.  
8 Title to rights-of-way vests in the state when the title has  
9 been dedicated to the public or acquired by prescription.

10 Section 22. Subsection (4) of section 337.14, Florida  
11 Statutes, is amended, and subsection (9) is added to that  
12 section, to read:

13 337.14 Application for qualification; certificate of  
14 qualification; restrictions; request for hearing.--

15 (4) If the applicant is found to possess the  
16 prescribed qualifications, the department shall issue to him  
17 or her a certificate of qualification that ~~which~~, unless  
18 thereafter revoked by the department for good cause, will be  
19 valid for a period of 18 ~~16~~ months after ~~from~~ the date of the  
20 applicant's financial statement or such shorter period as the  
21 department prescribes ~~may prescribe~~. ~~If in the event~~ the  
22 department finds that an application is incomplete or contains  
23 inadequate information or information that ~~which~~ cannot be  
24 verified, the department may request in writing that the  
25 applicant provide the necessary information to complete the  
26 application or provide the source from which any information  
27 in the application may be verified. If the applicant fails to  
28 comply with the initial written request within a reasonable  
29 period of time as specified therein, the department shall  
30 request the information a second time. If the applicant fails

31

1 to comply with the second request within a reasonable period  
2 of time as specified therein, the application shall be denied.

3 (9)(a) Notwithstanding any other law to the contrary,  
4 for contracts in excess of \$250,000, an authority created  
5 pursuant to chapter 348 or chapter 349 may require that  
6 persons interested in performing work under contract first be  
7 certified or qualified to do the work. Any contractor may be  
8 considered ineligible to bid by the governmental entity or  
9 authority if the contractor is behind an approved progress  
10 schedule for the governmental entity or authority by 10  
11 percent or more at the time of advertisement of the work. Any  
12 contractor prequalified and considered eligible by the  
13 department to bid to perform the type of work described under  
14 the contract shall be presumed to be qualified to perform the  
15 work so described. The governmental entity or authority may  
16 provide an appeal process to overcome that presumption with de  
17 novo review based on the record below to the circuit court.

18 (b) With respect to contractors not prequalified with  
19 the department, the authority shall publish prequalification  
20 criteria and procedures prior to advertisement or notice of  
21 solicitation. Such publications shall include notice of a  
22 public hearing for comment on such criteria and procedures  
23 prior to adoption. The procedures shall provide for an appeal  
24 process within the authority for objections to the  
25 prequalification process with de novo review based on the  
26 record below to the circuit court within 30 days.

27 (c) An authority may establish criteria and procedures  
28 under which contractor selection may occur on a basis other  
29 than the lowest responsible bidder. Prior to adoption, the  
30 authority shall publish for comment the proposed criteria and  
31 procedures. Review of the adopted criteria and procedures

1 shall be to the circuit court, within 30 days after adoption,  
2 with de novo review based on the record below.

3 Section 23. Subsection (2) of section 337.401, Florida  
4 Statutes, is amended to read:

5 337.401 Use of right-of-way for utilities subject to  
6 regulation; permit; fees.--

7 (2) The authority may grant to any person who is a  
8 resident of this state, or to any corporation which is  
9 organized under the laws of this state or licensed to do  
10 business within this state, the use of a right-of-way for the  
11 utility in accordance with such rules or regulations as the  
12 authority may adopt. No utility shall be installed, located,  
13 or relocated unless authorized by a written permit issued by  
14 the authority. However, for public roads or publicly owned  
15 rail corridors under the jurisdiction of the department, a  
16 utility relocation schedule and relocation agreement may be  
17 executed in lieu of a written permit.The permit shall require  
18 the permitholder to be responsible for any damage resulting  
19 from the issuance of such permit. The authority may initiate  
20 injunctive proceedings as provided in s. 120.69 to enforce  
21 provisions of this subsection or any rule or order issued or  
22 entered into pursuant thereto.

23 Section 24. Present subsection (5) of section 337.408,  
24 Florida Statutes, is renumbered as subsection (6), and a new  
25 subsection (5) is added to that section to read:

26 337.408 Regulation of benches, transit shelters, and  
27 waste disposal receptacles within rights-of-way.--

28 (5) Street light poles, including attached public  
29 service messages and advertisements, may be located within the  
30 right-of-way limits of municipal and county roads in the same  
31 manner as benches, transit shelters, and waste disposal

1 receptacles as provided in this section and in accordance with  
2 municipal and county ordinances. Public service messages and  
3 advertisements may be installed on street light poles on roads  
4 on the State Highway System in accordance with height, size,  
5 setback, spacing distance, duration of display, safety,  
6 traffic control, and permitting requirements established by  
7 administrative rule of the Department of Transportation.  
8 Public service messages and advertisements shall be subject to  
9 bilateral agreements, where applicable, to be negotiated with  
10 the owner of the street light poles, which shall consider,  
11 among other things, power source rates, design, safety,  
12 operational and maintenance concerns, and other matters of  
13 public importance. For the purposes of this section, the term  
14 "street light poles" does not include electric transmission or  
15 distribution poles. The department shall have authority to  
16 establish administrative rules to implement this subsection.  
17 No advertising on light poles shall be permitted on the  
18 Interstate Highway System. No permanent structures carrying  
19 advertisements attached to light poles shall be permitted on  
20 the National Highway System.

21 Section 25. Subsections (1) and (2) of section 339.08,  
22 Florida Statutes, are amended to read:

23 339.08 Use of moneys in State Transportation Trust  
24 Fund.--

25 (1) The department shall expend ~~by rule provide for~~  
26 ~~the expenditure of the~~ moneys in the State Transportation  
27 Trust Fund accruing to the department, in accordance with its  
28 annual budget.

29 (2) ~~These rules must restrict~~ The use of such moneys  
30 is restricted to the following purposes:

31

1 (a) To pay administrative expenses of the department,  
2 including administrative expenses incurred by the several  
3 state transportation districts, but excluding administrative  
4 expenses of commuter rail authorities that do not operate rail  
5 service.

6 (b) To pay the cost of construction of the State  
7 Highway System.

8 (c) To pay the cost of maintaining the State Highway  
9 System.

10 (d) To pay the cost of public transportation projects  
11 in accordance with chapter 341 and ss. 332.003-332.007.

12 (e) To reimburse counties or municipalities for  
13 expenditures made on projects in the State Highway System as  
14 authorized by s. 339.12(4) upon legislative approval.

15 (f) To pay the cost of economic development  
16 transportation projects in accordance with s. 288.063.

17 (g) To lend or pay a portion of the operating,  
18 maintenance, and capital costs of a revenue-producing  
19 transportation project that is located on the State Highway  
20 System or that is demonstrated to relieve traffic congestion  
21 on the State Highway System.

22 (h) To match any federal-aid funds allocated for any  
23 other transportation purpose, including funds allocated to  
24 projects not located in the State Highway System.

25 (i) To pay the cost of county road projects selected  
26 in accordance with the Small County Road Assistance Program  
27 created in s. 339.2816.

28 (j) To pay the cost of county or municipal road  
29 projects selected in accordance with the County Incentive  
30 Grant Program created in s. 339.2817 and the Small County  
31 Outreach Program created in s. 339.2818.

1           (k) To provide loans and credit enhancements for use  
2 in constructing and improving highway transportation  
3 facilities selected in accordance with the state-funded  
4 infrastructure bank created in s. 339.55.

5           (l) To fund the Transportation Outreach Program  
6 created in s. 339.137.

7           (m) To pay other lawful expenditures of the  
8 department.

9           Section 26. Subsections (4) and (5) of section 339.12,  
10 Florida Statutes, are amended and subsection (10) is added to  
11 that section to read:

12           339.12 Aid and contributions by governmental entities  
13 for department projects; federal aid.--

14           (4)(a) Prior to accepting the contribution of road  
15 bond proceeds, time warrants, or cash for which reimbursement  
16 is sought, the department shall enter into agreements with the  
17 governing body of the governmental entity for the project or  
18 project phases in accordance with specifications agreed upon  
19 between the department and the governing body of the  
20 governmental entity. The department in no instance is to  
21 receive from such governmental entity an amount in excess of  
22 the actual cost of the project or project phase. By specific  
23 provision in the written agreement between the department and  
24 the governing body of the governmental entity, the department  
25 may agree to reimburse the governmental entity for the actual  
26 amount of the bond proceeds, time warrants, or cash used on a  
27 highway project or project phases that are not revenue  
28 producing and are contained in the department's adopted work  
29 program, or any public transportation project contained in the  
30 adopted work program. Subject to appropriation of funds by the  
31 Legislature, the department may commit state funds for

1 reimbursement of such projects or project phases.  
2 Reimbursement to the governmental entity for such a project or  
3 project phase must be made from funds appropriated by the  
4 Legislature, and reimbursement for the cost of the project or  
5 project phase is to begin in the year the project or project  
6 phase is scheduled in the work program as of the date of the  
7 agreement. Funds advanced pursuant to this section, which were  
8 originally designated for transportation purposes and so  
9 reimbursed to a county or municipality, shall be used by the  
10 county or municipality for any transportation expenditure  
11 authorized under s. 336.025(7). Also, cities and counties may  
12 receive funds from persons, and reimburse those persons, for  
13 the purposes of this section. Such persons may include, but  
14 are not limited to, those persons defined in s. 607.01401(19).

15 (b) Prior to entering an agreement to advance a  
16 project or project phase pursuant to this subsection and  
17 subsection (5), the department shall first update the  
18 estimated cost of the project or project phase and certify  
19 that the estimate is accurate and consistent with the amount  
20 estimated in the adopted work program. If the original  
21 estimate and the updated estimate vary, the department shall  
22 amend the adopted work program according to the amendatory  
23 procedures for the work program set forth in s. 339.135(7).  
24 The amendment shall reflect all corresponding increases and  
25 decreases to the affected projects within the adopted work  
26 program.

27 (c) The department may enter into agreements under  
28 this subsection for a project or project phase not included in  
29 the adopted work program. As used in this paragraph, the term  
30 "project phase" means acquisition of rights-of-way,  
31 construction, construction inspection, and related support

1 phases. The project or project phase must be a high priority  
2 of the governmental entity. Reimbursement for a project or  
3 project phase must be made from funds appropriated by the  
4 Legislature pursuant to s. 339.135(5). All other provisions of  
5 this subsection apply to agreements entered into under this  
6 paragraph. The total amount of project agreements for projects  
7 or project phases not included in the adopted work program may  
8 not at any time exceed ~~\$150~~<sup>\$100</sup> million.

9 (5) The department and the governing body of a  
10 governmental entity may enter into an agreement by which the  
11 governmental entity agrees to perform a highway project or  
12 project phase in the department's adopted work program that is  
13 not revenue producing or any public transportation project in  
14 the adopted work program. By specific provision in the  
15 written agreement between the department and the governing  
16 body of the governmental entity, the department may agree to  
17 compensate ~~reimburse~~ the governmental entity the actual cost  
18 for the project or project phase contained in the adopted work  
19 program. Compensation ~~Reimbursement~~ to the governmental entity  
20 for such project or project phases must be made from funds  
21 appropriated by the Legislature, and compensation  
22 ~~reimbursement~~ for the cost of the project or project phase is  
23 to begin in the year the project or project phase is scheduled  
24 in the work program as of the date of the agreement.

25 (10) Any county having a population greater than  
26 50,000 which levies the full 6 cents of local option fuel tax  
27 pursuant to ss. 206.41(1)(e) and 206.87(1)(c), and which  
28 dedicates 35 percent or more of its discretionary sales  
29 surtax, pursuant to s. 212.055, for improvements to the State  
30 Transportation System or to local projects directly upgrading  
31 the State Transportation System within the county's boundaries



1 shall receive preference for receipt of any transportation  
2 grant for which the county applies. This subsection shall not  
3 apply to loans or nonhighway grant programs.

4 Section 27. Subsection (6) of section 339.2817,  
5 Florida Statutes, is amended to read:

6 339.2817 County Incentive Grant Program.--

7 (6) A municipality may apply to the county in which  
8 the municipality is located for consideration by the county  
9 for funding under this section of any project or project phase  
10 of a transportation facility which is located on the State  
11 Highway System or which is demonstrated to relieve congestion  
12 on the State Highway System. The county must evaluate all  
13 municipal applications as provided in subsection (3). If the  
14 proposed project is determined by the county to meet the  
15 criteria in subsection (3), the county shall send the  
16 application to the department on behalf of the municipality.  
17 If the proposed project is approved by the department, the  
18 county may retain project oversight authority and  
19 responsibility for the project on behalf of the municipality.  
20 If a municipality's proposed project is rejected by the county  
21 for funding under this section, or if the county's proposed  
22 project adversely affects a municipality within the county,  
23 the municipality may request mediation to resolve any concerns  
24 of the municipality and the county.

25 Section 28. Subsections (2) and (5) of section 339.55,  
26 Florida Statutes, are amended to read:

27 339.55 State-funded infrastructure bank.--

28 (2) The bank may lend capital costs or provide credit  
29 enhancements for a transportation facility project that is on  
30 the State Highway System or that provides for increased  
31 mobility on the state's transportation system or provides

1 intermodal connectivity with airports, seaports, rail  
2 facilities, and other transportation terminals, pursuant to s.  
3 341.053, for the movement of people or goods. Loans from the  
4 bank may be subordinated to senior project debt that has an  
5 investment grade rating of "BBB" or higher.

6 (5) The department may consider, but is not limited  
7 to, the following criteria for evaluation of projects for  
8 assistance from the bank:

9 (a) The credit worthiness of the project.

10 (b) A demonstration that the project will encourage,  
11 enhance, or create economic benefits.

12 (c) The likelihood that assistance would enable the  
13 project to proceed at an earlier date than would otherwise be  
14 possible.

15 (d) The extent to which assistance would foster  
16 innovative public-private partnerships and attract private  
17 debt or equity investment.

18 (e) The extent to which the project would use new  
19 technologies, including intelligent transportation systems,  
20 that would enhance the efficient operation of the project.

21 (f) The extent to which the project would maintain or  
22 protect the environment.

23 (g) A demonstration that the project includes  
24 transportation benefits for improving intermodalism, cargo and  
25 freight movement, and safety.

26 (h) The amount of the proposed assistance as a  
27 percentage of the overall project costs with emphasis on local  
28 and private participation.

29 (i) The extent to which the project will provide for  
30 connectivity between the State Highway System and airports,  
31 seaports, rail facilities, and other transportation terminals,

1 and intermodal options pursuant to s. 341.053 for the  
2 increased accessibility and movement of people and goods.

3 Section 29. Subsections (8) and (10) of section  
4 341.031, Florida Statutes, are amended to read:

5 341.031 Definitions relating to Florida Public Transit  
6 Act.--As used in ss. 341.011-341.061, the term:

7 (8) "Public transit service development project" means  
8 a project undertaken by a public agency to determine whether a  
9 new or innovative technique or measure can be utilized to  
10 improve or expand public transit services to its constituency.  
11 The duration of the project shall be limited according to the  
12 type of the project in conformance with the provisions of s.  
13 341.051(5)(e)~~(f)~~, but in no case shall exceed a period of 3  
14 years. Public transit service development projects  
15 specifically include projects involving the utilization of new  
16 technologies, services, routes, or vehicle frequencies; the  
17 purchase of special transportation services; and other such  
18 techniques for increasing service to the riding public as are  
19 applicable to specific localities and transit user groups.

20 (10) "Transit corridor project" means a project that  
21 is undertaken by a public agency and designed to relieve  
22 congestion and improve capacity within an identified  
23 transportation corridor by increasing people-carrying capacity  
24 of the system through the use and facilitated movement of  
25 high-occupancy conveyances. Each transit corridor project  
26 must meet the requirements established in s. 341.051(5)(d)~~(e)~~  
27 ~~and, if applicable, the requirements of the department's major~~  
28 ~~capital investment policy developed pursuant to s.~~  
29 ~~341.051(5)(b)~~. Initial project duration shall not exceed a  
30 period of 2 years unless the project is reauthorized by the  
31 Legislature. Such reauthorization shall be based upon a

1 determination that the project is meeting or exceeding the  
2 criteria, developed pursuant to s. 341.051(5)(d)(e), by which  
3 the success of the project is being judged and by inclusion of  
4 the project in a departmental appropriation request.

5 Section 30. Subsection (5) of section 341.051, Florida  
6 Statutes, is amended to read:

7 341.051 Administration and financing of public transit  
8 programs and projects.--

9 (5) FUND PARTICIPATION; CAPITAL ASSISTANCE.--

10 (a) The department may fund up to 50 percent of the  
11 nonfederal share of the costs, not to exceed the local share,  
12 of any eligible public transit capital project or commuter  
13 assistance project that is local in scope; except, however,  
14 that departmental participation in the final design,  
15 right-of-way acquisition, and construction phases of an  
16 individual fixed-guideway project which is not approved for  
17 federal funding shall not exceed an amount equal to 12.5  
18 percent of the total cost of each phase.

19 ~~(b) The Department of Transportation shall develop a~~  
20 ~~major capital investment policy which shall include policy~~  
21 ~~criteria and guidelines for the expenditure or commitment of~~  
22 ~~state funds for public transit capital projects. The policy~~  
23 ~~shall include the following:~~

24 ~~1. Methods to be used to determine consistency of a~~  
25 ~~transit project with the approved local government~~  
26 ~~comprehensive plans of the units of local government in which~~  
27 ~~the project is located.~~

28 ~~2. Methods for evaluating the level of local~~  
29 ~~commitment to a transit project, which is to be demonstrated~~  
30 ~~through system planning and the development of a feasible plan~~  
31 ~~to fund operating cost through fares, value capture techniques~~

1 ~~such as joint development and special districts, or other~~  
2 ~~local funding mechanisms.~~

3 ~~3. Methods for evaluating alternative transit systems~~  
4 ~~including an analysis of technology and alternative methods~~  
5 ~~for providing transit services in the corridor.~~

6 (b)~~(c)~~ The department is authorized to fund up to 100  
7 percent of the cost of any eligible transit capital project or  
8 commuter assistance project that is statewide in scope or  
9 involves more than one county where no other governmental  
10 entity or appropriate jurisdiction exists.

11 (c)~~(d)~~ The department is authorized to advance up to  
12 80 percent of the capital cost of any eligible project that  
13 will assist Florida's transit systems in becoming fiscally  
14 self-sufficient. Such advances shall be reimbursed to the  
15 department on an appropriate schedule not to exceed 5 years  
16 after the date of provision of the advances.

17 (d)~~(e)~~ The department is authorized to fund up to 100  
18 percent of the capital and net operating costs of statewide  
19 transit service development projects or transit corridor  
20 projects. All transit service development projects shall be  
21 specifically identified by way of a departmental appropriation  
22 request, and transit corridor projects shall be identified as  
23 part of the planned improvements on each transportation  
24 corridor designated by the department. The project objectives,  
25 the assigned operational and financial responsibilities, the  
26 timeframe required to develop the required service, and the  
27 criteria by which the success of the project will be judged  
28 shall be documented by the department for each such transit  
29 service development project or transit corridor project.

30 (e)~~(f)~~ The department is authorized to fund up to 50  
31 percent of the capital and net operating costs of transit

1 service development projects that are local in scope and that  
2 will improve system efficiencies, ridership, or revenues. All  
3 such projects shall be identified in the appropriation request  
4 of the department through a specific program of projects, as  
5 provided for in s. 341.041, that is selectively applied in the  
6 following functional areas and is subject to the specified  
7 times of duration:

8           1. Improving system operations, including, but not  
9 limited to, realigning route structures, increasing system  
10 average speed, decreasing deadhead mileage, expanding area  
11 coverage, and improving schedule adherence, for a period of up  
12 to 3 years;

13           2. Improving system maintenance procedures, including,  
14 but not limited to, effective preventive maintenance programs,  
15 improved mechanics training programs, decreasing service  
16 repair calls, decreasing parts inventory requirements, and  
17 decreasing equipment downtime, for a period of up to 3 years;

18           3. Improving marketing and consumer information  
19 programs, including, but not limited to, automated information  
20 services, organized advertising and promotion programs, and  
21 signing of designated stops, for a period of up to 2 years;  
22 and

23           4. Improving technology involved in overall  
24 operations, including, but not limited to, transit equipment,  
25 fare collection techniques, electronic data processing  
26 applications, and bus locators, for a period of up to 2 years.

27  
28 For purposes of this section, the term "net operating costs"  
29 means all operating costs of a project less any federal funds,  
30 fares, or other sources of income to the project.

31

1           Section 31. Subsection (6) of section 341.053, Florida  
2 Statutes, is amended to read:

3           341.053 Intermodal Development Program;  
4 administration; eligible projects; limitations.--

5           (6) The department is authorized to fund projects  
6 within the Intermodal Development Program, which are  
7 consistent, to the maximum extent feasible, with approved  
8 local government comprehensive plans of the units of local  
9 government in which the project is located. Projects that are  
10 eligible for funding under this program include major capital  
11 investments in public rail and fixed-guideway transportation  
12 facilities and systems which provide intermodal access ~~and~~  
13 ~~which, if approved after July 1, 1991, have complied with the~~  
14 ~~requirement of the department's major capital investment~~  
15 ~~policy~~; road, rail, or fixed-guideway access to, from, or  
16 between seaports, airports, and other transportation  
17 terminals; construction of intermodal or multimodal terminals;  
18 development and construction of dedicated bus lanes; and  
19 projects which otherwise facilitate the intermodal or  
20 multimodal movement of people and goods.

21           Section 32. Section 341.501, Florida Statutes, is  
22 amended to read:

23           341.501 High-technology transportation systems; joint  
24 project agreement or assistance.--Notwithstanding any other  
25 provision of law, the Department of Transportation may enter  
26 into a joint project agreement with, or otherwise assist,  
27 private or public entities, or consortia thereof, to  
28 facilitate the research, development, and demonstration of  
29 high-technology transportation systems, including, but not  
30 limited to, systems using magnetic levitation technology. The  
31 provisions of the Florida High-Speed Rail Transportation Act,

1 ss. 341.3201-341.386, do not apply to actions taken under this  
2 section, and the department may, subject to s. 339.135,  
3 provide funds to match any available federal aid or aid from  
4 other states or jurisdictions for effectuating the research,  
5 development, and demonstration of high-technology  
6 transportation systems.

7 Section 33. Paragraph (d) of subsection (2) of section  
8 348.0003, Florida Statutes, is amended to read:

9 348.0003 Expressway authority; formation;  
10 membership.--

11 (2) The governing body of an authority shall consist  
12 of not fewer than five nor more than nine voting members. The  
13 district secretary of the affected department district shall  
14 serve as a nonvoting member of the governing body of each  
15 authority located within the district. Each member of the  
16 governing body must at all times during his or her term of  
17 office be a permanent resident of the county which he or she  
18 is appointed to represent.

19 (d) Notwithstanding any provision to the contrary in  
20 this subsection, in any county as defined in s. 125.011(1),  
21 the governing body of an authority shall consist of up to 13  
22 members, and the following provisions of this paragraph shall  
23 apply specifically to such authority. Except for the district  
24 secretary of the department, the members must be residents of  
25 the county. Seven voting members shall be appointed by the  
26 governing body of the county. At the discretion of the  
27 governing body of the county, up to two of the members  
28 appointed by the governing body of the county may be elected  
29 officials residing in the county. Five voting members of the  
30 authority shall be appointed by the Governor. One member shall  
31 be the district secretary of the department serving in the



1 district that contains such county. This member shall be an ex  
2 officio voting member of the authority. If the governing board  
3 of an authority includes any member originally appointed by  
4 the governing body of the county as a nonvoting member, when  
5 the term of such member expires, that member shall be replaced  
6 by a member appointed by the Governor until the governing body  
7 of the authority is composed of seven members appointed by the  
8 governing body of the county and five members appointed by the  
9 Governor. The qualifications, terms of office, and obligations  
10 and rights of members of the authority shall be determined by  
11 resolution or ordinance of the governing body of the county in  
12 a manner that is consistent with subsections (3) and (4).

13 Section 34. Section 348.0008, Florida Statutes, is  
14 amended to read:

15 348.0008 Acquisition of lands and property.--

16 (1) For the purposes of the Florida Expressway  
17 Authority Act, an expressway authority may acquire such  
18 rights, title, or interest in private or public property and  
19 such property rights, including easements rights of access,  
20 air, view, and light, by gift, devise, purchase, or  
21 condemnation by eminent domain proceedings, as the authority  
22 considers ~~may deem~~ necessary for any of the purposes of the  
23 Florida Expressway Authority Act, including, but not limited  
24 to, any lands reasonably necessary for securing applicable  
25 permits, areas necessary for management of access, borrow  
26 pits, drainage ditches, water retention areas, rest areas,  
27 replacement access for landowners whose access is impaired due  
28 to the construction of an expressway system, and replacement  
29 rights-of-way for relocated rail and utility facilities; for  
30 existing, proposed, or anticipated transportation facilities  
31 on the expressway system or in a transportation corridor

1 designated by the authority; or for the purposes of screening,  
2 relocation, removal, or disposal of junkyards and scrap metal  
3 processing facilities. The authority may also condemn any  
4 material and property necessary for such purposes.

5 (2) An authority and its authorized agents,  
6 contractors, and employees may enter upon any lands, waters,  
7 and premises, upon giving reasonable notice to the landowner,  
8 for the purpose of making surveys, soundings, drillings,  
9 appraisals, environmental assessments, including phase I and  
10 phase II environmental surveys, archaeological assessments,  
11 and such other examinations as are necessary for the  
12 acquisition of private or public property and property rights,  
13 including rights of access, air, view, and light, by gift,  
14 devise, purchase, or condemnation by eminent domain  
15 proceedings, or as are necessary for the authority to perform  
16 its duties and functions; and any such entry does not  
17 constitute a trespass or an entry that would constitute a  
18 taking in an eminent domain proceeding. An expressway  
19 authority shall make reimbursement for any actual damage to  
20 such lands, water, and premises as a result of such  
21 activities.

22 ~~(3)(2)~~ The right of eminent domain conferred by the  
23 Florida Expressway Authority Act must be exercised by each  
24 authority in the manner provided by law.

25 ~~(4)(3)~~ When an authority acquires property for an  
26 expressway system or in a transportation corridor as defined  
27 in s. 334.03, it is not subject to any liability imposed by  
28 chapter 376 or chapter 403 for preexisting soil or groundwater  
29 contamination due solely to its ownership. This subsection  
30 does not affect the rights or liabilities of any past or  
31 future owners of the acquired property nor does it affect the

1 liability of any governmental entity for the results of its  
2 actions which create or exacerbate a pollution source. An  
3 authority and the Department of Environmental Protection may  
4 enter into interagency agreements for the performance,  
5 funding, and reimbursement of the investigative and remedial  
6 acts necessary for property acquired by the authority.

7 Section 35. Section 348.545, Florida Statutes, is  
8 created to read:

9 348.545 Bond financing authority for  
10 improvements.--Pursuant to s. 11(f), Art. VII of the State  
11 Constitution the Legislature approves bond financing for  
12 improvements by the Tampa-Hillsborough County Expressway  
13 Authority to toll collection facilities, interchanges to the  
14 legislatively approved expressway system, and any other  
15 facility appurtenant, necessary, or incidental to the approved  
16 system. Subject to terms and conditions of applicable  
17 revenue-bond resolutions and covenants, such financing may be  
18 in whole or in part by revenue bonds currently issued, issued  
19 in the future, or by a combination of such bonds.

20 Section 36. Section 348.565, Florida Statutes, is  
21 amended to read:

22 348.565 Revenue bonds for specified projects.--The  
23 existing facilities that constitute the Tampa-Hillsborough  
24 County Expressway System are hereby approved to be refinanced  
25 by the issuance of revenue bonds by the Division of Bond  
26 Finance of the State Board of Administration pursuant to s.  
27 11(f), Art. VII of the State Constitution. In addition, the  
28 following projects of the Tampa-Hillsborough County Expressway  
29 Authority are approved to be financed or refinanced by the  
30 issuance of revenue bonds pursuant to s. 11(f), Art. VII of  
31 the State Constitution:

- 1           (1) Brandon area feeder roads;
- 2           (2) Capital improvements to the expressway system,  
3 including safety and operational improvements and toll  
4 collection equipment; ~~and~~
- 5           (3) Lee Roy Selmon Crosstown Expressway System  
6 widening; ~~and~~;
- 7           (4) The connector highway linking the Lee Roy Selmon  
8 Crosstown Expressway to Interstate 4.

9           Section 37. Section 373.4137, Florida Statutes, is  
10 amended to read:

11           373.4137 Mitigation requirements.--

12           (1) The Legislature finds that environmental  
13 mitigation for the impact of transportation projects proposed  
14 by the Department of Transportation or a transportation  
15 authority established pursuant to chapter 348 or chapter 349  
16 can be more effectively achieved by regional, long-range  
17 mitigation planning rather than on a project-by-project basis.  
18 It is the intent of the Legislature that mitigation to offset  
19 the adverse effects of these transportation projects be funded  
20 by the Department of Transportation and be carried out by the  
21 Department of Environmental Protection and the water  
22 management districts, including the use of mitigation banks  
23 established pursuant to this part.

24           (2) Environmental impact inventories for  
25 transportation projects proposed by the Department of  
26 Transportation or a transportation authority established  
27 pursuant to chapter 348 or chapter 349 shall be developed as  
28 follows:

29           (a) By May 1 of each year, the Department of  
30 Transportation or a transportation authority established  
31 pursuant to chapter 348 or chapter 349 shall submit to the

1 Department of Environmental Protection and the water  
2 management districts a copy of its adopted work program and an  
3 inventory of habitats addressed in the rules tentatively,  
4 pursuant to this part and s. 404 of the Clean Water Act, 33  
5 U.S.C. s. 1344, which may be impacted by its plan of  
6 construction for transportation projects in the next 3 years  
7 of the tentative work program. The Department of  
8 Transportation or a transportation authority established  
9 pursuant to chapter 348 or chapter 349 may also include in its  
10 inventory the habitat impacts of any future transportation  
11 project identified in the tentative work program.

12 (b) The environmental impact inventory shall include a  
13 description of these habitat impacts, including their  
14 location, acreage, and type; state water quality  
15 classification of impacted wetlands and other surface waters;  
16 any other state or regional designations for these habitats;  
17 and a survey of threatened species, endangered species, and  
18 species of special concern affected by the proposed project.

19 (3)(a) To fund the mitigation plan for the projected  
20 impacts identified in the inventory described in subsection  
21 (2), the Department of Transportation shall identify funds  
22 quarterly in an escrow account within the State Transportation  
23 Trust Fund for the environmental mitigation phase of projects  
24 budgeted by the Department of Transportation for the current  
25 fiscal year. The escrow account shall be maintained by the  
26 Department of Transportation for the benefit of the Department  
27 of Environmental Protection and the water management  
28 districts. Any interest earnings from the escrow account shall  
29 remain with the Department of Transportation.

30 (b) Each transportation authority established pursuant  
31 to chapter 348 or chapter 349 that chooses to participate in

1 this program shall create an escrow account within its  
2 financial structure and deposit funds in the account to pay  
3 for the environmental mitigation phase of projects budgeted  
4 for the current fiscal year. The escrow account shall be  
5 maintained by the authority for the benefit of the Department  
6 of Environmental Protection and the water management  
7 districts. Any interest earnings from the escrow account shall  
8 remain with the authority.

9       (c) The Department of Environmental Protection or  
10 water management districts may request a transfer of funds  
11 from an ~~the~~ escrow account no sooner than 30 days prior to the  
12 date the funds are needed to pay for activities associated  
13 with development or implementation of the approved mitigation  
14 plan described in subsection (4) for the current fiscal year,  
15 including, but not limited to, design, engineering,  
16 production, and staff support. Actual conceptual plan  
17 preparation costs incurred before plan approval may be  
18 submitted to the Department of Transportation or the  
19 appropriate transportation authority and the Department of  
20 Environmental Protection by November 1 of each year with the  
21 plan. The conceptual plan preparation costs of each water  
22 management district will be paid based on the amount approved  
23 on the mitigation plan and allocated to the current fiscal  
24 year projects identified by the water management district. The  
25 amount transferred to the escrow accounts ~~account~~ each year by  
26 the Department of Transportation and participating  
27 transportation authorities established pursuant to chapter 348  
28 or chapter 349 shall correspond to a cost per acre of \$75,000  
29 multiplied by the projected acres of impact identified in the  
30 inventory described in subsection (2). However, the \$75,000  
31 cost per acre does not constitute an admission against

1 interest by the state or its subdivisions nor is the cost  
2 admissible as evidence of full compensation for any property  
3 acquired by eminent domain or through inverse condemnation.  
4 Each July 1, the cost per acre shall be adjusted by the  
5 percentage change in the average of the Consumer Price Index  
6 issued by the United States Department of Labor for the most  
7 recent 12-month period ending September 30, compared to the  
8 base year average, which is the average for the 12-month  
9 period ending September 30, 1996. At the end of each year, the  
10 projected acreage of impact shall be reconciled with the  
11 acreage of impact of projects as permitted, including permit  
12 modifications, pursuant to this part and s. 404 of the Clean  
13 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of  
14 funds shall be adjusted accordingly to reflect the  
15 overtransfer or undertransfer of funds from the preceding  
16 year. The Department of Transportation and participating  
17 transportation authorities established pursuant to chapter 348  
18 or chapter 349 are ~~is~~ authorized to transfer such funds from  
19 the escrow accounts ~~account~~ to the Department of Environmental  
20 Protection and the water management districts to carry out the  
21 mitigation programs.

22 (4) Prior to December 1 of each year, each water  
23 management district, in consultation with the Department of  
24 Environmental Protection, the United States Army Corps of  
25 Engineers, the Department of Transportation, transportation  
26 authorities established pursuant to chapter 348 or chapter  
27 349, and other appropriate federal, state, and local  
28 governments, and other interested parties, including entities  
29 operating mitigation banks, shall develop a plan for the  
30 primary purpose of complying with the mitigation requirements  
31 adopted pursuant to this part and 33 U.S.C. s. 1344. This plan

1 shall also address significant invasive plant problems within  
2 wetlands and other surface waters. In developing such plans,  
3 the districts shall utilize sound ecosystem management  
4 practices to address significant water resource needs and  
5 shall focus on activities of the Department of Environmental  
6 Protection and the water management districts, such as surface  
7 water improvement and management (SWIM) waterbodies and lands  
8 identified for potential acquisition for preservation,  
9 restoration, and enhancement, to the extent that such  
10 activities comply with the mitigation requirements adopted  
11 under this part and 33 U.S.C. s. 1344. In determining the  
12 activities to be included in such plans, the districts shall  
13 also consider the purchase of credits from public or private  
14 mitigation banks permitted under s. 373.4136 and associated  
15 federal authorization and shall include such purchase as a  
16 part of the mitigation plan when such purchase would offset  
17 the impact of the transportation project, provide equal  
18 benefits to the water resources than other mitigation options  
19 being considered, and provide the most cost-effective  
20 mitigation option. The mitigation plan shall be preliminarily  
21 approved by the water management district governing board and  
22 shall be submitted to the secretary of the Department of  
23 Environmental Protection for review and final approval. The  
24 preliminary approval by the water management district  
25 governing board does not constitute a decision that affects  
26 substantial interests as provided by s. 120.569. At least 30  
27 days prior to preliminary approval, the water management  
28 district shall provide a copy of the draft mitigation plan to  
29 any person who has requested a copy.

30 (a) For each transportation project with a funding  
31 request for the next fiscal year, the mitigation plan must



1 include a brief explanation of why a mitigation bank was or  
2 was not chosen as a mitigation option, including an estimation  
3 of identifiable costs of the mitigation bank and nonbank  
4 options to the extent practicable.

5 (b) Specific projects may be excluded from the  
6 mitigation plan and shall not be subject to this section upon  
7 the agreement of the Department of Transportation, a  
8 transportation authority if applicable, the Department of  
9 Environmental Protection, and the appropriate water management  
10 district that the inclusion of such projects would hamper the  
11 efficiency or timeliness of the mitigation planning and  
12 permitting process, or the Department of Environmental  
13 Protection and the water management district are unable to  
14 identify mitigation that would offset the impacts of the  
15 project.

16 (c) Surface water improvement and management or  
17 invasive plant control projects undertaken using the \$12  
18 million advance transferred from the Department of  
19 Transportation to the Department of Environmental Protection  
20 in fiscal year 1996-1997 which meet the requirements for  
21 mitigation under this part and 33 U.S.C. s. 1344 shall remain  
22 available for mitigation until the \$12 million is fully  
23 credited up to and including fiscal year 2004-2005. When these  
24 projects are used as mitigation, the \$12 million advance shall  
25 be reduced by \$75,000 per acre of impact mitigated. For any  
26 fiscal year through and including fiscal year 2004-2005, to  
27 the extent the cost of developing and implementing the  
28 mitigation plans is less than the amount transferred pursuant  
29 to subsection (3), the difference shall be credited towards  
30 the \$12 million advance. Except as provided in this paragraph,  
31 any funds not directed to implement the mitigation plan

1 should, to the greatest extent possible, be directed to fund  
2 invasive plant control within wetlands and other surface  
3 waters.

4 (5) The water management district shall be responsible  
5 for ensuring that mitigation requirements pursuant to 33  
6 U.S.C. s. 1344 are met for the impacts identified in the  
7 inventory described in subsection (2), by implementation of  
8 the approved plan described in subsection (4) to the extent  
9 funding is provided by the Department of Transportation, or a  
10 transportation authority established pursuant to chapter 348  
11 or chapter 349, if applicable. During the federal permitting  
12 process, the water management district may deviate from the  
13 approved mitigation plan in order to comply with federal  
14 permitting requirements.

15 (6) The mitigation plans ~~plan~~ shall be updated  
16 annually to reflect the most current Department of  
17 Transportation work program and project list of a  
18 transportation authority established pursuant to chapter 348  
19 or chapter 349, if applicable, and may be amended throughout  
20 the year to anticipate schedule changes or additional projects  
21 which may arise. Each update and amendment of the mitigation  
22 plan shall be submitted to the secretary of the Department of  
23 Environmental Protection for approval. However, such approval  
24 shall not be applicable to a deviation as described in  
25 subsection (5).

26 (7) Upon approval by the secretary of the Department  
27 of Environmental Protection, the mitigation plan shall be  
28 deemed to satisfy the mitigation requirements under this part  
29 and any other mitigation requirements imposed by local,  
30 regional, and state agencies for impacts identified in the  
31 inventory described in subsection (2). The approval of the

1 secretary shall authorize the activities proposed in the  
2 mitigation plan, and no other state, regional, or local permit  
3 or approval shall be necessary.

4 (8) This section shall not be construed to eliminate  
5 the need for the Department of Transportation or a  
6 transportation authority established pursuant to chapter 348  
7 or chapter 349 to comply with the requirement to implement  
8 practicable design modifications, including realignment of  
9 transportation projects, to reduce or eliminate the impacts of  
10 its transportation projects on wetlands and other surface  
11 waters as required by rules adopted pursuant to this part, or  
12 to diminish the authority under this part to regulate other  
13 impacts, including water quantity or water quality impacts, or  
14 impacts regulated under this part that are not identified in  
15 the inventory described in subsection (2).

16 (9) The process for environmental mitigation for the  
17 impact of transportation projects under this section shall be  
18 available to an expressway, bridge, or transportation  
19 authority established under chapter 348 or chapter 349. Use of  
20 this process may be initiated by an authority depositing the  
21 requisite funds into an escrow account set up by the authority  
22 and filing an environmental impact inventory with the  
23 appropriate water management district. An authority that  
24 initiates the environmental mitigation process established by  
25 this section shall comply with subsection (6) by timely  
26 providing the appropriate water management district and the  
27 Department of Environmental Protection with the requisite work  
28 program information. A water management district may draw down  
29 funds from the escrow account as provided in this section.

30 Section 38. Paragraph (b) of subsection (1) of section  
31 496.425, Florida Statutes, is amended to read:

1           496.425 Solicitation of funds within public  
2 transportation facilities.--

3           (1) As used in this section:

4           (b) "Facility" means any public transportation  
5 facility, including, but not limited to, railroad stations,  
6 bus stations, ship ports, ferry terminals, and roadside  
7 ~~welcome stations, highway service plazas,~~ airports served by  
8 scheduled passenger service, ~~or highway rest stations.~~

9           Section 39. Section 496.4256, Florida Statutes, is  
10 created to read:

11           496.4256 Public transportation facilities not required  
12 to grant permit or access.--A governmental entity or authority  
13 that owns or operates welcome centers, wayside parks, service  
14 plazas, or rest areas on the State Highway System as defined  
15 in chapter 335 shall not be required to issue a permit or  
16 grant any person access to such public transportation  
17 facilities for the purpose of soliciting funds.

18           Section 40. Section 768.0701, Florida Statutes, is  
19 created to read:

20           768.0701 Limitations on liability of local fixed-rail  
21 historic streetcar service providers.--

22           (1) PURPOSE.--The Florida Legislature finds that local  
23 fixed-rail historic streetcar service will benefit the public  
24 by providing a means of mass transit in urban areas, by  
25 encouraging tourism and historic preservation, and by  
26 alleviating automobile traffic on federal, state, and local  
27 roads and highways. Providing local fixed-rail historic  
28 streetcar service in a cost-effective manner involves using or  
29 crossing existing railroad tracks and rights-of-way. However,  
30 the railroads that own or control the existing railroad tracks  
31 and rights-of-way require the local fixed-rail historic

1 streetcar service providers to be financially responsible for  
2 liability that may arise from the providers' use of the  
3 railroad's existing tracks or rights-of-way through the  
4 purchase of insurance. In order to make the provision of local  
5 fixed-rail historic streetcar service affordable, the  
6 Legislature has determined that it is necessary to limit the  
7 liability of both railroads and local fixed-rail historic  
8 streetcar providers in connection with local fixed-rail  
9 historic streetcar service and to establish insurance  
10 requirements.

11 (2) INSURANCE AND RIGHT TO USE OR CROSS RAILROAD  
12 TRACKS OR RIGHTS-OF-WAY.--As a condition precedent to using or  
13 crossing railroad tracks or rights-of-way for local fixed-rail  
14 historic streetcar service, a local fixed-rail historic  
15 streetcar service provider shall secure and maintain a  
16 liability insurance policy covering the liability of both the  
17 local fixed-rail historic streetcar service provider and the  
18 railroad for property damage, personal injury, bodily injury  
19 and death arising out of such local fixed-rail historic  
20 streetcar service. Such policy must name the provider and the  
21 railroad as named insureds, must have available policy limits  
22 of not more than \$200 million per occurrence and annual  
23 aggregate. The local fixed-rail historic streetcar service  
24 provider may self-insure up to \$5 million of the required  
25 insurance if the self-insurance is secured by a trust fund  
26 established by the state or by the local fixed-rail historic  
27 streetcar service provider or by a letter of credit in the  
28 amount of the self-insurance. In lieu of a trust fund or  
29 letter of credit, the local fixed-rail historic streetcar  
30 service provider may provide assurance of its financial  
31 ability to satisfy claims for which the provider is

1 self-insured by providing the railroad with a certificate of  
2 self-insurance together with a current audited financial  
3 statement. As long as the local fixed-rail historic streetcar  
4 service provider provides the railroad with an insurance  
5 policy and proof of self insurance in accordance with this  
6 section and agrees to install or pay for the installation of  
7 such safety equipment and to follow such safety precautions as  
8 are required by the Federal Railroad Authority, the railroad  
9 shall allow the local fixed-rail historic streetcar service  
10 provider to conduct fixed-rail historic streetcar service on  
11 or over the tracks or rights-of-way controlled or owned by the  
12 railroad.

13 (3) LIMIT ON LIABILITY.--In no event shall the total  
14 aggregate liability of the local fixed-rail historic streetcar  
15 provider and the railroad for any incident arising out of  
16 local fixed-rail historic streetcar service exceed the  
17 available coverage limits of such insurance policy provided  
18 pursuant to subsection (2) for any and all claims for damage,  
19 whether compensatory or punitive, and whether for property  
20 damage, personal injury, bodily injury, or death.

21 (4) PUNITIVE DAMAGE AWARDS.--Notwithstanding any other  
22 law and regardless of the nature of the conduct giving rise to  
23 damages or liability, in a claim for personal injury to a  
24 passenger, death of a passenger, or damage to property of a  
25 passenger arising from or in connection with the provision of  
26 local fixed-rail historic streetcar service and against any  
27 local fixed-rail historic streetcar service provider or any  
28 railroad, punitive damages may be awarded in connection with  
29 any such claim only if the plaintiff establishes by clear and  
30 convincing evidence that the harm resulted from conduct

31

1 carried out by the defendant with a conscious, flagrant  
2 indifference to the rights or safety of others.

3 (5) EFFECT ON OTHER LAWS.--This section does not  
4 affect the damages that may be recovered under the Act of  
5 April 27, 1908, 45 U.S.C. 51 et seq., popularly known as the  
6 "Federal Employers' Liability Act," or under chapter 440 or  
7 other similar state workers' compensation laws, if applicable.

8 (6) DEFINITIONS.--As used in this section, the term:

9 (a) "Claim" means a claim made:

10 1. Against the Department of Transportation, any local  
11 fixed-rail historic streetcar service provider or operator, or  
12 any railroad; or

13 2. Against an officer, employee, or affiliate engaged  
14 in railroad or fixed-rail historic streetcar service  
15 operations, or an agent of the Department of Transportation,  
16 any local fixed-rail historic streetcar service provider, or  
17 any railroad.

18 (b) "Railroad" includes any person, railroad  
19 corporation, or other legal entity in the business of  
20 providing rail transportation which owns or controls railroad  
21 tracks or rights-of-way used in connection with the provision  
22 of fixed-rail historic streetcar service in this state.

23 (c) "Local fixed-rail historic streetcar service"  
24 includes all services performed by any local fixed-rail  
25 historic streetcar service provider in connection with the  
26 transportation of its passengers, including, but not limited  
27 to, the operation of street cars or trolleys, by electricity  
28 or cable, trackage, and equipment, or the construction,  
29 reconstruction, or maintenance of railroad equipment,  
30 streetcar equipment, and tracks, including cables or overhead  
31 catenary facilities, and any appurtenant facilities or the

1 provision of trackage rights over lines owned by any railroad  
2 or fixed-rail historic streetcar service provider.

3 (d) "Local fixed-rail historic streetcar service  
4 provider" means the Department of Transportation, any local or  
5 regional commuter or light rail authority created by the  
6 state, any regional transportation authority, any county,  
7 municipality, or other political subdivision or  
8 instrumentality of the state, or an entity formed by any  
9 county, municipality, or regional transit authority for the  
10 purpose of providing or authorized to provide local fixed-rail  
11 historic streetcar service.

12 Section 41. Paragraph (d) is added to subsection (10)  
13 of section 768.28, Florida Statutes, to read:

14 768.28 Waiver of sovereign immunity in tort actions;  
15 recovery limits; limitation on attorney fees; statute of  
16 limitations; exclusions; indemnification; risk management  
17 programs.--

18 (10)

19 (d) For the purposes of this section, operators of  
20 rail services and providers of security for rail services, or  
21 any of their employees or agents, that have contractually  
22 agreed to act as agents of the Tri-County Commuter Rail  
23 Authority to operate rail services or provide security for  
24 rail services shall be considered agents of the state while  
25 acting within the scope of and pursuant to guidelines  
26 established in said contract or by rule. The contract shall  
27 provide for the indemnification of the state by the agent for  
28 any liability incurred up to the limits set out in this  
29 chapter.

30 Section 42. Excess revenue from civil penalties  
31 imposed for traffic violations.--If any municipality or county



1 receives more than 25 percent of its total actual annual  
2 revenue for the prior fiscal year, excluding grant revenue,  
3 from civil penalties collected for traffic violations, any  
4 amount in excess of 25 percent shall be sent to the Department  
5 of Highway Safety and Motor Vehicles to be distributed in the  
6 following manner:

7 (1) Fifty percent shall be deposited into the Highway  
8 Safety Operating Trust Fund.

9 (2) Fifty percent shall be deposited into the Brain  
10 and Spinal Cord Injury Rehabilitation Trust Fund.

11 Section 43. Any airport with direct intercontinental  
12 passenger service, located in a county with a population under  
13 400,000 as of July 1, 2002, which has a loan from the  
14 Department of Transportation due in August of 2002, shall have  
15 such loan extended until September 18, 2008.

16 Section 44. This act shall take effect July 1, 2002.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1214  
4     The CS:  
5     Extends the repayment of a \$1.5 million loan from FDOT to the  
6     Orlando-Samford Airport from August of 2002 to September 18,  
7     2008.  
8     Amends s. 341.501, F.S., to authorize FDOT to match aid from  
9     other states or jurisdictions.  
10    Amends s. 339.2817, F.S., to provide when a municipality  
11    approaches a county to apply for a County Incentive Grant  
12    Program grant, and the proposed project is determined by the  
13    county to meet the requirements of the program, the county  
14    will apply to FDOT on behalf of the municipality. If the  
15    proposed project is approved for a grant, the county may  
16    retain project oversight authority and responsibility for the  
17    project on behalf of the municipality.  
18    Amends s. 332.007, F.S., to authorize FDOT to provide  
19    operational and maintenance assistance to publicly owned  
20    public-use airports for the purpose of complying with enhanced  
21    federal security requirements or to address related economic  
22    impacts from the events of September 11, 2001 until June 30,  
23    2004.  
24    Amends Chapter 88-418, L.O.F., to provide Crandon Boulevard  
25    may be modified to provide for vehicular ingress and egress of  
26    public safety vehicles. Amends s. 315.02, F.S. to include any  
27    governmental unit created pursuant to s. 163.01(7)(d), F.S.,  
28    in the definition of the term "unit," and security measures  
29    identified pursuant to s. 311.12, F.S., in the definition of  
30    the term "port facilities."  
31    Amends s. 315.03, F.S., to authorize seaports and entities  
   created pursuant to s. 163.01(7)(d), F.S. may participate in  
   loan guarantees or lines of credit provided by the United  
   States.