

Bill No. CS/HB 1839, 1st Eng.

Amendment No.      Barcode 343772

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Sebesta moved the following **amendment to amendment**  
 12 (323378):

13  
 14 **Senate Amendment (with title amendment)**

15 On page 1, between lines 16 and 17,  
 16  
 17 insert:

18 Section 1. Subsection (3) is added to section 316.061,  
 19 Florida Statutes, to read:

20 316.061 Crashes involving damage to vehicle or  
 21 property.--

22 (3) Employees or authorized agents of the Department  
 23 of Transportation, law enforcement departments having proper  
 24 jurisdiction, and expressway authorities created pursuant to  
 25 chapter 348, in the exercise, management, control, and  
 26 maintenance of its highway system, may remove from the main  
 27 traveled roadways on its highway system all vehicles  
 28 incapacitated as a result of a motor vehicle crash and of  
 29 debris caused thereby when the crash results only in damage to  
 30 a vehicle or other property and the removal can be  
 31 accomplished safely and will result in the improved safety or

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1 convenience of travel upon the road. The driver or any other  
2 person who has removed a motor vehicle from the main traveled  
3 roadway, as provided in this section, is not liable or at  
4 fault regarding the cause of the accident solely by reason of  
5 moving the vehicle.

6 Section 2. Paragraph (f) is added to subsection (3) of  
7 section 318.18, Florida Statutes, to read:

8 318.18 Amount of civil penalties.--The penalties  
9 required for a noncriminal disposition pursuant to s. 318.14  
10 are as follows:

11 (3)

12 (f) A person cited for exceeding the speed limit  
13 within a zone posted for any electronic or manual  
14 toll-collection facility will be assessed a fine double the  
15 amount listed in paragraph (b).

16 Section 3. Section 348.565, Florida Statutes, is  
17 amended to read:

18 348.565 Revenue bonds for specified projects.--The  
19 existing facilities that constitute the Tampa-Hillsborough  
20 County Expressway System are hereby approved to be refinanced  
21 by the issuance of revenue bonds by the Division of Bond  
22 Finance of the State Board of Administration pursuant to s.  
23 11(f), Art. VII of the State Constitution. In addition, the  
24 following projects of the Tampa-Hillsborough County Expressway  
25 Authority are approved to be financed or refinanced by the  
26 issuance of revenue bonds pursuant to s. 11(f), Art. VII of  
27 the State Constitution:

28 (1) Brandon area feeder roads;

29 (2) Capital improvements to the expressway system,  
30 including safety and operational improvements and toll  
31 collection equipment; ~~and~~

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1           (3) Lee Roy Selmon Crosstown Expressway System  
2 widening; ~~and~~

3           (4) The connector highway linking the Lee Roy Selmon  
4 Crosstown Expressway to Interstate 4.

5           Section 4. Section 348.545, Florida Statutes, is  
6 created to read:

7           348.545 Bond financing authority for  
8 improvements.--Pursuant to s. 11(f), Art. VII of the State  
9 Constitution the Legislature approves bond financing for  
10 improvements by the Tampa-Hillsborough County Expressway  
11 Authority to toll collection facilities, interchanges to the  
12 legislatively approved expressway system, and any other  
13 facility appurtenant, necessary, or incidental to the approved  
14 system. Subject to terms and conditions of applicable  
15 revenue-bond resolutions and covenants, such financing may be  
16 in whole or in part by revenue bonds currently issued, issued  
17 in the future, or by a combination of such bonds.

18           Section 5. Section 373.4137, Florida Statutes, is  
19 amended to read:

20           373.4137 Mitigation requirements.--

21           (1) The Legislature finds that environmental  
22 mitigation for the impact of transportation projects proposed  
23 by the Department of Transportation or a transportation  
24 authority established pursuant to chapter 348 or chapter 349  
25 can be more effectively achieved by regional, long-range  
26 mitigation planning rather than on a project-by-project basis.  
27 It is the intent of the Legislature that mitigation to offset  
28 the adverse effects of these transportation projects be funded  
29 by the Department of Transportation and be carried out by the  
30 Department of Environmental Protection and the water  
31 management districts, including the use of mitigation banks

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1 established pursuant to this part.

2 (2) Environmental impact inventories for  
3 transportation projects proposed by the Department of  
4 Transportation or a transportation authority established  
5 pursuant to chapter 348 or chapter 349 shall be developed as  
6 follows:

7 (a) By May 1 of each year, the Department of  
8 Transportation or a transportation authority established  
9 pursuant to chapter 348 or chapter 349 shall submit to the  
10 Department of Environmental Protection and the water  
11 management districts a copy of its adopted work program and an  
12 inventory of habitats addressed in the rules tentatively,  
13 pursuant to this part and s. 404 of the Clean Water Act, 33  
14 U.S.C. s. 1344, which may be impacted by its plan of  
15 construction for transportation projects in the next 3 years  
16 of the tentative work program. The Department of  
17 Transportation or a transportation authority established  
18 pursuant to chapter 348 or chapter 349 may also include in its  
19 inventory the habitat impacts of any future transportation  
20 project identified in the tentative work program.

21 (b) The environmental impact inventory shall include a  
22 description of these habitat impacts, including their  
23 location, acreage, and type; state water quality  
24 classification of impacted wetlands and other surface waters;  
25 any other state or regional designations for these habitats;  
26 and a survey of threatened species, endangered species, and  
27 species of special concern affected by the proposed project.

28 (3)(a) To fund the mitigation plan for the projected  
29 impacts identified in the inventory described in subsection  
30 (2), the Department of Transportation shall identify funds  
31 quarterly in an escrow account within the State Transportation

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1 Trust Fund for the environmental mitigation phase of projects  
2 budgeted by the Department of Transportation for the current  
3 fiscal year. The escrow account shall be maintained by the  
4 Department of Transportation for the benefit of the Department  
5 of Environmental Protection and the water management  
6 districts. Any interest earnings from the escrow account shall  
7 remain with the Department of Transportation.

8 (b) Each transportation authority established pursuant  
9 to chapter 348 or chapter 349 that chooses to participate in  
10 this program shall create an escrow account within its  
11 financial structure and deposit funds in the account to pay  
12 for the environmental mitigation phase of projects budgeted  
13 for the current fiscal year. The escrow account shall be  
14 maintained by the authority for the benefit of the Department  
15 of Environmental Protection and the water management  
16 districts. Any interest earnings from the escrow account shall  
17 remain with the authority.

18 (c) The Department of Environmental Protection or  
19 water management districts may request a transfer of funds  
20 from ~~an~~ the escrow account no sooner than 30 days prior to the  
21 date the funds are needed to pay for activities associated  
22 with development or implementation of the approved mitigation  
23 plan described in subsection (4) for the current fiscal year,  
24 including, but not limited to, design, engineering,  
25 production, and staff support. Actual conceptual plan  
26 preparation costs incurred before plan approval may be  
27 submitted to the Department of Transportation or the  
28 appropriate transportation authority and the Department of  
29 Environmental Protection by November 1 of each year with the  
30 plan. The conceptual plan preparation costs of each water  
31 management district will be paid based on the amount approved

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1 on the mitigation plan and allocated to the current fiscal  
2 year projects identified by the water management district. The  
3 amount transferred to the escrow accounts ~~account~~ each year by  
4 the Department of Transportation and participating  
5 transportation authorities established pursuant to chapter 348  
6 or chapter 349 shall correspond to a cost per acre of \$75,000  
7 multiplied by the projected acres of impact identified in the  
8 inventory described in subsection (2). However, the \$75,000  
9 cost per acre does not constitute an admission against  
10 interest by the state or its subdivisions nor is the cost  
11 admissible as evidence of full compensation for any property  
12 acquired by eminent domain or through inverse condemnation.  
13 Each July 1, the cost per acre shall be adjusted by the  
14 percentage change in the average of the Consumer Price Index  
15 issued by the United States Department of Labor for the most  
16 recent 12-month period ending September 30, compared to the  
17 base year average, which is the average for the 12-month  
18 period ending September 30, 1996. At the end of each year, the  
19 projected acreage of impact shall be reconciled with the  
20 acreage of impact of projects as permitted, including permit  
21 modifications, pursuant to this part and s. 404 of the Clean  
22 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of  
23 funds shall be adjusted accordingly to reflect the  
24 overtransfer or undertransfer of funds from the preceding  
25 year. The Department of Transportation and participating  
26 transportation authorities established pursuant to chapter 348  
27 or chapter 349 ~~are is~~ authorized to transfer such funds from  
28 the escrow accounts ~~account~~ to the Department of Environmental  
29 Protection and the water management districts to carry out the  
30 mitigation programs.

31 (4) Prior to December 1 of each year, each water

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1 management district, in consultation with the Department of  
2 Environmental Protection, the United States Army Corps of  
3 Engineers, the Department of Transportation, transportation  
4 authorities established pursuant to chapter 348 or chapter  
5 349, and other appropriate federal, state, and local  
6 governments, and other interested parties, including entities  
7 operating mitigation banks, shall develop a plan for the  
8 primary purpose of complying with the mitigation requirements  
9 adopted pursuant to this part and 33 U.S.C. s. 1344. This plan  
10 shall also address significant invasive plant problems within  
11 wetlands and other surface waters. In developing such plans,  
12 the districts shall utilize sound ecosystem management  
13 practices to address significant water resource needs and  
14 shall focus on activities of the Department of Environmental  
15 Protection and the water management districts, such as surface  
16 water improvement and management (SWIM) waterbodies and lands  
17 identified for potential acquisition for preservation,  
18 restoration, and enhancement, to the extent that such  
19 activities comply with the mitigation requirements adopted  
20 under this part and 33 U.S.C. s. 1344. In determining the  
21 activities to be included in such plans, the districts shall  
22 also consider the purchase of credits from public or private  
23 mitigation banks permitted under s. 373.4136 and associated  
24 federal authorization and shall include such purchase as a  
25 part of the mitigation plan when such purchase would offset  
26 the impact of the transportation project, provide equal  
27 benefits to the water resources than other mitigation options  
28 being considered, and provide the most cost-effective  
29 mitigation option. The mitigation plan shall be preliminarily  
30 approved by the water management district governing board and  
31 shall be submitted to the secretary of the Department of

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1 Environmental Protection for review and final approval. The  
2 preliminary approval by the water management district  
3 governing board does not constitute a decision that affects  
4 substantial interests as provided by s. 120.569. At least 30  
5 days prior to preliminary approval, the water management  
6 district shall provide a copy of the draft mitigation plan to  
7 any person who has requested a copy.

8 (a) For each transportation project with a funding  
9 request for the next fiscal year, the mitigation plan must  
10 include a brief explanation of why a mitigation bank was or  
11 was not chosen as a mitigation option, including an estimation  
12 of identifiable costs of the mitigation bank and nonbank  
13 options to the extent practicable.

14 (b) Specific projects may be excluded from the  
15 mitigation plan and shall not be subject to this section upon  
16 the agreement of the Department of Transportation, a  
17 transportation authority if applicable, the Department of  
18 Environmental Protection, and the appropriate water management  
19 district that the inclusion of such projects would hamper the  
20 efficiency or timeliness of the mitigation planning and  
21 permitting process, or the Department of Environmental  
22 Protection and the water management district are unable to  
23 identify mitigation that would offset the impacts of the  
24 project.

25 (c) Surface water improvement and management or  
26 invasive plant control projects undertaken using the \$12  
27 million advance transferred from the Department of  
28 Transportation to the Department of Environmental Protection  
29 in fiscal year 1996-1997 which meet the requirements for  
30 mitigation under this part and 33 U.S.C. s. 1344 shall remain  
31 available for mitigation until the \$12 million is fully



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1 credited up to and including fiscal year 2004-2005. When these  
2 projects are used as mitigation, the \$12 million advance shall  
3 be reduced by \$75,000 per acre of impact mitigated. For any  
4 fiscal year through and including fiscal year 2004-2005, to  
5 the extent the cost of developing and implementing the  
6 mitigation plans is less than the amount transferred pursuant  
7 to subsection (3), the difference shall be credited towards  
8 the \$12 million advance. Except as provided in this paragraph,  
9 any funds not directed to implement the mitigation plan  
10 should, to the greatest extent possible, be directed to fund  
11 invasive plant control within wetlands and other surface  
12 waters.

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

24 (6) The mitigation plans ~~plan~~ shall be updated  
25 annually to reflect the most current Department of  
26 Transportation work program and project list of a  
27 transportation authority established pursuant to chapter 348  
28 or chapter 349, if applicable, and may be amended throughout  
29 the year to anticipate schedule changes or additional projects  
30 which may arise. Each update and amendment of the mitigation  
31 plan shall be submitted to the secretary of the Department of

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1 Environmental Protection for approval. However, such approval  
2 shall not be applicable to a deviation as described in  
3 subsection (5).

4 (7) Upon approval by the secretary of the Department  
5 of Environmental Protection, the mitigation plan shall be  
6 deemed to satisfy the mitigation requirements under this part  
7 and any other mitigation requirements imposed by local,  
8 regional, and state agencies for impacts identified in the  
9 inventory described in subsection (2). The approval of the  
10 secretary shall authorize the activities proposed in the  
11 mitigation plan, and no other state, regional, or local permit  
12 or approval shall be necessary.

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

25 (9) The process for environmental mitigation for the  
26 impact of transportation projects under this section shall be  
27 available to an expressway, bridge, or transportation  
28 authority established under chapter 348 or chapter 349. Use of  
29 this process may be initiated by an authority depositing the  
30 requisite funds into an escrow account set up by the authority  
31 and filing an environmental impact inventory with the

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1 appropriate water management district. An authority that  
2 initiates the environmental mitigation process established by  
3 this section shall comply with subsection (6) by timely  
4 providing the appropriate water management district and the  
5 Department of Environmental Protection with the requisite work  
6 program information. A water management district may draw down  
7 funds from the escrow account as provided in this section.

8  
9 (Redesignate subsequent sections.)

10

11

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 67, line 2, after the semicolon

15

16 insert:

17 amending s. 316.061, F.S.; authorizing certain  
18 agencies to remove from the roadway, vehicles  
19 damages in crashes; amending s. 318.18, F.S.;  
20 increasing penalties for certain speed  
21 violations; amending s. 348.565, F.S.; adding  
22 the Lee Roy Selmon Crosstown Expressway  
23 connector to the legislatively approved list of  
24 expressway projects; creating s. 348.545, F.S.;  
25 approving certain bond financing for the  
26 Hillsborough County Expressway authority;  
27 amending s. 373.4137, F.S.; providing for  
28 certain expressway, bridge, or transportation  
29 authorities to create environmental-impact  
30 inventories and participate in a mitigation  
31 program to offset adverse effects of their

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