

By Senator Sebesta

20-437-02

1 A bill to be entitled
2 An act relating to the Department of
3 Transportation; amending s. 20.23, F.S.;
4 redesignating the turnpike district as the
5 turnpike enterprise; amending s. 316.302, F.S.;
6 revising out-of-service requirements for
7 commercial motor vehicles; amending s. 316.535,
8 F.S.; adding weight requirements for certain
9 commercial trucks; amending s. 316.545, F.S.;
10 conforming provisions; amending s. 334.044,
11 F.S.; providing powers and duties for
12 department law enforcement officers; amending
13 s. 334.193, F.S.; providing for employee
14 bidding by department employees; amending s.
15 337.025, F.S.; eliminating the cap on
16 innovative highway projects for the turnpike
17 enterprise; amending s. 337.107, F.S.;
18 authorizing the department to enter into
19 design-build contracts that include
20 right-of-way acquisition services; amending s.
21 337.11, F.S.; providing an exemption for
22 turnpike enterprise projects; raising the
23 limitation on certain contracts into which the
24 department may enter without first obtaining
25 bids; expanding the projects that may be
26 combined into a design-build contract;
27 providing restrictions; amending s. 338.165,
28 F.S.; conforming provisions; amending s.
29 338.22, F.S.; redesignating the Florida
30 Turnpike Law as the Florida Turnpike Enterprise
31 Law; amending s. 338.221, F.S.; redefining the

1 term "economically feasible" as used with
2 respect to turnpike projects; creating s.
3 338.2215, F.S.; providing legislative findings,
4 policy, purpose, and intent for the turnpike
5 enterprise; creating s. 338.2216, F.S.;
6 prescribing the power and authority of the
7 turnpike enterprise; amending s. 338.223, F.S.;
8 increasing the maximum loan amount for the
9 turnpike enterprise; amending ss. 338.165,
10 338.227, F.S.; conforming provisions; amending
11 s. 338.2275, F.S.; authorizing the turnpike
12 enterprise to advertise for bids for contracts
13 before obtaining environmental permits;
14 amending s. 338.234, F.S.; authorizing the
15 turnpike enterprise to expand business
16 opportunities; amending s. 338.235, F.S.;
17 authorizing the consideration of goods instead
18 of fees; amending s. 338.239, F.S.; providing
19 that approved expenditures to the Florida
20 Highway Patrol be paid by the turnpike
21 enterprise; amending s. 338.241, F.S.; lowering
22 the required cash reserve for the turnpike
23 enterprise; amending ss. 338.251, 339.135,
24 F.S.; conforming provisions; amending s.
25 553.80, F.S.; providing for self-regulation;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Paragraph (a) of subsection (4) of section
31 20.23, Florida Statutes, is amended, paragraph (f) is added to

1 that subsection, and subsection (6) of that section is amended
2 to read:

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

6 (4)(a) The operations of the department shall be
7 organized into seven ~~eight~~ districts, ~~including a turnpike~~
8 ~~district,~~ each headed by a district secretary, and a turnpike
9 enterprise, headed by an executive director. The district
10 secretaries shall report to the Assistant Secretary for
11 District Operations. The headquarters of the districts shall
12 be located in Polk, Columbia, Washington, Broward, Volusia,
13 Dade, and Hillsborough, ~~and Leon~~ Counties. The headquarters of
14 the turnpike enterprise shall be located in Orange County. ~~The~~
15 ~~turnpike district must be relocated to Orange County in the~~
16 ~~year 2000.~~ In order to provide for efficient operations and to
17 expedite the decisionmaking process, the department shall
18 provide for maximum decentralization to the districts.
19 However, before making a decision to centralize or
20 decentralize department operations ~~or relocate the turnpike~~
21 ~~district,~~ the department must first determine if the decision
22 would be cost-effective and in the public's best interest. The
23 department shall periodically evaluate such decisions to
24 ensure that they are appropriate.

25 (f)1. The responsibility for the turnpike system shall
26 be delegated by the secretary to the executive director of the
27 turnpike enterprise, who shall serve at the pleasure of the
28 secretary. The executive director shall report directly to the
29 secretary, and the turnpike enterprise shall operate pursuant
30 to ss. 338.22-338.241.

31

1 2. To facilitate the most efficient and effective
2 management of the turnpike enterprise, including the use of
3 best business practices employed by the private sector, the
4 turnpike enterprise is exempt from the department's policies,
5 procedures, and standards, subject to the secretary's
6 authority to apply any such policies, procedures, and
7 standards to the turnpike enterprise when he or she considers
8 it appropriate.

9 3. To enhance the ability of the turnpike enterprise
10 to use best business practices employed by the private sector,
11 the secretary shall adopt rules that exempt the turnpike
12 enterprise from the department's rules and authorize the
13 turnpike enterprise to employ procurement methods available to
14 the private sector.

15 (6) To facilitate the efficient and effective
16 management of the department in a businesslike manner, the
17 department shall develop a system for the submission of
18 monthly management reports to the Florida Transportation
19 Commission and secretary from the district secretaries and the
20 executive director of the turnpike enterprise. The commission
21 and the secretary shall determine which reports are required
22 to fulfill their respective responsibilities under this
23 section. A copy of each such report shall be submitted monthly
24 to the appropriations and transportation committees of the
25 Senate and the House of Representatives. Recommendations made
26 by the Auditor General in his or her audits of the department
27 that relate to management practices, systems, or reports shall
28 be implemented in a timely manner. However, if the department
29 determines that one or more of the recommendations should be
30 altered or should not be implemented, it shall provide a
31 written explanation of such determination to the Legislative

1 Auditing Committee within 6 months after the date the
2 recommendations were published.

3 Section 2. Subsection (8) of section 316.302, Florida
4 Statutes, is amended to read:

5 316.302 Commercial motor vehicles; safety regulations;
6 transporters and shippers of hazardous materials;
7 enforcement.--

8 (8) For the purposes of enforcing this section, any
9 law enforcement officer ~~Any agent~~ of the Department of
10 Transportation or its agent, or any other law enforcement
11 officer specified in s. 316.640 who holds a current
12 safety-inspector certification from the Commercial Vehicle
13 Safety Alliance, may require the driver of any commercial
14 vehicle operated on the highways of this state to stop and
15 submit to an inspection of the vehicle or the driver's
16 records described in s. 316.545(9), any member of the Florida
17 ~~Highway Patrol, or any person employed by a sheriff's office~~
18 ~~or municipal police department who is authorized to enforce~~
19 ~~the traffic laws of this state pursuant to s. 316.640 may~~
20 ~~enforce the provisions of this section. Any officer of the~~
21 ~~Department of Transportation described in s. 316.545(9), any~~
22 ~~member of the Florida Highway Patrol, or any law enforcement~~
23 ~~officer employed by a sheriff's office or municipal police~~
24 ~~department authorized to enforce the traffic laws of this~~
25 ~~state pursuant to s. 316.640, who has reason to believe that a~~
26 ~~vehicle or driver is operating in an unsafe condition, may~~
27 ~~require the driver to stop and submit to an inspection of the~~
28 ~~vehicle or the driver's records. Any person who fails to~~
29 ~~comply with an officer's request to submit to an inspection~~
30 ~~under this subsection is guilty of a violation of s. 843.02 if~~
31 ~~the driver resists the officer without violence or a violation~~

1 ~~of s. 843.01 if the driver resists the officer with violence.~~
2 If the vehicle or driver is found to be operating in an unsafe
3 condition, or if any required part or equipment is not present
4 or is not in proper repair or adjustment, and the continued
5 operation would ~~probably~~ present an unduly hazardous operating
6 condition, the officer may require the vehicle or the driver,
7 or both, to be removed from service under the North American
8 Uniform Out-of-Service Criteria, until the condition has been
9 corrected. However, if continuous operation would not present
10 an unduly hazardous operating condition, the officer may give
11 written notice requiring correction to ~~require proper repair~~
12 ~~and adjustment~~ of the condition vehicle within 14 days.

13 (a) Any member of the Florida Highway Patrol, or any
14 law enforcement officer employed by a sheriff's office or
15 municipal police department authorized to enforce the traffic
16 laws of this state pursuant to s. 316.640, who has reason to
17 believe that a vehicle or driver is operating in an unsafe
18 condition may, as provided in subsection (10), enforce the
19 provisions of this section.

20 (b) Any person who fails to comply with an officer's
21 request to submit to an inspection under this subsection is
22 guilty of a violation of s. 843.02 if the driver resists the
23 officer without violence or of a violation of s. 843.01 if the
24 driver resists the officer with violence.

25 Section 3. Present subsections (6) and (7) of section
26 316.535, Florida Statutes, are redesignated as subsections (7)
27 and (8), respectively, and amended, and a new subsection (6)
28 is added to that section, to read:

29 316.535 Maximum weights.--

30 (6) Dump trucks, concrete mixing trucks, trucks
31 engaged in waste collection and disposal, and fuel oil and

1 gasoline trucks designed and constructed for special-type work
2 or use, when operated as a single unit, are subject to all
3 safety and operational requirements of law, except that any
4 such vehicle need not conform to the axle-spacing requirements
5 of this section if the vehicle's total gross load, including
6 the weight of the vehicle, does not exceed 20,000 pounds per
7 axle plus scale tolerances and does not exceed 550 pounds per
8 inch width tire surface plus scale tolerances. A vehicle
9 operating pursuant to this section must not exceed a gross
10 weight, including the weight of the vehicle and scale
11 tolerances, of 70,000 pounds. Any vehicle that violates the
12 weight provisions of this section shall be penalized as
13 provided in s. 316.545.

14 (7)(6) The Department of Transportation shall adopt
15 rules to implement this section, shall enforce this section
16 and the rules adopted hereunder, and shall publish and
17 distribute tables and other publications as deemed necessary
18 to inform the public.

19 (8)(7) Except as otherwise hereinafter provided, a no
20 vehicle or combination of vehicles which exceeds exceeding the
21 gross weights specified in subsections (3), (4), and (5) may
22 not shall be permitted to travel on the public highways within
23 the state.

24 Section 4. Paragraph (a) of subsection (4) of section
25 316.545, Florida Statutes, is amended to read:

26 316.545 Weight and load unlawful; special fuel and
27 motor fuel tax enforcement; inspection; penalty; review.--

28 (4)(a) A No commercial vehicle, as defined in s.
29 316.003(66), may not shall be operated over the highways of
30 this state unless it has been properly registered under the
31 provisions of s. 207.004. If whenever any law enforcement

1 officer identified in s. 207.023(1), upon inspecting the
2 vehicle or combination of vehicles, determines that the
3 vehicle is in violation of s. 207.004, a penalty in the amount
4 of \$50 shall be assessed, and the vehicle may ~~shall~~ be
5 detained until payment is collected by the law enforcement
6 officer.

7 Section 5. Subsection (31) is added to section
8 334.044, Florida Statutes, to read:

9 334.044 Department; powers and duties.--The department
10 shall have the following general powers and duties:

11 (31) In order to fulfill the department's mission to
12 provide a safe and efficient transportation system, the
13 department's Office of Motor Carrier Compliance may employ
14 sworn law enforcement officers, certified in accordance with
15 chapter 943, to enforce the traffic and criminal laws of this
16 state. Such officers have full law enforcement powers granted
17 to other peace officers of this state, including the power to
18 make arrests, carry firearms, serve court process, and seize
19 contraband and the proceeds of illegal activities. Officers
20 appointed under this section have the primary responsibility
21 for enforcing laws relating to size and weight of commercial
22 motor vehicles; safety, traffic, tax, and registration of
23 commercial motor vehicles; contraband interdiction; and
24 violations that threaten the overall security and safety of
25 this state's transportation infrastructure and the motoring
26 public. The division may also appoint part-time or auxiliary
27 law enforcement officers under chapter 943 and may provide
28 their compensation in accordance with law.

29 Section 6. Section 334.193, Florida Statutes, is
30 amended to read:

31

1 334.193 Unlawful for certain persons to be financially
2 interested in purchases, sales, and certain contracts;
3 penalties.--

4 (1) It is unlawful for a state officer, or an employee
5 or agent of the department, or for any company, corporation,
6 or firm in which a state officer, or an employee or agent of
7 the department has a financial interest, to bid on, enter
8 into, or be personally interested in:

9 (a) The purchase or the furnishing of any materials or
10 supplies to be used in the work of the state.

11 (b) A contract for the construction of any state road,
12 the sale of any property, or the performance of any other work
13 for which the department is responsible.

14 (2) Notwithstanding subsection (1):

15 (a) The department may consider competitive bids or
16 proposals by employees or employee work groups that have a
17 financial interest in matters referenced in paragraphs (1)(a)
18 and (b), when the subject matter of a request for bids or
19 proposals by the department includes functions performed by
20 the employees or employee work groups of the department before
21 the request for bids or proposals. However, if the employees,
22 employee work group, or entity in which an employee of the
23 department has an interest is the successful bidder or
24 proposer, the employees must resign from departmental
25 employment upon executing an agreement to perform the matter
26 bid upon.

27 (b) The department may consider competitive bids or
28 proposals of employees or employee work groups submitted on
29 behalf of the department to perform the subject matter of
30 requests for bids or proposals. The department may select such
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1 a bid or proposal for performance of the work by the
2 department.

3
4 In order to implement this subsection, the department may
5 update existing rules or adopt new rules pertaining to
6 employee usage of department equipment, facilities, and
7 supplies during business hours for nondepartmental activities.

8 (3)(2) Any person who is convicted of a violation of
9 this section is guilty of a misdemeanor of the first degree,
10 punishable as provided in s. 775.082 or s. 775.083, and shall
11 be removed from his or her office or employment.

12 Section 7. Section 337.025, Florida Statutes, is
13 amended to read:

14 337.025 Innovative highway projects; department to
15 establish program.--The department is authorized to establish
16 a program for highway projects demonstrating innovative
17 techniques of highway construction, maintenance, and finance
18 which have the intended effect of controlling time and cost
19 increases on construction projects. Such techniques may
20 include, but are not limited to, state-of-the-art technology
21 for pavement, safety, and other aspects of highway
22 construction and maintenance; innovative bidding and financing
23 techniques; accelerated construction procedures; and those
24 techniques that have the potential to reduce project life
25 cycle costs. To the maximum extent practical, the department
26 must use the existing process to award and administer
27 construction and maintenance contracts. When specific
28 innovative techniques are to be used, the department is not
29 required to adhere to those provisions of law that would
30 prevent, preclude, or in any way prohibit the department from
31 using the innovative technique. However, prior to using an

1 innovative technique that is inconsistent with another
2 provision of law, the department must document in writing the
3 need for the exception and identify what benefits the
4 traveling public and the affected community are anticipated to
5 receive. The department may enter into no more than \$120
6 million in contracts annually for the purposes authorized by
7 this section. However, the annual limitation on contracts
8 which is provided in this section does not apply to turnpike
9 enterprise projects, nor may turnpike enterprise projects be
10 counted toward the department's annual limitation.

11 Section 8. Section 337.107, Florida Statutes, is
12 amended to read:

13 337.107 Contracts for right-of-way services.--The
14 department may enter into contracts pursuant to s. 287.055 for
15 right-of-way services on transportation corridors and
16 transportation facilities, or the department may include
17 right-of-way services, as defined in this section, as part of
18 design-build contracts awarded pursuant to s. 337.11.

19 Right-of-way services include negotiation and acquisition
20 services, appraisal services, demolition and removal of
21 improvements, and asbestos-abatement services.

22 Section 9. Paragraph (c) of subsection (3), paragraph
23 (c) of subsection (6), and paragraph (a) of subsection (7) of
24 section 337.11, Florida Statutes, are amended to read:

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

29 (3)

30 (c) No advertisement for bids shall be published and
31 no bid solicitation notice shall be provided until title to

1 all necessary rights-of-way and easements for the construction
2 of the project covered by such advertisement or notice has
3 vested in the state or a local governmental entity, and all
4 railroad crossing and utility agreements have been executed.
5 The turnpike enterprise is exempt from this paragraph with
6 respect to a turnpike enterprise project.Title to all
7 necessary rights-of-way shall be deemed to have been vested in
8 the State of Florida when such title has been dedicated to the
9 public or acquired by prescription.

10 (6)

11 (c) When the department determines that it is in the
12 best interest of the public for reasons of public concern,
13 economy, improved operations or safety, and only when
14 circumstances dictate rapid completion of the work, the
15 department may, up to the ~~threshold~~ amount of \$120,000
16 ~~provided in s. 287.017 for CATEGORY FOUR,~~ enter into contracts
17 for construction and maintenance without advertising and
18 receiving competitive bids. ~~However, if legislation is enacted~~
19 ~~by the Legislature which changes the category thresholds, the~~
20 ~~threshold amount shall remain at \$60,000.~~The department may
21 enter into such contracts only upon a determination that the
22 work is necessary for one of the following reasons:

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

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

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

31

1 The department shall make a good faith effort to obtain two or
2 more quotes, if available, from qualified contractors before
3 entering into any contract. The department shall give
4 consideration to disadvantaged business enterprise
5 participation. However, when the work exists within the limits
6 of an existing contract, the department shall make a good
7 faith effort to negotiate and enter into a contract with the
8 prime contractor on the existing contract.

9 (7)(a) If the head of the department determines that
10 it is in the best interests of the public, the department may
11 combine the design and construction phases of any a building,
12 a major bridge, or a rail corridor project into a single
13 contract, except for resurfacing or minor bridge projects.
14 Such contract is referred to as a design-build contract.
15 Design-build contracts may be advertised and awarded
16 notwithstanding the requirements of paragraph (3)(c). However,
17 construction activities may not begin on any portion of such
18 projects until title to the necessary rights-of-way and
19 easements for the construction of such portion of the project
20 has vested in the state or a local government entity and all
21 railroad crossing and utility agreements have been executed.
22 Title to rights-of-way vests in the state when the title has
23 been dedicated to the public or acquired by prescription.

24 Section 10. Section 338.165, Florida Statutes, is
25 amended to read:

26 338.165 Continuation of tolls.--

27 (1) The department, any transportation or expressway
28 authority or, in the absence of an authority, a county or
29 counties may continue to collect the toll on a
30 revenue-producing project after the discharge of any bond
31 indebtedness related to such project and may increase such

1 toll. All tolls so collected shall first be used to pay the
2 annual cost of the operation, maintenance, and improvement of
3 the toll project.

4 (2) If the revenue-producing project is on the State
5 Highway System, any remaining toll revenue shall be used for
6 the construction, maintenance, or improvement of any road on
7 the State Highway System within the county or counties in
8 which the revenue-producing project is located, except as
9 provided in s. 348.0004.

10 (3) Notwithstanding any other law to the contrary,
11 pursuant to s. 11, Art. VII of the State Constitution, and
12 subject to the requirements of subsection (2), the Department
13 of Transportation may request the Division of Bond Finance to
14 issue bonds secured by toll revenues collected on the
15 Alligator Alley to fund transportation projects contained in
16 the 1993-1994 Adopted Work Program or in any subsequent
17 adopted work program of the department.

18 (4) If the revenue-producing project is on the county
19 road system, any remaining toll revenue shall be used for the
20 construction, maintenance, or improvement of any other state
21 or county road within the county or counties in which the
22 revenue-producing project is located, except as provided in s.
23 348.0004.

24 (5) Selection of projects on the State Highway System
25 for construction, maintenance, or improvement with toll
26 revenues shall be, with the concurrence of the department,
27 consistent with the Florida Transportation Plan.

28 (6) Notwithstanding the provisions of subsection (1),
29 and not including high occupancy toll lanes or express lanes,
30 no tolls may be charged for use of an interstate highway where
31 tolls were not charged as of July 1, 1997.

1 (7) This section does not apply to the turnpike system
2 as defined under the Florida Turnpike Enterprise Law.

3 Section 11. Section 338.22, Florida Statutes, is
4 amended to read:

5 338.22 Florida Turnpike Law; short title.--Sections
6 338.22-338.241 may be cited as the "Florida Turnpike
7 Enterprise Law."

8 Section 12. Section 338.221, Florida Statutes, is
9 amended to read:

10 338.221 Definitions of terms used in ss.

11 338.22-338.241.--As used in ss. 338.22-338.241, the term
12 ~~following words and terms have the following meanings, unless~~
13 ~~the context indicates another or different meaning or intent:~~

14 (1) "Bonds" or "revenue bonds" means notes, bonds,
15 refunding bonds or other evidences of indebtedness or
16 obligations, in either temporary or definitive form, issued by
17 the Division of Bond Finance on behalf of the department and
18 authorized under the provisions of ss. 338.22-338.241 and the
19 State Bond Act.

20 (2) "Cost," as applied to a turnpike project, includes
21 the cost of acquisition of all land, rights-of-way, property,
22 easements, and interests acquired by the department for
23 turnpike project construction; the cost of such construction;
24 the cost of all machinery and equipment, financing charges,
25 fees, and expenses related to the financing; establishment of
26 reserves to secure bonds; interest prior to and during
27 construction and for such period after completion of
28 construction as shall be determined by the department; the
29 cost of traffic estimates and of engineering and legal
30 expenses, plans, specifications, surveys, estimates of cost
31 and revenues; other expenses necessary or incident to

1 determining the feasibility or practicability of acquiring or
2 constructing any such turnpike project; administrative
3 expenses; and such other expenses as may be necessary or
4 incident to the acquisition or construction of a turnpike
5 project, the financing of such acquisition or construction,
6 and the placing of the turnpike project in operation.

7 (3) "Feeder road" means any road no more than 5 miles
8 in length, connecting to the turnpike system which the
9 department determines is necessary to create or facilitate
10 access to a turnpike project.

11 (4) "Owner" includes any person or any governmental
12 entity that has title to, or an interest in, any property,
13 right, easement, or interest authorized to be acquired
14 pursuant to ss. 338.22-338.241.

15 (5) "Revenues" means all tolls, charges, rentals,
16 gifts, grants, moneys, and other funds coming into the
17 possession, or under the control, of the department by virtue
18 of the provisions hereof, except the proceeds from the sale of
19 bonds issued under ss. 338.22-338.241.

20 (6) "Turnpike system" means those limited access toll
21 highways and associated feeder roads and other structures,
22 appurtenances, or rights previously designated, acquired, or
23 constructed pursuant to the Florida Turnpike Enterprise Law
24 and such other additional turnpike projects as may be acquired
25 or constructed as approved by the Legislature.

26 (7) "Turnpike improvement" means any betterment
27 necessary or desirable for the operation of the turnpike
28 system, including, but not limited to, widenings, the addition
29 of interchanges to the existing turnpike system, resurfacings,
30 toll plazas, machinery, and equipment.

31

1 (8) "Economically feasible", with respect to a
2 proposed turnpike project, means that the revenues of the
3 project in combination with those of the existing turnpike
4 system are sufficient to service the debt of the outstanding
5 turnpike bonds to safeguard investors.+

6 ~~(a) For a proposed turnpike project, that, as~~
7 ~~determined by the department before the issuance of revenue~~
8 ~~bonds for the project, the estimated net revenues of the~~
9 ~~proposed turnpike project, excluding feeder roads and turnpike~~
10 ~~improvements, will be sufficient to pay at least 50 percent of~~
11 ~~the debt service on the bonds by the end of the 5th year of~~
12 ~~operation and to pay at least 100 percent of the debt service~~
13 ~~on the bonds by the end of the 15th year of operation. In~~
14 ~~implementing this paragraph, up to 50 percent of the adopted~~
15 ~~work program costs of the project may be funded from turnpike~~
16 ~~revenues.~~

17 ~~(b) For turnpike projects, except for feeder roads and~~
18 ~~turnpike improvements, financed from revenues of the turnpike~~
19 ~~system, such project, or such group of projects, originally~~
20 ~~financed from revenues of the turnpike system, that the~~
21 ~~project is expected to generate sufficient revenues to~~
22 ~~amortize project costs within 15 years of opening to traffic.~~

23
24 This subsection does not prohibit the pledging of revenues
25 from the entire turnpike system to bonds issued to finance or
26 refinance a turnpike project or group of turnpike projects.

27 (9) "Turnpike project" means any extension to or
28 expansion of the existing turnpike system and new limited
29 access toll highways and associated feeder roads and other
30 structures, interchanges, appurtenances, or rights as may be
31

1 approved in accordance with the Florida Turnpike Enterprise
2 Law.

3 (10) "Statement of environmental feasibility" means a
4 statement by the Department of Environmental Protection of the
5 project's significant environmental impacts.

6 Section 13. Section 338.2215, Florida Statutes, is
7 created to read:

8 338.2215 Florida Turnpike Enterprise; legislative
9 findings, policy, purpose, and intent.--It is the intent of
10 the Legislature that the turnpike enterprise be provided
11 additional powers and authority in order to maximize the
12 advantages obtainable through fully leveraging the Florida
13 Turnpike System asset. The additional powers and authority
14 will provide the turnpike enterprise with the autonomy and
15 flexibility necessary to enable it to more easily pursue
16 innovations as well as best practices found in the private
17 sector in management, finance, organization, and operations.
18 The additional powers and authority are intended to improve
19 cost-effectiveness and timeliness of project delivery,
20 increase revenues, expand the turnpike system's capital
21 program capability, and improve the quality of service to its
22 patrons, while continuing to protect the turnpike system's
23 bondholders and further preserve, expand, and improve the
24 Florida Turnpike System.

25 Section 14. Section 338.2216, Florida Statutes, is
26 created to read:

27 338.2216 Florida Turnpike Enterprise; powers and
28 authority.--

29 (1)(a) In addition to the powers granted to the
30 department, the Florida Turnpike Enterprise has full authority
31 to exercise all powers granted to it under this chapter. These

1 powers include, but are not limited to, the authority to plan,
2 construct, maintain, repair, and operate the Florida Turnpike
3 System.

4 (b) It is the express intent of this part that the
5 Florida Turnpike Enterprise be authorized to plan, develop,
6 own, purchase, lease, or otherwise acquire, demolish,
7 construct, improve, relocate, equip, repair, maintain,
8 operate, and manage the Florida Turnpike System; to expend
9 funds to publicize, advertise, and promote the advantages of
10 using the turnpike system and its facilities; and to
11 cooperate, coordinate, partner, and contract with other
12 entities, public and private, to accomplish these purposes.

13 (c) The executive director of the turnpike enterprise
14 shall appoint a staff, which is exempt from part II of chapter
15 110. The fiscal functions of the turnpike enterprise,
16 including those arising under chapter 216, chapter 334, or
17 chapter 339, shall be managed by the turnpike enterprise chief
18 financial officer, who must possess qualifications similar to
19 those of the department's comptroller.

20 (2) The department may employ procurement methods
21 available to the Department of Management Services under
22 chapter 255 or chapter 287 and under any rule adopted under
23 either of those chapters solely for the benefit of the
24 turnpike enterprise. In order to enhance the effective and
25 efficient operation of the turnpike enterprise, the department
26 may adopt rules for procurement procedures alternative to
27 procedures set forth in chapters 255, 287, and 337.

28 (3)(a) The turnpike enterprise shall be a single
29 budget entity and shall develop a budget pursuant to chapter
30 216. The budget for the turnpike enterprise must be submitted
31 to the Legislature with the department's budget.

1 (b) Notwithstanding the provisions of s. 216.301 and
2 in accordance with s. 216.351, the Executive Office of the
3 Governor shall, on July 1 of each year, certify forward all
4 unexpended funds appropriated or provided under this section
5 for the turnpike enterprise. Of the unexpended funds
6 certified forward, any unencumbered amounts shall be carried
7 forward. The funds carried forward must not exceed 5 percent
8 of the total operating budget of the turnpike enterprise.
9 Funds carried forward under this section may be used for any
10 lawful purpose, including, but not limited to, promotional and
11 market activities, technology, and training. Any
12 certified-forward funds remaining undisbursed on December 31
13 of each year shall be carried forward.

14 (4) The powers conferred upon the turnpike enterprise
15 under ss. 338.22-338.241 are in addition and supplemental to
16 the existing powers of the department and the turnpike
17 enterprise, and these powers may not be construed as
18 abrogating any provision of any other law, general or local;
19 but ss. 338.22-338.241 supersede such other laws as are
20 inconsistent with the exercise of the powers provided under
21 those sections and provide a complete method for the exercise
22 of the powers granted under those sections.

23 Section 15. Subsection (4) of section 338.223, Florida
24 Statutes, is amended to read:

25 338.223 Proposed turnpike projects.--

26 (4) The department is authorized, with the approval of
27 the Legislature, to use federal and state transportation funds
28 to lend or pay a portion of the operating, maintenance, and
29 capital costs of turnpike projects. ~~Federal and state~~
30 ~~transportation funds included in an adopted work program, or~~
31 ~~the General Appropriations Act, for a turnpike project do not~~

1 ~~have to be reimbursed to the State Transportation Trust Fund,~~
2 ~~or used in determining the economic feasibility of the~~
3 ~~proposed project.~~ For operating and maintenance loans, the
4 maximum net loan amount in any fiscal year shall not exceed
5 1.5 ~~0.5~~ percent of state transportation tax revenues for that
6 fiscal year.

7 Section 16. Subsection (2) of section 338.227, Florida
8 Statutes, is amended to read:

9 338.227 Turnpike revenue bonds.--

10 (2) The proceeds of the bonds of each issue shall be
11 used solely for the payment of the cost of the turnpike
12 projects for which such bonds shall have been issued, except
13 as provided in the State Bond Act. Such proceeds shall be
14 disbursed and used as provided by ss. 338.22-338.241 and in
15 such manner and under such restrictions, if any, as the
16 Division of Bond Finance may provide in the resolution
17 authorizing the issuance of such bonds or in the trust
18 agreement hereinafter mentioned securing the same. All
19 revenues and bond proceeds from the turnpike system received
20 by the department pursuant to ss. 338.22-338.241, the Florida
21 Turnpike Enterprise Law, shall be used only for the cost of
22 turnpike projects and turnpike improvements and for the
23 administration, operation, maintenance, and financing of the
24 turnpike system. No revenues or bond proceeds from the
25 turnpike system shall be spent for the operation, maintenance,
26 construction, or financing of any project which is not part of
27 the turnpike system.

28 Section 17. Subsection (2) of section 338.2275,
29 Florida Statutes, is amended to read:

30 338.2275 Approved turnpike projects.--

31

1 (2) The department is authorized to use turnpike
2 revenues, the State Transportation Trust Fund moneys allocated
3 for turnpike projects pursuant to s. 338.001, federal funds,
4 and bond proceeds, and shall use the most cost-efficient
5 combination of such funds, in developing a financial plan for
6 funding turnpike projects. The department must submit a
7 report of the estimated cost for each ongoing turnpike project
8 and for each planned project to the Legislature 14 days before
9 the convening of the regular legislative session. Verification
10 of economic feasibility and statements of environmental
11 feasibility for individual turnpike projects must be based on
12 the entire project as approved. Statements of environmental
13 feasibility are not required for those projects listed in s.
14 12, chapter 90-136, Laws of Florida, for which the Project
15 Development and Environmental Reports were completed by July
16 1, 1990. The All required environmental permits must be
17 obtained before the department may advertise for bids for
18 contracts for the construction of any turnpike project before
19 obtaining the required environmental permits.

20 Section 18. Section 338.234, Florida Statutes, is
21 amended to read:

22 338.234 Granting concessions or selling along the
23 turnpike system.--

24 ~~(1)~~ The department may enter into contracts or
25 licenses with any person for the sale of ~~grant concessions or~~
26 ~~sell~~ services or products or business opportunities on along
27 the turnpike system, or the turnpike enterprise may sell
28 services, products, or business opportunities on the turnpike
29 system, which benefit the traveling public or provide
30 additional revenue to the turnpike system. Services, business
31 opportunities, and products authorized to be sold include, but

1 are not limited to, ~~the sale of~~ motor fuel, vehicle towing and
2 maintenance services; ~~the sale of~~ food with attendant
3 nonalcoholic beverages; lodging, meeting rooms, and other
4 business services opportunities; advertising and other
5 promotional opportunities, which advertising and promotions
6 must be consistent with the dignity and integrity of the
7 state;~~the sale of~~ state lottery tickets sold by authorized
8 retailers; games of amusement that ~~the granting of concessions~~
9 ~~for amusement devices which~~ operate by the application of
10 skill, not including games of chance as defined in s. 849.16
11 or other illegal gambling games; ~~the sale of~~ Florida citrus,
12 goods promoting the state or handmade goods produced within
13 the state; and ~~the granting of concessions for equipment which~~
14 ~~provides~~ travel information, or tickets, reservations, or
15 other related services. ~~and the granting of concessions which~~
16 ~~provide banking and other business services.~~ The department
17 may also provide information centers on the plazas for the
18 benefit of the public.

19 (2) ~~The department may provide an opportunity for~~
20 ~~governmental agencies to hold public events at turnpike plazas~~
21 ~~which educate the traveling public as to safety, travel, and~~
22 ~~tourism.~~

23 Section 19. Subsection (3) of section 338.235, Florida
24 Statutes, is amended to read:

25 338.235 Contracts with department for provision of
26 services on the turnpike system.--

27 (3) The department may enter into contracts or
28 agreements, with or without competitive bidding or
29 procurement, to make available, on a fair, reasonable,
30 nonexclusive, and nondiscriminatory basis, turnpike property
31 and other turnpike structures, for the placement of wireless

1 facilities by any wireless provider of mobile services as
2 defined in 47 U.S.C. s. 153(n) or s. 332(d), and any
3 telecommunications company as defined in s. 364.02 when it is
4 determined to be practical and feasible to make such property
5 or structures available. The department may, without adopting
6 a rule, charge a just, reasonable, and nondiscriminatory fee
7 for placement of the facilities, payable annually, based on
8 the fair market value of space used by comparable
9 communications facilities in the state. The department and a
10 wireless provider may negotiate the reduction or elimination
11 of a fee in consideration of goods and services ~~service~~
12 provided to the department by the wireless provider. All such
13 fees collected by the department shall be deposited directly
14 into the State Agency Law Enforcement Radio System Trust Fund
15 and may be used to construct, maintain, or support the system.

16 Section 20. Subsection (2) of section 338.239, Florida
17 Statutes, is amended to read:

18 338.239 Traffic control on the turnpike system.--
19 (2) Members of the Florida Highway Patrol are vested
20 with the power, and charged with the duty, to enforce the
21 rules of the department. Approved expenditures ~~Expenses~~
22 incurred by the Florida Highway Patrol in carrying out its
23 powers and duties under ss. 338.22-338.241 may be treated as a
24 part of the cost of the operation of the turnpike system, and
25 the Department of Highway Safety and Motor Vehicles shall be
26 reimbursed by the turnpike enterprise ~~Department of~~
27 ~~Transportation~~ for such expenses incurred on the turnpike
28 system mainline, which is that part of the turnpike system
29 ~~extending from the southern terminus in Florida City to the~~
30 ~~northern terminus in Wildwood including all contiguous~~
31 sections. Florida Highway Patrol Troop K shall be

1 headquartered with the turnpike enterprise and shall be the
2 official and preferred law enforcement troop for the turnpike
3 system. The Department of Highway Safety and Motor Vehicles
4 may, upon request of the executive director of the turnpike
5 enterprise and approval of the Legislature, increase the
6 number of authorized positions for Troop K, or the executive
7 director of the turnpike enterprise may contract with the
8 Department of Highway Safety and Motor Vehicles for additional
9 troops to patrol the turnpike system.

10 Section 21. Section 338.241, Florida Statutes, is
11 amended to read:

12 338.241 Cash reserve requirement.--The budget for the
13 turnpike system shall be so planned as to provide for a cash
14 reserve at the end of each fiscal year of not less than 5 ~~10~~
15 percent of the unpaid balance of all turnpike system
16 contractual obligations, excluding bond obligations, to be
17 paid from revenues.

18 Section 22. Section 338.251, Florida Statutes, is
19 amended to read:

20 338.251 Toll Facilities Revolving Trust Fund.--The
21 Toll Facilities Revolving Trust Fund is hereby created for the
22 purpose of encouraging the development and enhancing the
23 financial feasibility of revenue-producing road projects
24 undertaken by local governmental entities in a county or
25 combination of contiguous counties and the turnpike
26 enterprise.

27 (1) The department is authorized to advance funds for
28 preliminary engineering, traffic and revenue studies,
29 environmental impact studies, financial advisory services,
30 engineering design, right-of-way map preparation, other
31 appropriate project-related professional services, and

1 advanced right-of-way acquisition to expressway authorities,
2 the turnpike enterprise, counties, or other local governmental
3 entities that desire to undertake revenue-producing road
4 projects.

5 (2) No funds shall be advanced pursuant to this
6 section unless the following is documented to the department:

7 (a) The proposed facility is consistent with the
8 adopted transportation plan of the appropriate metropolitan
9 planning organization and the Florida Transportation Plan.

10 (b) A proposed 2-year budget detailing the use of the
11 cash advance and a project schedule consistent with the
12 budget.

13 (3) Prior to receiving any moneys for advance
14 right-of-way acquisition, it shall be shown that such
15 right-of-way will substantially appreciate prior to
16 construction and that savings will result from its advance
17 purchase. Any such request for moneys for advance
18 right-of-way acquisition shall be accompanied by a preliminary
19 engineering study, environmental impact study, traffic and
20 revenue study, and right-of-way maps along with either a
21 negotiated contract for purchase of the right-of-way, such
22 contract to include a clause stating that it is subject to
23 funding by the department or the Legislature, or an appraisal
24 of the subject property for purpose of condemnation
25 proceedings.

26 (4) Each advance pursuant to this section shall
27 require repayment out of the initial bond issue revenue or, at
28 the discretion of the governmental entity or the turnpike
29 enterprise ~~of the facility~~, repayment shall begin no later
30 than 7 years after the date of the advance, provided repayment
31 shall be completed no later than 12 years after the date of

1 the advance. However, such election shall be made at the time
2 of the initial bond issue, and, if repayment is to be made
3 during the time period referred to above, a schedule of such
4 repayment shall be submitted to the department.

5 (5) No amount in excess of \$1.5 million annually shall
6 be advanced to any one governmental entity pursuant to this
7 section without specific appropriation by the Legislature.

8 (6) Funds may not be advanced for funding final design
9 costs beyond 60 percent completion until an acceptable plan to
10 finance all project costs, including the reimbursement of
11 outstanding trust fund advances, is approved by the
12 department.

13 (7) The department may advance funds sufficient to
14 defray shortages in toll revenues of facilities receiving
15 funds pursuant to this section for the first 5 years of
16 operation, up to a maximum of \$5 million per year, to be
17 reimbursed to this fund within 5 years of the last advance
18 hereunder. Any advance under this provision shall require
19 specific appropriation by the Legislature.

20 (8) No expressway authority, county, or other local
21 governmental entity or the turnpike enterprise shall be
22 eligible to receive any advance under this section if the
23 expressway authority, county, or other local governmental
24 entity or the turnpike enterprise has failed to repay any
25 previous advances as required by law or by agreement with the
26 department.

27 (9) Repayment of funds advanced, including advances
28 made prior to January 1, 1994, shall not include interest.
29 However, interest accruing to local governmental entities and
30 the turnpike enterprise from the investment of advances shall
31 be paid to the department.

1 (10) Any repayment of prior or future advances made
2 from the State Transportation Trust Fund which were used to
3 fund any project phase of a toll facility, shall be deposited
4 in the Toll Facilities Revolving Trust Fund. However, when
5 funds advanced to the Seminole County Expressway Authority
6 pursuant to this section are repaid to the Toll Facilities
7 Revolving Trust Fund by or on behalf of the Seminole County
8 Expressway Authority, those funds shall thereupon and
9 forthwith be appropriated for and advanced to the Seminole
10 County Expressway Authority for funding the design of and the
11 advanced right-of-way acquisition for that segment of the
12 Seminole County Expressway extending from U.S. Highway 17/92
13 to Interstate Highway 4. Notwithstanding subsection (6), when
14 funds previously advanced to the Orlando-Orange County
15 Expressway Authority are repaid to the Toll Facilities
16 Revolving Trust Fund by or on behalf of the Orlando-Orange
17 County Expressway Authority, those funds may thereupon and
18 forthwith be appropriated for and advanced to the Seminole
19 County Expressway Authority for funding that segment of the
20 Seminole County Expressway extending from U.S. Highway 17/92
21 to Interstate Highway 4. Any funds advanced to the
22 Tampa-Hillsborough County Expressway Authority pursuant to
23 this section which have been or will be repaid on or after
24 July 1, 1998, to the Toll Facilities Revolving Trust Fund on
25 behalf of the Tampa-Hillsborough County Expressway Authority
26 shall thereupon and forthwith be appropriated for and advanced
27 to the Tampa-Hillsborough County Expressway Authority for
28 funding the design of and the advanced right-of-way
29 acquisition for the Brandon area feeder roads, capital
30 improvements to increase capacity to the expressway system,
31

1 and Lee Roy Selmon Crosstown Expressway System Widening as
2 authorized under s. 348.565.

3 (11) The department shall adopt rules necessary for
4 the implementation of this section, including rules for
5 project selection and funding.

6 Section 23. Paragraph (a) of subsection (4) of section
7 339.135, Florida Statutes, is amended to read:

8 339.135 Work program; legislative budget request;
9 definitions; preparation, adoption, execution, and
10 amendment.--

11 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.--

12 (a)1. To assure that no district or county is
13 penalized for local efforts to improve the State Highway
14 System, the department shall, for the purpose of developing a
15 tentative work program, allocate funds for new construction to
16 the districts, except for the turnpike enterprise district,
17 based on equal parts of population and motor fuel tax
18 collections. Funds for resurfacing, bridge repair and
19 rehabilitation, bridge fender system construction or repair,
20 public transit projects except public transit block grants as
21 provided in s. 341.052, and other programs with quantitative
22 needs assessments shall be allocated based on the results of
23 these assessments. The department may not transfer any funds
24 allocated to a district under this paragraph to any other
25 district except as provided in subsection (7). Funds for
26 public transit block grants shall be allocated to the
27 districts pursuant to s. 341.052.

28 2. Notwithstanding the provisions of subparagraph 1.,
29 the department shall allocate at least 50 percent of any new
30 discretionary highway capacity funds to the Florida Intrastate
31 Highway System established pursuant to s. 338.001. Any

1 remaining new discretionary highway capacity funds shall be
2 allocated to the districts for new construction as provided in
3 subparagraph 1. For the purposes of this subparagraph, the
4 term "new discretionary highway capacity funds" means any
5 funds available to the department above the prior year funding
6 level for capacity improvements, which the department has the
7 discretion to allocate to highway projects.

8 Section 24. Subsection (1) of section 553.80, Florida
9 Statutes, is amended to read:

10 553.80 Enforcement.--

11 (1) Except as provided in paragraphs (a)-(f)~~(a)-(e)~~,
12 each local government and each legally constituted enforcement
13 district with statutory authority shall regulate building
14 construction and, where authorized in the state agency's
15 enabling legislation, each state agency shall enforce the
16 Florida Building Code required by this part on all public or
17 private buildings, structures, and facilities, unless such
18 responsibility has been delegated to another unit of
19 government pursuant to s. 553.79(9).

20 (a) Construction regulations relating to correctional
21 facilities under the jurisdiction of the Department of
22 Corrections and the Department of Juvenile Justice are to be
23 enforced exclusively by those departments.

24 (b) Construction regulations relating to elevator
25 equipment under the jurisdiction of the Bureau of Elevators of
26 the Department of Business and Professional Regulation shall
27 be enforced exclusively by that department.

28 (c) In addition to the requirements of s. 553.79 and
29 this section, facilities subject to the provisions of chapter
30 395 and part II of chapter 400 shall have facility plans
31 reviewed and construction surveyed by the state agency

1 authorized to do so under the requirements of chapter 395 and
2 part II of chapter 400 and the certification requirements of
3 the Federal Government.

4 (d) Building plans approved pursuant to s. 553.77(6)
5 and state-approved manufactured buildings, including buildings
6 manufactured and assembled offsite and not intended for
7 habitation, such as lawn storage buildings and storage sheds,
8 are exempt from local code enforcing agency plan reviews
9 except for provisions of the code relating to erection,
10 assembly, or construction at the site. Erection, assembly, and
11 construction at the site are subject to local permitting and
12 inspections.

13 (e) Construction regulations governing public schools,
14 state universities, and community colleges shall be enforced
15 as provided in subsection (6).

16 (f) Construction regulations relating to
17 transportation facilities under the jurisdiction of the
18 turnpike enterprise of the Department of Transportation shall
19 be enforced exclusively by the turnpike enterprise.

20
21 The governing bodies of local governments may provide a
22 schedule of fees, as authorized by s. 125.56(2) or s. 166.222
23 and this section, for the enforcement of the provisions of
24 this part. Such fees shall be used solely for carrying out
25 the local government's responsibilities in enforcing the
26 Florida Building Code. The authority of state enforcing
27 agencies to set fees for enforcement shall be derived from
28 authority existing on July 1, 1998. However, nothing contained
29 in this subsection shall operate to limit such agencies from
30 adjusting their fee schedule in conformance with existing
31 authority.

1 Section 25. This act shall take effect upon becoming a
2 law.

3
4 *****

5 SENATE SUMMARY

6 Relates to the Department of Transportation. Redesignates
7 the turnpike district as the turnpike enterprise. Revises
8 out-of-service requirements for commercial motor
9 vehicles. Adds weight requirements for certain commercial
10 trucks. Provides powers and duties for department law
11 enforcement officers. Provides for employee bidding by
12 department employees. Eliminates the cap on innovative
13 highway projects for the turnpike enterprise. Authorizes
14 the department to enter into design-build contracts that
15 include right-of-way acquisition services. Provides an
16 exemption for turnpike enterprise projects. Raises the
17 cap on certain contracts into which the department can
18 enter without first obtaining bids. Expands the projects
19 that can be combined into a design-build contract and
20 provides restrictions. Redesignates the Florida Turnpike
21 Law as the Florida Turnpike Enterprise Law. Redefines the
22 term "economically feasible" as used with respect to
23 turnpike projects. Provides legislative findings, policy,
24 purpose, and intent for the turnpike enterprise.
25 Prescribes the power and authority of the turnpike
26 enterprise. Increases the maximum loan amount for the
27 turnpike enterprise. Authorizes the turnpike enterprise
28 to advertise for bids for contracts before obtaining
29 environmental permits. Authorizes the turnpike enterprise
30 to expand business opportunities. Authorizes the
31 consideration of goods instead of fees. Provides that
approved expenditures to the Florida Highway Patrol be
paid by the turnpike enterprise. Lowers the required cash
reserve for the turnpike enterprise. Provides for
self-regulation.