



1           responsibilities to other governmental entities  
2           under certain circumstances; amending s.  
3           336.41, F.S.; providing for counties to certify  
4           or qualify persons to perform work under  
5           certain contracts; clarifying that a contractor  
6           already qualified by the department is presumed  
7           qualified to perform work described under  
8           contract on county road projects; amending s.  
9           336.44, F.S.; providing that certain contracts  
10          shall be let to the lowest responsible bidder;  
11          amending s. 337.14, F.S.; revising provisions  
12          for qualifying persons to bid on certain  
13          construction contracts; providing for  
14          expressway authorities to certify or qualify  
15          persons to perform work under certain  
16          contracts; clarifying that a contractor  
17          qualified by the department is presumed  
18          qualified to perform work described under  
19          contract on projects for expressway  
20          authorities; amending s. 337.401, F.S.;  
21          providing that for certain projects under the  
22          department's jurisdiction, a utility relocation  
23          schedule and relocation agreement may be  
24          executed in lieu of a written permit; amending  
25          s. 337.408, F.S.; revising language with  
26          respect to the regulation of benches, transit  
27          shelters, and waste disposal receptacles within  
28          rights-of-way; providing for regulation of  
29          street light poles; amending s. 339.08, F.S.;  
30          revising language with respect to the use of  
31          moneys in the State Transportation Trust Fund;

1           amending s. 339.12, F.S.; revising language  
2           relating to compensation to local governments  
3           that perform projects for the department;  
4           amending s. 341.031, F.S.; correcting cross  
5           references; amending s. 341.051, F.S., relating  
6           to financing of public transit capital  
7           projects, and s. 341.053, F.S., relating to  
8           projects eligible for funding under the  
9           Intermodal Development Program; deleting  
10          obsolete language; amending s. 348.0003, F.S.;  
11          authorizing a county governing body to set  
12          qualifications, terms of office, and  
13          obligations and rights for the members of  
14          expressway authorities within their  
15          jurisdictions; amending s. 373.4137, F.S.;  
16          providing for certain expressway, bridge, or  
17          transportation authorities to create  
18          environmental impact inventories and  
19          participate in a mitigation program to offset  
20          adverse impacts caused by their transportation  
21          projects; amending s. 496.425, F.S.; redefining  
22          the term "facility"; creating s. 496.4256,  
23          F.S.; providing that a governmental entity or  
24          authority that owns or operates certain  
25          facilities on the State Highway System is not  
26          required to issue a permit or grant access to  
27          any person for the purpose of soliciting funds;  
28          amending s. 768.28, F.S.; providing that  
29          certain operators of rail services and  
30          providers of security for rail services are  
31          agents of the state for certain purposes;

1 providing for indemnification; providing an  
2 effective date.

3

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

5

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

8 20.23 Department of Transportation.--There is created  
9 a Department of Transportation which shall be a decentralized  
10 agency.

11 (1)(a)~~1.~~ The head of the Department of Transportation  
12 is the Secretary of Transportation. The secretary shall be  
13 appointed by the Governor from among three persons nominated  
14 by the Florida Transportation Commission and shall be subject  
15 to confirmation by the Senate. The secretary shall serve at  
16 the pleasure of the Governor.

17 (b)2. The secretary shall be a proven, effective  
18 administrator who by a combination of education and experience  
19 shall clearly possess a broad knowledge of the administrative,  
20 financial, and technical aspects of the development,  
21 operation, and regulation of transportation systems and  
22 facilities or comparable systems and facilities.

23 ~~(b)1. The secretary shall employ all personnel of the~~  
24 ~~department. He or she shall implement all laws, rules,~~  
25 ~~policies, and procedures applicable to the operation of the~~  
26 ~~department and may not by his or her actions disregard or act~~  
27 ~~in a manner contrary to any such policy. The secretary shall~~  
28 ~~represent the department in its dealings with other state~~  
29 ~~agencies, local governments, special districts, and the~~  
30 ~~Federal Government. He or she shall have authority to sign and~~  
31 ~~execute all documents and papers necessary to carry out his or~~

1 ~~her duties and the operations of the department. At each~~  
2 ~~meeting of the Florida Transportation Commission, the~~  
3 ~~secretary shall submit a report of major actions taken by him~~  
4 ~~or her as official representative of the department.~~

5 ~~2. The secretary shall cause the annual department~~  
6 ~~budget request, the Florida Transportation Plan, and the~~  
7 ~~tentative work program to be prepared in accordance with all~~  
8 ~~applicable laws and departmental policies and shall submit the~~  
9 ~~budget, plan, and program to the Florida Transportation~~  
10 ~~Commission. The commission shall perform an in-depth~~  
11 ~~evaluation of the budget, plan, and program for compliance~~  
12 ~~with all applicable laws and departmental policies. If the~~  
13 ~~commission determines that the budget, plan, or program is not~~  
14 ~~in compliance with all applicable laws and departmental~~  
15 ~~policies, it shall report its findings and recommendations~~  
16 ~~regarding such noncompliance to the Legislature and the~~  
17 ~~Governor.~~

18 ~~(c)3.~~ (c) The secretary shall provide to the Florida  
19 Transportation Commission or its staff, such assistance,  
20 information, and documents as are requested by the commission  
21 or its staff to enable the commission to fulfill its duties  
22 and responsibilities.

23 ~~(d)(c)~~ (d) The secretary shall appoint two ~~three~~ assistant  
24 secretaries who shall be directly responsible to the secretary  
25 and who shall perform such duties as are specified in this  
26 section and such other duties as are assigned by the  
27 secretary. ~~The secretary may delegate to any assistant~~  
28 ~~secretary the authority to act in the absence of the~~  
29 ~~secretary. The department has the authority to adopt rules~~  
30 ~~necessary for the delegation of authority beyond the assistant~~  
31

1 ~~secretaries. The assistant secretaries shall serve at the~~  
2 ~~pleasure of the secretary.~~

3 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and  
4 the assistant secretaries shall be exempt from the provisions  
5 of part III of chapter 110 and shall receive compensation  
6 commensurate with their qualifications and competitive with  
7 compensation for comparable responsibility in the private  
8 sector. When the salary of any assistant secretary exceeds the  
9 limits established in part III of chapter 110, the Governor  
10 shall approve said salary.

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

15 2. Members shall be appointed in such a manner as to  
16 equitably represent all geographic areas of the state. Each  
17 member must be a registered voter and a citizen of the state.  
18 Each member of the commission must also possess business  
19 managerial experience in the private sector.

20 3. A member of the commission shall represent the  
21 transportation needs of the state as a whole and may not  
22 subordinate the needs of the state to those of any particular  
23 area of the state.

24 4. The commission is assigned to the Office of the  
25 Secretary of the Department of Transportation for  
26 administrative and fiscal accountability purposes, but it  
27 shall otherwise function independently of the control and  
28 direction of the department.

29 (b) The commission shall have the primary functions  
30 to:

31

- 1           1. Recommend major transportation policies for the  
2 Governor's approval, and assure that approved policies and any  
3 revisions thereto are properly executed.
- 4           2. Periodically review the status of the state  
5 transportation system including highway, transit, rail,  
6 seaport, intermodal development, and aviation components of  
7 the system and recommend improvements therein to the Governor  
8 and the Legislature.
- 9           3. Perform an in-depth evaluation of the annual  
10 department budget request, the Florida Transportation Plan,  
11 and the tentative work program for compliance with all  
12 applicable laws and established departmental policies. Except  
13 as specifically provided in s. 339.135(4)(c)2., (d), and (f),  
14 the commission may not consider individual construction  
15 projects, but shall consider methods of accomplishing the  
16 goals of the department in the most effective, efficient, and  
17 businesslike manner.
- 18           4. Monitor the financial status of the department on a  
19 regular basis to assure that the department is managing  
20 revenue and bond proceeds responsibly and in accordance with  
21 law and established policy.
- 22           5. Monitor on at least a quarterly basis, the  
23 efficiency, productivity, and management of the department,  
24 using performance and production standards developed by the  
25 commission pursuant to s. 334.045.
- 26           6. Perform an in-depth evaluation of the factors  
27 causing disruption of project schedules in the adopted work  
28 program and recommend to the Legislature and the Governor  
29 methods to eliminate or reduce the disruptive effects of these  
30 factors.
- 31

1           7. Recommend to the Governor and the Legislature  
2 improvements to the department's organization in order to  
3 streamline and optimize the efficiency of the department. In  
4 reviewing the department's organization, the commission shall  
5 determine if the current district organizational structure is  
6 responsive to Florida's changing economic and demographic  
7 development patterns. The initial report by the commission  
8 must be delivered to the Governor and Legislature by December  
9 15, 2000, and each year thereafter, as appropriate. The  
10 commission may retain such experts as are reasonably necessary  
11 to effectuate this subparagraph, and the department shall pay  
12 the expenses of such experts.

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

- 16           1. The awarding of contracts.
- 17           2. The selection of a consultant or contractor or the  
18 prequalification of any individual consultant or contractor.  
19 However, the commission may recommend to the secretary  
20 standards and policies governing the procedure for selection  
21 and prequalification of consultants and contractors.
- 22           3. The selection of a route for a specific project.
- 23           4. The specific location of a transportation facility.
- 24           5. The acquisition of rights-of-way.
- 25           6. The employment, promotion, demotion, suspension,  
26 transfer, or discharge of any department personnel.
- 27           7. The granting, denial, suspension, or revocation of  
28 any license or permit issued by the department.

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

31



1           2. The commission shall hold a minimum of 4 regular  
2 meetings annually, and other meetings may be called by the  
3 chair upon giving at least 1 week's notice to all members and  
4 the public pursuant to chapter 120. Other meetings may also be  
5 held upon the written request of at least four other members  
6 of the commission, with at least 1 week's notice of such  
7 meeting being given to all members and the public by the chair  
8 pursuant to chapter 120. Emergency meetings may be held  
9 without notice upon the request of all members of the  
10 commission. At each meeting of the commission, the secretary  
11 or his or her designee shall submit a report of major actions  
12 taken by him or her as official representative of the  
13 department.

14           3. A majority of the membership of the commission  
15 constitutes a quorum at any meeting of the commission. An  
16 action of the commission is not binding unless the action is  
17 taken pursuant to an affirmative vote of a majority of the  
18 members present, but not fewer than four members of the  
19 commission at a meeting held pursuant to subparagraph 2., and  
20 the vote is recorded in the minutes of that meeting.

21           4. The chair shall cause to be made a complete record  
22 of the proceedings of the commission, which record shall be  
23 open for public inspection.

24           (e) The meetings of the commission shall be held in  
25 the central office of the department in Tallahassee unless the  
26 chair determines that special circumstances warrant meeting at  
27 another location.

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

30           (g) A member of the commission may not have any  
31 interest, direct or indirect, in any contract, franchise,

1 privilege, or other benefit granted or awarded by the  
2 department during the term of his or her appointment and for 2  
3 years after the termination of such appointment.

4 (h) The commission shall appoint an executive director  
5 and assistant executive director, who shall serve under the  
6 direction, supervision, and control of the commission. The  
7 executive director, with the consent of the commission, shall  
8 employ such staff as are necessary to perform adequately the  
9 functions of the commission, within budgetary limitations. All  
10 employees of the commission are exempt from part II of chapter  
11 110 and shall serve at the pleasure of the commission. The  
12 salaries and benefits of all employees of the commission shall  
13 be set in accordance with the Selected Exempt Service;  
14 provided, however, that the commission shall have complete  
15 authority for fixing the salary of the executive director and  
16 assistant executive director.

17 (i) The commission shall develop a budget pursuant to  
18 chapter 216. The budget is not subject to change by the  
19 department, but such budget shall be submitted to the Governor  
20 along with the budget of the department.

21 (3)(a) The central office shall establish departmental  
22 policies, rules, procedures, and standards and shall monitor  
23 the implementation of such policies, rules, procedures, and  
24 standards in order to ensure uniform compliance and quality  
25 performance by the districts and central office units that  
26 implement transportation programs. Major transportation policy  
27 initiatives or revisions shall be submitted to the commission  
28 for review. ~~The central office monitoring function shall be~~  
29 ~~based on a plan that clearly specifies what areas will be~~  
30 ~~monitored, activities and criteria used to measure compliance,~~  
31 ~~and a feedback process that assures monitoring findings are~~

1 ~~reported and deficiencies corrected. The secretary is~~  
2 ~~responsible for ensuring that a central office monitoring~~  
3 ~~function is implemented, and that it functions properly. In~~  
4 ~~conjunction with its monitoring function, the central office~~  
5 ~~shall provide such training and administrative support to the~~  
6 ~~districts as the department determines to be necessary to~~  
7 ~~ensure that the department's programs are carried out in the~~  
8 ~~most efficient and effective manner.~~

9 ~~(b) The resources necessary to ensure the efficiency,~~  
10 ~~effectiveness, and quality of performance by the department of~~  
11 ~~its statutory responsibilities shall be allocated to the~~  
12 ~~central office.~~

13 ~~(b)(c) The secretary shall appoint an Assistant~~  
14 ~~Secretary for Transportation Policy and an Assistant~~  
15 ~~Secretary for Finance and Administration, and an Assistant~~  
16 ~~Secretary for District Operations, each of whom shall serve at~~  
17 ~~the pleasure of the secretary. The positions are responsible~~  
18 ~~for developing, monitoring, and enforcing policy and managing~~  
19 ~~major technical programs. The responsibilities and duties of~~  
20 ~~these positions include, but are not limited to, the following~~  
21 ~~functional areas:~~

22 ~~1. Assistant Secretary for Transportation Policy.==~~

23 ~~a. Development of the Florida Transportation Plan and~~  
24 ~~other policy planning;~~

25 ~~b. Development of statewide modal systems plans,~~  
26 ~~including public transportation systems;~~

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

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

29 ~~e. Acquisition and management of transportation~~  
30 ~~rights-of-way; and~~

31

- 1           ~~f. Administration of motor carrier compliance and~~  
2 ~~safety.~~
- 3           ~~2. Assistant Secretary for District Operations.--~~
- 4           ~~a. Administration of the eight districts; and~~
- 5           ~~b. Implementation of the decentralization of the~~  
6 ~~department.~~
- 7           ~~3. Assistant Secretary for Finance and~~  
8 ~~Administration.--~~
- 9           ~~a. Financial planning and management;~~
- 10          ~~b. Information systems;~~
- 11          ~~c. Accounting systems;~~
- 12          ~~d. Administrative functions; and~~
- 13          ~~e. Administration of toll operations.~~
- 14          ~~(d)1. Policy, program, or operations offices shall be~~  
15 ~~established within the central office for the purposes of:~~
- 16           ~~a. Developing policy and procedures and monitoring~~  
17 ~~performance to ensure compliance with these policies and~~  
18 ~~procedures;~~
- 19           ~~b. Performing statewide activities which it is more~~  
20 ~~cost-effective to perform in a central location;~~
- 21           ~~c. Assessing and ensuring the accuracy of information~~  
22 ~~within the department's financial management information~~  
23 ~~systems; and~~
- 24           ~~d. Performing other activities of a statewide nature.~~
- 25          (c)1.2. The following offices are established and  
26 shall be headed by a manager, each of whom shall be appointed  
27 by and serve at the pleasure of the secretary. The positions  
28 shall be classified at a level equal to a division director:
- 29           a. The Office of Administration.+
- 30           b. The Office of Policy Planning.+
- 31           c. The Office of Design.+

- 1 d. The Office of Highway Operations.~~†~~
- 2 e. The Office of Right-of-Way.~~†~~
- 3 f. The Office of Toll Operations.~~†~~
- 4 g. The Office of Information Systems.~~†~~~~and~~
- 5 h. The Office of Motor Carrier Compliance.
- 6 i. The Office of Management and Budget.
- 7 j. The Office of Comptroller.

8 ~~2.3.~~ Other offices may be established in accordance  
9 with s. 20.04(7). The heads of such offices are exempt from  
10 part II of chapter 110. No office or organization shall be  
11 created at a level equal to or higher than a division without  
12 specific legislative authority.

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

26 ~~(e) The Assistant Secretary for Finance and~~  
27 ~~Administration must possess a broad knowledge of the~~  
28 ~~administrative, financial, and technical aspects of a complete~~  
29 ~~cost-accounting system, budget preparation and management, and~~  
30 ~~management information systems. The Assistant Secretary for~~  
31 ~~Finance and Administration must be a proven, effective manager~~

1 ~~with specialized skills in financial planning and management.~~  
2 ~~The Assistant Secretary for Finance and Administration shall~~  
3 ~~ensure that financial information is processed in a timely,~~  
4 ~~accurate, and complete manner.~~

5 ~~(f)1. Within the central office there is created an~~  
6 ~~Office of Management and Budget. The head of the Office of~~  
7 ~~Management and Budget is responsible to the Assistant~~  
8 ~~Secretary for Finance and Administration and is exempt from~~  
9 ~~part II of chapter 110.~~

10 ~~2. The functions of the Office of Management and~~  
11 ~~Budget include, but are not limited to:~~

12 ~~a. Preparation of the work program;~~

13 ~~b. Preparation of the departmental budget; and~~

14 ~~c. Coordination of related policies and procedures.~~

15 ~~3. The Office of Management and Budget shall also be~~  
16 ~~responsible for developing uniform implementation and~~  
17 ~~monitoring procedures for all activities performed at the~~  
18 ~~district level involving the budget and the work program.~~

19 ~~(d)(g)~~ The secretary shall may appoint an inspector  
20 general pursuant to s. 20.055 who shall be directly  
21 responsible to the secretary and shall serve at the pleasure  
22 of the secretary.

23 ~~(h)1. The secretary shall appoint an inspector general~~  
24 ~~pursuant to s. 20.055. The inspector general may be~~  
25 ~~organizationally located within another unit of the department~~  
26 ~~for administrative purposes, but shall function independently~~  
27 ~~and be directly responsible to the secretary pursuant to s.~~  
28 ~~20.055. The duties of the inspector general shall include, but~~  
29 ~~are not restricted to, reviewing, evaluating, and reporting on~~  
30 ~~the policies, plans, procedures, and accounting, financial,~~  
31 ~~and other operations of the department and recommending~~

1 ~~changes for the improvement thereof, as well as performing~~  
2 ~~audits of contracts and agreements between the department and~~  
3 ~~private entities or other governmental entities. The inspector~~  
4 ~~general shall give priority to reviewing major parts of the~~  
5 ~~department's accounting system and central office monitoring~~  
6 ~~function to determine whether such systems effectively ensure~~  
7 ~~accountability and compliance with all laws, rules, policies,~~  
8 ~~and procedures applicable to the operation of the department.~~  
9 ~~The inspector general shall also give priority to assessing~~  
10 ~~the department's management information systems as required by~~  
11 ~~s. 282.318. The internal audit function shall use the~~  
12 ~~necessary expertise, in particular, engineering, financial,~~  
13 ~~and property appraising expertise, to independently evaluate~~  
14 ~~the technical aspects of the department's operations. The~~  
15 ~~inspector general shall have access at all times to any~~  
16 ~~personnel, records, data, or other information of the~~  
17 ~~department and shall determine the methods and procedures~~  
18 ~~necessary to carry out his or her duties. The inspector~~  
19 ~~general is responsible for audits of departmental operations~~  
20 ~~and for audits of consultant contracts and agreements, and~~  
21 ~~such audits shall be conducted in accordance with generally~~  
22 ~~accepted governmental auditing standards. The inspector~~  
23 ~~general shall annually perform a sufficient number of audits~~  
24 ~~to determine the efficiency and effectiveness, as well as~~  
25 ~~verify the accuracy of estimates and charges, of contracts~~  
26 ~~executed by the department with private entities and other~~  
27 ~~governmental entities. The inspector general has the sole~~  
28 ~~responsibility for the contents of his or her reports, and a~~  
29 ~~copy of each report containing his or her findings and~~  
30 ~~recommendations shall be furnished directly to the secretary~~  
31 ~~and the commission.~~

1           ~~2. In addition to the authority and responsibilities~~  
2 ~~herein provided, the inspector general is required to report~~  
3 ~~to the:~~

4           ~~a. Secretary whenever the inspector general makes a~~  
5 ~~preliminary determination that particularly serious or~~  
6 ~~flagrant problems, abuses, or deficiencies relating to the~~  
7 ~~administration of programs and operations of the department~~  
8 ~~have occurred. The secretary shall review and assess the~~  
9 ~~correctness of the preliminary determination by the inspector~~  
10 ~~general. If the preliminary determination is substantiated,~~  
11 ~~the secretary shall submit such report to the appropriate~~  
12 ~~committees of the Legislature within 7 calendar days, together~~  
13 ~~with a report by the secretary containing any comments deemed~~  
14 ~~appropriate. Nothing in this section shall be construed to~~  
15 ~~authorize the public disclosure of information which is~~  
16 ~~specifically prohibited from disclosure by any other provision~~  
17 ~~of law.~~

18           ~~b. Transportation Commission and the Legislature any~~  
19 ~~actions by the secretary that prohibit the inspector general~~  
20 ~~from initiating, carrying out, or completing any audit after~~  
21 ~~the inspector general has decided to initiate, carry out, or~~  
22 ~~complete such audit. The secretary shall, within 30 days after~~  
23 ~~transmission of the report, set forth in a statement to the~~  
24 ~~Transportation Commission and the Legislature the reasons for~~  
25 ~~his or her actions.~~

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

30           ~~2. The comptroller is the chief financial officer of~~  
31 ~~the department and must be a proven, effective administrator~~



1 ~~who by a combination of education and experience clearly~~  
2 ~~possesses a broad knowledge of the administrative, financial,~~  
3 ~~and technical aspects of a complex cost-accounting system. The~~  
4 ~~comptroller must also have a working knowledge of generally~~  
5 ~~accepted accounting principles. At a minimum, the comptroller~~  
6 ~~must hold an active license to practice public accounting in~~  
7 ~~Florida pursuant to chapter 473 or an active license to~~  
8 ~~practice public accounting in any other state. In addition to~~  
9 ~~the requirements of the Florida Fiscal Accounting Management~~  
10 ~~Information System Act, the comptroller is responsible for the~~  
11 ~~development, maintenance, and modification of an accounting~~  
12 ~~system that will in a timely manner accurately reflect the~~  
13 ~~revenues and expenditures of the department and that includes~~  
14 ~~a cost-accounting system to properly identify, segregate,~~  
15 ~~allocate, and report department costs. The comptroller shall~~  
16 ~~supervise and direct preparation of a detailed 36-month~~  
17 ~~forecast of cash and expenditures and is responsible for~~  
18 ~~managing cash and determining cash requirements. The~~  
19 ~~comptroller shall review all comparative cost studies that~~  
20 ~~examine the cost-effectiveness and feasibility of contracting~~  
21 ~~for services and operations performed by the department. The~~  
22 ~~review must state that the study was prepared in accordance~~  
23 ~~with generally accepted cost-accounting standards applied in a~~  
24 ~~consistent manner using valid and accurate cost data.~~

25 ~~3. The department shall by rule or internal management~~  
26 ~~memoranda as required by chapter 120 provide for the~~  
27 ~~maintenance by the comptroller of financial records and~~  
28 ~~accounts of the department as will afford a full and complete~~  
29 ~~check against the improper payment of bills and provide a~~  
30 ~~system for the prompt payment of the just obligations of the~~  
31 ~~department, which records must at all times disclose:~~

- 1           ~~a. The several appropriations available for the use of~~  
2 ~~the department;~~
- 3           ~~b. The specific amounts of each such appropriation~~  
4 ~~budgeted by the department for each improvement or purpose;~~
- 5           ~~c. The apportionment or division of all such~~  
6 ~~appropriations among the several counties and districts, when~~  
7 ~~such apportionment or division is made;~~
- 8           ~~d. The amount or portion of each such apportionment~~  
9 ~~against general contractual and other liabilities then~~  
10 ~~created;~~
- 11           ~~e. The amount expended and still to be expended in~~  
12 ~~connection with each contractual and other obligation of the~~  
13 ~~department;~~
- 14           ~~f. The expense and operating costs of the various~~  
15 ~~activities of the department;~~
- 16           ~~g. The receipts accruing to the department and the~~  
17 ~~distribution thereof;~~
- 18           ~~h. The assets, investments, and liabilities of the~~  
19 ~~department; and~~
- 20           ~~i. The cash requirements of the department for a~~  
21 ~~36-month period.~~
- 22           ~~4. The comptroller shall maintain a separate account~~  
23 ~~for each fund administered by the department.~~
- 24           ~~5. The comptroller shall perform such other related~~  
25 ~~duties as designated by the department.~~
- 26           (e)(j) The secretary shall appoint a general counsel  
27 who shall be ~~employed full time and shall be directly~~  
28 responsible to the secretary and shall serve at the pleasure  
29 of the secretary. The general counsel is responsible for all  
30 legal matters of the department. The department may employ as  
31

1 many attorneys as it deems necessary to advise and represent  
2 the department in all transportation matters.

3 (f)~~(k)~~ The secretary shall appoint a state  
4 transportation planner ~~who shall report to the Assistant~~  
5 ~~Secretary for Transportation Policy. The state transportation~~  
6 ~~planner's responsibilities shall include, but are not limited~~  
7 ~~to, policy planning, systems planning, and transportation~~  
8 ~~statistics.~~ This position shall be classified at a level equal  
9 to a deputy assistant secretary.

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

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

30 ~~(6)~~ ~~To facilitate the efficient and effective~~  
31 ~~management of the department in a businesslike manner, the~~

1 ~~department shall develop a system for the submission of~~  
2 ~~monthly management reports to the Florida Transportation~~  
3 ~~Commission and secretary from the district secretaries. The~~  
4 ~~commission and the secretary shall determine which reports are~~  
5 ~~required to fulfill their respective responsibilities under~~  
6 ~~this section. A copy of each such report shall be submitted~~  
7 ~~monthly to the appropriations and transportation committees of~~  
8 ~~the Senate and the House of Representatives. Recommendations~~  
9 ~~made by the Auditor General in his or her audits of the~~  
10 ~~department that relate to management practices, systems, or~~  
11 ~~reports shall be implemented in a timely manner. However, if~~  
12 ~~the department determines that one or more of the~~  
13 ~~recommendations should be altered or should not be~~  
14 ~~implemented, it shall provide a written explanation of such~~  
15 ~~determination to the Legislative Auditing Committee within 6~~  
16 ~~months after the date the recommendations were published.~~

17 (6)~~(7)~~ The department is authorized to contract with  
18 local governmental entities and with the private sector if the  
19 department first determines that:

20 (a) Consultants can do the work at less cost than  
21 state employees;

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

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

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

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

3  
4 Such contracts shall require compliance with applicable  
5 federal and state laws, and clearly specify the product or  
6 service to be provided.

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

9           110.205 Career service; exemptions.--

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

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

1 (m) All assistant division director, deputy division  
2 director, and bureau chief positions in any department, and  
3 those positions determined by the department to have  
4 managerial responsibilities comparable to such positions,  
5 which positions include, but are not limited to, positions in  
6 the Department of Health, the Department of Children and  
7 Family Services, and the Department of Corrections that are  
8 assigned primary duties of serving as the superintendent or  
9 assistant superintendent, or warden or assistant warden, of an  
10 institution; positions in the Department of Corrections that  
11 are assigned primary duties of serving as the circuit  
12 administrator or deputy circuit administrator; positions in  
13 the Department of Transportation that are assigned primary  
14 duties of serving as regional toll managers and managers of  
15 offices as defined in s. 20.23(3)(c)2.~~(d)3.~~ and (4)(d);  
16 positions in the Department of Environmental Protection that  
17 are assigned the duty of an Environmental Administrator or  
18 program administrator; those positions described in s. 20.171  
19 as included in the Senior Management Service; and positions in  
20 the Department of Health that are assigned the duties of  
21 Environmental Administrator, Assistant County Health  
22 Department Director, and County Health Department Financial  
23 Administrator. Unless otherwise fixed by law, the department  
24 shall set the salary and benefits of these positions in  
25 accordance with the rules established for the Selected Exempt  
26 Service.

27 Section 3. Section 189.441, Florida Statutes, is  
28 amended to read:

29 189.441 Contracts.--Contracts for the construction of  
30 projects and for any other purpose of the authority may be  
31 awarded by the authority in a manner that will best promote

1 free and open competition, including advertisement for  
2 competitive bids; however, if the authority determines that  
3 the purposes of this act will be more effectively served  
4 thereby, the authority may award or cause to be awarded  
5 contracts for the construction of any project, including  
6 design-build contracts, or any part thereof, or for any other  
7 purpose of the authority upon a negotiated basis as determined  
8 by the authority. Each contractor doing business with the  
9 authority and required to be licensed by the state or local  
10 general-purpose governments must maintain the license during  
11 the term of the contract with the authority. The authority may  
12 prescribe bid security requirements and other procedures in  
13 connection with the award of contracts which protect the  
14 public interest. ~~Section 287.055 does not apply to the~~  
15 ~~selection of professional architectural, engineering,~~  
16 ~~landscape architectural, or land surveying services by the~~  
17 ~~authority or to the procurement of design-build contracts.~~The  
18 authority may, and in the case of a new professional sports  
19 franchise must, by written contract engage the services of the  
20 operator, lessee, sublessee, or purchaser, or prospective  
21 operator, lessee, sublessee, or purchaser, of any project in  
22 the construction of the project and may, and in the case of a  
23 new professional sports franchise must, provide in the  
24 contract that the lessee, sublessee, purchaser, or prospective  
25 lessee, sublessee, or purchaser, may act as an agent of, or an  
26 independent contractor for, the authority for the performance  
27 of the functions described therein, subject to the conditions  
28 and requirements prescribed in the contract, including  
29 functions such as the acquisition of the site and other real  
30 property for the project; the preparation of plans,  
31 specifications, financing, and contract documents; the award

1 of construction and other contracts upon a competitive or  
2 negotiated basis; the construction of the project, or any part  
3 thereof, directly by the lessee, purchaser, or prospective  
4 lessee or purchaser; the inspection and supervision of  
5 construction; the employment of engineers, architects,  
6 builders, and other contractors; and the provision of money to  
7 pay the cost thereof pending reimbursement by the authority.  
8 Any such contract may, and in the case of a new professional  
9 sports franchise must, allow the authority to make advances to  
10 or reimburse the lessee, sublessee, or purchaser, or  
11 prospective lessee, sublessee, or purchaser for its costs  
12 incurred in the performance of those functions, and must set  
13 forth the supporting documents required to be submitted to the  
14 authority and the reviews, examinations, and audits that are  
15 required in connection therewith to assure compliance with the  
16 contract.

17 Section 4. Subsection (2) of section 215.615, Florida  
18 Statutes, is amended to read:

19 215.615 Fixed-guideway transportation systems  
20 funding.--

21 (2) To be eligible for participation, fixed-guideway  
22 transportation system projects must ~~comply with the major~~  
23 ~~capital investment policy guidelines and criteria established~~  
24 ~~by the Department of Transportation under chapter 341;~~ must be  
25 found to be consistent, to the maximum extent feasible, with  
26 approved local government comprehensive plans of the local  
27 governments in which such projects are located and must be  
28 included in the work program of the Department of  
29 Transportation pursuant to the provisions under s. 339.135.  
30 The department shall certify that the expected useful life of  
31



1 the transportation improvements will equal or exceed the  
2 maturity date of the debt to be issued.

3 Section 5. Paragraph (a) of subsection (1) of section  
4 255.20, Florida Statutes, is amended to read:

5 255.20 Local bids and contracts for public  
6 construction works; specification of state-produced lumber.--

7 (1) A county, municipality, special district as  
8 defined in chapter 189, or other political subdivision of the  
9 state seeking to construct or improve a public building,  
10 structure, or other public construction works must  
11 competitively award to an appropriately licensed contractor  
12 each project that is estimated in accordance with generally  
13 accepted cost-accounting principles to have total construction  
14 project costs of more than \$200,000. For electrical work,  
15 local government must competitively award to an appropriately  
16 licensed contractor each project that is estimated in  
17 accordance with generally accepted cost-accounting principles  
18 to have a cost of more than \$50,000. As used in this section,  
19 the term "competitively award" means to award contracts based  
20 on the submission of sealed bids, proposals submitted in  
21 response to a request for proposal, proposals submitted in  
22 response to a request for qualifications, or proposals  
23 submitted for competitive negotiation. This subsection  
24 expressly allows contracts for construction management  
25 services, design/build contracts, continuation contracts based  
26 on unit prices, and any other contract arrangement with a  
27 private sector contractor permitted by any applicable  
28 municipal or county ordinance, by district resolution, or by  
29 state law. For purposes of this section, construction costs  
30 include the cost of all labor, except inmate labor, and  
31 include the cost of equipment and materials to be used in the

1 construction of the project. Subject to the provisions of  
2 subsection (3), the county, municipality, special district, or  
3 other political subdivision may establish, by municipal or  
4 county ordinance or special district resolution, procedures  
5 for conducting the bidding process.

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

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

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

13 b. Other loss to public or private property which  
14 requires emergency government action; or

15 c. An interruption of an essential governmental  
16 service.

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

20 3. To construction, remodeling, repair, or improvement  
21 to a public electric or gas utility system when such work on  
22 the public utility system is performed by personnel of the  
23 system.

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

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

29 6. When the project is undertaken exclusively as part  
30 of a public educational program.

31

1           7. When the funding source of the project will be  
2 diminished or lost because the time required to competitively  
3 award the project after the funds become available exceeds the  
4 time within which the funding source must be spent.

5           8. When the local government has competitively awarded  
6 a project to a private sector contractor and the contractor  
7 has abandoned the project before completion or the local  
8 government has terminated the contract.

9           9. When the governing board of the local government,  
10 after public notice, conducts a public meeting under s.  
11 286.011 and finds by a majority vote of the governing board  
12 that it is in the public's best interest to perform the  
13 project using its own services, employees, and equipment. The  
14 public notice must be published at least 14 days prior to the  
15 date of the public meeting at which the governing board takes  
16 final action to apply this subparagraph. The notice must  
17 identify the project, the estimated cost of the project, and  
18 specify that the purpose for the public meeting is to consider  
19 whether it is in the public's best interest to perform the  
20 project using the local government's own services, employees,  
21 and equipment. In deciding whether it is in the public's best  
22 interest for local government to perform a project using its  
23 own services, employees, and equipment, the governing board  
24 may consider the cost of the project, whether the project  
25 requires an increase in the number of government employees, an  
26 increase in capital expenditures for public facilities,  
27 equipment or other capital assets, the impact on local  
28 economic development, the impact on small and minority  
29 business owners, the impact on state and local tax revenues,  
30 whether the private sector contractors provide health  
31 insurance and other benefits equivalent to those provided by

1 the local government, and any other factor relevant to what is  
2 in the public's best interest.

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

15           a. When the governing board of the local government,  
16 after public notice, conducts a public meeting under s.  
17 286.011 and finds by a two-thirds vote of the governing board  
18 that it is in the public's best interest to award the project  
19 according to the criteria and procedures established by  
20 charter, ordinance, or resolution. The public notice must be  
21 published at least 14 days prior to the date of the public  
22 meeting at which the governing board takes final action to  
23 apply this subparagraph. The notice must identify the project,  
24 the estimated cost of the project, and specify that the  
25 purpose for the public meeting is to consider whether it is in  
26 the public's best interest to award the project using the  
27 criteria and procedures permitted by the preexisting  
28 ordinance.

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

1 (I) There is one appropriately licensed contractor who  
2 is uniquely qualified to undertake the project because that  
3 contractor is currently under contract to perform work that is  
4 affiliated with the project; or

5 (II) The time to competitively award the project will  
6 jeopardize the funding for the project, or will materially  
7 increase the cost of the project or will create an undue  
8 hardship on the public health, safety, or welfare.

9 c. In the event the project is to be awarded by any  
10 method other than a competitive selection process, the  
11 published notice must clearly specify the ordinance or  
12 resolution by which the private sector contractor will be  
13 selected and the criteria to be considered.

14 d. In the event the project is to be awarded by a  
15 method other than a competitive selection process, the  
16 architect or engineer of record has provided a written  
17 recommendation that the project be awarded to the private  
18 sector contractor without competitive selection; and the  
19 consideration by, and the justification of, the government  
20 body are documented, in writing, in the project file and are  
21 presented to the governing board prior to the approval  
22 required in this paragraph.

23 11. To projects subject to chapter 336.

24 Section 6. Paragraph (g) of subsection (2) of section  
25 287.055, Florida Statutes, is amended to read:

26 287.055 Acquisition of professional architectural,  
27 engineering, landscape architectural, or surveying and mapping  
28 services; definitions; procedures; contingent fees prohibited;  
29 penalties.--

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

31

1           (g) A "continuing contract" is a contract for  
2 professional services entered into in accordance with all the  
3 procedures of this act between an agency and a firm whereby  
4 the firm provides professional services to the agency for  
5 projects in which construction costs do not exceed\$1 million  
6 ~~\$500,000~~, for study activity when the fee for such  
7 professional service does not exceed\$50,000~~\$25,000~~, or for  
8 work of a specified nature as outlined in the contract  
9 required by the agency, with no time limitation except that  
10 the contract must provide a termination clause.

11           Section 7. Subsection (5) and paragraph (b) of  
12 subsection (15) of section 334.044, Florida Statutes, are  
13 amended to read:

14           334.044 Department; powers and duties.--The department  
15 shall have the following general powers and duties:

16           (5) To purchase, lease, or otherwise acquire property  
17 and materials, including the purchase of promotional items as  
18 part of public information and education campaigns for the  
19 promotion of scenic highways, traffic and train safety  
20 awareness, alternatives to single-occupant vehicle travel, and  
21 commercial motor vehicle safety; to purchase, lease, or  
22 otherwise acquire equipment and supplies; and to sell,  
23 exchange, or otherwise dispose of any property that is no  
24 longer needed by the department.

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

28           (b) The department is specifically authorized to adopt  
29 rules which set forth the purpose; necessary definitions;  
30 permit exceptions; permit and assurance requirements; permit  
31 application procedures; permit forms; general conditions for a

1 drainage permit; provisions for suspension or revocation of a  
2 permit; and provisions for department recovery of fines,  
3 penalties, and costs incurred due to permittee actions. In  
4 order to avoid duplication and overlap with other units of  
5 government, the department shall accept a surface water  
6 management permit issued by a water management district, the  
7 Department of Environmental Protection, or a surface water  
8 ~~management permit issued by~~ a delegated local government, or a  
9 permit issued pursuant to an approved Stormwater Management  
10 Plan or Master Drainage Plan, provided issuance is based on  
11 requirements equal to or more stringent than those of the  
12 department. The department may enter into a permit delegation  
13 agreement with a governmental entity provided issuance is  
14 based on requirements that the department determines will  
15 ensure the safety and integrity of Department of  
16 Transportation facilities.

17 Section 8. Subsection (4) is added to section 336.41,  
18 Florida Statutes, to read:

19 336.41 Counties; employing labor and providing road  
20 equipment; accounting; when competitive bidding required.--

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

1 consideration with de novo review based on the record below to  
2 the circuit court.

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

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

18 Section 9. Subsection (2) of section 336.44, Florida  
19 Statutes, is amended to read:

20 336.44 Counties; contracts for construction of roads;  
21 procedure; contractor's bond.--

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

28 Section 10. Subsection (4) of section 337.14, Florida  
29 Statutes, is amended, and subsection (9) is added to said  
30 section, to read:

31



1           337.14 Application for qualification; certificate of  
2 qualification; restrictions; request for hearing.--

3           (4) If the applicant is found to possess the  
4 prescribed qualifications, the department shall issue to him  
5 or her a certificate of qualification that ~~which~~, unless  
6 thereafter revoked by the department for good cause, will be  
7 valid for a period of 18 ~~16~~ months after ~~from~~ the date of the  
8 applicant's financial statement or such shorter period as the  
9 department prescribes ~~may prescribe~~. ~~If in the event~~ the  
10 department finds that an application is incomplete or contains  
11 inadequate information or information that ~~which~~ cannot be  
12 verified, the department may request in writing that the  
13 applicant provide the necessary information to complete the  
14 application or provide the source from which any information  
15 in the application may be verified. If the applicant fails to  
16 comply with the initial written request within a reasonable  
17 period of time as specified therein, the department shall  
18 request the information a second time. If the applicant fails  
19 to comply with the second request within a reasonable period  
20 of time as specified therein, the application shall be denied.

21           (9)(a) Notwithstanding any other law to the contrary,  
22 for contracts in excess of \$250,000, an authority created  
23 pursuant to chapter 348 or chapter 349 may require that  
24 persons interested in performing work under contract first be  
25 certified or qualified to do the work. Any contractor may be  
26 considered ineligible to bid by the governmental entity or  
27 authority if the contractor is behind an approved progress  
28 schedule for the governmental entity or authority by 10  
29 percent or more at the time of advertisement of the work. Any  
30 contractor prequalified and considered eligible by the  
31 department to bid to perform the type of work described under

1 the contract shall be presumed to be qualified to perform the  
2 work so described. The governmental entity or authority may  
3 provide an appeal process to overcome that presumption with de  
4 novo review based on the record below to the circuit court.

5 (b) With respect to contractors not prequalified with  
6 the department, the authority shall publish prequalification  
7 criteria and procedures prior to advertisement or notice of  
8 solicitation. Such publications shall include notice of a  
9 public hearing for comment on such criteria and procedures  
10 prior to adoption. The procedures shall provide for an appeal  
11 process within the authority for objections to the  
12 prequalification process with de novo review based on the  
13 record below to the circuit court within 30 days.

14 (c) An authority may establish criteria and procedures  
15 under which contractor selection may occur on a basis other  
16 than the lowest responsible bidder. Prior to adoption, the  
17 authority shall publish for comment the proposed criteria and  
18 procedures. Review of the adopted criteria and procedures  
19 shall be to the circuit court, within 30 days after adoption,  
20 with de novo review based on the record below.

21 Section 11. Subsection (2) of section 337.401, Florida  
22 Statutes, is amended to read:

23 337.401 Use of right-of-way for utilities subject to  
24 regulation; permit; fees.--

25 (2) The authority may grant to any person who is a  
26 resident of this state, or to any corporation which is  
27 organized under the laws of this state or licensed to do  
28 business within this state, the use of a right-of-way for the  
29 utility in accordance with such rules or regulations as the  
30 authority may adopt. No utility shall be installed, located,  
31 or relocated unless authorized by a written permit issued by

1 the authority. However, for public roads or publicly owned  
2 rail corridors under the jurisdiction of the department, a  
3 utility relocation schedule and relocation agreement may be  
4 executed in lieu of a written permit.The permit shall require  
5 the permitholder to be responsible for any damage resulting  
6 from the issuance of such permit. The authority may initiate  
7 injunctive proceedings as provided in s. 120.69 to enforce  
8 provisions of this subsection or any rule or order issued or  
9 entered into pursuant thereto.

10 Section 12. Subsection (5) of section 337.408, Florida  
11 Statutes, is renumbered as subsection (6), and a new  
12 subsection (5) is added to said section to read:

13 337.408 Regulation of benches, transit shelters,  
14 street light poles,and waste disposal receptacles within  
15 rights-of-way.--

16 (5) Street light poles, including attached public  
17 service messages and advertisements, may be located within the  
18 right-of-way limits of municipal and county roads in the same  
19 manner as benches, transit shelters, and waste disposal  
20 receptacles as provided in this section and in accordance with  
21 municipal and county ordinances. Public service messages and  
22 advertisements may be installed on street light poles on roads  
23 on the State Highway System in accordance with height, size,  
24 setback, spacing distance, duration of display, safety,  
25 traffic control, and permitting requirements established by  
26 administrative rule of the Department of Transportation.  
27 Public service messages and advertisements shall be subject to  
28 bilateral agreements, where applicable, to be negotiated with  
29 the owner of the street light poles, which shall consider,  
30 among other things, power source rates, design, safety,  
31 operational and maintenance concerns, and other matters of

1 public importance. For the purposes of this section, the term  
2 "street light poles" does not include electric transmission or  
3 distribution poles. The department shall have authority to  
4 establish administrative rules to implement this subsection.  
5 No advertising on light poles shall be permitted on the  
6 Interstate Highway System. No permanent structures carrying  
7 advertisements attached to light poles shall be permitted on  
8 the National Highway System.

9 Section 13. Subsections (1) and (2) of section 339.08,  
10 Florida Statutes, are amended to read:

11 339.08 Use of moneys in State Transportation Trust  
12 Fund.--

13 (1) The department shall expend ~~by rule provide for~~  
14 ~~the expenditure of the~~ moneys in the State Transportation  
15 Trust Fund accruing to the department, in accordance with its  
16 annual budget.

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

19 (a) To pay administrative expenses of the department,  
20 including administrative expenses incurred by the several  
21 state transportation districts, but excluding administrative  
22 expenses of commuter rail authorities that do not operate rail  
23 service.

24 (b) To pay the cost of construction of the State  
25 Highway System.

26 (c) To pay the cost of maintaining the State Highway  
27 System.

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

30  
31

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

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

6           (g) To lend or pay a portion of the operating,  
7 maintenance, and capital costs of a revenue-producing  
8 transportation project that is located on the State Highway  
9 System or that is demonstrated to relieve traffic congestion  
10 on the State Highway System.

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

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

17           (j) To pay the cost of county or municipal road  
18 projects selected in accordance with the County Incentive  
19 Grant Program created in s. 339.2817 and the Small County  
20 Outreach Program created in s. 339.2818.

21           (k) To provide loans and credit enhancements for use  
22 in constructing and improving highway transportation  
23 facilities selected in accordance with the state-funded  
24 infrastructure bank created in s. 339.55.

25           (l) To fund the Transportation Outreach Program  
26 created in s. 339.137.

27           (m) To pay other lawful expenditures of the  
28 department.

29           Section 14. Subsection (5) of section 339.12, Florida  
30 Statutes, is amended to read:

31

1           339.12 Aid and contributions by governmental entities  
2 for department projects; federal aid.--

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

19           Section 15. Subsections (8) and (10) of section  
20 341.031, Florida Statutes, are amended to read:

21           341.031 Definitions relating to Florida Public Transit  
22 Act.--As used in ss. 341.011-341.061, the term:

23           (8) "Public transit service development project" means  
24 a project undertaken by a public agency to determine whether a  
25 new or innovative technique or measure can be utilized to  
26 improve or expand public transit services to its constituency.  
27 The duration of the project shall be limited according to the  
28 type of the project in conformance with the provisions of s.  
29 341.051(5)(e)(~~f~~), but in no case shall exceed a period of 3  
30 years. Public transit service development projects  
31 specifically include projects involving the utilization of new

1 technologies, services, routes, or vehicle frequencies; the  
2 purchase of special transportation services; and other such  
3 techniques for increasing service to the riding public as are  
4 applicable to specific localities and transit user groups.

5 (10) "Transit corridor project" means a project that  
6 is undertaken by a public agency and designed to relieve  
7 congestion and improve capacity within an identified  
8 transportation corridor by increasing people-carrying capacity  
9 of the system through the use and facilitated movement of  
10 high-occupancy conveyances. Each transit corridor project  
11 must meet the requirements established in s. 341.051(5)(d)(~~e~~)  
12 ~~and, if applicable, the requirements of the department's major~~  
13 ~~capital investment policy developed pursuant to s.~~  
14 ~~341.051(5)(b)~~. Initial project duration shall not exceed a  
15 period of 2 years unless the project is reauthorized by the  
16 Legislature. Such reauthorization shall be based upon a  
17 determination that the project is meeting or exceeding the  
18 criteria, developed pursuant to s. 341.051(5)(d)(~~e~~), by which  
19 the success of the project is being judged and by inclusion of  
20 the project in a departmental appropriation request.

21 Section 16. Subsection (5) of section 341.051, Florida  
22 Statutes, is amended to read:

23 341.051 Administration and financing of public transit  
24 programs and projects.--

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

26 (a) The department may fund up to 50 percent of the  
27 nonfederal share of the costs, not to exceed the local share,  
28 of any eligible public transit capital project or commuter  
29 assistance project that is local in scope; except, however,  
30 that departmental participation in the final design,  
31 right-of-way acquisition, and construction phases of an

1 individual fixed-guideway project which is not approved for  
2 federal funding shall not exceed an amount equal to 12.5  
3 percent of the total cost of each phase.

4 ~~(b) The Department of Transportation shall develop a~~  
5 ~~major capital investment policy which shall include policy~~  
6 ~~criteria and guidelines for the expenditure or commitment of~~  
7 ~~state funds for public transit capital projects. The policy~~  
8 ~~shall include the following:~~

9 1. ~~Methods to be used to determine consistency of a~~  
10 ~~transit project with the approved local government~~  
11 ~~comprehensive plans of the units of local government in which~~  
12 ~~the project is located.~~

13 2. ~~Methods for evaluating the level of local~~  
14 ~~commitment to a transit project, which is to be demonstrated~~  
15 ~~through system planning and the development of a feasible plan~~  
16 ~~to fund operating cost through fares, value capture techniques~~  
17 ~~such as joint development and special districts, or other~~  
18 ~~local funding mechanisms.~~

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

22 (b)(c) The department is authorized to fund up to 100  
23 percent of the cost of any eligible transit capital project or  
24 commuter assistance project that is statewide in scope or  
25 involves more than one county where no other governmental  
26 entity or appropriate jurisdiction exists.

27 (c)(d) The department is authorized to advance up to  
28 80 percent of the capital cost of any eligible project that  
29 will assist Florida's transit systems in becoming fiscally  
30 self-sufficient. Such advances shall be reimbursed to the  
31



1 department on an appropriate schedule not to exceed 5 years  
2 after the date of provision of the advances.

3 (d)~~(e)~~ The department is authorized to fund up to 100  
4 percent of the capital and net operating costs of statewide  
5 transit service development projects or transit corridor  
6 projects. All transit service development projects shall be  
7 specifically identified by way of a departmental appropriation  
8 request, and transit corridor projects shall be identified as  
9 part of the planned improvements on each transportation  
10 corridor designated by the department. The project objectives,  
11 the assigned operational and financial responsibilities, the  
12 timeframe required to develop the required service, and the  
13 criteria by which the success of the project will be judged  
14 shall be documented by the department for each such transit  
15 service development project or transit corridor project.

16 (e)~~(f)~~ The department is authorized to fund up to 50  
17 percent of the capital and net operating costs of transit  
18 service development projects that are local in scope and that  
19 will improve system efficiencies, ridership, or revenues. All  
20 such projects shall be identified in the appropriation request  
21 of the department through a specific program of projects, as  
22 provided for in s. 341.041, that is selectively applied in the  
23 following functional areas and is subject to the specified  
24 times of duration:

25 1. Improving system operations, including, but not  
26 limited to, realigning route structures, increasing system  
27 average speed, decreasing deadhead mileage, expanding area  
28 coverage, and improving schedule adherence, for a period of up  
29 to 3 years;

30 2. Improving system maintenance procedures, including,  
31 but not limited to, effective preventive maintenance programs,

1 improved mechanics training programs, decreasing service  
2 repair calls, decreasing parts inventory requirements, and  
3 decreasing equipment downtime, for a period of up to 3 years;  
4         3. Improving marketing and consumer information  
5 programs, including, but not limited to, automated information  
6 services, organized advertising and promotion programs, and  
7 signing of designated stops, for a period of up to 2 years;  
8 and  
9         4. Improving technology involved in overall  
10 operations, including, but not limited to, transit equipment,  
11 fare collection techniques, electronic data processing  
12 applications, and bus locators, for a period of up to 2 years.

13  
14 For purposes of this section, the term "net operating costs"  
15 means all operating costs of a project less any federal funds,  
16 fares, or other sources of income to the project.

17         Section 17. Subsection (6) of section 341.053, Florida  
18 Statutes, is amended to read:

19         341.053 Intermodal Development Program;  
20 administration; eligible projects; limitations.--

21         (6) The department is authorized to fund projects  
22 within the Intermodal Development Program, which are  
23 consistent, to the maximum extent feasible, with approved  
24 local government comprehensive plans of the units of local  
25 government in which the project is located. Projects that are  
26 eligible for funding under this program include major capital  
27 investments in public rail and fixed-guideway transportation  
28 facilities and systems which provide intermodal access ~~and~~  
29 ~~which, if approved after July 1, 1991, have complied with the~~  
30 ~~requirement of the department's major capital investment~~  
31 ~~policy~~; road, rail, or fixed-guideway access to, from, or

1 between seaports, airports, and other transportation  
2 terminals; construction of intermodal or multimodal terminals;  
3 development and construction of dedicated bus lanes; and  
4 projects which otherwise facilitate the intermodal or  
5 multimodal movement of people and goods.

6 Section 18. Paragraph (d) of subsection (2) of section  
7 348.0003, Florida Statutes, is amended to read:

8 348.0003 Expressway authority; formation;  
9 membership.--

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

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

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

12 Section 19. Section 373.4137, Florida Statutes, is  
13 amended to read:

14 373.4137 Mitigation requirements.--

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

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

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

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

22           (3)(a) To fund the mitigation plan for the projected  
23 impacts identified in the inventory described in subsection  
24 (2), the Department of Transportation shall identify funds  
25 quarterly in an escrow account within the State Transportation  
26 Trust Fund for the environmental mitigation phase of projects  
27 budgeted by the Department of Transportation for the current  
28 fiscal year. The escrow account shall be maintained by the  
29 Department of Transportation for the benefit of the Department  
30 of Environmental Protection and the water management  
31

1 districts. Any interest earnings from the escrow account shall  
2 remain with the Department of Transportation.

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

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

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

26 (4) Prior to December 1 of each year, each water  
27 management district, in consultation with the Department of  
28 Environmental Protection, the United States Army Corps of  
29 Engineers, the Department of Transportation, transportation  
30 authorities established pursuant to chapter 348 or chapter  
31 349, and other appropriate federal, state, and local

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



1 district shall provide a copy of the draft mitigation plan to  
2 any person who has requested a copy.

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

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

20 (c) Surface water improvement and management or  
21 invasive plant control projects undertaken using the \$12  
22 million advance transferred from the Department of  
23 Transportation to the Department of Environmental Protection  
24 in fiscal year 1996-1997 which meet the requirements for  
25 mitigation under this part and 33 U.S.C. s. 1344 shall remain  
26 available for mitigation until the \$12 million is fully  
27 credited up to and including fiscal year 2004-2005. When these  
28 projects are used as mitigation, the \$12 million advance shall  
29 be reduced by \$75,000 per acre of impact mitigated. For any  
30 fiscal year through and including fiscal year 2004-2005, to  
31 the extent the cost of developing and implementing the

1 mitigation plans is less than the amount transferred pursuant  
2 to subsection (3), the difference shall be credited towards  
3 the \$12 million advance. Except as provided in this paragraph,  
4 any funds not directed to implement the mitigation plan  
5 should, to the greatest extent possible, be directed to fund  
6 invasive plant control within wetlands and other surface  
7 waters.

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

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

30 (7) Upon approval by the secretary of the Department  
31 of Environmental Protection, the mitigation plan shall be

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

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

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

1 program information. A water management district may draw down  
2 funds from the escrow account as provided in this section.

3 Section 20. Paragraph (b) of subsection (1) of section  
4 496.425, Florida Statutes, is amended to read:

5 496.425 Solicitation of funds within public  
6 transportation facilities.--

7 (1) As used in this section:

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

13 Section 21. Section 496.4256, Florida Statutes, is  
14 created to read:

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

22 Section 22. Paragraph (d) is added to subsection (10)  
23 of section 768.28, Florida Statutes, to read:

24 768.28 Waiver of sovereign immunity in tort actions;  
25 recovery limits; limitation on attorney fees; statute of  
26 limitations; exclusions; indemnification; risk management  
27 programs.--

28 (10)

29 (d) For the purposes of this section, operators of  
30 rail services and providers of security for rail services, or  
31 any of their employees or agents, that have contractually

1 agreed to act as agents of the Tri-County Commuter Rail  
2 Authority to operate rail services or provide security for  
3 rail services shall be considered agents of the state while  
4 acting within the scope of and pursuant to guidelines  
5 established in said contract or by rule. The contract shall  
6 provide for the indemnification of the state by the agent for  
7 any liability incurred up to the limits set out in this  
8 chapter.

9           Section 23. This act shall take effect July 1, 2002.

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HOUSE SUMMARY

Reorganizes offices and functions within the Department of Transportation and revises responsibilities of the secretary. Revises provisions relating to contracts with an authority under the Community Improvement Authority Act. Exempts certain transportation projects from certain competitive bidding requirements. Increases the amount defining a continuing contract. Authorizes expenditure for items that promote scenic highway projects. Authorizes delegation of drainage permitting responsibilities. Provides for counties to certify or qualify persons to perform work under certain contracts. Provides that certain contracts shall be let to the lowest responsible bidder. Revises provisions for qualifying persons to bid on certain construction contracts. Provides for expressway authorities to certify or qualify persons to perform work under certain contracts. Clarifies that a contractor qualified by the department is presumed qualified to perform work described under contract. Provides that, for certain projects, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit. Provides for regulation of street light poles. Revises provisions for the use of moneys in the State Transportation Trust Fund, financing of public transit capital projects, and projects eligible for funding under the Intermodal Development Program. Authorizes a county governing body to set qualifications, terms of office, and obligations and rights for the members of expressway authorities. Provides for certain authorities to create environmental impact inventories and participate in mitigation programs. Provides that a governmental entity or authority that owns or operates certain facilities on the State Highway System is not required to issue a permit or grant access for the purpose of soliciting funds. Provides that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes and provides for indemnification.