

By the Council for Ready Infrastructure and
Representatives Russell and Slosberg

1 A bill to be entitled
2 An act relating to transportation; amending s.
3 20.23, F.S.; revising provisions relating to
4 the organization of the Department of
5 Transportation; deleting certain
6 responsibilities of the secretary; requiring
7 the secretary to submit a report on major
8 actions at each meeting of the Florida
9 Transportation Commission; revising provisions
10 relating to assistant secretaries; reducing the
11 number of assistant secretaries; creating the
12 Office of Comptroller; deleting provisions
13 relating to the inspector general and
14 comptroller; repealing s. 59, ch. 99-385, Laws
15 of Florida; abrogating the repeal of provisions
16 governing business damages in eminent domain
17 actions; amending s. 73.071, F.S.; providing
18 for the age required of a standing business in
19 order to qualify for business damages; amending
20 s. 110.205, F.S.; correcting cross references,
21 to conform; amending s. 163.3177, F.S.; adding
22 airport master plans that have specified
23 components to comprehensive plans; creating
24 exemption to development of regional impact
25 review if certain conditions are met; amending
26 s. 189.441, F.S., relating to contracts with an
27 authority under the Community Improvement
28 Authority Act; removing an exemption from s.
29 287.055, F.S., related to procurement of
30 specified services; amending s. 215.615, F.S.,
31 relating to funding of fixed-guideway

1 transportation systems; deleting obsolete
2 language; amending s. 255.20, F.S.; exempting
3 certain transportation projects from certain
4 competitive bidding requirements; amending s.
5 287.055, F.S.; increasing the amount defining a
6 continuing contract; amending s. 311.09, F.S.;
7 providing for application of s. 287.055, F.S.,
8 the Consultants' Competitive Negotiation Act,
9 to seaports; amending s. 315.02, F.S.;
10 redefining the terms "unit" and "port
11 facilities" for purposes of port facilities
12 financing; including seaport security projects
13 within the meaning of "port facility"; amending
14 s. 315.03, F.S.; authorizing certain entities
15 to participate in certain federal loan
16 programs; providing for oversight by the
17 Florida Seaport Transportation and Economic
18 Development Council; requiring annual reports;
19 requiring legislative review; amending s.
20 316.003, F.S.; revising definition of "motor
21 vehicle"; defining the terms "electric personal
22 assistive mobility device" and "motorized
23 scooter"; creating s. 316.2068, F.S.; providing
24 regulations for electric personal assistive
25 mobility devices; amending s. 316.515, F.S.;
26 revising size requirement provisions for
27 vehicles transporting certain agricultural
28 products; allowing the Department of
29 Transportation to issue permits for certain
30 vehicles; amending s. 316.520, F.S.; exempting
31 certain vehicles from covering requirements;

1 creating s. 316.80, F.S.; establishing
2 penalties for persons who transport motor or
3 diesel fuel in unlawful containers;
4 establishing penalties for use of stolen or
5 illegal payment access devices; providing for
6 forfeiture; providing for costs; amending s.
7 320.08056, F.S.; providing use fees for the
8 Florida Firefighters license plate and the
9 Police Benevolent Association license plate;
10 amending s. 320.08058, F.S.; providing for
11 creation of the Florida Firefighters license
12 plate and the Police Benevolent Association
13 license plate; providing for the distribution
14 of use fees received from the sale of such
15 plates; amending s. 332.004, F.S.; revising the
16 definition of "airport or aviation development
17 project" for purposes of the Florida Airport
18 Development and Assistance Act to add certain
19 noise mitigation projects; amending s. 332.007,
20 F.S.; extending expiration date of provisions
21 relating to economic assistance to airports for
22 certain projects; extending due date of certain
23 loans for certain airports; amending s. 333.06,
24 F.S.; adding requirements for an airport master
25 plan; amending s. 334.044, F.S.; authorizing
26 the department to expend money on items that
27 promote scenic highway projects; authorizing
28 the department to delegate its drainage
29 permitting responsibilities to other
30 governmental entities under certain
31 circumstances; amending s. 334.175, F.S.;

1 adding state-registered landscape architects to
2 the list of design professionals who sign,
3 seal, and certify certain Department of
4 Transportation project plans; creating s.
5 335.066, F.S.; creating the Safe Paths to
6 Schools Program within the Department of
7 Transportation; providing for consideration of
8 planning and construction with certain
9 criteria; providing for grants for local,
10 regional, and state projects that support the
11 program; providing rulemaking authority;
12 amending s. 336.41, F.S.; providing for
13 counties to certify or qualify persons to
14 perform work under certain contracts;
15 clarifying that a contractor already qualified
16 by the department is presumed qualified to
17 perform work described under contract on county
18 road projects; amending s. 336.44, F.S.;
19 providing that certain contracts shall be let
20 to the lowest responsible bidder; amending s.
21 337.11, F.S., relating to design-build
22 contracts effective July 1, 2003; adding
23 right-of-way services to activities that can be
24 part of a design-build contract; amending s.
25 337.11, F.S., relating to design-build
26 contracts effective July 1, 2005; deleting
27 right-of-way services from design-build
28 contracts; amending s. 337.14, F.S.; revising
29 provisions for qualifying persons to bid on
30 certain construction contracts; providing for
31 expressway authorities to certify or qualify

1 persons to perform work under certain
2 contracts; clarifying that a contractor
3 qualified by the department is presumed
4 qualified to perform work described under
5 contract on projects for expressway
6 authorities; amending s. 337.401, F.S.;
7 providing that for certain projects under the
8 department's jurisdiction, a utility relocation
9 schedule and relocation agreement may be
10 executed in lieu of a written permit; amending
11 s. 337.408, F.S.; revising language with
12 respect to the regulation of benches, transit
13 shelters, and waste disposal receptacles within
14 rights-of-way; providing for regulation of
15 street light poles; amending s. 339.08, F.S.;
16 revising language with respect to the use of
17 moneys in the State Transportation Trust Fund;
18 amending s. 339.12, F.S.; revising language
19 relating to compensation to local governments
20 that perform projects for the department;
21 providing for preference to certain counties
22 for transportation grants under specified
23 circumstances; amending s. 339.55, F.S.;
24 providing for state infrastructure bank funds
25 to be spent on intermodal projects; revising
26 criteria for evaluation of projects; amending
27 s. 341.031, F.S.; correcting cross references;
28 amending s. 341.051, F.S., relating to
29 financing of public transit capital projects,
30 and s. 341.053, F.S., relating to projects
31 eligible for funding under the Intermodal

1 Development Program; deleting obsolete
2 language; amending s. 341.501, F.S., relating
3 to high-technology transportation systems;
4 authorizing the department to match funds from
5 other states or jurisdictions for certain
6 purposes; providing criteria; amending s.
7 348.0003, F.S.; authorizing a county governing
8 body to set qualifications, terms of office,
9 and obligations and rights for the members of
10 expressway authorities within their
11 jurisdictions; amending s. 348.0008, F.S.;
12 allowing expressway authorities to acquire
13 certain interests in land; providing for
14 expressway authorities and their agents or
15 employees to access public or private property
16 for certain purposes; creating s. 348.545,
17 F.S.; clarifying that the Tampa-Hillsborough
18 County Expressway Authority may use bond
19 revenues to finance improvements to toll
20 facilities, interchanges, and other facilities
21 related to the expressway system; amending s.
22 348.565, F.S.; adding the connector highway
23 linking Lee Roy Selmon Crosstown Expressway to
24 Interstate 4 as an approved project; amending
25 s. 373.4137, F.S.; providing for certain
26 expressway, bridge, or transportation
27 authorities to create environmental impact
28 inventories and participate in a mitigation
29 program to offset adverse impacts caused by
30 their transportation projects; amending s.
31 380.04, F.S.; adding work on rights-of-way

1 pertaining to electricity facilities to the
2 list of activities not defined as "development"
3 for purposes of the Florida Environmental Land
4 and Water Management Act; amending s. 380.0651,
5 F.S.; increasing acreage threshold for
6 development-of-regional-impact review of
7 certain industrial and wholesaling facilities;
8 amending s. 496.425, F.S.; redefining the term
9 "facility"; creating s. 496.4256, F.S.;
10 providing that a governmental entity or
11 authority that owns or operates certain
12 facilities on the State Highway System is not
13 required to issue a permit or grant access to
14 any person for the purpose of soliciting funds;
15 amending s. 768.28, F.S.; providing that
16 certain operators of rail services and
17 providers of security for rail services are
18 agents of the state for certain purposes;
19 providing for indemnification; creating the
20 Dori Slosberg Driver Education Safety Act;
21 authorizing a board of county commissioners to
22 require an additional amount to be collected
23 with each civil traffic penalty to be used to
24 fund traffic education programs in public and
25 nonpublic schools; providing for administration
26 of funds collected; restricting use of said
27 funds; amending s. 2 of chapter 88-418, Laws of
28 Florida, relating to Crandon Boulevard;
29 allowing expenditure of public funds for
30 modifications to provide access for
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1 governmental public safety vehicles; providing
2 effective dates.

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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~~
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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:

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- 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.

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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~~

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- 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. Section 59 of chapter 99-385, Laws of
8 Florida, is repealed.

9 Section 3. Paragraph (b) of subsection (3) of section
10 73.071, Florida Statutes, is amended to read:

11 73.071 Jury trial; compensation; severance damages;
12 business damages.--

13 (3) The jury shall determine solely the amount of
14 compensation to be paid, which compensation shall include:

15 (b) Where less than the entire property is sought to
16 be appropriated, any damages to the remainder caused by the
17 taking, including, when the action is by the Department of
18 Transportation, county, municipality, board, district or other
19 public body for the condemnation of a right-of-way, and the
20 effect of the taking of the property involved may damage or
21 destroy an established business of more than 4 years' standing
22 before January 1, 2005, or the effect of the taking of the
23 property involved may damage or destroy an established
24 business of more than 5 years' standing on or after January 1,
25 2005, owned by the party whose lands are being so taken,
26 located upon adjoining lands owned or held by such party, the
27 probable damages to such business which the denial of the use
28 of the property so taken may reasonably cause; any person
29 claiming the right to recover such special damages shall set
30 forth in his or her written defenses the nature and extent of
31 such damages; and

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

3 110.205 Career service; exemptions.--

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

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

26 (m) All assistant division director, deputy division
27 director, and bureau chief positions in any department, and
28 those positions determined by the department to have
29 managerial responsibilities comparable to such positions,
30 which positions include, but are not limited to, positions in
31 the Department of Health, the Department of Children and

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

21 Section 5. Paragraph (k) is added to subsection (6) of
22 section 163.3177, Florida Statutes, to read:

23 163.3177 Required and optional elements of
24 comprehensive plan; studies and surveys.--

25 (6) In addition to the requirements of subsections
26 (1)-(5), the comprehensive plan shall include the following
27 elements:

28 (k) An airport master plan, and any subsequent
29 amendments to the airport master plan, prepared by a licensed
30 publicly owned and operated airport under s. 333.06 may be
31 incorporated into the local government comprehensive plan by

1 the local government having jurisdiction under this act for
2 the area in which the airport or projected airport development
3 is located by the adoption of a comprehensive plan amendment.
4 In the amendment to the local comprehensive plan that
5 integrates the airport master plan, the comprehensive plan
6 amendment shall address land use compatibility consistent with
7 chapter 333 regarding airport zoning; the provision of
8 regional transportation facilities for the efficient use and
9 operation of the transportation system and airport;
10 consistency with the local government transportation
11 circulation element and applicable metropolitan planning
12 organization long-range transportation plans; and the
13 execution of any necessary interlocal agreements for the
14 purposes of the provision of public facilities and services to
15 maintain the adopted level of service standards for facilities
16 subject to concurrency; and may address airport-related or
17 aviation-related development. Development or expansion of an
18 airport consistent with the adopted airport master plan that
19 has been incorporated into the local comprehensive plan in
20 compliance with this part, and airport-related or
21 aviation-related development that has been addressed in the
22 comprehensive plan amendment that incorporates the airport
23 master plan, shall not be a development of regional impact.

24 Section 6. Section 189.441, Florida Statutes, is
25 amended to read:

26 189.441 Contracts.--Contracts for the construction of
27 projects and for any other purpose of the authority may be
28 awarded by the authority in a manner that will best promote
29 free and open competition, including advertisement for
30 competitive bids; however, if the authority determines that
31 the purposes of this act will be more effectively served

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

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

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

16 215.615 Fixed-guideway transportation systems
17 funding.--

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

30 Section 8. Paragraph (a) of subsection (1) of section
31 255.20, Florida Statutes, is amended to read:

1 255.20 Local bids and contracts for public
2 construction works; specification of state-produced lumber.--
3 (1) A county, municipality, special district as
4 defined in chapter 189, or other political subdivision of the
5 state seeking to construct or improve a public building,
6 structure, or other public construction works must
7 competitively award to an appropriately licensed contractor
8 each project that is estimated in accordance with generally
9 accepted cost-accounting principles to have total construction
10 project costs of more than \$200,000. For electrical work,
11 local government must competitively award to an appropriately
12 licensed contractor each project that is estimated in
13 accordance with generally accepted cost-accounting principles
14 to have a cost of more than \$50,000. As used in this section,
15 the term "competitively award" means to award contracts based
16 on the submission of sealed bids, proposals submitted in
17 response to a request for proposal, proposals submitted in
18 response to a request for qualifications, or proposals
19 submitted for competitive negotiation. This subsection
20 expressly allows contracts for construction management
21 services, design/build contracts, continuation contracts based
22 on unit prices, and any other contract arrangement with a
23 private sector contractor permitted by any applicable
24 municipal or county ordinance, by district resolution, or by
25 state law. For purposes of this section, construction costs
26 include the cost of all labor, except inmate labor, and
27 include the cost of equipment and materials to be used in the
28 construction of the project. Subject to the provisions of
29 subsection (3), the county, municipality, special district, or
30 other political subdivision may establish, by municipal or
31

1 county ordinance or special district resolution, procedures
2 for conducting the bidding process.

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

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

9 a. An immediate danger to the public health or safety;
10 b. Other loss to public or private property which
11 requires emergency government action; or
12 c. An interruption of an essential governmental
13 service.

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

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

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

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

26 6. When the project is undertaken exclusively as part
27 of a public educational program.

28 7. When the funding source of the project will be
29 diminished or lost because the time required to competitively
30 award the project after the funds become available exceeds the
31 time within which the funding source must be spent.

1 8. When the local government has competitively awarded
2 a project to a private sector contractor and the contractor
3 has abandoned the project before completion or the local
4 government has terminated the contract.

5 9. When the governing board of the local government,
6 after public notice, conducts a public meeting under s.
7 286.011 and finds by a majority vote of the governing board
8 that it is in the public's best interest to perform the
9 project using its own services, employees, and equipment. The
10 public notice must be published at least 14 days prior to the
11 date of the public meeting at which the governing board takes
12 final action to apply this subparagraph. The notice must
13 identify the project, the estimated cost of the project, and
14 specify that the purpose for the public meeting is to consider
15 whether it is in the public's best interest to perform the
16 project using the local government's own services, employees,
17 and equipment. In deciding whether it is in the public's best
18 interest for local government to perform a project using its
19 own services, employees, and equipment, the governing board
20 may consider the cost of the project, whether the project
21 requires an increase in the number of government employees, an
22 increase in capital expenditures for public facilities,
23 equipment or other capital assets, the impact on local
24 economic development, the impact on small and minority
25 business owners, the impact on state and local tax revenues,
26 whether the private sector contractors provide health
27 insurance and other benefits equivalent to those provided by
28 the local government, and any other factor relevant to what is
29 in the public's best interest.

30 10. When the governing board of the local government
31 determines upon consideration of specific substantive criteria

1 and administrative procedures that it is in the best interest
2 of the local government to award the project to an
3 appropriately licensed private sector contractor according to
4 procedures established by and expressly set forth in a
5 charter, ordinance, or resolution of the local government
6 adopted prior to July 1, 1994. The criteria and procedures
7 must be set out in the charter, ordinance, or resolution and
8 must be applied uniformly by the local government to avoid
9 award of any project in an arbitrary or capricious manner.
10 This exception shall apply when all of the following occur:
11 a. When the governing board of the local government,
12 after public notice, conducts a public meeting under s.
13 286.011 and finds by a two-thirds vote of the governing board
14 that it is in the public's best interest to award the project
15 according to the criteria and procedures established by
16 charter, ordinance, or resolution. The public notice must be
17 published at least 14 days prior to the date of the public
18 meeting at which the governing board takes final action to
19 apply this subparagraph. The notice must identify the project,
20 the estimated cost of the project, and specify that the
21 purpose for the public meeting is to consider whether it is in
22 the public's best interest to award the project using the
23 criteria and procedures permitted by the preexisting
24 ordinance.
25 b. In the event the project is to be awarded by any
26 method other than a competitive selection process, the
27 governing board must find evidence that:
28 (I) There is one appropriately licensed contractor who
29 is uniquely qualified to undertake the project because that
30 contractor is currently under contract to perform work that is
31 affiliated with the project; or

1 (II) The time to competitively award the project will
2 jeopardize the funding for the project, or will materially
3 increase the cost of the project or will create an undue
4 hardship on the public health, safety, or welfare.

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

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

19 11. To projects subject to chapter 336.

20 Section 9. Paragraph (g) of subsection (2) of section
21 287.055, Florida Statutes, is amended to read:

22 287.055 Acquisition of professional architectural,
23 engineering, landscape architectural, or surveying and mapping
24 services; definitions; procedures; contingent fees prohibited;
25 penalties.--

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

27 (g) A "continuing contract" is a contract for
28 professional services entered into in accordance with all the
29 procedures of this act between an agency and a firm whereby
30 the firm provides professional services to the agency for
31 projects in which construction costs do not exceed \$1 million

1 ~~\$500,000~~, for study activity when the fee for such
2 professional service does not exceed \$50,000~~\$25,000~~, or for
3 work of a specified nature as outlined in the contract
4 required by the agency, with no time limitation except that
5 the contract must provide a termination clause.

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

8 311.09 Florida Seaport Transportation and Economic
9 Development Council.--

10 (12) Members of the council shall serve without
11 compensation but are entitled to receive reimbursement for per
12 diem and travel expenses as provided in s. 112.061. The
13 council may elect to provide an administrative staff to
14 provide services to the council on matters relating to the
15 Florida Seaport Transportation and Economic Development
16 Program and the council. The cost for such administrative
17 services shall be paid by all ports that receive funding from
18 the Florida Seaport Transportation and Economic Development
19 Program, based upon a pro rata formula measured by each
20 recipient's share of the funds as compared to the total funds
21 disbursed to all recipients during the year. The share of
22 costs for administrative services shall be paid in its total
23 amount by the recipient port upon execution by the port and
24 the Department of Transportation of a joint participation
25 agreement for each council-approved project, and such payment
26 is in addition to the matching funds required to be paid by
27 the recipient port. Except as otherwise exempted by law, all
28 moneys derived from the Florida Seaport Transportation and
29 Economic Development Program shall be expended in accordance
30 with the provisions of s. 287.057. Seaports subject to
31 competitive negotiation requirements of a local governing body

1 shall abide by the provisions of s. 287.055 ~~be exempt from~~
2 ~~this requirement.~~

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

5 315.02 Definitions.--As used in this law, the
6 following words and terms shall have the following meanings:

7 (4) The word "unit" shall mean any county, port
8 district, port authority, or municipality or any governmental
9 unit created pursuant to s. 163.01(7)(d) that includes at
10 least one deepwater port as listed in s. 403.021(9)(b).

11 (6) The term "port facilities" shall mean and shall
12 include harbor, shipping, and port facilities, and
13 improvements of every kind, nature, and description,
14 including, but without limitation, channels, turning basins,
15 jetties, breakwaters, public landings, wharves, docks,
16 markets, parks, recreational facilities, structures,
17 buildings, piers, storage facilities, including facilities
18 that may be used for warehouse, storage, and distribution of
19 cargo transported or to be transported through an airport or
20 port facility, security measures identified pursuant to s.
21 311.12, public buildings and plazas, anchorages, utilities,
22 bridges, tunnels, roads, causeways, and any and all property
23 and facilities necessary or useful in connection with the
24 foregoing, and any one or more or any combination thereof and
25 any extension, addition, betterment, or improvement of any
26 thereof.

27 Section 12. Subsection (11) of section 315.03, Florida
28 Statutes, is amended, subsections (12) through (21) of said
29 section are renumbered as subsections (13) through (22),
30 respectively, and a new subsection (12) is added to said
31 section, to read:

1 315.03 Grant of powers.--Each unit is hereby
2 authorized and empowered:
3 (11) To accept loans or grants of money or materials
4 or property at any time from the United States or the State of
5 Florida or any agency, instrumentality, or subdivision
6 thereof, or to participate in loan guarantees or lines of
7 credit provided by the United States, upon such terms and
8 conditions as the United States, the State of Florida, or such
9 agency, instrumentality, or subdivision may impose. Any entity
10 created pursuant to s. 163.01(7)(d) that involves at least one
11 deepwater port may participate in the provisions of this
12 subsection, with oversight by the Florida Seaport
13 Transportation and Economic Development Council.
14 (12)(a) To pay interest or other financing-related
15 costs on federal loan guarantees, lines of credit, or secured
16 direct loans issued to finance eligible projects. Any entity
17 created pursuant to s. 163.01(7)(d) that involves at least one
18 deepwater port may participate in the provisions of this
19 subsection, with oversight by the Florida Seaport
20 Transportation and Economic Development Council, and may
21 establish a loan program that would provide for the reuse of
22 loan proceeds for similar program purposes.
23 (b) The Florida Seaport Transportation and Economic
24 Development Council shall prepare an annual report detailing
25 the amounts loaned, the projects financed by the loans, any
26 interest earned, and loans outstanding. The report shall be
27 submitted to the Governor, the President of the Senate, and
28 the Speaker of the House of Representatives by January 1 of
29 each year, beginning in 2004.
30
31

1 (c) The Legislature shall review the loan program
2 established pursuant to this subsection during the 2004
3 Regular Session of the Legislature.

4 Section 13. Subsection (21) of section 316.003,
5 Florida Statutes, is amended, and subsections (82) and (83)
6 are added to said section, to read:

7 316.003 Definitions.--The following words and phrases,
8 when used in this chapter, shall have the meanings
9 respectively ascribed to them in this section, except where
10 the context otherwise requires:

11 (21) MOTOR VEHICLE.--Any self-propelled vehicle not
12 operated upon rails or guideway, but not including any
13 bicycle, motorized scooter, electric personal assistive
14 mobility device, or moped.

15 (82) MOTORIZED SCOOTER.--Any vehicle not having a seat
16 or saddle for the use of the rider, designed to travel on not
17 more than three wheels, and not capable of propelling the
18 vehicle at a speed greater than 30 miles per hour on level
19 ground.

20 (83) ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.--Any
21 self-balancing, two-nontandem-wheeled device, designed to
22 transport only one person, with an electric propulsion system
23 with average power of 750 watts (1 horsepower), the maximum
24 speed of which, on a paved level surface when powered solely
25 by such a propulsion system while being ridden by an operator
26 who weighs 170 pounds, is less than 20 miles per hour.
27 Electric personal assistive mobility devices are not vehicles
28 as defined in this section.

29 Section 14. Section 316.2068, Florida Statutes, is
30 created to read:

31

1 316.2068 Electric personal assistive mobility devices;
2 regulations.--
3 (1) An electric personal assistive mobility device, as
4 defined in s. 316.003, may be operated:
5 (a) On a road or street where the posted speed limit
6 is 25 miles per hour or less.
7 (b) On a marked bicycle path.
8 (c) On any street or road where bicycles are
9 permitted.
10 (d) At an intersection, to cross a road or street even
11 if the road or street has a posted speed limit of more than 25
12 miles per hour.
13 (e) On a sidewalk, if the person operating the device
14 yields the right-of-way to pedestrians and gives an audible
15 signal before overtaking and passing a pedestrian.
16 (2) A valid driver's license is not a prerequisite to
17 operating an electric personal assistive mobility device.
18 (3) Electric personal assistive mobility devices need
19 not be registered and insured in accordance with s. 320.02.
20 (4) A person who is under the age of 16 years may not
21 operate, ride, or otherwise be propelled on an electric
22 personal assistive mobility device unless the person wears a
23 bicycle helmet that is properly fitted, that is fastened
24 securely upon his or her head by a strap, and that meets the
25 standards of the American National Standards Institute (ANSI Z
26 Bicycle Helmet Standards), the standards of the Snell Memorial
27 Foundation (1984 Standard for Protective Headgear for Use in
28 Bicycling), or any other nationally recognized standards for
29 bicycle helmets which are adopted by the department.
30 (5) A county or municipality may prohibit the
31 operation of electric personal assistive mobility devices on

1 any road, street, or bicycle path under its jurisdiction if
2 the governing body of the county or municipality determines
3 that such a prohibition is necessary in the interest of
4 safety.

5 (6) The Department of Transportation may prohibit the
6 operation of electric personal assistive mobility devices on
7 any road under its jurisdiction if it determines that such a
8 prohibition is necessary in the interest of safety.

9 Section 15. Subsection (5) of section 316.515, Florida
10 Statutes, is amended to read:

11 316.515 Maximum width, height, length.--

12 (5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
13 SAFETY REQUIREMENTS.--Notwithstanding any other provisions of
14 law, straight trucks and cotton module movers, not exceeding
15 50 feet in length, or any combination of up to and including
16 three implements of husbandry including the towing power unit,
17 and any single agricultural trailer, with a load thereon not
18 exceeding 130 inches in width, is authorized for the purpose
19 of transporting peanuts, grains, soybeans, cotton, hay, straw,
20 or other perishable farm products from their point of
21 production to the first point of change of custody or of
22 long-term storage, and for the purpose of returning to such
23 point of production, by a person engaged in the production of
24 any such product or custom hauler, if such vehicle or
25 combination of vehicles otherwise complies with this section.
26 Such vehicles shall be operated in accordance with all safety
27 requirements prescribed by law and Department of
28 Transportation rules. The Department of Transportation may
29 issue overlength permits for cotton module movers greater than
30 50 feet but not more than 55 feet in overall length.

31

1 Section 16. Subsection (4) is added to section
2 316.520, Florida Statutes, to read:

3 316.520 Loads on vehicles.--

4 (4) The provision of subsection (2) requiring covering
5 and securing the load with a close-fitting tarpaulin or other
6 appropriate cover does not apply to vehicles carrying
7 agricultural products locally from a harvest site or to or
8 from a farm on roads where the posted speed limit is 65 miles
9 per hour or less and the distance driven on public roads is
10 less than 20 miles.

11 Section 17. Section 316.80, Florida Statutes, is
12 created to read:

13 316.80 Unlawful conveyance of fuel; obtaining fuel
14 fraudulently.--

15 (1) It is unlawful for any person to maintain, or
16 possess any conveyance or vehicle that is equipped with, fuel
17 tanks, bladders, drums, or other containers that do not
18 conform to 49 C.F.R. or have not been approved by the United
19 States Department of Transportation for the purpose of
20 hauling, transporting, or conveying motor or diesel fuel over
21 any public highway. Any person who violates any provision of
22 this subsection commits a felony of the third degree,
23 punishable as provided in s. 775.082, s. 775.083, or s.
24 775.084, and, in addition, is subject to the revocation of
25 driver license privileges as provided in s. 322.26.

26 (2) Any person who violates subsection (1) commits a
27 felony of the second degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084, if he or she has attempted
29 to or has fraudulently obtained motor or diesel fuel by:

30 (a) Presenting a credit card or a credit card account
31 number in violation of ss. 817.57-817.685;

1 (b) Using unauthorized access to any computer network
2 in violation of s. 815.06; or

3 (c) Using a fraudulently scanned or lost or stolen
4 payment access device, whether credit card or contactless
5 device.

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

10 (4) The law enforcement agency that seizes the motor
11 or diesel fuel under this section shall remove and reclaim,
12 recycle, or dispose of all associated motor or diesel fuel as
13 soon as practicable in a safe and proper manner from the
14 illegal containers.

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

21 (6) Any person convicted of a violation of this
22 section shall be responsible for:

23 (a) All reasonable costs incurred by the investigating
24 law enforcement agency, including costs for the towing and
25 storage of the conveyance or vehicle, the removal and disposal
26 of the motor or diesel fuel, and the storage and destruction
27 of all fuel tanks and other equipment described and used in
28 violation of subsection (1); and

29 (b) Payment for the fuel to the party from whom any
30 associated motor or diesel fuel was fraudulently obtained.
31

1 Section 18. Paragraphs (hh) and (ii) are added to
2 subsection (4) of section 320.08056, Florida Statutes, as
3 amended by section 1 of chapter 2001-355, Laws of Florida, to
4 read:

5 320.08056 Specialty license plates.--

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

8 (hh) Florida Firefighters license plate, \$20.

9 (ii) Police Benevolent Association license plate, \$20.

10 Section 19. Subsections (34) and (35) are added to
11 section 320.08058, Florida Statutes, as amended by section 2
12 of chapter 2001-355, Laws of Florida, to read:

13 320.08058 Specialty license plates.--

14 (34) FLORIDA FIREFIGHTERS LICENSE PLATE.--

15 (a) Notwithstanding the provisions of s. 320.08053,
16 the department shall develop a Florida Firefighters license
17 plate as provided in this section. Florida Firefighters
18 license plates must bear the colors and design approved by the
19 department. The word "Florida" must appear at the top of the
20 plate, and the words "Salutes Firefighters" must appear at the
21 bottom of the plate.

22 (b) The requirements of s. 320.08053 must be met prior
23 to the issuance of the plate. Thereafter, the proceeds of the
24 annual use fee shall be distributed to Florida Firefighters
25 Charities, a 501(c)(3) nonprofit corporation. Florida
26 Firefighters Charities shall distribute the moneys according
27 to its articles of incorporation.

28 (35) POLICE BENEVOLENT ASSOCIATION LICENSE PLATE.--

29 (a) Notwithstanding the provisions of s. 320.08053,
30 the department shall develop a Police Benevolent Association
31 license plate as provided in this section. The word "Florida"

1 must appear at the top of the plate, the words "Support Law
2 Enforcement" must appear at the bottom of the plate, and a
3 shield with the Police Benevolent Association logo must appear
4 to the left of the numerals.

5 (b) The requirements of s. 320.08053 must be met prior
6 to the issuance of the plate. Thereafter, the proceeds of the
7 annual use fee shall be distributed to the Florida Police
8 Benevolent Association Heart Fund, Incorporated, a 501(c)(3)
9 nonprofit corporation. The Florida Police Benevolent
10 Association Heart Fund, Incorporated, shall distribute moneys
11 according to its articles of incorporation.

12 Section 20. Subsection (4) of section 332.004, Florida
13 Statutes, is amended to read:

14 332.004 Definitions of terms used in ss.
15 332.003-332.007.--As used in ss. 332.003-332.007, the term:

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

1 to the maximum extent feasible, with the approved local
2 government comprehensive plan of the units of local government
3 in which the airport is located.

4 Section 21. Subsection (8) of section 332.007, Florida
5 Statutes, as created by chapter 2001-349, Laws of Florida, is
6 amended, and subsection (9) is added to said section, to read:

7 332.007 Administration and financing of aviation and
8 airport programs and projects; state plan.--

9 (8) Notwithstanding any other provision of law to the
10 contrary, the department is authorized to provide operational
11 and maintenance assistance to publicly owned public-use
12 airports. Such assistance shall be to comply with enhanced
13 federal security requirements or to address related economic
14 impacts from the events of September 11, 2001. For projects in
15 the current adopted work program, or projects added using the
16 available budget of the department, airports may request the
17 department change the project purpose in accordance with this
18 provision notwithstanding the provisions of s. 339.135(7). For
19 purposes of this subsection, the department may fund up to 100
20 percent of eligible project costs that are not funded by the
21 Federal Government. Prior to releasing any funds under this
22 section, the department shall review and approve the
23 expenditure plans submitted by the airport. The department
24 shall inform the Legislature of any change that it approves
25 under this subsection. This subsection shall expire on June
26 30, 2004 ~~2003~~.

27 (9) Notwithstanding any other law to the contrary,
28 any airport with direct intercontinental passenger service
29 that is located in a county with a population under 400,000 as
30 of July 1, 2002, and that has a loan from the Department of
31

1 Transportation due in August of 2002 shall have such loan
2 extended until September 18, 2008.

3 Section 22. Subsection (4) is added to section 333.06,
4 Florida Statutes, to read:

5 333.06 Airport zoning requirements.--

6 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO
7 AFFECTED LOCAL GOVERNMENTS.--An airport master plan shall be
8 prepared by each publicly owned and operated airport licensed
9 by the Department of Transportation under chapter 330. The
10 authorized entity having responsibility for governing the
11 operation of the airport, when either requesting from or
12 submitting to a state or federal governmental agency with
13 funding or approval jurisdiction a "finding of no significant
14 impact," an environmental assessment, a site-selection study,
15 an airport master plan, or any amendment to an airport master
16 plan, shall submit simultaneously a copy of said request,
17 submittal, assessment, study, plan, or amendments by certified
18 mail to all affected local governments. For the purposes of
19 this subsection, "affected local government" is defined as any
20 city or county having jurisdiction over the airport and any
21 city or county located within 2 miles of the boundaries of the
22 land subject to the airport master plan.

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

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

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

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

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

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

29 Section 24. Section 334.175, Florida Statutes, is
30 amended to read:

31

1 334.175 Certification of project design plans and
2 surveys.--All design plans and surveys prepared by or for the
3 department shall be signed, sealed, and certified by the
4 professional engineer or surveyor or architect or landscape
5 architect in responsible charge of the project work. Such
6 professional engineer, surveyor, ~~or~~ architect, or landscape
7 architect must be duly registered in this state.

8 Section 25. Section 335.066, Florida Statutes, is
9 created to read:

10 335.066 Safe Paths to Schools Program.--

11 (1) There is hereby established within the Department
12 of Transportation the Safe Paths to Schools Program to
13 consider the planning and construction of bicycle and
14 pedestrian ways to provide safe transportation for children
15 from neighborhoods to schools, parks, and the state's
16 greenways and trails system.

17 (2) As a part of the Safe Paths to Schools Program,
18 the department may establish a grant program to fund local,
19 regional, and state bicycle and pedestrian projects that
20 support the program.

21 (3) The department may adopt appropriate rules for the
22 administration of the Safe Paths to Schools Program.

23 Section 26. Subsection (4) is added to section 336.41,
24 Florida Statutes, to read:

25 336.41 Counties; employing labor and providing road
26 equipment; accounting; when competitive bidding required.--

27 (4)(a) For contracts in excess of \$250,000, any county
28 may require that persons interested in performing work under
29 the contract first be certified or qualified to do the work.
30 Any contractor prequalified and considered eligible to bid by
31 the department to perform the type of work described under the

1 contract shall be presumed to be qualified to perform the work
2 so described. Any contractor may be considered ineligible to
3 bid by the county if the contractor is behind an approved
4 progress schedule by 10 percent or more on another project for
5 that county at the time of the advertisement of the work. The
6 county may provide an appeal process to overcome such
7 consideration with de novo review based on the record below to
8 the circuit court.

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

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

24 Section 27. Subsection (2) of section 336.44, Florida
25 Statutes, is amended to read:

26 336.44 Counties; contracts for construction of roads;
27 procedure; contractor's bond.--

28 (2) Such contracts shall be let to the lowest
29 responsible ~~competent~~ bidder, after publication of notice for
30 bids containing specifications furnished by the commissioners
31 in a newspaper published in the county where such contract is

1 made, at least once each week for 2 consecutive weeks prior to
2 the making of such contract.

3 Section 28. Effective July 1, 2003, paragraph (a) of
4 subsection (7) of section 337.11, Florida Statutes, as amended
5 by section 4 of chapter 2001-350, Laws of Florida, is amended
6 to read:

7 337.11 Contracting authority of department; bids;
8 emergency repairs, supplemental agreements, and change orders;
9 combined design and construction contracts; progress payments;
10 records, requirements of vehicle registration.--

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

26 Section 29. Effective July 1, 2005, paragraph (a) of
27 subsection (7) of section 337.11, Florida Statutes, as amended
28 by this act, is amended to read:

29 337.11 Contracting authority of department; bids;
30 emergency repairs, supplemental agreements, and change orders;
31

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

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

18 Section 30. Subsection (4) of section 337.14, Florida
19 Statutes, is amended, and subsection (9) is added to said
20 section, to read:

21 337.14 Application for qualification; certificate of
22 qualification; restrictions; request for hearing.--

23 (4) If the applicant is found to possess the
24 prescribed qualifications, the department shall issue to him
25 or her a certificate of qualification that ~~which~~, unless
26 thereafter revoked by the department for good cause, will be
27 valid for a period of 18 ~~16~~ months after ~~from~~ the date of the
28 applicant's financial statement or such shorter period as the
29 department prescribes ~~may prescribe~~. ~~If in the event~~ the
30 department finds that an application is incomplete or contains
31 inadequate information or information that ~~which~~ cannot be

1 verified, the department may request in writing that the
2 applicant provide the necessary information to complete the
3 application or provide the source from which any information
4 in the application may be verified. If the applicant fails to
5 comply with the initial written request within a reasonable
6 period of time as specified therein, the department shall
7 request the information a second time. If the applicant fails
8 to comply with the second request within a reasonable period
9 of time as specified therein, the application shall be denied.

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

25 (b) With respect to contractors not prequalified with
26 the department, the authority shall publish prequalification
27 criteria and procedures prior to advertisement or notice of
28 solicitation. Such publications shall include notice of a
29 public hearing for comment on such criteria and procedures
30 prior to adoption. The procedures shall provide for an appeal
31 process within the authority for objections to the

1 prequalification process with de novo review based on the
2 record below to the circuit court within 30 days.

3 (c) An authority may establish criteria and procedures
4 under which contractor selection may occur on a basis other
5 than the lowest responsible bidder. Prior to adoption, the
6 authority shall publish for comment the proposed criteria and
7 procedures. Review of the adopted criteria and procedures
8 shall be to the circuit court, within 30 days after adoption,
9 with de novo review based on the record below.

10 Section 31. Subsection (2) of section 337.401, Florida
11 Statutes, is amended to read:

12 337.401 Use of right-of-way for utilities subject to
13 regulation; permit; fees.--

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

30
31

1 Section 32. Subsection (5) of section 337.408, Florida
2 Statutes, is renumbered as subsection (6), and a new
3 subsection (5) is added to said section to read:

4 337.408 Regulation of benches, transit shelters,
5 street light poles, and waste disposal receptacles within
6 rights-of-way.--

7 (5) Street light poles, including attached public
8 service messages and advertisements, may be located within the
9 right-of-way limits of municipal and county roads in the same
10 manner as benches, transit shelters, and waste disposal
11 receptacles as provided in this section and in accordance with
12 municipal and county ordinances. Public service messages and
13 advertisements may be installed on street light poles on roads
14 on the State Highway System in accordance with height, size,
15 setback, spacing distance, duration of display, safety,
16 traffic control, and permitting requirements established by
17 administrative rule of the Department of Transportation.
18 Public service messages and advertisements shall be subject to
19 bilateral agreements, where applicable, to be negotiated with
20 the owner of the street light poles, which shall consider,
21 among other things, power source rates, design, safety,
22 operational and maintenance concerns, and other matters of
23 public importance. For the purposes of this section, the term
24 "street light poles" does not include electric transmission or
25 distribution poles. The department shall have authority to
26 establish administrative rules to implement this subsection.
27 No advertising on light poles shall be permitted on the
28 Interstate Highway System. No permanent structures carrying
29 advertisements attached to light poles shall be permitted on
30 the National Highway System.

31

1 Section 33. Subsections (1) and (2) of section 339.08,
2 Florida Statutes, are amended to read:

3 339.08 Use of moneys in State Transportation Trust
4 Fund.--

5 (1) The department shall expend ~~by rule provide for~~
6 ~~the expenditure of the~~ moneys in the State Transportation
7 Trust Fund accruing to the department, in accordance with its
8 annual budget.

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

11 (a) To pay administrative expenses of the department,
12 including administrative expenses incurred by the several
13 state transportation districts, but excluding administrative
14 expenses of commuter rail authorities that do not operate rail
15 service.

16 (b) To pay the cost of construction of the State
17 Highway System.

18 (c) To pay the cost of maintaining the State Highway
19 System.

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

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

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

27 (g) To lend or pay a portion of the operating,
28 maintenance, and capital costs of a revenue-producing
29 transportation project that is located on the State Highway
30 System or that is demonstrated to relieve traffic congestion
31 on the State Highway System.

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

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

7 (j) To pay the cost of county or municipal road
8 projects selected in accordance with the County Incentive
9 Grant Program created in s. 339.2817 and the Small County
10 Outreach Program created in s. 339.2818.

11 (k) To provide loans and credit enhancements for use
12 in constructing and improving highway transportation
13 facilities selected in accordance with the state-funded
14 infrastructure bank created in s. 339.55.

15 (l) To fund the Transportation Outreach Program
16 created in s. 339.137.

17 (m) To pay other lawful expenditures of the
18 department.

19 Section 34. Subsection (5) of section 339.12, Florida
20 Statutes, is amended, and subsection (10) is added to said
21 section, to read:

22 339.12 Aid and contributions by governmental entities
23 for department projects; federal aid.--

24 (5) The department and the governing body of a
25 governmental entity may enter into an agreement by which the
26 governmental entity agrees to perform a highway project or
27 project phase in the department's adopted work program that is
28 not revenue producing or any public transportation project in
29 the adopted work program. By specific provision in the written
30 agreement between the department and the governing body of the
31 governmental entity, the department may agree to compensate

1 ~~reimburse~~ the governmental entity the actual cost of ~~for~~ the
2 project or project phase contained in the adopted work
3 program. Compensation ~~Reimbursement~~ to the governmental entity
4 for such project or project phases must be made from funds
5 appropriated by the Legislature, and compensation
6 ~~reimbursement~~ for the cost of the project or project phase is
7 to begin in the year the project or project phase is scheduled
8 in the work program as of the date of the agreement.

9 (10) Any county with a population greater than 50,000
10 that levies the full 6 cents of local option fuel tax pursuant
11 to ss. 206.41(1)(e) and 206.87(1)(c) and that dedicates 35
12 percent or more of its discretionary sales surtax, pursuant to
13 s. 212.055, for improvements to the state transportation
14 system or to local projects directly upgrading the state
15 transportation system within the county's boundaries shall
16 receive preference for receipt of any transportation grant for
17 which the county applies. This subsection shall not apply to
18 loans or nonhighway grant programs.

19 Section 35. Subsections (2) and (5) of section 339.55,
20 Florida Statutes, are amended to read:

21 339.55 State-funded infrastructure bank.--

22 (2) The bank may lend capital costs or provide credit
23 enhancements for a transportation facility project that is on
24 the State Highway System or that provides for increased
25 mobility on the state's transportation system or provides
26 intermodal connectivity with airports, seaports, rail
27 facilities, and other transportation terminals, pursuant to s.
28 341.053, for the movement of people and goods. Loans from the
29 bank may be subordinated to senior project debt that has an
30 investment grade rating of "BBB" or higher.

31

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

4 (a) The credit worthiness of the project.

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

7 (c) The likelihood that assistance would enable the
8 project to proceed at an earlier date than would otherwise be
9 possible.

10 (d) The extent to which assistance would foster
11 innovative public-private partnerships and attract private
12 debt or equity investment.

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

16 (f) The extent to which the project would maintain or
17 protect the environment.

18 (g) A demonstration that the project includes
19 transportation benefits for improving intermodalism, cargo and
20 freight movement, and safety.

21 (h) The amount of the proposed assistance as a
22 percentage of the overall project costs with emphasis on local
23 and private participation.

24 (i) The extent to which the project will provide for
25 connectivity between the State Highway System and airports,
26 seaports, rail facilities, and other transportation terminals
27 and intermodal options pursuant to s. 341.053 for the
28 increased accessibility and movement of people and goods.

29 Section 36. Subsections (8) and (10) of section
30 341.031, Florida Statutes, are amended to read:

31

1 341.031 Definitions relating to Florida Public Transit
2 Act.--As used in ss. 341.011-341.061, the term:
3 (8) "Public transit service development project" means
4 a project undertaken by a public agency to determine whether a
5 new or innovative technique or measure can be utilized to
6 improve or expand public transit services to its constituency.
7 The duration of the project shall be limited according to the
8 type of the project in conformance with the provisions of s.
9 341.051(5)(e)(~~f~~), but in no case shall exceed a period of 3
10 years. Public transit service development projects
11 specifically include projects involving the utilization of new
12 technologies, services, routes, or vehicle frequencies; the
13 purchase of special transportation services; and other such
14 techniques for increasing service to the riding public as are
15 applicable to specific localities and transit user groups.
16 (10) "Transit corridor project" means a project that
17 is undertaken by a public agency and designed to relieve
18 congestion and improve capacity within an identified
19 transportation corridor by increasing people-carrying capacity
20 of the system through the use and facilitated movement of
21 high-occupancy conveyances. Each transit corridor project
22 must meet the requirements established in s. 341.051(5)(d)(~~e~~)
23 ~~and, if applicable, the requirements of the department's major~~
24 ~~capital investment policy developed pursuant to s.~~
25 ~~341.051(5)(b)~~. Initial project duration shall not exceed a
26 period of 2 years unless the project is reauthorized by the
27 Legislature. Such reauthorization shall be based upon a
28 determination that the project is meeting or exceeding the
29 criteria, developed pursuant to s. 341.051(5)(d)(~~e~~), by which
30 the success of the project is being judged and by inclusion of
31 the project in a departmental appropriation request.

1 Section 37. Subsection (5) of section 341.051, Florida
2 Statutes, is amended to read:

3 341.051 Administration and financing of public transit
4 programs and projects.--

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

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

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

20 ~~1. Methods to be used to determine consistency of a~~
21 ~~transit project with the approved local government~~
22 ~~comprehensive plans of the units of local government in which~~
23 ~~the project is located.~~

24 ~~2. Methods for evaluating the level of local~~
25 ~~commitment to a transit project, which is to be demonstrated~~
26 ~~through system planning and the development of a feasible plan~~
27 ~~to fund operating cost through fares, value capture techniques~~
28 ~~such as joint development and special districts, or other~~
29 ~~local funding mechanisms.~~

30
31

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

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

9 (c)~~(d)~~ The department is authorized to advance up to
10 80 percent of the capital cost of any eligible project that
11 will assist Florida's transit systems in becoming fiscally
12 self-sufficient. Such advances shall be reimbursed to the
13 department on an appropriate schedule not to exceed 5 years
14 after the date of provision of the advances.

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

28 (e)~~(f)~~ The department is authorized to fund up to 50
29 percent of the capital and net operating costs of transit
30 service development projects that are local in scope and that
31 will improve system efficiencies, ridership, or revenues. All

1 such projects shall be identified in the appropriation request
2 of the department through a specific program of projects, as
3 provided for in s. 341.041, that is selectively applied in the
4 following functional areas and is subject to the specified
5 times of duration:

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

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

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

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

25
26 For purposes of this section, the term "net operating costs"
27 means all operating costs of a project less any federal funds,
28 fares, or other sources of income to the project.

29 Section 38. Subsection (6) of section 341.053, Florida
30 Statutes, is amended to read:

31

1 341.053 Intermodal Development Program;
2 administration; eligible projects; limitations.--
3 (6) The department is authorized to fund projects
4 within the Intermodal Development Program, which are
5 consistent, to the maximum extent feasible, with approved
6 local government comprehensive plans of the units of local
7 government in which the project is located. Projects that are
8 eligible for funding under this program include major capital
9 investments in public rail and fixed-guideway transportation
10 facilities and systems which provide intermodal access ~~and~~
11 ~~which, if approved after July 1, 1991, have complied with the~~
12 ~~requirement of the department's major capital investment~~
13 ~~policy~~; road, rail, or fixed-guideway access to, from, or
14 between seaports, airports, and other transportation
15 terminals; construction of intermodal or multimodal terminals;
16 development and construction of dedicated bus lanes; and
17 projects which otherwise facilitate the intermodal or
18 multimodal movement of people and goods.

19 Section 39. Section 341.501, Florida Statutes, is
20 amended to read:

21 341.501 High-technology transportation systems; joint
22 project agreement or assistance.--Notwithstanding any other
23 provision of law, the Department of Transportation may enter
24 into a joint project agreement with, or otherwise assist,
25 private or public entities, or consortia thereof, to
26 facilitate the research, development, and demonstration of
27 high-technology transportation systems, including, but not
28 limited to, systems using magnetic levitation technology. The
29 provisions of the Florida High-Speed Rail Transportation Act,
30 ss. 341.3201-341.386, do not apply to actions taken under this
31 section, and the department may, subject to s. 339.135,

1 provide funds to match any available federal aid or aid from
2 other states or jurisdictions for effectuating the research,
3 development, and demonstration of high-technology
4 transportation systems. To be eligible for funding under this
5 section, the project must be located in Florida.

6 Section 40. 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 41. Section 348.0008, Florida Statutes, is
13 amended to read:

14 348.0008 Acquisition of lands and property.--

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

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

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

20 ~~(3)(2)~~ The right of eminent domain conferred by the
21 Florida Expressway Authority Act must be exercised by each
22 authority in the manner provided by law.

23 ~~(4)(3)~~ When an authority acquires property for an
24 expressway system or in a transportation corridor as defined
25 in s. 334.03, it is not subject to any liability imposed by
26 chapter 376 or chapter 403 for preexisting soil or groundwater
27 contamination due solely to its ownership. This subsection
28 does not affect the rights or liabilities of any past or
29 future owners of the acquired property nor does it affect the
30 liability of any governmental entity for the results of its
31 actions which create or exacerbate a pollution source. An

1 authority and the Department of Environmental Protection may
2 enter into interagency agreements for the performance,
3 funding, and reimbursement of the investigative and remedial
4 acts necessary for property acquired by the authority.

5 Section 42. Section 348.545, Florida Statutes, is
6 created to read:

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

19 Section 43. Section 348.565, Florida Statutes, is
20 amended to read:

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

31 (1) Brandon area feeder roads.†

1 (2) Capital improvements to the expressway system,
2 including safety and operational improvements and toll
3 collection equipment, ~~and~~

4 (3) Lee Roy Selmon Crosstown Expressway System
5 widening.

6 (4) The connector highway linking Lee Roy Selmon
7 Crosstown Expressway to Interstate 4.

8 Section 44. Section 373.4137, Florida Statutes, is
9 amended to read:

10 373.4137 Mitigation requirements.--

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

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

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

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

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

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

29 (b) Each transportation authority established pursuant
30 to chapter 348 or chapter 349 that chooses to participate in
31 this program shall create an escrow account within its

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

8 (c) The Department of Environmental Protection or
9 water management districts may request a transfer of funds
10 from an ~~the~~ escrow account no sooner than 30 days prior to the
11 date the funds are needed to pay for activities associated
12 with development or implementation of the approved mitigation
13 plan described in subsection (4) for the current fiscal year,
14 including, but not limited to, design, engineering,
15 production, and staff support. Actual conceptual plan
16 preparation costs incurred before plan approval may be
17 submitted to the Department of Transportation or the
18 appropriate transportation authority and the Department of
19 Environmental Protection by November 1 of each year with the
20 plan. The conceptual plan preparation costs of each water
21 management district will be paid based on the amount approved
22 on the mitigation plan and allocated to the current fiscal
23 year projects identified by the water management district. The
24 amount transferred to the escrow accounts ~~account~~ each year by
25 the Department of Transportation and participating
26 transportation authorities established pursuant to chapter 348
27 or chapter 349 shall correspond to a cost per acre of \$75,000
28 multiplied by the projected acres of impact identified in the
29 inventory described in subsection (2). However, the \$75,000
30 cost per acre does not constitute an admission against
31 interest by the state or its subdivisions nor is the cost

1 admissible as evidence of full compensation for any property
2 acquired by eminent domain or through inverse condemnation.
3 Each July 1, the cost per acre shall be adjusted by the
4 percentage change in the average of the Consumer Price Index
5 issued by the United States Department of Labor for the most
6 recent 12-month period ending September 30, compared to the
7 base year average, which is the average for the 12-month
8 period ending September 30, 1996. At the end of each year, the
9 projected acreage of impact shall be reconciled with the
10 acreage of impact of projects as permitted, including permit
11 modifications, pursuant to this part and s. 404 of the Clean
12 Water Act, 33 U.S.C. s. 1344. The subject year's transfer of
13 funds shall be adjusted accordingly to reflect the
14 overtransfer or undertransfer of funds from the preceding
15 year. The Department of Transportation and participating
16 transportation authorities established pursuant to chapter 348
17 or chapter 349 are ~~is~~ authorized to transfer such funds from
18 the escrow accounts ~~account~~ to the Department of Environmental
19 Protection and the water management districts to carry out the
20 mitigation programs.

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

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

29 (a) For each transportation project with a funding
30 request for the next fiscal year, the mitigation plan must
31 include a brief explanation of why a mitigation bank was or

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

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

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

1 | invasive plant control within wetlands and other surface
2 | waters.

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

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

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

1 mitigation plan, and no other state, regional, or local permit
2 or approval shall be necessary.

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

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

29 Section 45. Paragraph (b) of subsection (3) of section
30 380.04, Florida Statutes, is amended to read:

31 380.04 Definition of development.--

1 (3) The following operations or uses shall not be
2 taken for the purpose of this chapter to involve "development"
3 as defined in this section:

4 (b) Work by any utility and other persons engaged in
5 the distribution or transmission of gas, electricity, or
6 water, for the purpose of inspecting, repairing, renewing, or
7 constructing on established rights-of-way any sewers, mains,
8 pipes, cables, utility tunnels, power lines, towers, poles,
9 tracks, or the like.

10 Section 46. Paragraph (c) of subsection (3) of section
11 380.0651, Florida Statutes, is amended to read:

12 380.0651 Statewide guidelines and standards.--

13 (3) The following statewide guidelines and standards
14 shall be applied in the manner described in s. 380.06(2) to
15 determine whether the following developments shall be required
16 to undergo development-of-regional-impact review:

17 (c) Industrial plants, industrial parks, and
18 distribution, warehousing or wholesaling facilities.--Any
19 proposed industrial, manufacturing, or processing plant, or
20 distribution, warehousing, or wholesaling facility, excluding
21 wholesaling developments which deal primarily with the general
22 public onsite, under common ownership, or any proposed
23 industrial, manufacturing, or processing activity or
24 distribution, warehousing, or wholesaling activity, excluding
25 wholesaling activities which deal primarily with the general
26 public onsite, which:

27 1. Provides parking for more than 2,500 motor
28 vehicles; or

29 2. Occupies a site greater than 640 ~~320~~ acres.

30 Section 47. Paragraph (b) of subsection (1) of section
31 496.425, Florida Statutes, is amended to read:

1 496.425 Solicitation of funds within public
2 transportation facilities.--
3 (1) As used in this section:
4 (b) "Facility" means any public transportation
5 facility, including, but not limited to, railroad stations,
6 bus stations, ship ports, ferry terminals, and roadside
7 ~~welcome stations, highway service plazas, airports served by~~
8 ~~scheduled passenger service, or highway rest stations.~~

9 Section 48. Section 496.4256, Florida Statutes, is
10 created to read:

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

18 Section 49. Paragraph (d) is added to subsection (10)
19 of section 768.28, Florida Statutes, to read:

20 768.28 Waiver of sovereign immunity in tort actions;
21 recovery limits; limitation on attorney fees; statute of
22 limitations; exclusions; indemnification; risk management
23 programs.--

24 (10)

25 (d) For the purposes of this section, operators of
26 rail services and providers of security for rail services, or
27 any of their employees or agents, that have contractually
28 agreed to act as agents of the Tri-County Commuter Rail
29 Authority to operate rail services or provide security for
30 rail services shall be considered agents of the state while
31 acting within the scope of and pursuant to guidelines

1 established in said contract or by rule. The contract shall
2 provide for the indemnification of the state by the agent for
3 any liability incurred up to the limits set out in this
4 chapter.

5 Section 50. Dori Slosberg Driver Education Safety
6 Act.--Effective October 1, 2002, notwithstanding the
7 provisions of s. 318.121, Florida Statutes, a board of county
8 commissioners may require, by ordinance, that the clerk of the
9 court collect an additional \$3 with each civil traffic
10 penalty, which shall be used to fund traffic education
11 programs in public and nonpublic schools. The ordinance shall
12 provide for the board of county commissioners to administer
13 the funds. The funds shall be used for direct educational
14 expenses and shall not be used for administration. This
15 section may be cited as the "Dori Slosberg Driver Education
16 Safety Act."

17 Section 51. Subsection (2) of section 2 of chapter
18 88-418, Laws of Florida, is amended to read:

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

22 (2) The alteration of the physical dimensions or
23 location of Crandon Boulevard, the median strip thereof, or
24 the land adjacent thereto, except for:

25 (a) The routine or emergency utilities maintenance
26 activities necessitated to maintain the road as a utility
27 corridor serving the village of Key Biscayne; or

28 (b) The modification or improvements made to provide
29 for vehicular ingress and egress of governmental public safety
30 vehicles.

31

1 Section 52. Except as otherwise provided herein, this
2 act shall take effect July 1, 2002.
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