

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. 120.52, F.S.;
22 redefining the term "agency" for the purposes
23 of the Administrative Procedure Act to provide
24 that metropolitan planning organizations are
25 not agencies for the purposes of the act;
26 amending s. 163.3177, F.S.; adding airport
27 master plans that have specified components to
28 comprehensive plans; creating exemption to
29 development of regional impact review if
30 certain conditions are met; amending s.
31 189.441, F.S., relating to contracts with an

1 authority under the Community Improvement
 2 Authority Act; removing an exemption from s.
 3 287.055, F.S., related to procurement of
 4 specified services; amending s. 215.615, F.S.,
 5 relating to funding of fixed-guideway
 6 transportation systems; deleting obsolete
 7 language; amending s. 255.20, F.S.; exempting
 8 certain transportation projects from certain
 9 competitive bidding requirements; amending s.
 10 287.055, F.S.; increasing the amount defining a
 11 continuing contract; amending s. 311.09, F.S.;
 12 providing for application of s. 287.055, F.S.,
 13 the Consultants' Competitive Negotiation Act,
 14 to seaports; amending s. 315.02, F.S.;
 15 redefining the terms "unit" and "port
 16 facilities" for purposes of port facilities
 17 financing; including seaport security projects
 18 within the meaning of "port facility"; amending
 19 s. 315.03, F.S.; authorizing certain entities
 20 to participate in certain federal loan
 21 programs; providing for oversight by the
 22 Florida Seaport Transportation and Economic
 23 Development Council; requiring annual reports;
 24 requiring legislative review; amending s.
 25 316.003, F.S.; revising definition of "motor
 26 vehicle"; defining the terms "electric personal
 27 assistive mobility device" and "motorized
 28 scooter"; creating s. 316.2068, F.S.; providing
 29 regulations for electric personal assistive
 30 mobility devices; amending s. 316.515, F.S.;
 31 revising size requirement provisions for

1 vehicles transporting certain agricultural
2 products; allowing the Department of
3 Transportation to issue permits for certain
4 vehicles; amending s. 316.520, F.S.; exempting
5 certain vehicles from covering requirements;
6 creating s. 316.80, F.S.; establishing
7 penalties for persons who transport motor or
8 diesel fuel in unlawful containers;
9 establishing penalties for use of stolen or
10 illegal payment access devices; providing for
11 forfeiture; providing for costs; amending s.
12 320.08056, F.S.; providing use fees for the
13 Florida Firefighters license plate and the
14 Police Benevolent Association license plate;
15 amending s. 320.08058, F.S.; providing for
16 creation of the Florida Firefighters license
17 plate and the Police Benevolent Association
18 license plate; providing for the distribution
19 of use fees received from the sale of such
20 plates; amending s. 332.004, F.S.; revising the
21 definition of "airport or aviation development
22 project" for purposes of the Florida Airport
23 Development and Assistance Act to add certain
24 noise mitigation projects; amending s. 332.007,
25 F.S.; extending expiration date of provisions
26 relating to economic assistance to airports for
27 certain projects; extending due date of certain
28 loans for certain airports; amending s. 333.06,
29 F.S.; adding requirements for an airport master
30 plan; amending s. 334.044, F.S.; authorizing
31 the department to expend money on items that

1 promote scenic highway projects; authorizing
2 the department to delegate its drainage
3 permitting responsibilities to other
4 governmental entities under certain
5 circumstances; amending s. 334.175, F.S.;
6 adding state-registered landscape architects to
7 the list of design professionals who sign,
8 seal, and certify certain Department of
9 Transportation project plans; creating s.
10 335.066, F.S.; creating the Safe Paths to
11 Schools Program within the Department of
12 Transportation; providing for consideration of
13 planning and construction with certain
14 criteria; providing for grants for local,
15 regional, and state projects that support the
16 program; providing rulemaking authority;
17 amending s. 336.41, F.S.; providing for
18 counties to certify or qualify persons to
19 perform work under certain contracts;
20 clarifying that a contractor already qualified
21 by the department is presumed qualified to
22 perform work described under contract on county
23 road projects; amending s. 336.44, F.S.;
24 providing that certain contracts shall be let
25 to the lowest responsible bidder; amending s.
26 337.11, F.S., relating to design-build
27 contracts effective July 1, 2003; adding
28 right-of-way services to activities that can be
29 part of a design-build contract; amending s.
30 337.11, F.S., relating to design-build
31 contracts effective July 1, 2005; deleting

1 right-of-way services from design-build
2 contracts; amending s. 337.14, F.S.; revising
3 provisions for qualifying persons to bid on
4 certain construction contracts; providing for
5 expressway authorities to certify or qualify
6 persons to perform work under certain
7 contracts; clarifying that a contractor
8 qualified by the department is presumed
9 qualified to perform work described under
10 contract on projects for expressway
11 authorities; amending s. 337.401, F.S.;
12 providing that for certain projects under the
13 department's jurisdiction, a utility relocation
14 schedule and relocation agreement may be
15 executed in lieu of a written permit; amending
16 s. 337.408, F.S.; revising language with
17 respect to the regulation of benches, transit
18 shelters, and waste disposal receptacles within
19 rights-of-way; restating the Department of
20 Transportation's rulemaking authority regarding
21 regulation of bus benches; providing for local
22 government regulation of dimensions of bus
23 benches and advertising displays to supersede
24 the department's regulations, in certain
25 circumstances; requiring approval of Federal
26 Highway Administration for bus benches and
27 advertising displays on the National Highway
28 System; providing for regulation of street
29 light poles; amending s. 339.08, F.S.; revising
30 language with respect to the use of moneys in
31 the State Transportation Trust Fund; amending

1 s. 339.12, F.S.; revising language relating to
2 compensation to local governments that perform
3 projects for the department; providing for
4 preference to certain counties for
5 transportation grants under specified
6 circumstances; amending s. 339.55, F.S.;
7 providing for state infrastructure bank funds
8 to be spent on intermodal projects; revising
9 criteria for evaluation of projects; amending
10 s. 341.031, F.S.; correcting cross references;
11 amending s. 341.051, F.S., relating to
12 financing of public transit capital projects,
13 and s. 341.053, F.S., relating to projects
14 eligible for funding under the Intermodal
15 Development Program; deleting obsolete
16 language; amending s. 341.501, F.S., relating
17 to high-technology transportation systems;
18 authorizing the department to match funds from
19 other states or jurisdictions for certain
20 purposes; providing criteria; amending s.
21 348.0003, F.S.; authorizing a county governing
22 body to set qualifications, terms of office,
23 and obligations and rights for the members of
24 expressway authorities within their
25 jurisdictions; amending s. 348.0008, F.S.;
26 allowing expressway authorities to acquire
27 certain interests in land; providing for
28 expressway authorities and their agents or
29 employees to access public or private property
30 for certain purposes; creating s. 348.545,
31 F.S.; clarifying that the Tampa-Hillsborough

1 County Expressway Authority may use bond
2 revenues to finance improvements to toll
3 facilities, interchanges, and other facilities
4 related to the expressway system; amending s.
5 348.565, F.S.; adding the connector highway
6 linking Lee Roy Selmon Crosstown Expressway to
7 Interstate 4 as an approved project; amending
8 s. 373.4137, F.S.; providing for certain
9 expressway, bridge, or transportation
10 authorities to create environmental impact
11 inventories and participate in a mitigation
12 program to offset adverse impacts caused by
13 their transportation projects; amending s.
14 380.04, F.S.; adding work on rights-of-way
15 pertaining to electricity facilities to the
16 list of activities not defined as "development"
17 for purposes of the Florida Environmental Land
18 and Water Management Act; amending s. 380.06,
19 F.S., relating to development of regional
20 impact; removing a rebuttable presumption with
21 respect to application of the statewide
22 guidelines and standards and revising the fixed
23 thresholds; providing application with respect
24 to developments that have received a
25 development-of-regional-impact development
26 order or that have an application for
27 development approval or notification of
28 proposed change pending; amending s. 496.425,
29 F.S.; redefining the term "facility"; creating
30 s. 496.4256, F.S.; providing that a
31 governmental entity or authority that owns or

1 operates certain facilities on the State
2 Highway System is not required to issue a
3 permit or grant access to any person for the
4 purpose of soliciting funds; creating the Dori
5 Slosberg Driver Education Safety Act;
6 authorizing a board of county commissioners to
7 require an additional amount to be collected
8 with each civil traffic penalty to be used to
9 fund traffic education programs in public and
10 nonpublic schools; providing for administration
11 of funds collected; restricting use of said
12 funds; amending s. 2 of chapter 88-418, Laws of
13 Florida, relating to Crandon Boulevard;
14 allowing expenditure of public funds for
15 modifications to provide access for
16 governmental public safety vehicles; providing
17 effective dates.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsections (1), (2), (3), (6), and (7) of
22 section 20.23, Florida Statutes, are amended to read:

23 20.23 Department of Transportation.--There is created
24 a Department of Transportation which shall be a decentralized
25 agency.

26 (1)(a)~~1~~. The head of the Department of Transportation
27 is the Secretary of Transportation. The secretary shall be
28 appointed by the Governor from among three persons nominated
29 by the Florida Transportation Commission and shall be subject
30 to confirmation by the Senate. The secretary shall serve at
31 the pleasure of the Governor.

1 (b)2. The secretary shall be a proven, effective
2 administrator who by a combination of education and experience
3 shall clearly possess a broad knowledge of the administrative,
4 financial, and technical aspects of the development,
5 operation, and regulation of transportation systems and
6 facilities or comparable systems and facilities.

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

20 ~~2.~~ ~~The secretary shall cause the annual department~~
21 ~~budget request, the Florida Transportation Plan, and the~~
22 ~~tentative work program to be prepared in accordance with all~~
23 ~~applicable laws and departmental policies and shall submit the~~
24 ~~budget, plan, and program to the Florida Transportation~~
25 ~~Commission. The commission shall perform an in-depth~~
26 ~~evaluation of the budget, plan, and program for compliance~~
27 ~~with all applicable laws and departmental policies. If the~~
28 ~~commission determines that the budget, plan, or program is not~~
29 ~~in compliance with all applicable laws and departmental~~
30 ~~policies, it shall report its findings and recommendations~~

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1 ~~regarding such noncompliance to the Legislature and the~~
2 ~~Governor.~~

3 (c)~~3.~~ The secretary shall provide to the Florida
4 Transportation Commission or its staff, such assistance,
5 information, and documents as are requested by the commission
6 or its staff to enable the commission to fulfill its duties
7 and responsibilities.

8 (d)~~(c)~~ The secretary shall appoint two ~~three~~ assistant
9 secretaries who shall be directly responsible to the secretary
10 and who shall perform such duties as are specified in this
11 section and such other duties as are assigned by the
12 secretary. ~~The secretary may delegate to any assistant~~
13 ~~secretary the authority to act in the absence of the~~
14 ~~secretary. The department has the authority to adopt rules~~
15 ~~necessary for the delegation of authority beyond the assistant~~
16 ~~secretaries. The assistant secretaries shall serve at the~~
17 ~~pleasure of the secretary.~~

18 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and
19 the assistant secretaries shall be exempt from the provisions
20 of part III of chapter 110 and shall receive compensation
21 commensurate with their qualifications and competitive with
22 compensation for comparable responsibility in the private
23 sector. When the salary of any assistant secretary exceeds the
24 limits established in part III of chapter 110, the Governor
25 shall approve said salary.

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

30 2. Members shall be appointed in such a manner as to
31 equitably represent all geographic areas of the state. Each

1 member must be a registered voter and a citizen of the state.
2 Each member of the commission must also possess business
3 managerial experience in the private sector.

4 3. A member of the commission shall represent the
5 transportation needs of the state as a whole and may not
6 subordinate the needs of the state to those of any particular
7 area of the state.

8 4. The commission is assigned to the Office of the
9 Secretary of the Department of Transportation for
10 administrative and fiscal accountability purposes, but it
11 shall otherwise function independently of the control and
12 direction of the department.

13 (b) The commission shall have the primary functions
14 to:

15 1. Recommend major transportation policies for the
16 Governor's approval, and assure that approved policies and any
17 revisions thereto are properly executed.

18 2. Periodically review the status of the state
19 transportation system including highway, transit, rail,
20 seaport, intermodal development, and aviation components of
21 the system and recommend improvements therein to the Governor
22 and the Legislature.

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

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

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

9 6. Perform an in-depth evaluation of the factors
10 causing disruption of project schedules in the adopted work
11 program and recommend to the Legislature and the Governor
12 methods to eliminate or reduce the disruptive effects of these
13 factors.

14 7. Recommend to the Governor and the Legislature
15 improvements to the department's organization in order to
16 streamline and optimize the efficiency of the department. In
17 reviewing the department's organization, the commission shall
18 determine if the current district organizational structure is
19 responsive to Florida's changing economic and demographic
20 development patterns. The initial report by the commission
21 must be delivered to the Governor and Legislature by December
22 15, 2000, and each year thereafter, as appropriate. The
23 commission may retain such experts as are reasonably necessary
24 to effectuate this subparagraph, and the department shall pay
25 the expenses of such experts.

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

- 29 1. The awarding of contracts.
30 2. The selection of a consultant or contractor or the
31 prequalification of any individual consultant or contractor.

1 However, the commission may recommend to the secretary
2 standards and policies governing the procedure for selection
3 and prequalification of consultants and contractors.

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

5 4. The specific location of a transportation facility.

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

7 6. The employment, promotion, demotion, suspension,
8 transfer, or discharge of any department personnel.

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

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

13 2. The commission shall hold a minimum of 4 regular
14 meetings annually, and other meetings may be called by the
15 chair upon giving at least 1 week's notice to all members and
16 the public pursuant to chapter 120. Other meetings may also be
17 held upon the written request of at least four other members
18 of the commission, with at least 1 week's notice of such
19 meeting being given to all members and the public by the chair
20 pursuant to chapter 120. Emergency meetings may be held
21 without notice upon the request of all members of the
22 commission. At each meeting of the commission, the secretary
23 or his or her designee shall submit a report of major actions
24 taken by him or her as official representative of the
25 department.

26 3. A majority of the membership of the commission
27 constitutes a quorum at any meeting of the commission. An
28 action of the commission is not binding unless the action is
29 taken pursuant to an affirmative vote of a majority of the
30 members present, but not fewer than four members of the
31

1 commission at a meeting held pursuant to subparagraph 2., and
2 the vote is recorded in the minutes of that meeting.

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

6 (e) The meetings of the commission shall be held in
7 the central office of the department in Tallahassee unless the
8 chair determines that special circumstances warrant meeting at
9 another location.

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

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

17 (h) The commission shall appoint an executive director
18 and assistant executive director, who shall serve under the
19 direction, supervision, and control of the commission. The
20 executive director, with the consent of the commission, shall
21 employ such staff as are necessary to perform adequately the
22 functions of the commission, within budgetary limitations. All
23 employees of the commission are exempt from part II of chapter
24 110 and shall serve at the pleasure of the commission. The
25 salaries and benefits of all employees of the commission shall
26 be set in accordance with the Selected Exempt Service;
27 provided, however, that the commission shall have complete
28 authority for fixing the salary of the executive director and
29 assistant executive director.

30 (i) The commission shall develop a budget pursuant to
31 chapter 216. The budget is not subject to change by the

1 department, but such budget shall be submitted to the Governor
2 along with the budget of the department.

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

22 ~~(b) The resources necessary to ensure the efficiency,
23 effectiveness, and quality of performance by the department of
24 its statutory responsibilities shall be allocated to the
25 central office.~~

26 (b)(c) The secretary shall appoint an Assistant
27 Secretary for Transportation Policy and an Assistant
28 Secretary for Finance and Administration, ~~and an Assistant
29 Secretary for District Operations~~, each of whom shall serve at
30 the pleasure of the secretary. ~~The positions are responsible
31 for developing, monitoring, and enforcing policy and managing~~

1 ~~major technical programs. The responsibilities and duties of~~
2 ~~these positions include, but are not limited to, the following~~
3 ~~functional areas:~~

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

5 ~~a. Development of the Florida Transportation Plan and~~
6 ~~other policy planning;~~

7 ~~b. Development of statewide modal systems plans,~~
8 ~~including public transportation systems;~~

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

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

11 ~~e. Acquisition and management of transportation~~
12 ~~rights-of-way; and~~

13 ~~f. Administration of motor carrier compliance and~~
14 ~~safety.~~

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

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

17 ~~b. Implementation of the decentralization of the~~
18 ~~department.~~

19 ~~3. Assistant Secretary for Finance and~~

20 ~~Administration.--~~

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

22 ~~b. Information systems;~~

23 ~~c. Accounting systems;~~

24 ~~d. Administrative functions; and~~

25 ~~e. Administration of toll operations.~~

26 ~~(d)1. Policy, program, or operations offices shall be~~
27 ~~established within the central office for the purposes of:~~

28 ~~a. Developing policy and procedures and monitoring~~
29 ~~performance to ensure compliance with these policies and~~
30 ~~procedures;~~

31

1 ~~b. Performing statewide activities which it is more~~
2 ~~cost-effective to perform in a central location;~~

3 ~~c. Assessing and ensuring the accuracy of information~~
4 ~~within the department's financial management information~~
5 ~~systems; and~~

6 ~~d. Performing other activities of a statewide nature.~~

7 (c)1.2. The following offices are established and
8 shall be headed by a manager, each of whom shall be appointed
9 by and serve at the pleasure of the secretary. The positions
10 shall be classified at a level equal to a division director:

11 a. The Office of Administration.†

12 b. The Office of Policy Planning.†

13 c. The Office of Design.†

14 d. The Office of Highway Operations.†

15 e. The Office of Right-of-Way.†

16 f. The Office of Toll Operations.†

17 g. The Office of Information Systems.† ~~and~~

18 h. The Office of Motor Carrier Compliance.

19 i. The Office of Management and Budget.

20 j. The Office of Comptroller.

21 ~~2.3.~~ Other offices may be established in accordance
22 with s. 20.04(7). The heads of such offices are exempt from
23 part II of chapter 110. No office or organization shall be
24 created at a level equal to or higher than a division without
25 specific legislative authority.

26 ~~3.4.~~ During the construction of a major transportation
27 improvement project or as determined by the district
28 secretary, the department may provide assistance to a business
29 entity significantly impacted by the project if the entity is
30 a for-profit entity that has been in business for 3 years
31 prior to the beginning of construction and has direct or

1 shared access to the transportation project being constructed.
 2 The assistance program shall be in the form of additional
 3 guarantees to assist the impacted business entity in receiving
 4 loans pursuant to Title 13 C.F.R. part 120. However, in no
 5 instance shall the combined guarantees be greater than 90
 6 percent of the loan. The department shall adopt rules to
 7 implement this subparagraph.

8 ~~(e) The Assistant Secretary for Finance and~~
 9 ~~Administration must possess a broad knowledge of the~~
 10 ~~administrative, financial, and technical aspects of a complete~~
 11 ~~cost-accounting system, budget preparation and management, and~~
 12 ~~management information systems. The Assistant Secretary for~~
 13 ~~Finance and Administration must be a proven, effective manager~~
 14 ~~with specialized skills in financial planning and management.~~
 15 ~~The Assistant Secretary for Finance and Administration shall~~
 16 ~~ensure that financial information is processed in a timely,~~
 17 ~~accurate, and complete manner.~~

18 ~~(f)1. Within the central office there is created an~~
 19 ~~Office of Management and Budget. The head of the Office of~~
 20 ~~Management and Budget is responsible to the Assistant~~
 21 ~~Secretary for Finance and Administration and is exempt from~~
 22 ~~part II of chapter 110.~~

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

- 25 ~~a. Preparation of the work program;~~
- 26 ~~b. Preparation of the departmental budget; and~~
- 27 ~~c. Coordination of related policies and procedures.~~

28 ~~3. The Office of Management and Budget shall also be~~
 29 ~~responsible for developing uniform implementation and~~
 30 ~~monitoring procedures for all activities performed at the~~
 31 ~~district level involving the budget and the work program.~~

1 (d)(g) The secretary shall ~~may~~ appoint an inspector
2 general pursuant to s. 20.055 who shall be directly
3 responsible to the secretary and shall serve at the pleasure
4 of the secretary.

5 ~~(h)1. The secretary shall appoint an inspector general~~
6 ~~pursuant to s. 20.055. The inspector general may be~~
7 ~~organizationally located within another unit of the department~~
8 ~~for administrative purposes, but shall function independently~~
9 ~~and be directly responsible to the secretary pursuant to s.~~
10 ~~20.055. The duties of the inspector general shall include, but~~
11 ~~are not restricted to, reviewing, evaluating, and reporting on~~
12 ~~the policies, plans, procedures, and accounting, financial,~~
13 ~~and other operations of the department and recommending~~
14 ~~changes for the improvement thereof, as well as performing~~
15 ~~audits of contracts and agreements between the department and~~
16 ~~private entities or other governmental entities. The inspector~~
17 ~~general shall give priority to reviewing major parts of the~~
18 ~~department's accounting system and central office monitoring~~
19 ~~function to determine whether such systems effectively ensure~~
20 ~~accountability and compliance with all laws, rules, policies,~~
21 ~~and procedures applicable to the operation of the department.~~
22 ~~The inspector general shall also give priority to assessing~~
23 ~~the department's management information systems as required by~~
24 ~~s. 282.318. The internal audit function shall use the~~
25 ~~necessary expertise, in particular, engineering, financial,~~
26 ~~and property appraising expertise, to independently evaluate~~
27 ~~the technical aspects of the department's operations. The~~
28 ~~inspector general shall have access at all times to any~~
29 ~~personnel, records, data, or other information of the~~
30 ~~department and shall determine the methods and procedures~~
31 ~~necessary to carry out his or her duties. The inspector~~

1 ~~general is responsible for audits of departmental operations~~
2 ~~and for audits of consultant contracts and agreements, and~~
3 ~~such audits shall be conducted in accordance with generally~~
4 ~~accepted governmental auditing standards. The inspector~~
5 ~~general shall annually perform a sufficient number of audits~~
6 ~~to determine the efficiency and effectiveness, as well as~~
7 ~~verify the accuracy of estimates and charges, of contracts~~
8 ~~executed by the department with private entities and other~~
9 ~~governmental entities. The inspector general has the sole~~
10 ~~responsibility for the contents of his or her reports, and a~~
11 ~~copy of each report containing his or her findings and~~
12 ~~recommendations shall be furnished directly to the secretary~~
13 ~~and the commission.~~

14 2. ~~In addition to the authority and responsibilities~~
15 ~~herein provided, the inspector general is required to report~~
16 ~~to the:~~

17 a. ~~Secretary whenever the inspector general makes a~~
18 ~~preliminary determination that particularly serious or~~
19 ~~flagrant problems, abuses, or deficiencies relating to the~~
20 ~~administration of programs and operations of the department~~
21 ~~have occurred. The secretary shall review and assess the~~
22 ~~correctness of the preliminary determination by the inspector~~
23 ~~general. If the preliminary determination is substantiated,~~
24 ~~the secretary shall submit such report to the appropriate~~
25 ~~committees of the Legislature within 7 calendar days, together~~
26 ~~with a report by the secretary containing any comments deemed~~
27 ~~appropriate. Nothing in this section shall be construed to~~
28 ~~authorize the public disclosure of information which is~~
29 ~~specifically prohibited from disclosure by any other provision~~
30 ~~of law.~~

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1 ~~b. Transportation Commission and the Legislature any~~
2 ~~actions by the secretary that prohibit the inspector general~~
3 ~~from initiating, carrying out, or completing any audit after~~
4 ~~the inspector general has decided to initiate, carry out, or~~
5 ~~complete such audit. The secretary shall, within 30 days after~~
6 ~~transmission of the report, set forth in a statement to the~~
7 ~~Transportation Commission and the Legislature the reasons for~~
8 ~~his or her actions.~~

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

13 ~~2. The comptroller is the chief financial officer of~~
14 ~~the department and must be a proven, effective administrator~~
15 ~~who by a combination of education and experience clearly~~
16 ~~possesses a broad knowledge of the administrative, financial,~~
17 ~~and technical aspects of a complex cost-accounting system. The~~
18 ~~comptroller must also have a working knowledge of generally~~
19 ~~accepted accounting principles. At a minimum, the comptroller~~
20 ~~must hold an active license to practice public accounting in~~
21 ~~Florida pursuant to chapter 473 or an active license to~~
22 ~~practice public accounting in any other state. In addition to~~
23 ~~the requirements of the Florida Fiscal Accounting Management~~
24 ~~Information System Act, the comptroller is responsible for the~~
25 ~~development, maintenance, and modification of an accounting~~
26 ~~system that will in a timely manner accurately reflect the~~
27 ~~revenues and expenditures of the department and that includes~~
28 ~~a cost-accounting system to properly identify, segregate,~~
29 ~~allocate, and report department costs. The comptroller shall~~
30 ~~supervise and direct preparation of a detailed 36-month~~
31 ~~forecast of cash and expenditures and is responsible for~~

1 ~~managing cash and determining cash requirements. The~~
2 ~~comptroller shall review all comparative cost studies that~~
3 ~~examine the cost-effectiveness and feasibility of contracting~~
4 ~~for services and operations performed by the department. The~~
5 ~~review must state that the study was prepared in accordance~~
6 ~~with generally accepted cost-accounting standards applied in a~~
7 ~~consistent manner using valid and accurate cost data.~~

8 ~~3. The department shall by rule or internal management~~
9 ~~memoranda as required by chapter 120 provide for the~~
10 ~~maintenance by the comptroller of financial records and~~
11 ~~accounts of the department as will afford a full and complete~~
12 ~~check against the improper payment of bills and provide a~~
13 ~~system for the prompt payment of the just obligations of the~~
14 ~~department, which records must at all times disclose:~~

15 ~~a. The several appropriations available for the use of~~
16 ~~the department;~~

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

19 ~~c. The apportionment or division of all such~~
20 ~~appropriations among the several counties and districts, when~~
21 ~~such apportionment or division is made;~~

22 ~~d. The amount or portion of each such apportionment~~
23 ~~against general contractual and other liabilities then~~
24 ~~created;~~

25 ~~e. The amount expended and still to be expended in~~
26 ~~connection with each contractual and other obligation of the~~
27 ~~department;~~

28 ~~f. The expense and operating costs of the various~~
29 ~~activities of the department;~~

30 ~~g. The receipts accruing to the department and the~~
31 ~~distribution thereof;~~

1 ~~h. The assets, investments, and liabilities of the~~
2 ~~department; and~~

3 ~~i. The cash requirements of the department for a~~
4 ~~36-month period.~~

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

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

9 (e)(j) The secretary shall appoint a general counsel
10 who shall be ~~employed full time and shall be~~ directly
11 responsible to the secretary and shall serve at the pleasure
12 of the secretary. The general counsel is responsible for all
13 legal matters of the department. The department may employ as
14 many attorneys as it deems necessary to advise and represent
15 the department in all transportation matters.

16 (f)(k) The secretary shall appoint a state
17 transportation planner ~~who shall report to the Assistant~~
18 ~~Secretary for Transportation Policy. The state transportation~~
19 ~~planner's responsibilities shall include, but are not limited~~
20 ~~to, policy planning, systems planning, and transportation~~
21 ~~statistics. This position shall be classified at a level equal~~
22 ~~to a deputy assistant secretary.~~

23 (g)(l) The secretary shall appoint a state highway
24 engineer ~~who shall report to the Assistant Secretary for~~
25 ~~Transportation Policy. The state highway engineer's~~
26 ~~responsibilities shall include, but are not limited to,~~
27 ~~design, construction, and maintenance of highway facilities;~~
28 ~~acquisition and management of transportation rights-of-way;~~
29 ~~traffic engineering; and materials testing. This position~~
30 shall be classified at a level equal to a deputy assistant
31 secretary.

1 (h)~~(m)~~ The secretary shall appoint a state public
2 transportation administrator ~~who shall report to the Assistant~~
3 ~~Secretary for Transportation Policy. The state public~~
4 ~~transportation administrator's responsibilities shall include,~~
5 ~~but are not limited to, the administration of statewide~~
6 ~~transit, rail, intermodal development, and aviation programs.~~
7 This position shall be classified at a level equal to a deputy
8 assistant secretary. The department shall also assign to the
9 ~~public transportation administrator an organizational unit the~~
10 ~~primary function of which is to administer the high-speed rail~~
11 ~~program.~~

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

1 ~~(6)(7)~~ The department is authorized to contract with
2 local governmental entities and with the private sector if the
3 department first determines that:

4 (a) Consultants can do the work at less cost than
5 state employees;

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

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

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

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

18
19 Such contracts shall require compliance with applicable
20 federal and state laws, and clearly specify the product or
21 service to be provided.

22 Section 2. Section 59 of chapter 99-385, Laws of
23 Florida, is repealed.

24 Section 3. Paragraph (b) of subsection (3) of section
25 73.071, Florida Statutes, is amended to read:

26 73.071 Jury trial; compensation; severance damages;
27 business damages.--

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

30 (b) Where less than the entire property is sought to
31 be appropriated, any damages to the remainder caused by the

1 taking, including, when the action is by the Department of
2 Transportation, county, municipality, board, district or other
3 public body for the condemnation of a right-of-way, and the
4 effect of the taking of the property involved may damage or
5 destroy an established business of more than 4 years' standing
6 before January 1, 2005, or the effect of the taking of the
7 property involved may damage or destroy an established
8 business of more than 5 years' standing on or after January 1,
9 2005, owned by the party whose lands are being so taken,
10 located upon adjoining lands owned or held by such party, the
11 probable damages to such business which the denial of the use
12 of the property so taken may reasonably cause; any person
13 claiming the right to recover such special damages shall set
14 forth in his or her written defenses the nature and extent of
15 such damages; and

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

18 110.205 Career service; exemptions.--

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

21 (j) The appointed secretaries, assistant secretaries,
22 deputy secretaries, and deputy assistant secretaries of all
23 departments; the executive directors, assistant executive
24 directors, deputy executive directors, and deputy assistant
25 executive directors of all departments; and the directors of
26 all divisions and those positions determined by the department
27 to have managerial responsibilities comparable to such
28 positions, which positions include, but are not limited to,
29 program directors, assistant program directors, district
30 administrators, deputy district administrators, the Director
31 of Central Operations Services of the Department of Children

1 and Family Services, and the State Transportation Planner,
2 State Highway Engineer, State Public Transportation
3 Administrator, district secretaries, district directors of
4 planning and programming, production, and operations, and the
5 managers of the offices specified in s. 20.23(3)(c)1.~~(d)2.~~, of
6 the Department of Transportation. Unless otherwise fixed by
7 law, the department shall set the salary and benefits of these
8 positions in accordance with the rules of the Senior
9 Management Service.

10 (m) All assistant division director, deputy division
11 director, and bureau chief positions in any department, and
12 those positions determined by the department to have
13 managerial responsibilities comparable to such positions,
14 which positions include, but are not limited to, positions in
15 the Department of Health, the Department of Children and
16 Family Services, and the Department of Corrections that are
17 assigned primary duties of serving as the superintendent or
18 assistant superintendent, or warden or assistant warden, of an
19 institution; positions in the Department of Corrections that
20 are assigned primary duties of serving as the circuit
21 administrator or deputy circuit administrator; positions in
22 the Department of Transportation that are assigned primary
23 duties of serving as regional toll managers and managers of
24 offices as defined in s. 20.23(3)(c)2.~~(d)3.~~ and (4)(d);
25 positions in the Department of Environmental Protection that
26 are assigned the duty of an Environmental Administrator or
27 program administrator; those positions described in s. 20.171
28 as included in the Senior Management Service; and positions in
29 the Department of Health that are assigned the duties of
30 Environmental Administrator, Assistant County Health
31 Department Director, and County Health Department Financial

1 Administrator. Unless otherwise fixed by law, the department
2 shall set the salary and benefits of these positions in
3 accordance with the rules established for the Selected Exempt
4 Service.

5 Section 5. Subsection (1) of section 120.52, Florida
6 Statutes, is amended to read:

7 120.52 Definitions.--As used in this act:

8 (1) "Agency" means:

9 (a) The Governor in the exercise of all executive
10 powers other than those derived from the constitution.

11 (b) Each:

12 1. State officer and state department, and each
13 departmental unit described in s. 20.04.

14 2. Authority, including a regional water supply
15 authority.

16 3. Board.

17 4. Commission, including the Commission on Ethics and
18 the Fish and Wildlife Conservation Commission when acting
19 pursuant to statutory authority derived from the Legislature.

20 5. Regional planning agency.

21 6. Multicounty special district with a majority of its
22 governing board comprised of nonelected persons.

23 7. Educational units.

24 8. Entity described in chapters 163, 373, 380, and 582
25 and s. 186.504.

26 (c) Each other unit of government in the state,
27 including counties and municipalities, to the extent they are
28 expressly made subject to this act by general or special law
29 or existing judicial decisions.

30
31

1 This definition does not include any legal entity or agency
2 created in whole or in part pursuant to chapter 361, part II,
3 a metropolitan planning organization created pursuant to s.
4 339.175, an expressway authority pursuant to chapter 348, any
5 legal or administrative entity created by an interlocal
6 agreement pursuant to s. 163.01(7), unless any party to such
7 agreement is otherwise an agency as defined in this
8 subsection, or any multicounty special district with a
9 majority of its governing board comprised of elected persons;
10 however, this definition shall include a regional water supply
11 authority.

12 Section 6. Paragraph (k) is added to subsection (6) of
13 section 163.3177, Florida Statutes, to read:

14 163.3177 Required and optional elements of
15 comprehensive plan; studies and surveys.--

16 (6) In addition to the requirements of subsections
17 (1)-(5), the comprehensive plan shall include the following
18 elements:

19 (k) An airport master plan, and any subsequent
20 amendments to the airport master plan, prepared by a licensed
21 publicly owned and operated airport under s. 333.06 may be
22 incorporated into the local government comprehensive plan by
23 the local government having jurisdiction under this act for
24 the area in which the airport or projected airport development
25 is located by the adoption of a comprehensive plan amendment.
26 In the amendment to the local comprehensive plan that
27 integrates the airport master plan, the comprehensive plan
28 amendment shall address land use compatibility consistent with
29 chapter 333 regarding airport zoning; the provision of
30 regional transportation facilities for the efficient use and
31 operation of the transportation system and airport;

1 consistency with the local government transportation
2 circulation element and applicable metropolitan planning
3 organization long-range transportation plans; and the
4 execution of any necessary interlocal agreements for the
5 purposes of the provision of public facilities and services to
6 maintain the adopted level of service standards for facilities
7 subject to concurrency; and may address airport-related or
8 aviation-related development. Development or expansion of an
9 airport consistent with the adopted airport master plan that
10 has been incorporated into the local comprehensive plan in
11 compliance with this part, and airport-related or
12 aviation-related development that has been addressed in the
13 comprehensive plan amendment that incorporates the airport
14 master plan, shall not be a development of regional impact.

15 Section 7. Section 189.441, Florida Statutes, is
16 amended to read:

17 189.441 Contracts.--Contracts for the construction of
18 projects and for any other purpose of the authority may be
19 awarded by the authority in a manner that will best promote
20 free and open competition, including advertisement for
21 competitive bids; however, if the authority determines that
22 the purposes of this act will be more effectively served
23 thereby, the authority may award or cause to be awarded
24 contracts for the construction of any project, including
25 design-build contracts, or any part thereof, or for any other
26 purpose of the authority upon a negotiated basis as determined
27 by the authority. Each contractor doing business with the
28 authority and required to be licensed by the state or local
29 general-purpose governments must maintain the license during
30 the term of the contract with the authority. The authority may
31 prescribe bid security requirements and other procedures in

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

1 forth the supporting documents required to be submitted to the
2 authority and the reviews, examinations, and audits that are
3 required in connection therewith to assure compliance with the
4 contract.

5 Section 8. Subsection (2) of section 215.615, Florida
6 Statutes, is amended to read:

7 215.615 Fixed-guideway transportation systems
8 funding.--

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

21 Section 9. Paragraph (a) of subsection (1) of section
22 255.20, Florida Statutes, is amended to read:

23 255.20 Local bids and contracts for public
24 construction works; specification of state-produced lumber.--

25 (1) A county, municipality, special district as
26 defined in chapter 189, or other political subdivision of the
27 state seeking to construct or improve a public building,
28 structure, or other public construction works must
29 competitively award to an appropriately licensed contractor
30 each project that is estimated in accordance with generally
31 accepted cost-accounting principles to have total construction

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

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

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

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

31

1 b. Other loss to public or private property which
2 requires emergency government action; or

3 c. An interruption of an essential governmental
4 service.

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

8 3. To construction, remodeling, repair, or improvement
9 to a public electric or gas utility system when such work on
10 the public utility system is performed by personnel of the
11 system.

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

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

17 6. When the project is undertaken exclusively as part
18 of a public educational program.

19 7. When the funding source of the project will be
20 diminished or lost because the time required to competitively
21 award the project after the funds become available exceeds the
22 time within which the funding source must be spent.

23 8. When the local government has competitively awarded
24 a project to a private sector contractor and the contractor
25 has abandoned the project before completion or the local
26 government has terminated the contract.

27 9. When the governing board of the local government,
28 after public notice, conducts a public meeting under s.
29 286.011 and finds by a majority vote of the governing board
30 that it is in the public's best interest to perform the
31 project using its own services, employees, and equipment. The

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

21 10. When the governing board of the local government
22 determines upon consideration of specific substantive criteria
23 and administrative procedures that it is in the best interest
24 of the local government to award the project to an
25 appropriately licensed private sector contractor according to
26 procedures established by and expressly set forth in a
27 charter, ordinance, or resolution of the local government
28 adopted prior to July 1, 1994. The criteria and procedures
29 must be set out in the charter, ordinance, or resolution and
30 must be applied uniformly by the local government to avoid
31

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

1 resolution by which the private sector contractor will be
2 selected and the criteria to be considered.

3 d. In the event the project is to be awarded by a
4 method other than a competitive selection process, the
5 architect or engineer of record has provided a written
6 recommendation that the project be awarded to the private
7 sector contractor without competitive selection; and the
8 consideration by, and the justification of, the government
9 body are documented, in writing, in the project file and are
10 presented to the governing board prior to the approval
11 required in this paragraph.

12 11. To projects subject to chapter 336.

13 Section 10. Paragraph (g) of subsection (2) of section
14 287.055, Florida Statutes, is amended to read:

15 287.055 Acquisition of professional architectural,
16 engineering, landscape architectural, or surveying and mapping
17 services; definitions; procedures; contingent fees prohibited;
18 penalties.--

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

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

30 Section 11. Subsection (12) of section 311.09, Florida
31 Statutes, is amended to read:

1 311.09 Florida Seaport Transportation and Economic
2 Development Council.--

3 (12) Members of the council shall serve without
4 compensation but are entitled to receive reimbursement for per
5 diem and travel expenses as provided in s. 112.061. The
6 council may elect to provide an administrative staff to
7 provide services to the council on matters relating to the
8 Florida Seaport Transportation and Economic Development
9 Program and the council. The cost for such administrative
10 services shall be paid by all ports that receive funding from
11 the Florida Seaport Transportation and Economic Development
12 Program, based upon a pro rata formula measured by each
13 recipient's share of the funds as compared to the total funds
14 disbursed to all recipients during the year. The share of
15 costs for administrative services shall be paid in its total
16 amount by the recipient port upon execution by the port and
17 the Department of Transportation of a joint participation
18 agreement for each council-approved project, and such payment
19 is in addition to the matching funds required to be paid by
20 the recipient port. Except as otherwise exempted by law, all
21 moneys derived from the Florida Seaport Transportation and
22 Economic Development Program shall be expended in accordance
23 with the provisions of s. 287.057. Seaports subject to
24 competitive negotiation requirements of a local governing body
25 shall abide by the provisions of s. 287.055 ~~be exempt from~~
26 ~~this requirement.~~

27 Section 12. Subsections (4) and (6) of section 315.02,
28 Florida Statutes, are amended to read:

29 315.02 Definitions.--As used in this law, the
30 following words and terms shall have the following meanings:
31

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

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

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

26 315.03 Grant of powers.--Each unit is hereby
27 authorized and empowered:

28 (11) To accept loans or grants of money or materials
29 or property at any time from the United States or the State of
30 Florida or any agency, instrumentality, or subdivision
31 thereof, or to participate in loan guarantees or lines of

1 credit provided by the United States, upon such terms and
2 conditions as the United States, the State of Florida, or such
3 agency, instrumentality, or subdivision may impose. Any entity
4 created pursuant to s. 163.01(7)(d) that involves at least one
5 deepwater port may participate in the provisions of this
6 subsection, with oversight by the Florida Seaport
7 Transportation and Economic Development Council.

8 (12)(a) To pay interest or other financing-related
9 costs on federal loan guarantees, lines of credit, or secured
10 direct loans issued to finance eligible projects. Any entity
11 created pursuant to s. 163.01(7)(d) that involves at least one
12 deepwater port may participate in the provisions of this
13 subsection, with oversight by the Florida Seaport
14 Transportation and Economic Development Council, and may
15 establish a loan program that would provide for the reuse of
16 loan proceeds for similar program purposes.

17 (b) The Florida Seaport Transportation and Economic
18 Development Council shall prepare an annual report detailing
19 the amounts loaned, the projects financed by the loans, any
20 interest earned, and loans outstanding. The report shall be
21 submitted to the Governor, the President of the Senate, and
22 the Speaker of the House of Representatives by January 1 of
23 each year, beginning in 2004.

24 (c) The Legislature shall review the loan program
25 established pursuant to this subsection during the 2004
26 Regular Session of the Legislature.

27 Section 14. Subsection (21) of section 316.003,
28 Florida Statutes, is amended, and subsections (82) and (83)
29 are added to said section, to read:

30 316.003 Definitions.--The following words and phrases,
31 when used in this chapter, shall have the meanings

1 respectively ascribed to them in this section, except where
2 the context otherwise requires:

3 (21) MOTOR VEHICLE.--Any self-propelled vehicle not
4 operated upon rails or guideway, but not including any
5 bicycle, motorized scooter, electric personal assistive
6 mobility device, or moped.

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

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

21 Section 15. Section 316.2068, Florida Statutes, is
22 created to read:

23 316.2068 Electric personal assistive mobility devices;
24 regulations.--

25 (1) An electric personal assistive mobility device, as
26 defined in s. 316.003, may be operated:

27 (a) On a road or street where the posted speed limit
28 is 25 miles per hour or less.

29 (b) On a marked bicycle path.

30 (c) On any street or road where bicycles are
31 permitted.

1 (d) At an intersection, to cross a road or street even
2 if the road or street has a posted speed limit of more than 25
3 miles per hour.

4 (e) On a sidewalk, if the person operating the device
5 yields the right-of-way to pedestrians and gives an audible
6 signal before overtaking and passing a pedestrian.

7 (2) A valid driver's license is not a prerequisite to
8 operating an electric personal assistive mobility device.

9 (3) Electric personal assistive mobility devices need
10 not be registered and insured in accordance with s. 320.02.

11 (4) A person who is under the age of 16 years may not
12 operate, ride, or otherwise be propelled on an electric
13 personal assistive mobility device unless the person wears a
14 bicycle helmet that is properly fitted, that is fastened
15 securely upon his or her head by a strap, and that meets the
16 standards of the American National Standards Institute (ANSI Z
17 Bicycle Helmet Standards), the standards of the Snell Memorial
18 Foundation (1984 Standard for Protective Headgear for Use in
19 Bicycling), or any other nationally recognized standards for
20 bicycle helmets which are adopted by the department.

21 (5) A county or municipality may prohibit the
22 operation of electric personal assistive mobility devices on
23 any road, street, or bicycle path under its jurisdiction if
24 the governing body of the county or municipality determines
25 that such a prohibition is necessary in the interest of
26 safety.

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

31

1 Section 16. Subsection (5) of section 316.515, Florida
2 Statutes, is amended to read:

3 316.515 Maximum width, height, length.--

4 (5) IMPLEMENTS OF HUSBANDRY, AGRICULTURAL TRAILERS,
5 SAFETY REQUIREMENTS.--Notwithstanding any other provisions of
6 law, straight trucks and cotton module movers, not exceeding
7 50 feet in length, or any combination of up to and including
8 three implements of husbandry including the towing power unit,
9 and any single agricultural trailer, with a load thereon not
10 exceeding 130 inches in width, is authorized for the purpose
11 of transporting peanuts, grains, soybeans, cotton, hay, straw,
12 or other perishable farm products from their point of
13 production to the first point of change of custody or of
14 long-term storage, and for the purpose of returning to such
15 point of production, by a person engaged in the production of
16 any such product or custom hauler, if such vehicle or
17 combination of vehicles otherwise complies with this section.
18 Such vehicles shall be operated in accordance with all safety
19 requirements prescribed by law and Department of
20 Transportation rules. The Department of Transportation may
21 issue overlength permits for cotton module movers greater than
22 50 feet but not more than 55 feet in overall length.

23 Section 17. Subsection (4) is added to section
24 316.520, Florida Statutes, to read:

25 316.520 Loads on vehicles.--

26 (4) The provision of subsection (2) requiring covering
27 and securing the load with a close-fitting tarpaulin or other
28 appropriate cover does not apply to vehicles carrying
29 agricultural products locally from a harvest site or to or
30 from a farm on roads where the posted speed limit is 65 miles
31

1 per hour or less and the distance driven on public roads is
2 less than 20 miles.

3 Section 18. Section 316.80, Florida Statutes, is
4 created to read:

5 316.80 Unlawful conveyance of fuel; obtaining fuel
6 fraudulently.--

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

18 (2) Any person who violates subsection (1) commits a
19 felony of the second degree, punishable as provided in s.
20 775.082, s. 775.083, or s. 775.084, if he or she has attempted
21 to or has fraudulently obtained motor or diesel fuel by:

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

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

26 (c) Using a fraudulently scanned or lost or stolen
27 payment access device, whether credit card or contactless
28 device.

29 (3) All conveyances or vehicles, fuel tanks, related
30 fuel, and other equipment described in subsection (1) shall be

31

1 subject to seizure and forfeiture as provided by the Florida
2 Contraband Forfeiture Act.

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

8 (5) Upon conviction of the person arrested for the
9 violation of any of the provisions of this section, the judge
10 shall issue an order adjudging and declaring that all fuel
11 tanks and other equipment used in violation of this section
12 shall be forfeited and directing their destruction, with the
13 exception of the conveyance or vehicle.

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

16 (a) All reasonable costs incurred by the investigating
17 law enforcement agency, including costs for the towing and
18 storage of the conveyance or vehicle, the removal and disposal
19 of the motor or diesel fuel, and the storage and destruction
20 of all fuel tanks and other equipment described and used in
21 violation of subsection (1); and

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

24 Section 19. Paragraphs (hh) and (ii) are added to
25 subsection (4) of section 320.08056, Florida Statutes, as
26 amended by section 1 of chapter 2001-355, Laws of Florida, to
27 read:

28 320.08056 Specialty license plates.--

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

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

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

2 Section 20. Subsections (34) and (35) are added to
3 section 320.08058, Florida Statutes, as amended by section 2
4 of chapter 2001-355, Laws of Florida, to read:

5 320.08058 Specialty license plates.--

6 (34) FLORIDA FIREFIGHTERS LICENSE PLATE.--

7 (a) Notwithstanding the provisions of s. 320.08053,
8 the department shall develop a Florida Firefighters license
9 plate as provided in this section. Florida Firefighters
10 license plates must bear the colors and design approved by the
11 department. The word "Florida" must appear at the top of the
12 plate, and the words "Salutes Firefighters" must appear at the
13 bottom of the plate.

14 (b) The requirements of s. 320.08053 must be met prior
15 to the issuance of the plate. Thereafter, the proceeds of the
16 annual use fee shall be distributed to Florida Firefighters
17 Charities, a 501(c)(3) nonprofit corporation. Florida
18 Firefighters Charities shall distribute the moneys according
19 to its articles of incorporation.

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

21 (a) Notwithstanding the provisions of s. 320.08053,
22 the department shall develop a Police Benevolent Association
23 license plate as provided in this section. The word "Florida"
24 must appear at the top of the plate, the words "Support Law
25 Enforcement" must appear at the bottom of the plate, and a
26 shield with the Police Benevolent Association logo must appear
27 to the left of the numerals.

28 (b) The requirements of s. 320.08053 must be met prior
29 to the issuance of the plate. Thereafter, the proceeds of the
30 annual use fee shall be distributed to the Florida Police
31 Benevolent Association Heart Fund, Incorporated, a 501(c)(3)

1 nonprofit corporation. The Florida Police Benevolent
2 Association Heart Fund, Incorporated, shall distribute moneys
3 according to its articles of incorporation.

4 Section 21. Subsection (4) of section 332.004, Florida
5 Statutes, is amended to read:

6 332.004 Definitions of terms used in ss.
7 332.003-332.007.--As used in ss. 332.003-332.007, the term:

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

27 Section 22. Subsection (8) of section 332.007, Florida
28 Statutes, as created by chapter 2001-349, Laws of Florida, is
29 amended, and subsection (9) is added to said section, to read:

30 332.007 Administration and financing of aviation and
31 airport programs and projects; state plan.--

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

19 (9) Notwithstanding any other law to the contrary,
20 any airport with direct intercontinental passenger service
21 that is located in a county with a population under 400,000 as
22 of July 1, 2002, and that has a loan from the Department of
23 Transportation due in August of 2002 shall have such loan
24 extended until September 18, 2008.

25 Section 23. Subsection (4) is added to section 333.06,
26 Florida Statutes, to read:

27 333.06 Airport zoning requirements.--

28 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO
29 AFFECTED LOCAL GOVERNMENTS.--An airport master plan shall be
30 prepared by each publicly owned and operated airport licensed
31 by the Department of Transportation under chapter 330. The

1 authorized entity having responsibility for governing the
2 operation of the airport, when either requesting from or
3 submitting to a state or federal governmental agency with
4 funding or approval jurisdiction a "finding of no significant
5 impact," an environmental assessment, a site-selection study,
6 an airport master plan, or any amendment to an airport master
7 plan, shall submit simultaneously a copy of said request,
8 submittal, assessment, study, plan, or amendments by certified
9 mail to all affected local governments. For the purposes of
10 this subsection, "affected local government" is defined as any
11 city or county having jurisdiction over the airport and any
12 city or county located within 2 miles of the boundaries of the
13 land subject to the airport master plan.

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

17 334.044 Department; powers and duties.--The department
18 shall have the following general powers and duties:

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

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

31

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

21 Section 25. Section 334.175, Florida Statutes, is
22 amended to read:

23 334.175 Certification of project design plans and
24 surveys.--All design plans and surveys prepared by or for the
25 department shall be signed, sealed, and certified by the
26 professional engineer or surveyor or architect or landscape
27 architect in responsible charge of the project work. Such
28 professional engineer, surveyor, ~~or architect,~~ or landscape
29 architect must be duly registered in this state.

30 Section 26. Section 335.066, Florida Statutes, is
31 created to read:

1 335.066 Safe Paths to Schools Program.--

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

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

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

14 Section 27. Subsection (4) is added to section 336.41,
15 Florida Statutes, to read:

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

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

31

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

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

16 Section 28. Subsection (2) of section 336.44, Florida
17 Statutes, is amended to read:

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

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

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

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

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

3 (7)(a) If the head of the department determines that
4 it is in the best interests of the public, the department may
5 combine the right-of-way services and design and construction
6 phases of a building, a major bridge, a limited access
7 facility, or a rail corridor project into a single
8 contract. Such contract is referred to as a design-build
9 contract. 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. Effective July 1, 2005, paragraph (a) of
19 subsection (7) of section 337.11, Florida Statutes, as amended
20 by this act, is amended to read:

21 337.11 Contracting authority of department; bids;
22 emergency repairs, supplemental agreements, and change orders;
23 combined design and construction contracts; progress payments;
24 records, requirements of vehicle registration.--

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

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

9 Section 31. Subsection (4) of section 337.14, Florida
10 Statutes, is amended, and subsection (9) is added to said
11 section, to read:

12 337.14 Application for qualification; certificate of
13 qualification; restrictions; request for hearing.--

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

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

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

25 (c) An authority may establish criteria and procedures
26 under which contractor selection may occur on a basis other
27 than the lowest responsible bidder. Prior to adoption, the
28 authority shall publish for comment the proposed criteria and
29 procedures. Review of the adopted criteria and procedures
30 shall be to the circuit court, within 30 days after adoption,
31 with de novo review based on the record below.

1 Section 32. Subsection (2) of section 337.401, Florida
2 Statutes, is amended to read:

3 337.401 Use of right-of-way for utilities subject to
4 regulation; permit; fees.--

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

21 Section 33. Subsection (3) of section 337.408, Florida
22 Statutes, is amended, subsection (5) is renumbered as
23 subsection (6), and a new subsection (5) is added to said
24 section to read:

25 337.408 Regulation of benches, transit shelters,
26 street light poles,and waste disposal receptacles within
27 rights-of-way.--

28 (3) The department has the authority to direct the
29 immediate relocation or removal of any bench, transit shelter,
30 or waste disposal receptacle which endangers life or property,
31 except that transit bus benches which have been placed in

1 service prior to April 1, 1992, do not have to comply with
2 bench size and advertising display size requirements which
3 have been established by the department prior to March 1,
4 1992. Any transit bus bench that was in service prior to
5 April 1, 1992, may be replaced with a bus bench of the same
6 size or smaller, if the bench is damaged or destroyed or
7 otherwise becomes unusable. The Department is authorized to
8 promulgate rules relating to the regulation of bench size and
9 advertising display size requirements. However, if a
10 municipality or county within which a bench is to be located
11 has adopted an ordinance or other applicable regulation that
12 establishes bench size or advertising display sign
13 requirements different from requirements specified in
14 department rule, then the local government requirement shall
15 be applicable within the respective municipality or county.
16 Placement of any bench or advertising display on the National
17 Highway System under a local ordinance or regulation adopted
18 pursuant to this subsection shall be subject to approval of
19 the Federal Highway Administration.

20 (5) Street light poles, including attached public
21 service messages and advertisements, may be located within the
22 right-of-way limits of municipal and county roads in the same
23 manner as benches, transit shelters, and waste disposal
24 receptacles as provided in this section and in accordance with
25 municipal and county ordinances. Public service messages and
26 advertisements may be installed on street light poles on roads
27 on the State Highway System in accordance with height, size,
28 setback, spacing distance, duration of display, safety,
29 traffic control, and permitting requirements established by
30 administrative rule of the Department of Transportation.
31 Public service messages and advertisements shall be subject to

1 bilateral agreements, where applicable, to be negotiated with
2 the owner of the street light poles, which shall consider,
3 among other things, power source rates, design, safety,
4 operational and maintenance concerns, and other matters of
5 public importance. For the purposes of this section, the term
6 "street light poles" does not include electric transmission or
7 distribution poles. The department shall have authority to
8 establish administrative rules to implement this subsection.
9 No advertising on light poles shall be permitted on the
10 Interstate Highway System. No permanent structures carrying
11 advertisements attached to light poles shall be permitted on
12 the National Highway System.

13 Section 34. Subsections (1) and (2) of section 339.08,
14 Florida Statutes, are amended to read:

15 339.08 Use of moneys in State Transportation Trust
16 Fund.--

17 (1) The department shall expend ~~by rule provide for~~
18 ~~the expenditure of the~~ moneys in the State Transportation
19 Trust Fund accruing to the department, in accordance with its
20 annual budget.

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

23 (a) To pay administrative expenses of the department,
24 including administrative expenses incurred by the several
25 state transportation districts, but excluding administrative
26 expenses of commuter rail authorities that do not operate rail
27 service.

28 (b) To pay the cost of construction of the State
29 Highway System.

30 (c) To pay the cost of maintaining the State Highway
31 System.

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

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

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

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

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

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

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

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

27 (l) To fund the Transportation Outreach Program
28 created in s. 339.137.

29 (m) To pay other lawful expenditures of the
30 department.

31

1 Section 35. Subsection (5) of section 339.12, Florida
2 Statutes, is amended, and subsection (10) is added to said
3 section, to read:

4 339.12 Aid and contributions by governmental entities
5 for department projects; federal aid.--

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

22 (10) Any county with a population greater than 50,000
23 that levies the full 6 cents of local option fuel tax pursuant
24 to ss. 206.41(1)(e) or 206.87(1)(c) and that dedicates 35
25 percent or more of its discretionary sales surtax, pursuant to
26 s. 212.055, for improvements to the state transportation
27 system or to local projects directly upgrading the state
28 transportation system within the county's boundaries shall
29 receive preference for receipt of any transportation grant for
30 which the county applies. This subsection shall not apply to
31 loans or nonhighway grant programs.

1 Section 36. Subsections (2) and (5) of section 339.55,
2 Florida Statutes, are amended to read:

3 339.55 State-funded infrastructure bank.--

4 (2) The bank may lend capital costs or provide credit
5 enhancements for a transportation facility project that is on
6 the State Highway System or that provides for increased
7 mobility on the state's transportation system or provides
8 intermodal connectivity with airports, seaports, rail
9 facilities, and other transportation terminals, pursuant to s.
10 341.053, for the movement of people and goods. Loans from the
11 bank may be subordinated to senior project debt that has an
12 investment grade rating of "BBB" or higher.

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

16 (a) The credit worthiness of the project.

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

19 (c) The likelihood that assistance would enable the
20 project to proceed at an earlier date than would otherwise be
21 possible.

22 (d) The extent to which assistance would foster
23 innovative public-private partnerships and attract private
24 debt or equity investment.

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

28 (f) The extent to which the project would maintain or
29 protect the environment.

30
31

1 (g) A demonstration that the project includes
2 transportation benefits for improving intermodalism, cargo and
3 freight movement, and safety.

4 (h) The amount of the proposed assistance as a
5 percentage of the overall project costs with emphasis on local
6 and private participation.

7 (i) The extent to which the project will provide for
8 connectivity between the State Highway System and airports,
9 seaports, rail facilities, and other transportation terminals
10 and intermodal options pursuant to s. 341.053 for the
11 increased accessibility and movement of people and goods.

12 Section 37. Subsections (8) and (10) of section
13 341.031, Florida Statutes, are amended to read:

14 341.031 Definitions relating to Florida Public Transit
15 Act.--As used in ss. 341.011-341.061, the term:

16 (8) "Public transit service development project" means
17 a project undertaken by a public agency to determine whether a
18 new or innovative technique or measure can be utilized to
19 improve or expand public transit services to its constituency.
20 The duration of the project shall be limited according to the
21 type of the project in conformance with the provisions of s.
22 341.051(5)(e)~~(f)~~, but in no case shall exceed a period of 3
23 years. Public transit service development projects
24 specifically include projects involving the utilization of new
25 technologies, services, routes, or vehicle frequencies; the
26 purchase of special transportation services; and other such
27 techniques for increasing service to the riding public as are
28 applicable to specific localities and transit user groups.

29 (10) "Transit corridor project" means a project that
30 is undertaken by a public agency and designed to relieve
31 congestion and improve capacity within an identified

1 transportation corridor by increasing people-carrying capacity
2 of the system through the use and facilitated movement of
3 high-occupancy conveyances. Each transit corridor project
4 must meet the requirements established in s. 341.051(5)(d)~~(e)~~
5 ~~and, if applicable, the requirements of the department's major~~
6 ~~capital investment policy developed pursuant to s.~~
7 ~~341.051(5)(b)~~. Initial project duration shall not exceed a
8 period of 2 years unless the project is reauthorized by the
9 Legislature. Such reauthorization shall be based upon a
10 determination that the project is meeting or exceeding the
11 criteria, developed pursuant to s. 341.051(5)(d)~~(e)~~, by which
12 the success of the project is being judged and by inclusion of
13 the project in a departmental appropriation request.

14 Section 38. Subsection (5) of section 341.051, Florida
15 Statutes, is amended to read:

16 341.051 Administration and financing of public transit
17 programs and projects.--

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

19 (a) The department may fund up to 50 percent of the
20 nonfederal share of the costs, not to exceed the local share,
21 of any eligible public transit capital project or commuter
22 assistance project that is local in scope; except, however,
23 that departmental participation in the final design,
24 right-of-way acquisition, and construction phases of an
25 individual fixed-guideway project which is not approved for
26 federal funding shall not exceed an amount equal to 12.5
27 percent of the total cost of each phase.

28 ~~(b) The Department of Transportation shall develop a~~
29 ~~major capital investment policy which shall include policy~~
30 ~~criteria and guidelines for the expenditure or commitment of~~
31

1 ~~state funds for public transit capital projects. The policy~~
2 ~~shall include the following:~~

3 1. ~~Methods to be used to determine consistency of a~~
4 ~~transit project with the approved local government~~
5 ~~comprehensive plans of the units of local government in which~~
6 ~~the project is located.~~

7 2. ~~Methods for evaluating the level of local~~
8 ~~commitment to a transit project, which is to be demonstrated~~
9 ~~through system planning and the development of a feasible plan~~
10 ~~to fund operating cost through fares, value capture techniques~~
11 ~~such as joint development and special districts, or other~~
12 ~~local funding mechanisms.~~

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

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

21 (c)~~(d)~~ The department is authorized to advance up to
22 80 percent of the capital cost of any eligible project that
23 will assist Florida's transit systems in becoming fiscally
24 self-sufficient. Such advances shall be reimbursed to the
25 department on an appropriate schedule not to exceed 5 years
26 after the date of provision of the advances.

27 (d)~~(e)~~ The department is authorized to fund up to 100
28 percent of the capital and net operating costs of statewide
29 transit service development projects or transit corridor
30 projects. All transit service development projects shall be
31 specifically identified by way of a departmental appropriation

1 request, and transit corridor projects shall be identified as
2 part of the planned improvements on each transportation
3 corridor designated by the department. The project objectives,
4 the assigned operational and financial responsibilities, the
5 timeframe required to develop the required service, and the
6 criteria by which the success of the project will be judged
7 shall be documented by the department for each such transit
8 service development project or transit corridor project.

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

18 1. Improving system operations, including, but not
19 limited to, realigning route structures, increasing system
20 average speed, decreasing deadhead mileage, expanding area
21 coverage, and improving schedule adherence, for a period of up
22 to 3 years;

23 2. Improving system maintenance procedures, including,
24 but not limited to, effective preventive maintenance programs,
25 improved mechanics training programs, decreasing service
26 repair calls, decreasing parts inventory requirements, and
27 decreasing equipment downtime, for a period of up to 3 years;

28 3. Improving marketing and consumer information
29 programs, including, but not limited to, automated information
30 services, organized advertising and promotion programs, and
31

1 signing of designated stops, for a period of up to 2 years;
2 and

3 4. Improving technology involved in overall
4 operations, including, but not limited to, transit equipment,
5 fare collection techniques, electronic data processing
6 applications, and bus locators, for a period of up to 2 years.
7

8 For purposes of this section, the term "net operating costs"
9 means all operating costs of a project less any federal funds,
10 fares, or other sources of income to the project.

11 Section 39. Subsection (6) of section 341.053, Florida
12 Statutes, is amended to read:

13 341.053 Intermodal Development Program;
14 administration; eligible projects; limitations.--

15 (6) The department is authorized to fund projects
16 within the Intermodal Development Program, which are
17 consistent, to the maximum extent feasible, with approved
18 local government comprehensive plans of the units of local
19 government in which the project is located. Projects that are
20 eligible for funding under this program include major capital
21 investments in public rail and fixed-guideway transportation
22 facilities and systems which provide intermodal access ~~and~~
23 ~~which, if approved after July 1, 1991, have complied with the~~
24 ~~requirement of the department's major capital investment~~
25 ~~policy~~; road, rail, or fixed-guideway access to, from, or
26 between seaports, airports, and other transportation
27 terminals; construction of intermodal or multimodal terminals;
28 development and construction of dedicated bus lanes; and
29 projects which otherwise facilitate the intermodal or
30 multimodal movement of people and goods.
31

1 Section 40. Section 341.501, Florida Statutes, is
2 amended to read:

3 341.501 High-technology transportation systems; joint
4 project agreement or assistance.--Notwithstanding any other
5 provision of law, the Department of Transportation may enter
6 into a joint project agreement with, or otherwise assist,
7 private or public entities, or consortia thereof, to
8 facilitate the research, development, and demonstration of
9 high-technology transportation systems, including, but not
10 limited to, systems using magnetic levitation technology. The
11 provisions of the Florida High-Speed Rail Transportation Act,
12 ss. 341.3201-341.386, do not apply to actions taken under this
13 section, and the department may, subject to s. 339.135,
14 provide funds to match any available federal aid or aid from
15 other states or jurisdictions for effectuating the research,
16 development, and demonstration of high-technology
17 transportation systems. To be eligible for funding under this
18 section, the project must be located in Florida.

19 Section 41. Paragraph (d) of subsection (2) of section
20 348.0003, Florida Statutes, is amended to read:

21 348.0003 Expressway authority; formation;
22 membership.--

23 (2) The governing body of an authority shall consist
24 of not fewer than five nor more than nine voting members. The
25 district secretary of the affected department district shall
26 serve as a nonvoting member of the governing body of each
27 authority located within the district. Each member of the
28 governing body must at all times during his or her term of
29 office be a permanent resident of the county which he or she
30 is appointed to represent.

31

1 (d) Notwithstanding any provision to the contrary in
2 this subsection, in any county as defined in s. 125.011(1),
3 the governing body of an authority shall consist of up to 13
4 members, and the following provisions of this paragraph shall
5 apply specifically to such authority. Except for the district
6 secretary of the department, the members must be residents of
7 the county. Seven voting members shall be appointed by the
8 governing body of the county. At the discretion of the
9 governing body of the county, up to two of the members
10 appointed by the governing body of the county may be elected
11 officials residing in the county. Five voting members of the
12 authority shall be appointed by the Governor. One member shall
13 be the district secretary of the department serving in the
14 district that contains such county. This member shall be an ex
15 officio voting member of the authority. If the governing board
16 of an authority includes any member originally appointed by
17 the governing body of the county as a nonvoting member, when
18 the term of such member expires, that member shall be replaced
19 by a member appointed by the Governor until the governing body
20 of the authority is composed of seven members appointed by the
21 governing body of the county and five members appointed by the
22 Governor. The qualifications, terms of office, and obligations
23 and rights of members of the authority shall be determined by
24 resolution or ordinance of the governing body of the county in
25 a manner that is consistent with subsections (3) and (4).

26 Section 42. Section 348.0008, Florida Statutes, is
27 amended to read:

28 348.0008 Acquisition of lands and property.--

29 (1) For the purposes of the Florida Expressway
30 Authority Act, an expressway authority may acquire such
31 rights, title, or interest in private or public property and

1 such property rights, including easements, rights of access,
2 air, view, and light, by gift, devise, purchase, or
3 condemnation by eminent domain proceedings, as the authority
4 may deem necessary for any of the purposes of the Florida
5 Expressway Authority Act, including, but not limited to, any
6 lands reasonably necessary for securing applicable permits,
7 areas necessary for management of access, borrow pits,
8 drainage ditches, water retention areas, rest areas,
9 replacement access for landowners whose access is impaired due
10 to the construction of an expressway system, and replacement
11 rights-of-way for relocated rail and utility facilities; for
12 existing, proposed, or anticipated transportation facilities
13 on the expressway system or in a transportation corridor
14 designated by the authority; or for the purposes of screening,
15 relocation, removal, or disposal of junkyards and scrap metal
16 processing facilities. The authority may also condemn any
17 material and property necessary for such purposes.

18 (2) An authority and its authorized agents,
19 contractors, and employees are authorized to enter upon any
20 lands, waters, and premises, upon giving reasonable notice to
21 the landowner, for the purpose of making surveys, soundings,
22 drillings, appraisals, environmental assessments including
23 phase I and phase II environmental surveys, archaeological
24 assessments, and such other examinations as are necessary for
25 the acquisition of private or public property and property
26 rights, including rights of access, air, view, and light, by
27 gift, devise, purchase, or condemnation by eminent domain
28 proceedings or as are necessary for the authority to perform
29 its duties and functions; and any such entry shall not be
30 deemed a trespass or an entry that would constitute a taking
31 in an eminent domain proceeding. An expressway authority shall

1 make reimbursement for any actual damage to such lands, water,
2 and premises as a result of such activities.

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

6 ~~(4)(3)~~ When an authority acquires property for an
7 expressway system or in a transportation corridor as defined
8 in s. 334.03, it is not subject to any liability imposed by
9 chapter 376 or chapter 403 for preexisting soil or groundwater
10 contamination due solely to its ownership. This subsection
11 does not affect the rights or liabilities of any past or
12 future owners of the acquired property nor does it affect the
13 liability of any governmental entity for the results of its
14 actions which create or exacerbate a pollution source. An
15 authority and the Department of Environmental Protection may
16 enter into interagency agreements for the performance,
17 funding, and reimbursement of the investigative and remedial
18 acts necessary for property acquired by the authority.

19 Section 43. Section 348.545, Florida Statutes, is
20 created to read:

21 348.545 Facility improvement; bond financing
22 authority.--Pursuant to s. 11(f), Art. VII of the State
23 Constitution, the Legislature hereby approves for bond
24 financing by the Tampa-Hillsborough County Expressway
25 Authority improvements to toll collection facilities,
26 interchanges to the legislatively approved expressway system,
27 and any other facility appurtenant, necessary, or incidental
28 to the approved system. Subject to terms and conditions of
29 applicable revenue bond resolutions and covenants, such
30 financing may be in whole or in part by revenue bonds

31

1 currently issued or issued in the future, or by a combination
2 of such bonds.

3 Section 44. Section 348.565, Florida Statutes, is
4 amended to read:

5 348.565 Revenue bonds for specified projects.--The
6 existing facilities that constitute the Tampa-Hillsborough
7 County Expressway System are hereby approved to be refinanced
8 by the issuance of revenue bonds by the Division of Bond
9 Finance of the State Board of Administration pursuant to s.
10 11(f), Art. VII of the State Constitution. In addition, the
11 following projects of the Tampa-Hillsborough County Expressway
12 Authority are approved to be financed or refinanced by the
13 issuance of revenue bonds pursuant to s. 11(f), Art. VII of
14 the State Constitution:

15 (1) Brandon area feeder roads.~~†~~

16 (2) Capital improvements to the expressway system,
17 including safety and operational improvements and toll
18 collection equipment.~~†~~ ~~and~~

19 (3) Lee Roy Selmon Crosstown Expressway System
20 widening.

21 (4) The connector highway linking Lee Roy Selmon
22 Crosstown Expressway to Interstate 4.

23 Section 45. Section 373.4137, Florida Statutes, is
24 amended to read:

25 373.4137 Mitigation requirements.--

26 (1) The Legislature finds that environmental
27 mitigation for the impact of transportation projects proposed
28 by the Department of Transportation or a transportation
29 authority established pursuant to chapter 348 or chapter 349
30 can be more effectively achieved by regional, long-range
31 mitigation planning rather than on a project-by-project basis.

1 It is the intent of the Legislature that mitigation to offset
2 the adverse effects of these transportation projects be funded
3 by the Department of Transportation and be carried out by the
4 Department of Environmental Protection and the water
5 management districts, including the use of mitigation banks
6 established pursuant to this part.

7 (2) Environmental impact inventories for
8 transportation projects proposed by the Department of
9 Transportation or a transportation authority established
10 pursuant to chapter 348 or chapter 349 shall be developed as
11 follows:

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

26 (b) The environmental impact inventory shall include a
27 description of these habitat impacts, including their
28 location, acreage, and type; state water quality
29 classification of impacted wetlands and other surface waters;
30 any other state or regional designations for these habitats;

31

1 and a survey of threatened species, endangered species, and
2 species of special concern affected by the proposed project.

3 (3)(a) To fund the mitigation plan for the projected
4 impacts identified in the inventory described in subsection
5 (2), the Department of Transportation shall identify funds
6 quarterly in an escrow account within the State Transportation
7 Trust Fund for the environmental mitigation phase of projects
8 budgeted by the Department of Transportation for the current
9 fiscal year. The escrow account shall be maintained by the
10 Department of Transportation for the benefit of the Department
11 of Environmental Protection and the water management
12 districts. Any interest earnings from the escrow account shall
13 remain with the Department of Transportation.

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

24 (c) The Department of Environmental Protection or
25 water management districts may request a transfer of funds
26 from an ~~the~~ escrow account no sooner than 30 days prior to the
27 date the funds are needed to pay for activities associated
28 with development or implementation of the approved mitigation
29 plan described in subsection (4) for the current fiscal year,
30 including, but not limited to, design, engineering,
31 production, and staff support. Actual conceptual plan

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

1 transportation authorities established pursuant to chapter 348
2 or chapter 349 are ~~is~~ authorized to transfer such funds from
3 the escrow accounts ~~account~~ to the Department of Environmental
4 Protection and the water management districts to carry out the
5 mitigation programs.

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

1 the impact of the transportation project, provide equal
2 benefits to the water resources than other mitigation options
3 being considered, and provide the most cost-effective
4 mitigation option. The mitigation plan shall be preliminarily
5 approved by the water management district governing board and
6 shall be submitted to the secretary of the Department of
7 Environmental Protection for review and final approval. The
8 preliminary approval by the water management district
9 governing board does not constitute a decision that affects
10 substantial interests as provided by s. 120.569. At least 30
11 days prior to preliminary approval, the water management
12 district shall provide a copy of the draft mitigation plan to
13 any person who has requested a copy.

14 (a) For each transportation project with a funding
15 request for the next fiscal year, the mitigation plan must
16 include a brief explanation of why a mitigation bank was or
17 was not chosen as a mitigation option, including an estimation
18 of identifiable costs of the mitigation bank and nonbank
19 options to the extent practicable.

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

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1 (c) Surface water improvement and management or
2 invasive plant control projects undertaken using the \$12
3 million advance transferred from the Department of
4 Transportation to the Department of Environmental Protection
5 in fiscal year 1996-1997 which meet the requirements for
6 mitigation under this part and 33 U.S.C. s. 1344 shall remain
7 available for mitigation until the \$12 million is fully
8 credited up to and including fiscal year 2004-2005. When these
9 projects are used as mitigation, the \$12 million advance shall
10 be reduced by \$75,000 per acre of impact mitigated. For any
11 fiscal year through and including fiscal year 2004-2005, to
12 the extent the cost of developing and implementing the
13 mitigation plans is less than the amount transferred pursuant
14 to subsection (3), the difference shall be credited towards
15 the \$12 million advance. Except as provided in this paragraph,
16 any funds not directed to implement the mitigation plan
17 should, to the greatest extent possible, be directed to fund
18 invasive plant control within wetlands and other surface
19 waters.

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

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1 (6) The mitigation ~~plans~~ plan shall be updated
2 annually to reflect the most current Department of
3 Transportation work program and project list of a
4 transportation authority established pursuant to chapter 348
5 or chapter 349, if applicable,and may be amended throughout
6 the year to anticipate schedule changes or additional projects
7 which may arise. Each update and amendment of the mitigation
8 plan shall be submitted to the secretary of the Department of
9 Environmental Protection for approval. However, such approval
10 shall not be applicable to a deviation as described in
11 subsection (5).

12 (7) Upon approval by the secretary of the Department
13 of Environmental Protection, the mitigation plan shall be
14 deemed to satisfy the mitigation requirements under this part
15 and any other mitigation requirements imposed by local,
16 regional, and state agencies for impacts identified in the
17 inventory described in subsection (2). The approval of the
18 secretary shall authorize the activities proposed in the
19 mitigation plan, and no other state, regional, or local permit
20 or approval shall be necessary.

21 (8) This section shall not be construed to eliminate
22 the need for the Department of Transportation or a
23 transportation authority established pursuant to chapter 348
24 or chapter 349 to comply with the requirement to implement
25 practicable design modifications, including realignment of
26 transportation projects, to reduce or eliminate the impacts of
27 its transportation projects on wetlands and other surface
28 waters as required by rules adopted pursuant to this part, or
29 to diminish the authority under this part to regulate other
30 impacts, including water quantity or water quality impacts, or
31

1 impacts regulated under this part that are not identified in
2 the inventory described in subsection (2).

3 (9) The process for environmental mitigation for the
4 impact of transportation projects under this section shall be
5 available to an expressway, bridge, or transportation
6 authority established under chapter 348 or chapter 349. Use of
7 this process may be initiated by an authority depositing the
8 requisite funds into an escrow account set up by the authority
9 and filing an environmental impact inventory with the
10 appropriate water management district. An authority that
11 initiates the environmental mitigation process established by
12 this section shall comply with subsection (6) by timely
13 providing the appropriate water management district and the
14 Department of Environmental Protection with the requisite work
15 program information. A water management district may draw down
16 funds from the escrow account as provided in this section.

17 Section 46. Paragraph (b) of subsection (3) of section
18 380.04, Florida Statutes, is amended to read:

19 380.04 Definition of development.--

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

23 (b) Work by any utility and other persons engaged in
24 the distribution or transmission of gas, electricity, or
25 water, for the purpose of inspecting, repairing, renewing, or
26 constructing on established rights-of-way any sewers, mains,
27 pipes, cables, utility tunnels, power lines, towers, poles,
28 tracks, or the like.

29 Section 47. Paragraph (d) of subsection (2), paragraph
30 (b) of subsection (4), and paragraph (a) of subsection (8) of
31 section 380.06, Florida Statutes, are amended to read:

1 380.06 Developments of regional impact.--

2 (2) STATEWIDE GUIDELINES AND STANDARDS.--

3 (d) The guidelines and standards shall be applied as
4 follows:

5 1. Fixed thresholds.--

6 a. A development that is ~~at or~~ below 100 ~~80~~ percent of
7 all numerical thresholds in the guidelines and standards shall
8 not be required to undergo development-of-regional-impact
9 review.

10 b. A development that is at or above 120 percent of
11 any numerical threshold shall be required to undergo
12 development-of-regional-impact review.

13 c. Projects certified under s. 403.973 which create at
14 least 100 jobs and meet the criteria of the Office of Tourism,
15 Trade, and Economic Development as to their impact on an
16 area's economy, employment, and prevailing wage and skill
17 levels that are at or below 100 percent of the numerical
18 thresholds for industrial plants, industrial parks,
19 distribution, warehousing or wholesaling facilities, office
20 development or multiuse projects other than residential, as
21 described in s. 380.0651(3)(c), (d), and (i), are not required
22 to undergo development-of-regional-impact review.

23 2. Rebuttable presumption ~~presumptions~~.--

24 a. ~~It shall be presumed that a development that is~~
25 ~~between 80 and 100 percent of a numerical threshold shall not~~
26 ~~be required to undergo development-of-regional-impact review.~~

27 ~~b.~~ It shall be presumed that a development that is at
28 100 percent or between 100 and 120 percent of a numerical
29 threshold shall be required to undergo
30 development-of-regional-impact review.

31 (4) BINDING LETTER.--

1 (b) Unless a developer waives the requirements of this
2 paragraph by agreeing to undergo
3 development-of-regional-impact review pursuant to this
4 section, the state land planning agency or local government
5 with jurisdiction over the land on which a development is
6 proposed may require a developer to obtain a binding letter
7 if+

8 ~~1.~~ the development is at a presumptive numerical
9 threshold or up to 20 percent above a numerical threshold in
10 the guidelines and standards, or

11 ~~2. The development is between a presumptive numerical~~
12 ~~threshold and 20 percent below the numerical threshold and the~~
13 ~~local government or the state land planning agency is in doubt~~
14 ~~as to whether the character or magnitude of the development at~~
15 ~~the proposed location creates a likelihood that the~~
16 ~~development will have a substantial effect on the health,~~
17 ~~safety, or welfare of citizens of more than one county.~~

18 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

19 (a) A developer may enter into a written preliminary
20 development agreement with the state land planning agency to
21 allow a developer to proceed with a limited amount of the
22 total proposed development, subject to all other governmental
23 approvals and solely at the developer's own risk, prior to
24 issuance of a final development order. All owners of the land
25 in the total proposed development shall join the developer as
26 parties to the agreement. Each agreement shall include and be
27 subject to the following conditions:

28 1. The developer shall comply with the preapplication
29 conference requirements pursuant to subsection (7) within 45
30 days after the execution of the agreement.

31

1 2. The developer shall file an application for
2 development approval for the total proposed development within
3 3 months after execution of the agreement, unless the state
4 land planning agency agrees to a different time for good cause
5 shown. Failure to timely file an application and to otherwise
6 diligently proceed in good faith to obtain a final development
7 order shall constitute a breach of the preliminary development
8 agreement.

9 3. The agreement shall include maps and legal
10 descriptions of both the preliminary development area and the
11 total proposed development area and shall specifically
12 describe the preliminary development in terms of magnitude and
13 location. The area approved for preliminary development must
14 be included in the application for development approval and
15 shall be subject to the terms and conditions of the final
16 development order.

17 4. The preliminary development shall be limited to
18 lands that the state land planning agency agrees are suitable
19 for development and shall only be allowed in areas where
20 adequate public infrastructure exists to accommodate the
21 preliminary development, when such development will utilize
22 public infrastructure. The developer must also demonstrate
23 that the preliminary development will not result in material
24 adverse impacts to existing resources or existing or planned
25 facilities.

26 5. The preliminary development agreement may allow
27 development which is:

28 a. Less than ~~or equal to~~ 100 ~~80~~ percent of any
29 applicable threshold if the developer demonstrates that such
30 development is consistent with subparagraph 4.; or
31

1 b. Less than 120 percent of any applicable threshold
2 if the developer demonstrates that such development is part of
3 a proposed downtown development of regional impact specified
4 in subsection (22) or part of any areawide development of
5 regional impact specified in subsection (25) and that the
6 development is consistent with subparagraph 4.

7 6. The developer and owners of the land may not claim
8 vested rights, or assert equitable estoppel, arising from the
9 agreement or any expenditures or actions taken in reliance on
10 the agreement to continue with the total proposed development
11 beyond the preliminary development. The agreement shall not
12 entitle the developer to a final development order approving
13 the total proposed development or to particular conditions in
14 a final development order.

15 7. The agreement shall not prohibit the regional
16 planning agency from reviewing or commenting on any regional
17 issue that the regional agency determines should be included
18 in the regional agency's report on the application for
19 development approval.

20 8. The agreement shall include a disclosure by the
21 developer and all the owners of the land in the total proposed
22 development of all land or development within 5 miles of the
23 total proposed development in which they have an interest and
24 shall describe such interest.

25 9. In the event of a breach of the agreement or
26 failure to comply with any condition of the agreement, or if
27 the agreement was based on materially inaccurate information,
28 the state land planning agency may terminate the agreement or
29 file suit to enforce the agreement as provided in this section
30 and s. 380.11, including a suit to enjoin all development.

31

1 10. A notice of the preliminary development agreement
2 shall be recorded by the developer in accordance with s.
3 28.222 with the clerk of the circuit court for each county in
4 which land covered by the terms of the agreement is located.
5 The notice shall include a legal description of the land
6 covered by the agreement and shall state the parties to the
7 agreement, the date of adoption of the agreement and any
8 subsequent amendments, the location where the agreement may be
9 examined, and that the agreement constitutes a land
10 development regulation applicable to portions of the land
11 covered by the agreement. The provisions of the agreement
12 shall inure to the benefit of and be binding upon successors
13 and assigns of the parties in the agreement.

14 11. Except for those agreements which authorize
15 preliminary development for substantial deviations pursuant to
16 subsection (19), a developer who no longer wishes to pursue a
17 development of regional impact may propose to abandon any
18 preliminary development agreement executed after January 1,
19 1985, including those pursuant to s. 380.032(3), provided at
20 the time of abandonment:

21 a. A final development order under this section has
22 been rendered that approves all of the development actually
23 constructed; or

24 b. The amount of development is less than 100 ~~80~~
25 percent of all numerical thresholds of the guidelines and
26 standards, and the state land planning agency determines in
27 writing that the development to date is in compliance with all
28 applicable local regulations and the terms and conditions of
29 the preliminary development agreement and otherwise adequately
30 mitigates for the impacts of the development to date.

31

1 In either event, when a developer proposes to abandon said
2 agreement, the developer shall give written notice and state
3 that he or she is no longer proposing a development of
4 regional impact and provide adequate documentation that he or
5 she has met the criteria for abandonment of the agreement to
6 the state land planning agency. Within 30 days of receipt of
7 adequate documentation of such notice, the state land planning
8 agency shall make its determination as to whether or not the
9 developer meets the criteria for abandonment. Once the state
10 land planning agency determines that the developer meets the
11 criteria for abandonment, the state land planning agency shall
12 issue a notice of abandonment which shall be recorded by the
13 developer in accordance with s. 28.222 with the clerk of the
14 circuit court for each county in which land covered by the
15 terms of the agreement is located.

16 Section 48. (1) Nothing contained in this act
17 abridges or modifies any vested or other right or any duty or
18 obligation pursuant to any development order or agreement that
19 is applicable to a development of regional impact on the
20 effective date of this act. A development that has received a
21 development-of-regional-impact development order pursuant to
22 s. 380.06, Florida Statutes 2001, but is no longer required to
23 undergo development-of-regional-impact review by operation of
24 this act, shall be governed by the following procedures:

25 (a) The development shall continue to be governed by
26 the development-of-regional-impact development order and may
27 be completed in reliance upon and pursuant to the development
28 order. The development-of-regional-impact development order
29 may be enforced by the local government as provided by ss.
30 380.06(17) and 380.11, Florida Statutes 2001.

31

1 (b) If requested by the developer or landowner, the
2 development-of-regional-impact development order may be
3 amended or rescinded by the local government consistent with
4 the local comprehensive plan and land development regulations,
5 and pursuant to the local government procedures governing
6 local development orders.

7 (2) A development with an application for development
8 approval pending on the effective date of this act, or a
9 notification of proposed change pending on the effective date
10 of this act, may elect to continue such review pursuant to s.
11 380.06, Florida Statutes 2001. At the conclusion of the
12 pending review, including any appeals pursuant to s. 380.07,
13 Florida Statutes 2001, the resulting development order shall
14 be governed by the provisions of subsection (1).

15 Section 49. Paragraph (b) of subsection (1) of section
16 496.425, Florida Statutes, is amended to read:

17 496.425 Solicitation of funds within public
18 transportation facilities.--

19 (1) As used in this section:

20 (b) "Facility" means any public transportation
21 facility, including, but not limited to, railroad stations,
22 bus stations, ship ports, ferry terminals, and roadside
23 ~~welcome stations, highway service plazas, airports served by~~
24 ~~scheduled passenger service, or highway rest stations.~~

25 Section 50. Section 496.4256, Florida Statutes, is
26 created to read:

27 496.4256 Public transportation facilities not required
28 to grant permit or access.--A governmental entity or authority
29 that owns or operates welcome centers, wayside parks, service
30 plazas, or rest areas on the State Highway System as defined
31 in chapter 335 shall not be required to issue a permit or

1 grant any person access to such public transportation
2 facilities for the purpose of soliciting funds.

3 Section 51. Dori Slosberg Driver Education Safety
4 Act.--Effective October 1, 2002, notwithstanding the
5 provisions of s. 318.121, Florida Statutes, a board of county
6 commissioners may require, by ordinance, that the clerk of the
7 court collect an additional \$3 with each civil traffic
8 penalty, which shall be used to fund traffic education
9 programs in public and nonpublic schools. The ordinance shall
10 provide for the board of county commissioners to administer
11 the funds. The funds shall be used for direct educational
12 expenses and shall not be used for administration. This
13 section may be cited as the "Dori Slosberg Driver Education
14 Safety Act."

15 Section 52. Subsection (2) of section 2 of chapter
16 88-418, Laws of Florida, is amended to read:

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

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

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

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

29 Section 53. Except as otherwise provided herein, this
30 act shall take effect July 1, 2002.

31