

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. 212.060, F.S.;  
 5 requiring proceeds from surcharge in the State  
 6 Transportation Trust Fund be used to fund  
 7 district projects; amending s. 215.615, F.S.,  
 8 relating to funding of fixed-guideway  
 9 transportation systems; deleting obsolete  
 10 language; amending s. 255.20, F.S.; exempting  
 11 certain transportation projects from certain  
 12 competitive bidding requirements; amending s.  
 13 287.055, F.S.; increasing the amount defining a  
 14 continuing contract; amending s. 311.09, F.S.;  
 15 providing for application of s. 287.055, F.S.,  
 16 the Consultants' Competitive Negotiation Act,  
 17 to seaports; amending s. 315.02, F.S.;  
 18 redefining the terms "unit" and "port  
 19 facilities" for purposes of port facilities  
 20 financing; including seaport security projects  
 21 within the meaning of "port facility"; amending  
 22 s. 315.03, F.S.; authorizing certain entities  
 23 to participate in certain federal loan  
 24 programs; providing for oversight by the  
 25 Florida Seaport Transportation and Economic  
 26 Development Council; requiring annual reports;  
 27 requiring legislative review; amending s.  
 28 316.003, F.S.; revising definition of "motor  
 29 vehicle"; defining the terms "electric personal  
 30 assistive mobility device" and "motorized  
 31 scooter"; creating s. 316.2068, F.S.; providing

1 regulations for electric personal assistive  
2 mobility devices; amending s. 316.515, F.S.;  
3 revising size requirement provisions for  
4 vehicles transporting certain agricultural  
5 products; allowing the Department of  
6 Transportation to issue permits for certain  
7 vehicles; amending s. 316.520, F.S.; exempting  
8 certain vehicles from covering requirements;  
9 creating s. 316.80, F.S.; establishing  
10 penalties for persons who transport motor or  
11 diesel fuel in unlawful containers;  
12 establishing penalties for use of stolen or  
13 illegal payment access devices; providing for  
14 forfeiture; providing for costs; amending s.  
15 320.08056, F.S.; providing use fees for the  
16 Florida Firefighters license plate and the  
17 Police Benevolent Association license plate;  
18 amending s. 320.08058, F.S.; providing for  
19 creation of the Florida Firefighters license  
20 plate and the Police Benevolent Association  
21 license plate; providing for the distribution  
22 of use fees received from the sale of such  
23 plates; amending s. 332.004, F.S.; revising the  
24 definition of "airport or aviation development  
25 project" for purposes of the Florida Airport  
26 Development and Assistance Act to add certain  
27 noise mitigation projects; amending s. 332.007,  
28 F.S.; extending expiration date of provisions  
29 relating to economic assistance to airports for  
30 certain projects; extending due date of certain  
31 loans for certain airports; amending s. 333.06,

1 F.S.; adding requirements for an airport master  
2 plan; amending s. 334.044, F.S.; authorizing  
3 the department to expend money on items that  
4 promote scenic highway projects; authorizing  
5 the department to delegate its drainage  
6 permitting responsibilities to other  
7 governmental entities under certain  
8 circumstances; amending s. 334.175, F.S.;  
9 adding state-registered landscape architects to  
10 the list of design professionals who sign,  
11 seal, and certify certain Department of  
12 Transportation project plans; amending s.  
13 334.30, F.S.; providing for public-private  
14 transportation facilities; eliminating the  
15 requirement that the Legislature approve such  
16 facilities; providing requirements for the use  
17 of funds from the State Transportation Trust  
18 Fund; providing requirements with respect to  
19 proposals; providing for a selection process;  
20 providing for specific project approval by the  
21 Legislature for certain projects; authorizing  
22 the Department of Transportation to create  
23 certain corporations; authorizing such  
24 corporations to issue bonds; authorizing the  
25 department to lend certain funds to such  
26 corporations; authorizing the department to  
27 adopt rules; repealing s. 348.0004(2)(m), F.S.,  
28 relating to private entity proposals for  
29 transportation projects; amending s. 348.0004,  
30 F.S.; establishing a process enabling certain  
31 expressway authorities to participate in

1 public-private partnerships to build, operate,  
2 own, or finance certain transportation  
3 facilities; specifying the expressway  
4 authority's role in such projects and providing  
5 rulemaking authority; providing for a selection  
6 process; providing for the assessment of tolls;  
7 providing for creation of certain tax-exempt,  
8 public-purpose corporations; authorizing such  
9 corporations to issue bonds; 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; amending s.  
 5 768.28, F.S.; providing that certain operators,  
 6 dispatchers, and security providers for rail  
 7 services and certain rail facility maintenance  
 8 providers in a specified area or for the  
 9 Tri-County Commuter Rail Authority or the  
 10 Department of Transportation are agents of the  
 11 state under specified circumstances; creating  
 12 the Dori Slosberg Driver Education Safety Act;  
 13 authorizing a board of county commissioners to  
 14 require an additional amount to be collected  
 15 with each civil traffic penalty to be used to  
 16 fund traffic education programs in public and  
 17 nonpublic schools; providing for administration  
 18 of funds collected; restricting use of said  
 19 funds; amending s. 2 of chapter 88-418, Laws of  
 20 Florida, relating to Crandon Boulevard;  
 21 allowing expenditure of public funds for  
 22 modifications to provide access for  
 23 governmental public safety vehicles; amending  
 24 s. 212.055, F.S.; removing a limitation on  
 25 which charter counties may levy a charter  
 26 county transit surtax; providing effective  
 27 dates.

28  
 29 Be It Enacted by the Legislature of the State of Florida:  
 30  
 31

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

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

6           (1)(a)~~1~~. The head of the Department of Transportation  
7 is the Secretary of Transportation. The secretary shall be  
8 appointed by the Governor from among three persons nominated  
9 by the Florida Transportation Commission and shall be subject  
10 to confirmation by the Senate. The secretary shall serve at  
11 the pleasure of the Governor.

12           **(b)2**. The secretary shall be a proven, effective  
13 administrator who by a combination of education and experience  
14 shall clearly possess a broad knowledge of the administrative,  
15 financial, and technical aspects of the development,  
16 operation, and regulation of transportation systems and  
17 facilities or comparable systems and facilities.

18           ~~(b)1. The secretary shall employ all personnel of the~~  
19 ~~department. He or she shall implement all laws, rules,~~  
20 ~~policies, and procedures applicable to the operation of the~~  
21 ~~department and may not by his or her actions disregard or act~~  
22 ~~in a manner contrary to any such policy. The secretary shall~~  
23 ~~represent the department in its dealings with other state~~  
24 ~~agencies, local governments, special districts, and the~~  
25 ~~Federal Government. He or she shall have authority to sign and~~  
26 ~~execute all documents and papers necessary to carry out his or~~  
27 ~~her duties and the operations of the department. At each~~  
28 ~~meeting of the Florida Transportation Commission, the~~  
29 ~~secretary shall submit a report of major actions taken by him~~  
30 ~~or her as official representative of the department.~~

31

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

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

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

29           (e)~~(d)~~ Any secretary appointed after July 5, 1989, and  
30 the assistant secretaries shall be exempt from the provisions  
31 of part III of chapter 110 and shall receive compensation

1 commensurate with their qualifications and competitive with  
2 compensation for comparable responsibility in the private  
3 sector. When the salary of any assistant secretary exceeds the  
4 limits established in part III of chapter 110, the Governor  
5 shall approve said salary.

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

10 2. Members shall be appointed in such a manner as to  
11 equitably represent all geographic areas of the state. Each  
12 member must be a registered voter and a citizen of the state.  
13 Each member of the commission must also possess business  
14 managerial experience in the private sector.

15 3. A member of the commission shall represent the  
16 transportation needs of the state as a whole and may not  
17 subordinate the needs of the state to those of any particular  
18 area of the state.

19 4. The commission is assigned to the Office of the  
20 Secretary of the Department of Transportation for  
21 administrative and fiscal accountability purposes, but it  
22 shall otherwise function independently of the control and  
23 direction of the department.

24 (b) The commission shall have the primary functions  
25 to:

26 1. Recommend major transportation policies for the  
27 Governor's approval, and assure that approved policies and any  
28 revisions thereto are properly executed.

29 2. Periodically review the status of the state  
30 transportation system including highway, transit, rail,  
31 seaport, intermodal development, and aviation components of

1 the system and recommend improvements therein to the Governor  
2 and the Legislature.

3           3. Perform an in-depth evaluation of the annual  
4 department budget request, the Florida Transportation Plan,  
5 and the tentative work program for compliance with all  
6 applicable laws and established departmental policies. Except  
7 as specifically provided in s. 339.135(4)(c)2., (d), and (f),  
8 the commission may not consider individual construction  
9 projects, but shall consider methods of accomplishing the  
10 goals of the department in the most effective, efficient, and  
11 businesslike manner.

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

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

20           6. Perform an in-depth evaluation of the factors  
21 causing disruption of project schedules in the adopted work  
22 program and recommend to the Legislature and the Governor  
23 methods to eliminate or reduce the disruptive effects of these  
24 factors.

25           7. Recommend to the Governor and the Legislature  
26 improvements to the department's organization in order to  
27 streamline and optimize the efficiency of the department. In  
28 reviewing the department's organization, the commission shall  
29 determine if the current district organizational structure is  
30 responsive to Florida's changing economic and demographic  
31 development patterns. The initial report by the commission

1 must be delivered to the Governor and Legislature by December  
2 15, 2000, and each year thereafter, as appropriate. The  
3 commission may retain such experts as are reasonably necessary  
4 to effectuate this subparagraph, and the department shall pay  
5 the expenses of such experts.

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

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

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

24 2. The commission shall hold a minimum of 4 regular  
25 meetings annually, and other meetings may be called by the  
26 chair upon giving at least 1 week's notice to all members and  
27 the public pursuant to chapter 120. Other meetings may also be  
28 held upon the written request of at least four other members  
29 of the commission, with at least 1 week's notice of such  
30 meeting being given to all members and the public by the chair  
31 pursuant to chapter 120. Emergency meetings may be held

1 without notice upon the request of all members of the  
2 commission. At each meeting of the commission, the secretary  
3 or his or her designee shall submit a report of major actions  
4 taken by him or her as official representative of the  
5 department.

6 3. A majority of the membership of the commission  
7 constitutes a quorum at any meeting of the commission. An  
8 action of the commission is not binding unless the action is  
9 taken pursuant to an affirmative vote of a majority of the  
10 members present, but not fewer than four members of the  
11 commission at a meeting held pursuant to subparagraph 2., and  
12 the vote is recorded in the minutes of that meeting.

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

16 (e) The meetings of the commission shall be held in  
17 the central office of the department in Tallahassee unless the  
18 chair determines that special circumstances warrant meeting at  
19 another location.

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

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

27 (h) The commission shall appoint an executive director  
28 and assistant executive director, who shall serve under the  
29 direction, supervision, and control of the commission. The  
30 executive director, with the consent of the commission, shall  
31 employ such staff as are necessary to perform adequately the

1 functions of the commission, within budgetary limitations. All  
2 employees of the commission are exempt from part II of chapter  
3 110 and shall serve at the pleasure of the commission. The  
4 salaries and benefits of all employees of the commission shall  
5 be set in accordance with the Selected Exempt Service;  
6 provided, however, that the commission shall have complete  
7 authority for fixing the salary of the executive director and  
8 assistant executive director.

9 (i) The commission shall develop a budget pursuant to  
10 chapter 216. The budget is not subject to change by the  
11 department, but such budget shall be submitted to the Governor  
12 along with the budget of the department.

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



1           ~~(b) The resources necessary to ensure the efficiency,~~  
2 ~~effectiveness, and quality of performance by the department of~~  
3 ~~its statutory responsibilities shall be allocated to the~~  
4 ~~central office.~~

5           (b)(c) The secretary shall appoint an Assistant  
6 Secretary for Transportation Policy and an Assistant  
7 Secretary for Finance and Administration, ~~and an Assistant~~  
8 ~~Secretary for District Operations~~, each of whom shall serve at  
9 the pleasure of the secretary. ~~The positions are responsible~~  
10 ~~for developing, monitoring, and enforcing policy and managing~~  
11 ~~major technical programs. The responsibilities and duties of~~  
12 ~~these positions include, but are not limited to, the following~~  
13 ~~functional areas:~~

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

15           a. ~~Development of the Florida Transportation Plan and~~  
16 ~~other policy planning;~~

17           b. ~~Development of statewide modal systems plans,~~  
18 ~~including public transportation systems;~~

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

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

21           e. ~~Acquisition and management of transportation~~  
22 ~~rights-of-way; and~~

23           f. ~~Administration of motor carrier compliance and~~  
24 ~~safety.~~

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

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

27           b. ~~Implementation of the decentralization of the~~  
28 ~~department.~~

29           3. ~~Assistant Secretary for Finance and~~  
30 ~~Administration.--~~

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

- 1           ~~b. Information systems;~~  
2           ~~c. Accounting systems;~~  
3           ~~d. Administrative functions; and~~  
4           ~~e. Administration of toll operations.~~  
5           ~~(d)1. Policy, program, or operations offices shall be~~  
6 ~~established within the central office for the purposes of:~~  
7           ~~a. Developing policy and procedures and monitoring~~  
8 ~~performance to ensure compliance with these policies and~~  
9 ~~procedures;~~  
10           ~~b. Performing statewide activities which it is more~~  
11 ~~cost-effective to perform in a central location;~~  
12           ~~c. Assessing and ensuring the accuracy of information~~  
13 ~~within the department's financial management information~~  
14 ~~systems; and~~  
15           ~~d. Performing other activities of a statewide nature.~~  
16           (c)1.2. The following offices are established and  
17 shall be headed by a manager, each of whom shall be appointed  
18 by and serve at the pleasure of the secretary. The positions  
19 shall be classified at a level equal to a division director:  
20           a. The Office of Administration.†  
21           b. The Office of Policy Planning.†  
22           c. The Office of Design.†  
23           d. The Office of Highway Operations.†  
24           e. The Office of Right-of-Way.†  
25           f. The Office of Toll Operations.†  
26           g. The Office of Information Systems.† ~~and~~  
27           h. The Office of Motor Carrier Compliance.  
28           i. The Office of Management and Budget.  
29           j. The Office of Comptroller.  
30           ~~2.3.~~ Other offices may be established in accordance  
31 with s. 20.04(7). The heads of such offices are exempt from

1 part II of chapter 110. No office or organization shall be  
2 created at a level equal to or higher than a division without  
3 specific legislative authority.

4 3.4. During the construction of a major transportation  
5 improvement project or as determined by the district  
6 secretary, the department may provide assistance to a business  
7 entity significantly impacted by the project if the entity is  
8 a for-profit entity that has been in business for 3 years  
9 prior to the beginning of construction and has direct or  
10 shared access to the transportation project being constructed.  
11 The assistance program shall be in the form of additional  
12 guarantees to assist the impacted business entity in receiving  
13 loans pursuant to Title 13 C.F.R. part 120. However, in no  
14 instance shall the combined guarantees be greater than 90  
15 percent of the loan. The department shall adopt rules to  
16 implement this subparagraph.

17 ~~(e) The Assistant Secretary for Finance and~~  
18 ~~Administration must possess a broad knowledge of the~~  
19 ~~administrative, financial, and technical aspects of a complete~~  
20 ~~cost-accounting system, budget preparation and management, and~~  
21 ~~management information systems. The Assistant Secretary for~~  
22 ~~Finance and Administration must be a proven, effective manager~~  
23 ~~with specialized skills in financial planning and management.~~  
24 ~~The Assistant Secretary for Finance and Administration shall~~  
25 ~~ensure that financial information is processed in a timely,~~  
26 ~~accurate, and complete manner.~~

27 ~~(f)1. Within the central office there is created an~~  
28 ~~Office of Management and Budget. The head of the Office of~~  
29 ~~Management and Budget is responsible to the Assistant~~  
30 ~~Secretary for Finance and Administration and is exempt from~~  
31 ~~part II of chapter 110.~~

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

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

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

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

6           ~~3. The Office of Management and Budget shall also be~~  
7 ~~responsible for developing uniform implementation and~~  
8 ~~monitoring procedures for all activities performed at the~~  
9 ~~district level involving the budget and the work program.~~

10           ~~(d)(g)~~ The secretary shall ~~may~~ appoint an inspector  
11 general pursuant to s. 20.055 who shall be directly  
12 responsible to the secretary and shall serve at the pleasure  
13 of the secretary.

14           ~~(h)1. The secretary shall appoint an inspector general~~  
15 ~~pursuant to s. 20.055. The inspector general may be~~  
16 ~~organizationally located within another unit of the department~~  
17 ~~for administrative purposes, but shall function independently~~  
18 ~~and be directly responsible to the secretary pursuant to s.~~  
19 ~~20.055. The duties of the inspector general shall include, but~~  
20 ~~are not restricted to, reviewing, evaluating, and reporting on~~  
21 ~~the policies, plans, procedures, and accounting, financial,~~  
22 ~~and other operations of the department and recommending~~  
23 ~~changes for the improvement thereof, as well as performing~~  
24 ~~audits of contracts and agreements between the department and~~  
25 ~~private entities or other governmental entities. The inspector~~  
26 ~~general shall give priority to reviewing major parts of the~~  
27 ~~department's accounting system and central office monitoring~~  
28 ~~function to determine whether such systems effectively ensure~~  
29 ~~accountability and compliance with all laws, rules, policies,~~  
30 ~~and procedures applicable to the operation of the department.~~  
31 ~~The inspector general shall also give priority to assessing~~

1 ~~the department's management information systems as required by~~  
2 ~~s. 282.318. The internal audit function shall use the~~  
3 ~~necessary expertise, in particular, engineering, financial,~~  
4 ~~and property appraising expertise, to independently evaluate~~  
5 ~~the technical aspects of the department's operations. The~~  
6 ~~inspector general shall have access at all times to any~~  
7 ~~personnel, records, data, or other information of the~~  
8 ~~department and shall determine the methods and procedures~~  
9 ~~necessary to carry out his or her duties. The inspector~~  
10 ~~general is responsible for audits of departmental operations~~  
11 ~~and for audits of consultant contracts and agreements, and~~  
12 ~~such audits shall be conducted in accordance with generally~~  
13 ~~accepted governmental auditing standards. The inspector~~  
14 ~~general shall annually perform a sufficient number of audits~~  
15 ~~to determine the efficiency and effectiveness, as well as~~  
16 ~~verify the accuracy of estimates and charges, of contracts~~  
17 ~~executed by the department with private entities and other~~  
18 ~~governmental entities. The inspector general has the sole~~  
19 ~~responsibility for the contents of his or her reports, and a~~  
20 ~~copy of each report containing his or her findings and~~  
21 ~~recommendations shall be furnished directly to the secretary~~  
22 ~~and the commission.~~

23         2. ~~In addition to the authority and responsibilities~~  
24 ~~herein provided, the inspector general is required to report~~  
25 ~~to the:~~

26             a. ~~Secretary whenever the inspector general makes a~~  
27 ~~preliminary determination that particularly serious or~~  
28 ~~flagrant problems, abuses, or deficiencies relating to the~~  
29 ~~administration of programs and operations of the department~~  
30 ~~have occurred. The secretary shall review and assess the~~  
31 ~~correctness of the preliminary determination by the inspector~~

1 ~~general. If the preliminary determination is substantiated,~~  
2 ~~the secretary shall submit such report to the appropriate~~  
3 ~~committees of the Legislature within 7 calendar days, together~~  
4 ~~with a report by the secretary containing any comments deemed~~  
5 ~~appropriate. Nothing in this section shall be construed to~~  
6 ~~authorize the public disclosure of information which is~~  
7 ~~specifically prohibited from disclosure by any other provision~~  
8 ~~of law.~~

9 ~~b. Transportation Commission and the Legislature any~~  
10 ~~actions by the secretary that prohibit the inspector general~~  
11 ~~from initiating, carrying out, or completing any audit after~~  
12 ~~the inspector general has decided to initiate, carry out, or~~  
13 ~~complete such audit. The secretary shall, within 30 days after~~  
14 ~~transmission of the report, set forth in a statement to the~~  
15 ~~Transportation Commission and the Legislature the reasons for~~  
16 ~~his or her actions.~~

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

21 ~~2. The comptroller is the chief financial officer of~~  
22 ~~the department and must be a proven, effective administrator~~  
23 ~~who by a combination of education and experience clearly~~  
24 ~~possesses a broad knowledge of the administrative, financial,~~  
25 ~~and technical aspects of a complex cost-accounting system. The~~  
26 ~~comptroller must also have a working knowledge of generally~~  
27 ~~accepted accounting principles. At a minimum, the comptroller~~  
28 ~~must hold an active license to practice public accounting in~~  
29 ~~Florida pursuant to chapter 473 or an active license to~~  
30 ~~practice public accounting in any other state. In addition to~~  
31 ~~the requirements of the Florida Fiscal Accounting Management~~

1 ~~Information System Act, the comptroller is responsible for the~~  
2 ~~development, maintenance, and modification of an accounting~~  
3 ~~system that will in a timely manner accurately reflect the~~  
4 ~~revenues and expenditures of the department and that includes~~  
5 ~~a cost-accounting system to properly identify, segregate,~~  
6 ~~allocate, and report department costs. The comptroller shall~~  
7 ~~supervise and direct preparation of a detailed 36-month~~  
8 ~~forecast of cash and expenditures and is responsible for~~  
9 ~~managing cash and determining cash requirements. The~~  
10 ~~comptroller shall review all comparative cost studies that~~  
11 ~~examine the cost-effectiveness and feasibility of contracting~~  
12 ~~for services and operations performed by the department. The~~  
13 ~~review must state that the study was prepared in accordance~~  
14 ~~with generally accepted cost-accounting standards applied in a~~  
15 ~~consistent manner using valid and accurate cost data.~~

16 ~~3. The department shall by rule or internal management~~  
17 ~~memoranda as required by chapter 120 provide for the~~  
18 ~~maintenance by the comptroller of financial records and~~  
19 ~~accounts of the department as will afford a full and complete~~  
20 ~~check against the improper payment of bills and provide a~~  
21 ~~system for the prompt payment of the just obligations of the~~  
22 ~~department, which records must at all times disclose:~~

23 ~~a. The several appropriations available for the use of~~  
24 ~~the department;~~

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

27 ~~c. The apportionment or division of all such~~  
28 ~~appropriations among the several counties and districts, when~~  
29 ~~such apportionment or division is made;~~

30  
31

1 ~~d. The amount or portion of each such apportionment~~  
2 ~~against general contractual and other liabilities then~~  
3 ~~created;~~

4 ~~e. The amount expended and still to be expended in~~  
5 ~~connection with each contractual and other obligation of the~~  
6 ~~department;~~

7 ~~f. The expense and operating costs of the various~~  
8 ~~activities of the department;~~

9 ~~g. The receipts accruing to the department and the~~  
10 ~~distribution thereof;~~

11 ~~h. The assets, investments, and liabilities of the~~  
12 ~~department; and~~

13 ~~i. The cash requirements of the department for a~~  
14 ~~36-month period.~~

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

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

19 (e)(j) The secretary shall appoint a general counsel  
20 who shall be ~~employed full time and shall be directly~~  
21 responsible to the secretary and shall serve at the pleasure  
22 of the secretary. The general counsel is responsible for all  
23 legal matters of the department. The department may employ as  
24 many attorneys as it deems necessary to advise and represent  
25 the department in all transportation matters.

26 (f)(k) The secretary shall appoint a state  
27 transportation planner ~~who shall report to the Assistant~~  
28 ~~Secretary for Transportation Policy. The state transportation~~  
29 ~~planner's responsibilities shall include, but are not limited~~  
30 ~~to, policy planning, systems planning, and transportation~~  
31



1 ~~statistics~~. This position shall be classified at a level equal  
2 to a deputy assistant secretary.

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

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

23 ~~(6)~~ To facilitate the efficient and effective  
24 management of the department in a businesslike manner, the  
25 department shall develop a system for the submission of  
26 monthly management reports to the Florida Transportation  
27 Commission and secretary from the district secretaries. The  
28 commission and the secretary shall determine which reports are  
29 required to fulfill their respective responsibilities under  
30 this section. A copy of each such report shall be submitted  
31 monthly to the appropriations and transportation committees of

1 ~~the Senate and the House of Representatives. Recommendations~~  
2 ~~made by the Auditor General in his or her audits of the~~  
3 ~~department that relate to management practices, systems, or~~  
4 ~~reports shall be implemented in a timely manner. However, if~~  
5 ~~the department determines that one or more of the~~  
6 ~~recommendations should be altered or should not be~~  
7 ~~implemented, it shall provide a written explanation of such~~  
8 ~~determination to the Legislative Auditing Committee within 6~~  
9 ~~months after the date the recommendations were published.~~

10 (6)~~(7)~~ The department is authorized to contract with  
11 local governmental entities and with the private sector if the  
12 department first determines that:

13 (a) Consultants can do the work at less cost than  
14 state employees;

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

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

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

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

27  
28 Such contracts shall require compliance with applicable  
29 federal and state laws, and clearly specify the product or  
30 service to be provided.

31

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

3           Section 3. Paragraph (b) of subsection (3) of section  
4 73.071, Florida Statutes, is amended to read:

5           73.071 Jury trial; compensation; severance damages;  
6 business damages.--

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

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

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

28           110.205 Career service; exemptions.--

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

31

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

21           (m) All assistant division director, deputy division  
22 director, and bureau chief positions in any department, and  
23 those positions determined by the department to have  
24 managerial responsibilities comparable to such positions,  
25 which positions include, but are not limited to, positions in  
26 the Department of Health, the Department of Children and  
27 Family Services, and the Department of Corrections that are  
28 assigned primary duties of serving as the superintendent or  
29 assistant superintendent, or warden or assistant warden, of an  
30 institution; positions in the Department of Corrections that  
31 are assigned primary duties of serving as the circuit

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

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

18 120.52 Definitions.--As used in this act:

19 (1) "Agency" means:

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

22 (b) Each:

23 1. State officer and state department, and each  
24 departmental unit described in s. 20.04.

25 2. Authority, including a regional water supply  
26 authority.

27 3. Board.

28 4. Commission, including the Commission on Ethics and  
29 the Fish and Wildlife Conservation Commission when acting  
30 pursuant to statutory authority derived from the Legislature.

31 5. Regional planning agency.

1           6. Multicounty special district with a majority of its  
2 governing board comprised of nonelected persons.

3           7. Educational units.

4           8. Entity described in chapters 163, 373, 380, and 582  
5 and s. 186.504.

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

10  
11 This definition does not include any legal entity or agency  
12 created in whole or in part pursuant to chapter 361, part II,  
13 a metropolitan planning organization created pursuant to s.  
14 339.175, an expressway authority pursuant to chapter 348, any  
15 legal or administrative entity created by an interlocal  
16 agreement pursuant to s. 163.01(7), unless any party to such  
17 agreement is otherwise an agency as defined in this  
18 subsection, or any multicounty special district with a  
19 majority of its governing board comprised of elected persons;  
20 however, this definition shall include a regional water supply  
21 authority.

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

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

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

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

1 incorporated into the local government comprehensive plan by  
2 the local government having jurisdiction under this act for  
3 the area in which the airport or projected airport development  
4 is located by the adoption of a comprehensive plan amendment.

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

25 Section 7. Section 189.441, Florida Statutes, is  
26 amended to read:

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

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



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

15 Section 8. Subsection (2) of section 212.0606, Florida  
16 Statutes, is amended to read:

17 212.0606 Rental car surcharge.--

18 (2)(a) Notwithstanding the provisions of section  
19 212.20, and less costs of administration, 80 percent of the  
20 proceeds of this surcharge shall be deposited in the State  
21 Transportation Trust Fund, 15.75 percent of the proceeds of  
22 this surcharge shall be deposited in the Tourism Promotional  
23 Trust Fund created in s. 288.122, and 4.25 percent of the  
24 proceeds of this surcharge shall be deposited in the Florida  
25 International Trade and Promotion Trust Fund. For the purposes  
26 of this subsection, "proceeds" of the surcharge means all  
27 funds collected and received by the department under this  
28 section, including interest and penalties on delinquent  
29 surcharges.

30 (b) Notwithstanding any other provision of law, in  
31 fiscal year 2007-2008 and each year thereafter, the proceeds

1 deposited in the State Transportation Trust Fund shall be  
2 allocated on an annual basis in the Department of  
3 Transportation's work program to each department district,  
4 except the Turnpike District. The amount allocated for each  
5 district shall be based upon the amount of proceeds collected  
6 in the counties within each respective district.

7 Section 9. Subsection (2) of section 215.615, Florida  
8 Statutes, is amended to read:

9 215.615 Fixed-guideway transportation systems  
10 funding.--

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

23 Section 10. Paragraph (a) of subsection (1) of section  
24 255.20, Florida Statutes, is amended to read:

25 255.20 Local bids and contracts for public  
26 construction works; specification of state-produced lumber.--

27 (1) A county, municipality, special district as  
28 defined in chapter 189, or other political subdivision of the  
29 state seeking to construct or improve a public building,  
30 structure, or other public construction works must  
31 competitively award to an appropriately licensed contractor

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

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

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

- 1           a. An immediate danger to the public health or safety;  
2           b. Other loss to public or private property which  
3 requires emergency government action; or  
4           c. An interruption of an essential governmental  
5 service.
- 6           2. When, after notice by publication in accordance  
7 with the applicable ordinance or resolution, the governmental  
8 entity does not receive any responsive bids or responses.
- 9           3. To construction, remodeling, repair, or improvement  
10 to a public electric or gas utility system when such work on  
11 the public utility system is performed by personnel of the  
12 system.
- 13           4. To construction, remodeling, repair, or improvement  
14 by a utility commission whose major contracts are to construct  
15 and operate a public electric utility system.
- 16           5. When the project is undertaken as repair or  
17 maintenance of an existing public facility.
- 18           6. When the project is undertaken exclusively as part  
19 of a public educational program.
- 20           7. When the funding source of the project will be  
21 diminished or lost because the time required to competitively  
22 award the project after the funds become available exceeds the  
23 time within which the funding source must be spent.
- 24           8. When the local government has competitively awarded  
25 a project to a private sector contractor and the contractor  
26 has abandoned the project before completion or the local  
27 government has terminated the contract.
- 28           9. When the governing board of the local government,  
29 after public notice, conducts a public meeting under s.  
30 286.011 and finds by a majority vote of the governing board  
31 that it is in the public's best interest to perform the

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

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

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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. 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 24. 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 25. 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 26. 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 27. Section 334.30, Florida Statutes, is  
31 amended to read:

1           334.30 Public-private ~~Private~~ transportation  
2 facilities.--The Legislature hereby finds and declares that  
3 there is a public need for rapid construction of safe and  
4 efficient transportation facilities for the purpose of travel  
5 within the state, and that it is in the public's interest to  
6 provide for public-private partnership agreements to  
7 effectuate the construction of additional safe, convenient,  
8 and economical transportation facilities.

9           (1) The department may receive or solicit proposals  
10 and, ~~with legislative approval by a separate bill for each~~  
11 ~~facility,~~ enter into agreements with private entities, or  
12 consortia thereof, for the building, operation, ownership, or  
13 financing of transportation facilities. The department is  
14 authorized to adopt rules to implement this section and shall  
15 by rule establish an application fee for the submission of  
16 proposals under this section. The fee must be sufficient to  
17 pay the costs of evaluating the proposals. The department may  
18 engage the services of private consultants to assist in the  
19 evaluation. Before ~~seeking legislative~~ approval, the  
20 department must determine that the proposed project:

21           (a) Is in the public's best interest. ~~+~~

22           (b) Would not require state funds to be used unless  
23 there is an overriding state interest; however, the department  
24 may use state resources for a transportation facility project  
25 that is on the State Highway System or that provides for  
26 increased mobility on the state's transportation system. ~~and~~

27           (c) Would have adequate safeguards in place to ensure  
28 that no additional costs or service disruptions would be  
29 realized by the traveling public and citizens of the state in  
30 the event of default or cancellation of the agreement by the  
31 department.

1  
2 The department shall ensure that all reasonable costs to the  
3 state related to transportation facilities that are not part  
4 of the State Highway System are borne by the public-private  
5 entity.The department shall also ensure that all reasonable  
6 costs to the state,~~and substantially affected local~~  
7 governments,~~and utilities, related to the private~~  
8 ~~transportation facility,~~are borne by the public-private  
9 ~~private~~ entity for transportation facilities that are owned by  
10 private entities.

11 (2) The use of funds from the State Transportation  
12 Trust Fund is limited to advancing projects already programmed  
13 in the adopted 5-year work program or to no more than a  
14 statewide total of \$50 million in capital costs for all  
15 projects not programmed in the adopted 5-year work program.

16 (3) The department may request proposals for  
17 public-private transportation projects or, if the department  
18 receives an unsolicited proposal, shall publish a notice in  
19 the Florida Administrative Weekly and a newspaper of general  
20 circulation at least once a week for 2 weeks, stating that the  
21 department has received the proposal and will accept, for 60  
22 days after the initial date of publication, other proposals  
23 for the same project purpose. A copy of the notice must be  
24 mailed to each local government in the affected area. After  
25 the public notification period has expired, the department  
26 shall then rank the proposals in order of preference. In  
27 ranking the proposals, the department may consider, but is not  
28 limited to considering, professional qualifications, general  
29 business terms, innovative engineering or cost-reduction  
30 terms, finance plans, and the need for state funds to deliver  
31 the proposal. The department shall negotiate with the

1 top-ranked proposer in good faith, and if the department is  
2 not satisfied with the results of said negotiations, the  
3 department may, at its sole discretion, terminate negotiations  
4 with said proposer. If these negotiations are unsuccessful,  
5 the department may go to the second and lower-ranked firms in  
6 order using this same procedure. If only one proposal is  
7 received, the department may negotiate in good faith, and if  
8 the department is not satisfied with the results of said  
9 negotiations, the department may, at its sole discretion,  
10 terminate negotiations with the said proposers.

11 Notwithstanding any other provision of this subsection, the  
12 department may, at its sole discretion, reject all proposals  
13 at any point in the process up to completion of a contract  
14 with the proposer.

15 (4) The department shall not commit funds in excess of  
16 the limitation in subsection (2) without specific project  
17 approval by the Legislature.

18 (5)(2) Agreements entered into pursuant to this  
19 section may authorize the private entity to impose tolls or  
20 fares for the use of the facility. However, the amount and  
21 use of toll or fare revenues may be regulated by the  
22 department to avoid unreasonable costs to users of the  
23 facility.

24 (6)(3) Each ~~private~~ transportation facility  
25 constructed pursuant to this section shall comply with all  
26 requirements of federal, state, and local laws; state,  
27 regional, and local comprehensive plans; department rules,  
28 policies, procedures, and standards for transportation  
29 facilities; and any other conditions which the department  
30 determines to be in the public's best interest.

31

1           ~~(7)(4)~~ The department may exercise any power possessed  
2 by it, including eminent domain, with respect to the  
3 development and construction of state transportation projects  
4 to facilitate the development and construction of  
5 transportation projects pursuant to this section. For  
6 public-private facilities located on the State Highway System,  
7 the department may pay all or part of the cost of operating  
8 and maintaining the facility. For facilities not located on  
9 the State Highway System, the department may provide services  
10 to the private entity and agreements for maintenance, law  
11 enforcement, and other services ~~entered into pursuant to this~~  
12 ~~section~~ shall provide for full reimbursement for services  
13 rendered.

14           ~~(8)(5)~~ Except as herein provided, the provisions of  
15 this section are not intended to amend existing laws by  
16 granting additional powers to, or further restricting, local  
17 governmental entities from regulating and entering into  
18 cooperative arrangements with the private sector for the  
19 planning, construction, and operation of transportation  
20 facilities.

21           (9) The department shall have the authority to create  
22 or assist in the creation of tax-exempt, public-purpose  
23 Internal Revenue Service Ruling 63-20 corporations as provided  
24 for under the Internal Revenue Code. Any bonds issued by the  
25 63-20 corporation shall be payable solely from and secured by  
26 a lien upon and pledge of the revenues received by the 63-20  
27 corporation. Any bonds issued by the 63-20 corporation shall  
28 not be or constitute a general indebtedness of the State of  
29 Florida, any department or agency thereof, or any political  
30 subdivision thereof within the meaning of any constitutional  
31 or statutory provision or limitation. The full faith and



1 credit of the State of Florida shall not be pledged to the  
2 payment of the principal of or interest on the bonds issued by  
3 the 63-20 corporation. No owner of any of the bonds shall ever  
4 have the right to require or compel the exercise of the taxing  
5 power of the State of Florida or any department or agency of  
6 the state for payment thereof, and the bonds shall not  
7 constitute a lien upon any property owned by the State of  
8 Florida or any department or agency of the state. Bonds issued  
9 by the 63-20 corporation shall be rated investment grade by a  
10 nationally recognized credit rating agency. Nothing in this  
11 subsection is intended to prohibit credit enhancement of such  
12 bonds, whether provided by private or governmental sources  
13 other than sources backed by the taxing power of the State of  
14 Florida. Nothing in this subsection is intended to prohibit  
15 the pledging of additional funds or revenues from private  
16 sources to secure such bonds. Internal Revenue Service Ruling  
17 63-20 corporations may receive State Transportation Trust Fund  
18 grants and loans from the department. The department shall be  
19 empowered to enter into public-private partnership agreements  
20 with Internal Revenue Service Ruling 63-20 corporations for  
21 projects under this section but shall not agree to expend any  
22 funds not appropriated for this purpose. The provisions of s.  
23 339.135(6) shall apply to such agreements.

24 (10) The department may lend funds from the Toll  
25 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
26 Internal Revenue Service Ruling 63-20 corporations that  
27 construct projects containing toll facilities approved under  
28 this section. To be eligible, the Internal Revenue Service  
29 Ruling 63-20 corporation must meet the provisions of s.  
30 338.251 and must either provide an indication from a  
31 nationally recognized rating agency that the senior bonds of

1 the 63-20 corporation will be investment grade or must provide  
2 credit support, such as a letter of credit or other means  
3 acceptable to the department, to ensure that the loans will be  
4 fully repaid as required by law. The state's liability for  
5 debt of a facility shall be limited to the amount approved for  
6 that specific facility in the department's 5-year work program  
7 adopted pursuant to s. 339.135.

8 (11)~~(6)~~ Notwithstanding s. 341.327, a fixed-guideway  
9 transportation system authorized by the department to be  
10 wholly or partially within the department's right-of-way  
11 pursuant to a lease granted under s. 337.251 may operate at  
12 any safe speed.

13 Section 28. Paragraph (m) of subsection (2) of section  
14 348.0004, Florida Statutes, is repealed.

15 Section 29. Subsection (9) is added to section  
16 348.0004, Florida Statutes, to read:

17 348.0004 Purposes and powers.--

18 (9) The Legislature hereby finds and declares that  
19 there is a public need for rapid construction of safe and  
20 efficient transportation facilities for the purpose of travel  
21 within the state and that it is in the public's interest to  
22 provide for public-private partnership agreements to  
23 effectuate the construction of additional safe, convenient,  
24 and economical transportation facilities.

25 (a) An expressway authority in any county as defined  
26 in s. 125.011(1) or created by chapter 348 may receive or  
27 solicit proposals and enter into agreements with private  
28 entities, or consortia thereof, for the building, operation,  
29 ownership, or financing or extensions or other improvements to  
30 existing expressway authority transportation facilities or new  
31 transportation facilities that are within the jurisdiction of

1 such an expressway authority. Such an expressway authority is  
2 authorized to adopt rules to implement this subsection and  
3 shall by rule establish an application fee for the submission  
4 of unsolicited proposals under this subsection. The fee must  
5 be sufficient to pay the costs of evaluating the proposals.  
6 Such an expressway authority may engage the services of  
7 private consultants to assist in the evaluation. Before  
8 approval, such an expressway authority must determine that the  
9 proposed project:

10 1. Is in the public's best interest.

11 2. Would have adequate safeguards in place to ensure  
12 that no additional costs or service disruptions would be  
13 realized by the traveling public and citizens of the state in  
14 the event of default by the private entity or consortium or  
15 cancellation of the agreement by such expressway authority.

16 (b) Such an expressway authority may request proposals  
17 for public-private transportation projects or, if such an  
18 expressway authority receives an unsolicited proposal that it  
19 has an interest in evaluating, it shall publish a notice in  
20 the Florida Administrative Weekly and a newspaper of general  
21 circulation in the county in which such expressway authority  
22 is located at least once a week for 2 weeks stating that such  
23 expressway authority has received the proposal and will  
24 accept, for 60 days after the initial date of publication,  
25 other proposals for the same project purpose. A copy of the  
26 notice must be mailed to each local government in the affected  
27 areas. After the public notification period has expired, the  
28 expressway authority shall then rank the proposals in order of  
29 preference. In ranking the proposals, the expressway authority  
30 may consider, but is not limited to considering, professional  
31 qualifications, general business terms, innovative engineering

1 or cost-reduction terms, finance plans, and the need for state  
2 funds to deliver the proposal. The expressway authority shall  
3 negotiate with the top-ranked proposer in good faith, and if  
4 the expressway authority is not satisfied with the results of  
5 said negotiations, the expressway authority may, at its sole  
6 discretion, terminate negotiations with said proposer. If  
7 these negotiations are unsuccessful, the expressway authority  
8 may go to the second and lower-ranked firms in order using  
9 this same procedure. If only one proposal is received, the  
10 expressway authority may negotiate in good faith, and if the  
11 expressway authority is not satisfied with the results of said  
12 negotiations, the expressway authority may, at its sole  
13 discretion, terminate negotiations with the said proposers.  
14 Notwithstanding any other provision of this paragraph, the  
15 expressway authority may, at its sole discretion, reject all  
16 proposals at any point in the process up to completion of a  
17 contract with the proposer.

18 (c) Agreements entered into pursuant to this  
19 subsection may authorize the private entity to impose tolls or  
20 fares for the use of the facility. However, the amount and  
21 use of toll or fare revenues may be regulated by such an  
22 expressway authority to avoid unreasonable costs to users of  
23 the facility.

24 (d) Each transportation facility constructed pursuant  
25 to this subsection shall comply with all requirements of  
26 federal, state, and local laws; state, regional, and local  
27 comprehensive plans; such expressway authority's rules,  
28 policies, procedures, and standards for transportation  
29 facilities; and any other conditions such expressway authority  
30 determines to be in the public's best interest.

31

1           (e) Such an expressway authority may exercise any  
2 power possessed by it, including eminent domain, with respect  
3 to the development and construction of transportation projects  
4 to facilitate the development and construction of  
5 transportation projects pursuant to this subsection. Such an  
6 expressway authority may pay all or part of the cost of  
7 operating and maintaining the facility or may provide services  
8 to the private entity for which it shall be entitled to  
9 receive full or partial reimbursement for services rendered.

10           (f) Except as herein provided, the provisions of this  
11 subsection are not intended to amend existing laws by further  
12 expanding or further restricting the authority of local  
13 governmental entities to regulate and enter into cooperative  
14 arrangements with the private sector for the planning,  
15 construction, and operation of transportation facilities.

16           (g) Such an expressway authority shall have the  
17 authority to create or assist in the creation of tax-exempt,  
18 public-purpose Internal Revenue Service Ruling 63-20  
19 corporations as provided for under the Internal Revenue Code.  
20 Any bonds issued by the 63-20 corporation shall be payable  
21 solely from and secured by a lien upon and pledge of the  
22 revenues received by the 63-20 corporation. Any bonds issued  
23 by the 63-20 corporation shall not be or constitute a general  
24 indebtedness of the State of Florida, any department or agency  
25 thereof, or any political subdivision thereof within the  
26 meaning of any constitutional or statutory provision or  
27 limitation. The full faith and credit of the State of Florida  
28 shall not be pledged to the payment of the principal of or  
29 interest on the bonds issued by the 63-20 corporation. No  
30 owner of any of the bonds shall ever have the right to require  
31 or compel the exercise of the taxing power of the State of

1 Florida or any department or agency of the state for payment  
2 thereof, and the bonds shall not constitute a lien upon any  
3 property owned by the State of Florida or any department or  
4 agency of the state. Bonds issued by the 63-20 corporation  
5 shall be rated investment grade by a nationally recognized  
6 credit rating agency. Nothing in this paragraph is intended to  
7 prohibit credit enhancement of such bonds, whether provided by  
8 private or governmental sources other than sources backed by  
9 the taxing power of the State of Florida. Nothing in this  
10 paragraph is intended to prohibit the pledging of additional  
11 funds or revenues from private sources to secure such bonds.  
12 Such an expressway authority shall be empowered to enter into  
13 public-private partnership agreements with Internal Revenue  
14 Service Ruling 63-20 corporations for projects under this  
15 subsection.

16 (h) Such an expressway authority or Internal Revenue  
17 Service Ruling 63-20 corporation created under this subsection  
18 shall be entitled to apply for grants and loans from the  
19 department for projects under this subsection, subject to the  
20 same eligibility criteria and other terms and conditions as  
21 would apply to projects of such an expressway authority  
22 undertaken without private participation.

23 Section 30. Section 335.066, Florida Statutes, is  
24 created to read:

25 335.066 Safe Paths to Schools Program.--

26 (1) There is hereby established within the Department  
27 of Transportation the Safe Paths to Schools Program to  
28 consider the planning and construction of bicycle and  
29 pedestrian ways to provide safe transportation for children  
30 from neighborhoods to schools, parks, and the state's  
31 greenways and trails system.

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

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

7           Section 31. Subsection (4) is added to section 336.41,  
8 Florida Statutes, to read:

9           336.41 Counties; employing labor and providing road  
10 equipment; accounting; when competitive bidding required.--

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

24           (b) The county shall publish prequalification criteria  
25 and procedures prior to advertisement or notice of  
26 solicitation. Such publications shall include notice of a  
27 public hearing for comment on such criteria and procedures  
28 prior to adoption. The procedures shall provide for an appeal  
29 process within the county for objections to the  
30 prequalification process with de novo review based on the  
31 record below to the circuit court.

1           (c) The county shall also publish for comment, prior  
2 to adoption, the selection criteria and procedures to be used  
3 by the county if such procedures would allow selection of  
4 other than the lowest responsible bidder. The selection  
5 criteria shall include an appeal process within the county  
6 with de novo review based on the record below to the circuit  
7 court.

8           Section 32. Subsection (2) of section 336.44, Florida  
9 Statutes, is amended to read:

10           336.44 Counties; contracts for construction of roads;  
11 procedure; contractor's bond.--

12           (2) Such contracts shall be let to the lowest  
13 responsible ~~competent~~ bidder, after publication of notice for  
14 bids containing specifications furnished by the commissioners  
15 in a newspaper published in the county where such contract is  
16 made, at least once each week for 2 consecutive weeks prior to  
17 the making of such contract.

18           Section 33. Effective July 1, 2003, paragraph (a) of  
19 subsection (7) of section 337.11, Florida Statutes, as amended  
20 by section 4 of chapter 2001-350, Laws of Florida, is amended  
21 to read:

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

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



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

10 Section 34. Effective July 1, 2005, paragraph (a) of  
11 subsection (7) of section 337.11, Florida Statutes, as amended  
12 by this act, is amended to read:

13 337.11 Contracting authority of department; bids;  
14 emergency repairs, supplemental agreements, and change orders;  
15 combined design and construction contracts; progress payments;  
16 records, requirements of vehicle registration.--

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

1           Section 35. Subsection (4) of section 337.14, Florida  
2 Statutes, is amended, and subsection (9) is added to said  
3 section, to read:

4           337.14 Application for qualification; certificate of  
5 qualification; restrictions; request for hearing.--

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

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

1 percent or more at the time of advertisement of the work. Any  
2 contractor prequalified and considered eligible by the  
3 department to bid to perform the type of work described under  
4 the contract shall be presumed to be qualified to perform the  
5 work so described. The governmental entity or authority may  
6 provide an appeal process to overcome that presumption with de  
7 novo review based on the record below to the circuit court.

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

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

24 Section 36. Subsection (2) of section 337.401, Florida  
25 Statutes, is amended to read:

26 337.401 Use of right-of-way for utilities subject to  
27 regulation; permit; fees.--

28 (2) The authority may grant to any person who is a  
29 resident of this state, or to any corporation which is  
30 organized under the laws of this state or licensed to do  
31 business within this state, the use of a right-of-way for the

1 utility in accordance with such rules or regulations as the  
2 authority may adopt. No utility shall be installed, located,  
3 or relocated unless authorized by a written permit issued by  
4 the authority. However, for public roads or publicly owned  
5 rail corridors under the jurisdiction of the department, a  
6 utility relocation schedule and relocation agreement may be  
7 executed in lieu of a written permit.The permit shall require  
8 the permit holder to be responsible for any damage resulting  
9 from the issuance of such permit. The authority may initiate  
10 injunctive proceedings as provided in s. 120.69 to enforce  
11 provisions of this subsection or any rule or order issued or  
12 entered into pursuant thereto.

13 Section 37. Subsection (3) of section 337.408, Florida  
14 Statutes, is amended, subsection (5) is renumbered as  
15 subsection (6), and a new subsection (5) is added to said  
16 section to read:

17 337.408 Regulation of benches, transit shelters,  
18 street light poles,and waste disposal receptacles within  
19 rights-of-way.--

20 (3) The department has the authority to direct the  
21 immediate relocation or removal of any bench, transit shelter,  
22 or waste disposal receptacle which endangers life or property,  
23 except that transit bus benches which have been placed in  
24 service prior to April 1, 1992, do not have to comply with  
25 bench size and advertising display size requirements which  
26 have been established by the department prior to March 1,  
27 1992. Any transit bus bench that was in service prior to  
28 April 1, 1992, may be replaced with a bus bench of the same  
29 size or smaller, if the bench is damaged or destroyed or  
30 otherwise becomes unusable. The Department is authorized to  
31 promulgate rules relating to the regulation of bench size and

1 advertising display size requirements. However, if a  
2 municipality or county within which a bench is to be located  
3 has adopted an ordinance or other applicable regulation that  
4 establishes bench size or advertising display sign  
5 requirements different from requirements specified in  
6 department rule, then the local government requirement shall  
7 be applicable within the respective municipality or county.  
8 Placement of any bench or advertising display on the National  
9 Highway System under a local ordinance or regulation adopted  
10 pursuant to this subsection shall be subject to approval of  
11 the Federal Highway Administration.

12 (5) Street light poles, including attached public  
13 service messages and advertisements, may be located within the  
14 right-of-way limits of municipal and county roads in the same  
15 manner as benches, transit shelters, and waste disposal  
16 receptacles as provided in this section and in accordance with  
17 municipal and county ordinances. Public service messages and  
18 advertisements may be installed on street light poles on roads  
19 on the State Highway System in accordance with height, size,  
20 setback, spacing distance, duration of display, safety,  
21 traffic control, and permitting requirements established by  
22 administrative rule of the Department of Transportation.  
23 Public service messages and advertisements shall be subject to  
24 bilateral agreements, where applicable, to be negotiated with  
25 the owner of the street light poles, which shall consider,  
26 among other things, power source rates, design, safety,  
27 operational and maintenance concerns, and other matters of  
28 public importance. For the purposes of this section, the term  
29 "street light poles" does not include electric transmission or  
30 distribution poles. The department shall have authority to  
31 establish administrative rules to implement this subsection.

1 No advertising on light poles shall be permitted on the  
2 Interstate Highway System. No permanent structures carrying  
3 advertisements attached to light poles shall be permitted on  
4 the National Highway System.

5 Section 38. Subsections (1) and (2) of section 339.08,  
6 Florida Statutes, are amended to read:

7 339.08 Use of moneys in State Transportation Trust  
8 Fund.--

9 (1) The department shall expend ~~by rule provide for~~  
10 ~~the expenditure of the~~ moneys in the State Transportation  
11 Trust Fund accruing to the department, in accordance with its  
12 annual budget.

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

15 (a) To pay administrative expenses of the department,  
16 including administrative expenses incurred by the several  
17 state transportation districts, but excluding administrative  
18 expenses of commuter rail authorities that do not operate rail  
19 service.

20 (b) To pay the cost of construction of the State  
21 Highway System.

22 (c) To pay the cost of maintaining the State Highway  
23 System.

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

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

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

31

1 (g) To lend or pay a portion of the operating,  
2 maintenance, and capital costs of a revenue-producing  
3 transportation project that is located on the State Highway  
4 System or that is demonstrated to relieve traffic congestion  
5 on the State Highway System.

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

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

12 (j) To pay the cost of county or municipal road  
13 projects selected in accordance with the County Incentive  
14 Grant Program created in s. 339.2817 and the Small County  
15 Outreach Program created in s. 339.2818.

16 (k) To provide loans and credit enhancements for use  
17 in constructing and improving highway transportation  
18 facilities selected in accordance with the state-funded  
19 infrastructure bank created in s. 339.55.

20 (l) To fund the Transportation Outreach Program  
21 created in s. 339.137.

22 (m) To pay other lawful expenditures of the  
23 department.

24 Section 39. Subsection (5) of section 339.12, Florida  
25 Statutes, is amended, and subsection (10) is added to said  
26 section, to read:

27 339.12 Aid and contributions by governmental entities  
28 for department projects; federal aid.--

29 (5) The department and the governing body of a  
30 governmental entity may enter into an agreement by which the  
31 governmental entity agrees to perform a highway project or

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

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

24 Section 40. Subsections (2) and (5) of section 339.55,  
 25 Florida Statutes, are amended to read:

26 339.55 State-funded infrastructure bank.--

27 (2) The bank may lend capital costs or provide credit  
 28 enhancements for a transportation facility project that is on  
 29 the State Highway System or that provides for increased  
 30 mobility on the state's transportation system or provides  
 31 intermodal connectivity with airports, seaports, rail



1 facilities, and other transportation terminals, pursuant to s.  
2 341.053, for the movement of people and goods. Loans from the  
3 bank may be subordinated to senior project debt that has an  
4 investment grade rating of "BBB" or higher.

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

8 (a) The credit worthiness of the project.

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

11 (c) The likelihood that assistance would enable the  
12 project to proceed at an earlier date than would otherwise be  
13 possible.

14 (d) The extent to which assistance would foster  
15 innovative public-private partnerships and attract private  
16 debt or equity investment.

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

20 (f) The extent to which the project would maintain or  
21 protect the environment.

22 (g) A demonstration that the project includes  
23 transportation benefits for improving intermodalism, cargo and  
24 freight movement,and safety.

25 (h) The amount of the proposed assistance as a  
26 percentage of the overall project costs with emphasis on local  
27 and private participation.

28 (i) The extent to which the project will provide for  
29 connectivity between the State Highway System and airports,  
30 seaports, rail facilities, and other transportation terminals

31

1 and intermodal options pursuant to s. 341.053 for the  
2 increased accessibility and movement of people and goods.

3 Section 41. Subsections (8) and (10) of section  
4 341.031, Florida Statutes, are amended to read:

5 341.031 Definitions relating to Florida Public Transit  
6 Act.--As used in ss. 341.011-341.061, the term:

7 (8) "Public transit service development project" means  
8 a project undertaken by a public agency to determine whether a  
9 new or innovative technique or measure can be utilized to  
10 improve or expand public transit services to its constituency.  
11 The duration of the project shall be limited according to the  
12 type of the project in conformance with the provisions of s.  
13 341.051(5)(~~e~~)(~~f~~), but in no case shall exceed a period of 3  
14 years. Public transit service development projects  
15 specifically include projects involving the utilization of new  
16 technologies, services, routes, or vehicle frequencies; the  
17 purchase of special transportation services; and other such  
18 techniques for increasing service to the riding public as are  
19 applicable to specific localities and transit user groups.

20 (10) "Transit corridor project" means a project that  
21 is undertaken by a public agency and designed to relieve  
22 congestion and improve capacity within an identified  
23 transportation corridor by increasing people-carrying capacity  
24 of the system through the use and facilitated movement of  
25 high-occupancy conveyances. Each transit corridor project  
26 must meet the requirements established in s. 341.051(5)(~~d~~)(~~e~~)  
27 ~~and, if applicable, the requirements of the department's major~~  
28 ~~capital investment policy developed pursuant to s.~~  
29 ~~341.051(5)(b)~~. Initial project duration shall not exceed a  
30 period of 2 years unless the project is reauthorized by the  
31 Legislature. Such reauthorization shall be based upon a

1 determination that the project is meeting or exceeding the  
2 criteria, developed pursuant to s. 341.051(5)(d)(~~e~~), by which  
3 the success of the project is being judged and by inclusion of  
4 the project in a departmental appropriation request.

5 Section 42. Subsection (5) of section 341.051, Florida  
6 Statutes, is amended to read:

7 341.051 Administration and financing of public transit  
8 programs and projects.--

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

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

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

24 ~~1. Methods to be used to determine consistency of a~~  
25 ~~transit project with the approved local government~~  
26 ~~comprehensive plans of the units of local government in which~~  
27 ~~the project is located.~~

28 ~~2. Methods for evaluating the level of local~~  
29 ~~commitment to a transit project, which is to be demonstrated~~  
30 ~~through system planning and the development of a feasible plan~~  
31 ~~to fund operating cost through fares, value capture techniques~~

1 ~~such as joint development and special districts, or other~~  
2 ~~local funding mechanisms.~~

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

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

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

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

30 (e)~~(f)~~ The department is authorized to fund up to 50  
31 percent of the capital and net operating costs of transit

1 service development projects that are local in scope and that  
2 will improve system efficiencies, ridership, or revenues. All  
3 such projects shall be identified in the appropriation request  
4 of the department through a specific program of projects, as  
5 provided for in s. 341.041, that is selectively applied in the  
6 following functional areas and is subject to the specified  
7 times of duration:

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

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

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

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

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

31

1           Section 43. Subsection (6) of section 341.053, Florida  
2 Statutes, is amended to read:

3           341.053 Intermodal Development Program;  
4 administration; eligible projects; limitations.--

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

21           Section 44. Section 341.501, Florida Statutes, is  
22 amended to read:

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

1 ss. 341.3201-341.386, do not apply to actions taken under this  
2 section, and the department may, subject to s. 339.135,  
3 provide funds to match any available federal aid or aid from  
4 other states or jurisdictions for effectuating the research,  
5 development, and demonstration of high-technology  
6 transportation systems. To be eligible for funding under this  
7 section, the project must be located in Florida.

8 Section 45. Paragraph (d) of subsection (2) of section  
9 348.0003, Florida Statutes, is amended to read:

10 348.0003 Expressway authority; formation;  
11 membership.--

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

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

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

14 Section 46. Section 348.0008, Florida Statutes, is  
15 amended to read:

16 348.0008 Acquisition of lands and property.--

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



1 on the expressway system or in a transportation corridor  
2 designated by the authority; or for the purposes of screening,  
3 relocation, removal, or disposal of junkyards and scrap metal  
4 processing facilities. The authority may also condemn any  
5 material and property necessary for such purposes.

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

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

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

1 liability of any governmental entity for the results of its  
2 actions which create or exacerbate a pollution source. An  
3 authority and the Department of Environmental Protection may  
4 enter into interagency agreements for the performance,  
5 funding, and reimbursement of the investigative and remedial  
6 acts necessary for property acquired by the authority.

7 Section 47. Section 348.545, Florida Statutes, is  
8 created to read:

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

21 Section 48. Section 348.565, Florida Statutes, is  
22 amended to read:

23 348.565 Revenue bonds for specified projects.--The  
24 existing facilities that constitute the Tampa-Hillsborough  
25 County Expressway System are hereby approved to be refinanced  
26 by the issuance of revenue bonds by the Division of Bond  
27 Finance of the State Board of Administration pursuant to s.  
28 11(f), Art. VII of the State Constitution. In addition, the  
29 following projects of the Tampa-Hillsborough County Expressway  
30 Authority are approved to be financed or refinanced by the  
31

1 issuance of revenue bonds pursuant to s. 11(f), Art. VII of  
2 the State Constitution:

3 (1) Brandon area feeder roads.~~†~~

4 (2) Capital improvements to the expressway system,  
5 including safety and operational improvements and toll  
6 collection equipment.~~†~~ ~~and~~

7 (3) Lee Roy Selmon Crosstown Expressway System  
8 widening.

9 (4) The connector highway linking Lee Roy Selmon  
10 Crosstown Expressway to Interstate 4.

11 Section 49. Section 373.4137, Florida Statutes, is  
12 amended to read:

13 373.4137 Mitigation requirements.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

3 Section 50. Paragraph (b) of subsection (3) of section  
4 380.04, Florida Statutes, is amended to read:

5 380.04 Definition of development.--

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

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

15 Section 51. Paragraph (d) of subsection (2), paragraph  
16 (b) of subsection (4), and paragraph (a) of subsection (8) of  
17 section 380.06, Florida Statutes, are amended to read:

18 380.06 Developments of regional impact.--

19 (2) STATEWIDE GUIDELINES AND STANDARDS.--

20 (d) The guidelines and standards shall be applied as  
21 follows:

22 1. Fixed thresholds.--

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

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

30 c. Projects certified under s. 403.973 which create at  
31 least 100 jobs and meet the criteria of the Office of Tourism,

1 Trade, and Economic Development as to their impact on an  
2 area's economy, employment, and prevailing wage and skill  
3 levels that are at or below 100 percent of the numerical  
4 thresholds for industrial plants, industrial parks,  
5 distribution, warehousing or wholesaling facilities, office  
6 development or multiuse projects other than residential, as  
7 described in s. 380.0651(3)(c), (d), and (i), are not required  
8 to undergo development-of-regional-impact review.

9 2. Rebuttable presumption ~~presumptions~~.--

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

13 ~~b.~~ It shall be presumed that a development that is at  
14 100 percent or between 100 and 120 percent of a numerical  
15 threshold shall be required to undergo  
16 development-of-regional-impact review.

17 (4) BINDING LETTER.--

18 (b) Unless a developer waives the requirements of this  
19 paragraph by agreeing to undergo  
20 development-of-regional-impact review pursuant to this  
21 section, the state land planning agency or local government  
22 with jurisdiction over the land on which a development is  
23 proposed may require a developer to obtain a binding letter  
24 if+

25 ~~±~~ the development is at a presumptive numerical  
26 threshold or up to 20 percent above a numerical threshold in  
27 the guidelines and standards. ~~±~~ or

28 2. ~~The development is between a presumptive numerical~~  
29 ~~threshold and 20 percent below the numerical threshold and the~~  
30 ~~local government or the state land planning agency is in doubt~~  
31 ~~as to whether the character or magnitude of the development at~~

1 ~~the proposed location creates a likelihood that the~~  
2 ~~development will have a substantial effect on the health,~~  
3 ~~safety, or welfare of citizens of more than one county.~~

4 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

5 (a) A developer may enter into a written preliminary  
6 development agreement with the state land planning agency to  
7 allow a developer to proceed with a limited amount of the  
8 total proposed development, subject to all other governmental  
9 approvals and solely at the developer's own risk, prior to  
10 issuance of a final development order. All owners of the land  
11 in the total proposed development shall join the developer as  
12 parties to the agreement. Each agreement shall include and be  
13 subject to the following conditions:

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

17 2. The developer shall file an application for  
18 development approval for the total proposed development within  
19 3 months after execution of the agreement, unless the state  
20 land planning agency agrees to a different time for good cause  
21 shown. Failure to timely file an application and to otherwise  
22 diligently proceed in good faith to obtain a final development  
23 order shall constitute a breach of the preliminary development  
24 agreement.

25 3. The agreement shall include maps and legal  
26 descriptions of both the preliminary development area and the  
27 total proposed development area and shall specifically  
28 describe the preliminary development in terms of magnitude and  
29 location. The area approved for preliminary development must  
30 be included in the application for development approval and  
31

1 shall be subject to the terms and conditions of the final  
2 development order.

3 4. The preliminary development shall be limited to  
4 lands that the state land planning agency agrees are suitable  
5 for development and shall only be allowed in areas where  
6 adequate public infrastructure exists to accommodate the  
7 preliminary development, when such development will utilize  
8 public infrastructure. The developer must also demonstrate  
9 that the preliminary development will not result in material  
10 adverse impacts to existing resources or existing or planned  
11 facilities.

12 5. The preliminary development agreement may allow  
13 development which is:

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

17 b. Less than 120 percent of any applicable threshold  
18 if the developer demonstrates that such development is part of  
19 a proposed downtown development of regional impact specified  
20 in subsection (22) or part of any areawide development of  
21 regional impact specified in subsection (25) and that the  
22 development is consistent with subparagraph 4.

23 6. The developer and owners of the land may not claim  
24 vested rights, or assert equitable estoppel, arising from the  
25 agreement or any expenditures or actions taken in reliance on  
26 the agreement to continue with the total proposed development  
27 beyond the preliminary development. The agreement shall not  
28 entitle the developer to a final development order approving  
29 the total proposed development or to particular conditions in  
30 a final development order.

31

1           7. The agreement shall not prohibit the regional  
2 planning agency from reviewing or commenting on any regional  
3 issue that the regional agency determines should be included  
4 in the regional agency's report on the application for  
5 development approval.

6           8. The agreement shall include a disclosure by the  
7 developer and all the owners of the land in the total proposed  
8 development of all land or development within 5 miles of the  
9 total proposed development in which they have an interest and  
10 shall describe such interest.

11           9. In the event of a breach of the agreement or  
12 failure to comply with any condition of the agreement, or if  
13 the agreement was based on materially inaccurate information,  
14 the state land planning agency may terminate the agreement or  
15 file suit to enforce the agreement as provided in this section  
16 and s. 380.11, including a suit to enjoin all development.

17           10. A notice of the preliminary development agreement  
18 shall be recorded by the developer in accordance with s.  
19 28.222 with the clerk of the circuit court for each county in  
20 which land covered by the terms of the agreement is located.  
21 The notice shall include a legal description of the land  
22 covered by the agreement and shall state the parties to the  
23 agreement, the date of adoption of the agreement and any  
24 subsequent amendments, the location where the agreement may be  
25 examined, and that the agreement constitutes a land  
26 development regulation applicable to portions of the land  
27 covered by the agreement. The provisions of the agreement  
28 shall inure to the benefit of and be binding upon successors  
29 and assigns of the parties in the agreement.

30           11. Except for those agreements which authorize  
31 preliminary development for substantial deviations pursuant to

1 subsection (19), a developer who no longer wishes to pursue a  
2 development of regional impact may propose to abandon any  
3 preliminary development agreement executed after January 1,  
4 1985, including those pursuant to s. 380.032(3), provided at  
5 the time of abandonment:

6 a. A final development order under this section has  
7 been rendered that approves all of the development actually  
8 constructed; or

9 b. The amount of development is less than 100 ~~80~~  
10 percent of all numerical thresholds of the guidelines and  
11 standards, and the state land planning agency determines in  
12 writing that the development to date is in compliance with all  
13 applicable local regulations and the terms and conditions of  
14 the preliminary development agreement and otherwise adequately  
15 mitigates for the impacts of the development to date.

16  
17 In either event, when a developer proposes to abandon said  
18 agreement, the developer shall give written notice and state  
19 that he or she is no longer proposing a development of  
20 regional impact and provide adequate documentation that he or  
21 she has met the criteria for abandonment of the agreement to  
22 the state land planning agency. Within 30 days of receipt of  
23 adequate documentation of such notice, the state land planning  
24 agency shall make its determination as to whether or not the  
25 developer meets the criteria for abandonment. Once the state  
26 land planning agency determines that the developer meets the  
27 criteria for abandonment, the state land planning agency shall  
28 issue a notice of abandonment which shall be recorded by the  
29 developer in accordance with s. 28.222 with the clerk of the  
30 circuit court for each county in which land covered by the  
31 terms of the agreement is located.



1           Section 52. (1) Nothing contained in this act  
2 abridges or modifies any vested or other right or any duty or  
3 obligation pursuant to any development order or agreement that  
4 is applicable to a development of regional impact on the  
5 effective date of this act. A development that has received a  
6 development-of-regional-impact development order pursuant to  
7 s. 380.06, Florida Statutes 2001, but is no longer required to  
8 undergo development-of-regional-impact review by operation of  
9 this act, shall be governed by the following procedures:

10           (a) The development shall continue to be governed by  
11 the development-of-regional-impact development order and may  
12 be completed in reliance upon and pursuant to the development  
13 order. The development-of-regional-impact development order  
14 may be enforced by the local government as provided by ss.  
15 380.06(17) and 380.11, Florida Statutes 2001.

16           (b) If requested by the developer or landowner, the  
17 development-of-regional-impact development order may be  
18 abandoned pursuant to the process in subsection 380.06(26).

19           (2) A development with an application for development  
20 approval pending on the effective date of this act, or a  
21 notification of proposed change pending on the effective date  
22 of this act, may elect to continue such review pursuant to s.  
23 380.06, Florida Statutes 2001. At the conclusion of the  
24 pending review, including any appeals pursuant to s. 380.07,  
25 Florida Statutes 2001, the resulting development order shall  
26 be governed by the provisions of subsection (1).

27           Section 53. Paragraph (b) of subsection (1) of section  
28 496.425, Florida Statutes, is amended to read:

29           496.425 Solicitation of funds within public  
30 transportation facilities.--

31           (1) As used in this section:

1 (b) "Facility" means any public transportation  
2 facility, including, but not limited to, railroad stations,  
3 bus stations, ship ports, ferry terminals, and roadside  
4 ~~welcome stations, highway service plazas, airports served by~~  
5 ~~scheduled passenger service, or highway rest stations.~~

6 Section 54. Section 496.4256, Florida Statutes, is  
7 created to read:

8 496.4256 Public transportation facilities not required  
9 to grant permit or access.--A governmental entity or authority  
10 that owns or operates welcome centers, wayside parks, service  
11 plazas, or rest areas on the State Highway System as defined  
12 in chapter 335 shall not be required to issue a permit or  
13 grant any person access to such public transportation  
14 facilities for the purpose of soliciting funds.

15 Section 55. Paragraph (d) is added to subsection (10)  
16 of section 768.28, Florida Statutes, to read:

17 768.28 Waiver of sovereign immunity in tort actions;  
18 recovery limits; limitation on attorney fees; statute of  
19 limitations; exclusions; indemnification; risk management  
20 programs.--

21 (10)

22 (d) For the purposes of this section, operators,  
23 dispatchers, and providers of security for rail services and  
24 rail facility maintenance providers in the South Florida Rail  
25 Corridor, or any of their employees or agents, performing such  
26 services under contract with and on behalf of the Tri-County  
27 Commuter Rail Authority or the Department of Transportation  
28 shall be considered agents of the state while acting within  
29 the scope of and pursuant to guidelines established in said  
30 contract or by rule.

1           Section 56. Dori Slosberg Driver Education Safety  
2 Act.--Effective October 1, 2002, notwithstanding the  
3 provisions of s. 318.121, Florida Statutes, a board of county  
4 commissioners may require, by ordinance, that the clerk of the  
5 court collect an additional \$3 with each civil traffic  
6 penalty, which shall be used to fund traffic education  
7 programs in public and nonpublic schools. The ordinance shall  
8 provide for the board of county commissioners to administer  
9 the funds. The funds shall be used for direct educational  
10 expenses and shall not be used for administration. This  
11 section may be cited as the "Dori Slosberg Driver Education  
12 Safety Act."

13           Section 57. Subsection (2) of section 2 of chapter  
14 88-418, Laws of Florida, is amended to read:

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

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

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

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

27           Section 58. Paragraph (a) of subsection (1) of section  
28 212.055, Florida Statutes, is amended to read:

29           212.055 Discretionary sales surtaxes; legislative  
30 intent; authorization and use of proceeds.--It is the  
31 legislative intent that any authorization for imposition of a

1 discretionary sales surtax shall be published in the Florida  
2 Statutes as a subsection of this section, irrespective of the  
3 duration of the levy. Each enactment shall specify the types  
4 of counties authorized to levy; the rate or rates which may be  
5 imposed; the maximum length of time the surtax may be imposed,  
6 if any; the procedure which must be followed to secure voter  
7 approval, if required; the purpose for which the proceeds may  
8 be expended; and such other requirements as the Legislature  
9 may provide. Taxable transactions and administrative  
10 procedures shall be as provided in s. 212.054.

11 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

12 (a) Each charter county which adopted a charter prior  
13 to January 1, 1984 ~~which adopted a charter prior to June 1,~~  
14 ~~1976~~, and each county the government of which is consolidated  
15 with that of one or more municipalities, may levy a  
16 discretionary sales surtax, subject to approval by a majority  
17 vote of the electorate of the county or by a charter amendment  
18 approved by a majority vote of the electorate of the county.

19 Section 59. Except as otherwise provided herein, this  
20 act shall take effect July 1, 2002.

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