

By Senator Dockery

15-1860-03

See HB 921

1                                   A bill to be entitled  
2           An act relating to governmental reorganization;  
3           creating s. 20.241, F.S.; creating the  
4           Department of the Florida Highway Patrol;  
5           providing for organization of that department;  
6           transferring powers, duties, functions,  
7           records, personnel, property, and funds of the  
8           Division of the Florida Highway Patrol within  
9           the Department of Highway Safety and Motor  
10          Vehicles to said department; transferring legal  
11          authorities and actions of that division;  
12          transferring support positions; transferring  
13          trust funds, portions of trust funds,  
14          unexpended balances of appropriations,  
15          allocations, and other funds from the  
16          Department of Highway Safety and Motor Vehicles  
17          to the Department of the Florida Highway  
18          Patrol; transferring authority and  
19          responsibility of the division for the  
20          enforcement of laws to the Department of the  
21          Florida Highway Patrol; transferring authority  
22          and responsibility of the members of the  
23          Florida Highway Patrol within the Department of  
24          Highway Safety and Motor Vehicles to the  
25          members of the Florida Highway Patrol within  
26          the Department of the Florida Highway Patrol;  
27          transferring authority and responsibility for  
28          appointment of the auxiliary to the Florida  
29          Highway Patrol to the director of the  
30          Department of the Florida Highway Patrol;  
31          transferring authority and responsibility of

1 the members of the auxiliary to the Florida  
2 Highway Patrol to the members of the auxiliary  
3 to the Florida Highway Patrol within the  
4 Department of the Florida Highway Patrol;  
5 transferring authority and responsibility for  
6 maintaining the Florida Highway Patrol wrecker  
7 operator system to the Department of the  
8 Florida Highway Patrol; providing the Governor  
9 with specific organizational authority to  
10 effect restructuring of said departments;  
11 authorizing said departments to enter into  
12 interagency agreements for certain purposes;  
13 providing for transfer of funds into the  
14 Administrative Trust Fund; authorizing the  
15 Department of the Florida Highway Patrol to  
16 request creation of trust funds; requiring  
17 driver license information obtained by the  
18 Department of Highway Safety and Motor Vehicles  
19 to be available on a priority basis to the  
20 Department of the Florida Highway Patrol;  
21 specifying that rules of the Department of  
22 Highway Safety and Motor Vehicles relating to  
23 said division become rules of the Department of  
24 the Florida Highway Patrol; providing for  
25 preservation of validity of judicial or  
26 administrative actions; providing for  
27 substitution of certain parties in interest in  
28 such actions; providing legislative intent  
29 relating to statutory responsibility for  
30 enforcement of traffic laws becoming the  
31 responsibility of the Department of the Florida

1 Highway Patrol; providing legislative intent  
2 relating to job classifications, pay plans,  
3 rank classifications, employment statuses,  
4 assignments, and special assignments remaining  
5 in effect upon transfer; providing legislative  
6 intent relating to statutory responsibility for  
7 certain appointments becoming the  
8 responsibility of the director of the  
9 Department of the Florida Highway Patrol;  
10 providing for conforming legislation; providing  
11 for assistance of certain legislative  
12 substantive committees by the Division of  
13 Statutory Revision for certain purposes;  
14 amending s. 20.24, F.S., relating to  
15 organization of the Department of Highway  
16 Safety and Motor Vehicles; removing the  
17 Division of the Florida Highway Patrol;  
18 amending s. 110.2035, F.S.; maintaining pay  
19 band classifications of the Division of the  
20 Florida Highway Patrol when transferred to the  
21 Department of the Florida Highway Patrol;  
22 amending s. 23.1231, F.S., relating to the  
23 Florida Mutual Aid Plan; providing for  
24 coordination between the liaison and the  
25 Department of the Florida Highway Patrol;  
26 amending ss. 120.80, 282.1095, 316.003,  
27 316.640, 321.02, 321.03, 321.04, 321.05,  
28 321.051, 321.23, 321.25, 338.239, and 943.11,  
29 F.S., relating to administrative hearing  
30 procedures, the Joint Task Force on State  
31 Agency Law Enforcement Communications, the

1 Florida Uniform Traffic Control Law,  
2 enforcement of traffic laws, powers and duties  
3 of highway patrol, imitation of highway patrol  
4 vehicles, personnel and rank, duties and  
5 functions and powers of patrol officers, the  
6 Florida Highway Patrol wrecker operator system,  
7 public records, training provided at patrol  
8 schools, traffic control on the turnpike  
9 system, and Criminal Justice Standards and  
10 Training Commission membership; conforming  
11 provisions to the reorganization and transfers  
12 made by the act; amending ss. 72.011, 213.015,  
13 215.26, and 519.101, F.S.; conforming  
14 references to changes made by the act;  
15 reenacting s. 321.065, F.S., relating to  
16 employment of traffic accident investigation  
17 officers; providing an effective date.

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

20  
21 Section 1. Section 20.241, Florida Statutes, is  
22 created to read:

23 20.241 Department of the Florida Highway  
24 Patrol.--There is created a Department of the Florida Highway  
25 Patrol.

26 (1) The head of the department is the director of the  
27 Department of the Florida Highway Patrol who shall have the  
28 rank designation of colonel. The colonel shall be appointed by  
29 the Governor with the approval of the majority of the members  
30 of the Cabinet, subject to confirmation by the Senate. The  
31

1 colonel shall serve at the pleasure of the Governor and  
2 Cabinet.

3 (2) The following divisions of the Department of the  
4 Florida Highway Patrol are established:

5 (a) Division of Administrative Services.

6 (b) Division of Highway Patrol Operations.

7 (c) Division of Criminal Investigations.

8 (3) Bureaus and sections may be established as deemed  
9 necessary to promote efficient and effective operation of the  
10 department, pursuant to s. 20.04.

11 Section 2. Department of the Florida Highway Patrol;  
12 transfers; operations.--

13 (1) All statutory powers, duties, functions, records,  
14 personnel, property, and unexpended balances of  
15 appropriations, allocations, law enforcement trust funds,  
16 trust funds, and other funds of the Division of the Florida  
17 Highway Patrol within the Department of Highway Safety and  
18 Motor Vehicles are transferred by a type two transfer, as  
19 defined in section 20.06(2), Florida Statutes, to the  
20 Department of the Florida Highway Patrol.

21 (2) All existing legal authorities and actions of the  
22 Division of the Florida Highway Patrol within the Department  
23 of Highway Safety and Motor Vehicles, including, but not  
24 limited to, all pending and completed action on orders and  
25 rules, all enforcement matters, and all delegations,  
26 interagency agreements, and contracts with federal, state,  
27 regional, and local governments and private entities are  
28 transferred by a type two transfer, as defined in section  
29 20.06(2), Florida Statutes, to the Department of the Florida  
30 Highway Patrol.

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1           (3) Those positions primarily supporting the Division  
2 of the Florida Highway Patrol within the Department of Highway  
3 Safety and Motor Vehicles, including, but not limited to,  
4 legal, clerical, administrative, or other, are hereby  
5 transferred by a type two transfer, as defined in section  
6 20.06(2), Florida Statutes, to the Department of the Florida  
7 Highway Patrol.

8           (4) All existing statutory authority and  
9 responsibility for the enforcement of laws of the state of the  
10 Division of the Florida Highway Patrol within the Department  
11 of Highway Safety and Motor Vehicles, including, but not  
12 limited to, law enforcement and traffic control, are  
13 transferred by a type two transfer, as defined in section  
14 20.06(2), Florida Statutes, to the Department of the Florida  
15 Highway Patrol.

16           (5) All existing statutory authorities,  
17 responsibilities, duties, functions, powers, protections, and  
18 immunities of members of the Florida Highway Patrol within the  
19 Department of Highway Safety and Motor Vehicles, including,  
20 but not limited to, the power to bear arms and make arrests  
21 and powers relating to law enforcement and traffic control,  
22 are transferred by a type two transfer, as defined in section  
23 20.06(2), Florida Statutes, to the members of the Florida  
24 Highway Patrol within the Department of the Florida Highway  
25 Patrol.

26           (6) All existing statutory authority and  
27 responsibility for the auxiliary to the Florida Highway Patrol  
28 of the director of the Florida Highway Patrol within the  
29 Department of Highway Safety and Motor Vehicles, including,  
30 but not limited to, establishment of, and training and  
31 purchase of uniforms and equipment for, an auxiliary to the

1 Florida Highway Patrol, are transferred by a type two  
2 transfer, as defined in section 20.06(2), Florida Statutes, to  
3 the director of the Department of the Florida Highway Patrol.

4 (7) All existing statutory authorities,  
5 responsibilities, duties, functions, powers, protections, and  
6 immunities of the members of the auxiliary to the Florida  
7 Highway Patrol within the Department of Highway Safety and  
8 Motor Vehicles, including, but not limited to, the power to  
9 bear arms and make arrests and powers relating to law  
10 enforcement and traffic control on state roads and highways,  
11 the U.S. Interstate Highway System, and the Florida Turnpike,  
12 are transferred by a type two transfer, as defined in section  
13 20.06(2), Florida Statutes, to the members of the auxiliary to  
14 the Florida Highway Patrol within the Department of the  
15 Florida Highway Patrol.

16 (8) All existing statutory authority and  
17 responsibility for the wrecker operator system of the Division  
18 of the Florida Highway Patrol within the Department of Highway  
19 Safety and Motor Vehicles, including, but not limited to,  
20 establishment of a wrecker operator system, are transferred by  
21 a type two transfer, as defined in section 20.06(2), Florida  
22 Statutes, to the Department of the Florida Highway Patrol.

23 (9) The Governor is hereby granted the specific  
24 authority to shift divisions as a class one transfer,  
25 consistent with the notice and review requirements of section  
26 216.177, Florida Statutes, between the Department of Highway  
27 Safety and Motor Vehicles and the Department of the Florida  
28 Highway Patrol, as created by this act, to promote the  
29 efficient and effective operation of both departments.

30 (10) All trust funds, portions of trust funds,  
31 unexpended balances of appropriations, allocations, and other

1 funds which are used to fund the operations of the Division of  
2 the Florida Highway Patrol within the Department of Highway  
3 Safety and Motor Vehicles that are not otherwise transferred  
4 by this act are transferred by a type two transfer, as defined  
5 in section 20.06(2), Florida Statutes, to the Administrative  
6 Trust Fund of the Department of the Florida Highway Patrol.  
7 The Department of the Florida Highway Patrol is authorized to  
8 submit with its legislative budget request a request for the  
9 creation of any trust funds necessary for the efficient and  
10 effective operation of the department and its divisions.

11 (11) The Department of Highway Safety and Motor  
12 Vehicles and the Department of the Florida Highway Patrol are  
13 authorized to enter into interagency agreements with each  
14 other concerning any matter affected by the creation of the  
15 Department of the Florida Highway Patrol in order to promote  
16 the efficient and effective operation of both departments.

17 (12) Driver license information obtained by the  
18 Department of Highway Safety and Motor Vehicles shall be  
19 available on a priority basis to the Department of the Florida  
20 Highway Patrol for any purposes necessary to carry out the  
21 responsibilities of the Department of the Florida Highway  
22 Patrol.

23 Section 3. Transfer of rules.--Effective July 1, 2003,  
24 the rules of the Department of Highway Safety and Motor  
25 Vehicles that relate to the Division of the Florida Highway  
26 Patrol that were in effect on June 30, 2003, shall become  
27 rules of the Department of the Florida Highway Patrol and  
28 shall remain in effect until specifically amended or repealed  
29 in the manner provided by law.

30 Section 4. Validity; judicial or administrative  
31 action.--This act shall not affect the validity of any



1 judicial or administrative action involving the Division of  
2 the Florida Highway Patrol within the Department of Highway  
3 Safety and Motor Vehicles pending on July 1, 2003, and the  
4 Department of the Florida Highway Patrol shall be substituted  
5 as a party in interest in any such action.

6 Section 5. Legislative intent; law enforcement and  
7 traffic control.--It is specifically the intent of the  
8 Legislature that the statutory responsibility for law  
9 enforcement and traffic control in the state now vested in the  
10 Division of the Florida Highway Patrol within the Department  
11 of Highway Safety and Motor Vehicles shall become the  
12 responsibility of the Department of the Florida Highway  
13 Patrol.

14 Section 6. Legislative intent; job and rank  
15 classifications; pay plans; employment statuses;  
16 assignments.--It is specifically the intent of the Legislature  
17 that job classifications, pay plans, rank classifications,  
18 employment statuses, assignments, and special assignments  
19 currently in effect in the Division of the Florida Highway  
20 Patrol within the Department of Highway Safety and Motor  
21 Vehicles shall transfer to and remain in effect, as much as is  
22 practicable, in the Department of the Florida Highway Patrol  
23 unless changed by this act or as otherwise provided for by  
24 law.

25 Section 7. Legislative intent; appointments by  
26 director.--It is specifically the intent of the Legislature  
27 that, until June 30, 2004, the statutory responsibility for  
28 appointments to commissions, boards, associations, councils,  
29 committees, or other collegial bodies now vested in the  
30 executive director of the Division of the Florida Highway  
31 Patrol within the Department of Highway Safety and Motor

1 Vehicles shall become the responsibility of the director of  
2 the Department of the Florida Highway Patrol.

3       Section 8. Conforming legislation.--The Legislature  
4 recognizes that there is a need to conform the Florida  
5 Statutes to the policy decisions reflected in this act and  
6 that there is a need to resolve apparent conflicts between any  
7 other legislation that has been or may be enacted during 2003  
8 and the creation by this act of the Department of the Florida  
9 Highway Patrol. Therefore, in the interim between this act  
10 becoming a law and the 2004 Regular Session of the Legislature  
11 or an earlier special session addressing this issue, the  
12 Division of Statutory Revision shall, upon request, provide  
13 the relevant substantive committees of the Senate and the  
14 House of Representatives with assistance to enable such  
15 committees to prepare draft legislation to conform the Florida  
16 Statutes and any legislation enacted during 2003 to the  
17 provisions of section 20.241, Florida Statutes, as created by  
18 this act.

19       Section 9. Subsection (2) of section 20.24, Florida  
20 Statutes, is amended to read:

21       20.24 Department of Highway Safety and Motor  
22 Vehicles.--There is created a Department of Highway Safety and  
23 Motor Vehicles.

24       (2) The following divisions, and bureaus within the  
25 divisions, of the Department of Highway Safety and Motor  
26 Vehicles are established:

27       ~~(a) Division of the Florida Highway Patrol.~~

28       (a)(b) Division of Driver Licenses.

29       (b)(c) Division of Motor Vehicles.

30       1. Bureau of Motor Vehicle Inspection.

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1           Section 10. Effective July 1, 2003, subsection (2) of  
2 section 110.2035, Florida Statutes, as amended by section 43  
3 of chapter 2002-402, Laws of Florida, is amended, and  
4 subsection (7) is added to said section, to read:

5           110.2035 Classification and compensation program.--

6           (2) Except as provided in subsection (7),the program  
7 shall consist of the following:

8           (a) A position classification system using no more  
9 than 50 occupational groups and up to a 6-class series  
10 structure for each occupation within an occupational group.  
11 Additional occupational groups may be established only by the  
12 Executive Office of the Governor after consultation with the  
13 Legislature.

14           (b) A pay plan that shall provide broad-based salary  
15 ranges for each occupational group.

16           (7) For the Department of the Florida Highway Patrol,  
17 the program shall consist of the following:

18           (a) A position classification system using no more  
19 than 38 occupational groups and up to a 6-class series  
20 structure for each occupation within an occupational group.  
21 Additional occupational groups may be established only by the  
22 Executive Office of the Governor after consultation with the  
23 Legislature.

24           (b) A pay plan that shall provide broad-based salary  
25 ranges for each occupational group and shall consist of no  
26 more than 25 pay bands.

27  
28           The department shall adopt any rules necessary to implement  
29 the classification and compensation program to include Career  
30 Service, Selected Exempt Service, and Senior Management  
31 Service positions consistent with the plan submitted to the

1 Legislature on December 1, 2001; however, the adopted plan  
2 shall include pay bandwidths of 150 percent for each  
3 occupational group except the manager and executive  
4 occupational groups.

5 Section 11. Paragraph (e) of subsection (2) of section  
6 23.1231, Florida Statutes, is amended to read:

7 23.1231 Florida Mutual Aid Plan; powers and duties.--

8 (2) The executive director of the Department of Law  
9 Enforcement acting under the Governor as the state's chief law  
10 enforcement officer is the director of the Florida Mutual Aid  
11 Plan. The director of the Florida Mutual Aid Plan shall:

12 (e) Act as the liaison with the Department ~~Division~~ of  
13 the Florida Highway Patrol ~~of the Department of Highway Safety~~  
14 ~~and Motor Vehicles~~ in order to coordinate and integrate plans  
15 for traffic control and the participation of the department in  
16 the law enforcement operation;

17 Section 12. Subsections (9) through (17) of section  
18 120.80, Florida Statutes, are renumbered as subsections (10)  
19 through (18), respectively, and subsection (8) of said section  
20 is amended to read:

21 120.80 Exceptions and special requirements;  
22 agencies.--

23 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

24 ~~(a) Drivers' licenses.--~~

25 (a)1. Notwithstanding s. 120.57(1)(a), hearings  
26 regarding drivers' licensing pursuant to chapter 322 need not  
27 be conducted by an administrative law judge assigned by the  
28 division.

29 (b)2. Notwithstanding s. 120.60(5), cancellation,  
30 suspension, or revocation of a driver's license shall be by  
31

1 personal delivery to the licensee or by first-class mail as  
2 provided in s. 322.251.

3 (9)(b) DEPARTMENT OF THE FLORIDA HIGHWAY PATROL  
4 ~~wrecker operators.~~--Notwithstanding s. 120.57(1)(a), hearings  
5 held by the Department ~~Division~~ of the Florida Highway Patrol  
6 ~~of the Department of Highway Safety and Motor Vehicles~~ to  
7 deny, suspend, or remove a wrecker operator from participating  
8 in the wrecker rotation system established by s. 321.051 need  
9 not be conducted by an administrative law judge assigned by  
10 the division. These hearings shall be held by a hearing  
11 officer appointed by the director of the Department ~~Division~~  
12 of the Florida Highway Patrol.

13 Section 13. Paragraph (a) of subsection (2) of section  
14 282.1095, Florida Statutes, is amended to read:

15 282.1095 State agency law enforcement radio system.--

16 (2)(a) The Joint Task Force on State Agency Law  
17 Enforcement Communications shall consist of eight members, as  
18 follows:

19 1. A representative of the Division of Alcoholic  
20 Beverages and Tobacco of the Department of Business and  
21 Professional Regulation who shall be appointed by the  
22 secretary of the department.

23 2. A representative of the Department of the ~~Division~~  
24 ~~of Florida Highway Patrol of the Department of Highway Safety~~  
25 ~~and Motor Vehicles~~ who shall be appointed by the ~~executive~~  
26 director of the department.

27 3. A representative of the Department of Law  
28 Enforcement who shall be appointed by the executive director  
29 of the department.

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1           4. A representative of the Fish and Wildlife  
2 Conservation Commission who shall be appointed by the  
3 executive director of the commission.

4           5. A representative of the Division of Law Enforcement  
5 of the Department of Environmental Protection who shall be  
6 appointed by the secretary of the department.

7           6. A representative of the Department of Corrections  
8 who shall be appointed by the secretary of the department.

9           7. A representative of the Division of State Fire  
10 Marshal of the Department of Insurance who shall be appointed  
11 by the State Fire Marshal.

12           8. A representative of the Department of  
13 Transportation who shall be appointed by the secretary of the  
14 department.

15           Section 14. Subsection (9) of section 316.003, Florida  
16 Statutes, is amended to read:

17           316.003 Definitions.--The following words and phrases,  
18 when used in this chapter, shall have the meanings  
19 respectively ascribed to them in this section, except where  
20 the context otherwise requires:

21           (9) DIRECTOR.--The Director of the Department ~~Division~~  
22 of the Florida Highway Patrol ~~of the Department of Highway~~  
23 ~~Safety and Motor Vehicles~~.

24           Section 15. Paragraph (a) of subsection (1) of section  
25 316.640, Florida Statutes, is amended to read:

26           316.640 Enforcement.--The enforcement of the traffic  
27 laws of this state is vested as follows:

28           (1) STATE.--

29           (a)1.a. The Department ~~Division~~ of the Florida Highway  
30 Patrol ~~of the Department of Highway Safety and Motor Vehicles~~,  
31 the Division of Law Enforcement of the Fish and Wildlife

1 Conservation Commission, the Division of Law Enforcement of  
2 the Department of Environmental Protection, and law  
3 enforcement officers of the Department of Transportation each  
4 have authority to enforce all of the traffic laws of this  
5 state on all the streets and highways thereof and elsewhere  
6 throughout the state wherever the public has a right to travel  
7 by motor vehicle. The Department ~~Division~~ of the Florida  
8 Highway Patrol may employ as a traffic accident investigation  
9 officer any individual who successfully completes instruction  
10 in traffic accident investigation and court presentation  
11 through the Selective Traffic Enforcement Program as approved  
12 by the Criminal Justice Standards and Training Commission and  
13 funded through the National Highway Traffic Safety  
14 Administration or a similar program approved by the  
15 commission, but who does not necessarily meet the uniform  
16 minimum standards established by the commission for law  
17 enforcement officers or auxiliary law enforcement officers  
18 under chapter 943. Any such traffic accident investigation  
19 officer who makes an investigation at the scene of a traffic  
20 accident may issue traffic citations, based upon personal  
21 investigation, when he or she has reasonable and probable  
22 grounds to believe that a person who was involved in the  
23 accident committed an offense under this chapter, chapter 319,  
24 chapter 320, or chapter 322 in connection with the accident.  
25 This paragraph does not permit the carrying of firearms or  
26 other weapons, nor do such officers have arrest authority.  
27       b. University police officers shall have authority to  
28 enforce all of the traffic laws of this state when such  
29 violations occur on or about any property or facilities that  
30 are under the guidance, supervision, regulation, or control of  
31 a state university, a direct-support organization of such

1 state university, or any other organization controlled by the  
2 state university or a direct-support organization of the state  
3 university, except that traffic laws may be enforced  
4 off-campus when hot pursuit originates on or adjacent to any  
5 such property or facilities.

6 c. Community college police officers shall have the  
7 authority to enforce all the traffic laws of this state only  
8 when such violations occur on any property or facilities that  
9 are under the guidance, supervision, regulation, or control of  
10 the community college system.

11 d. Police officers employed by an airport authority  
12 shall have the authority to enforce all of the traffic laws of  
13 this state only when such violations occur on any property or  
14 facilities that are owned or operated by an airport authority.

15 (I) An airport authority may employ as a parking  
16 enforcement specialist any individual who successfully  
17 completes a training program established and approved by the  
18 Criminal Justice Standards and Training Commission for parking  
19 enforcement specialists but who does not otherwise meet the  
20 uniform minimum standards established by the commission for  
21 law enforcement officers or auxiliary or part-time officers  
22 under s. 943.12. Nothing in this sub-sub-paragraph shall be  
23 construed to permit the carrying of firearms or other weapons,  
24 nor shall such parking enforcement specialist have arrest  
25 authority.

26 (II) A parking enforcement specialist employed by an  
27 airport authority is authorized to enforce all state, county,  
28 and municipal laws and ordinances governing parking only when  
29 such violations are on property or facilities owned or  
30 operated by the airport authority employing the specialist, by  
31 appropriate state, county, or municipal traffic citation.



1 e. The Office of Agricultural Law Enforcement of the  
2 Department of Agriculture and Consumer Services shall have the  
3 authority to enforce traffic laws of this state.

4 f. School safety officers shall have the authority to  
5 enforce all of the traffic laws of this state when such  
6 violations occur on or about any property or facilities which  
7 are under the guidance, supervision, regulation, or control of  
8 the district school board.

9 2. An agency of the state as described in subparagraph  
10 1. is prohibited from establishing a traffic citation quota. A  
11 violation of this subparagraph is not subject to the penalties  
12 provided in chapter 318.

13 3. Any disciplinary action taken or performance  
14 evaluation conducted by an agency of the state as described in  
15 subparagraph 1. of a law enforcement officer's traffic  
16 enforcement activity must be in accordance with written  
17 work-performance standards. Such standards must be approved by  
18 the agency and any collective bargaining unit representing  
19 such law enforcement officer. A violation of this subparagraph  
20 is not subject to the penalties provided in chapter 318.

21 Section 16. Section 321.02, Florida Statutes, is  
22 amended to read:

23 321.02 Powers and duties of department, ~~highway~~  
24 ~~patrol.~~--The director of the Department ~~Division~~ of the  
25 Florida Highway Patrol ~~of the Department of Highway Safety and~~  
26 ~~Motor Vehicles~~ shall also be the commander of the Florida  
27 Highway Patrol. The said department shall set up and  
28 promulgate rules and regulations by which the personnel of the  
29 Florida Highway Patrol officers shall be examined, employed,  
30 trained, located, suspended, reduced in rank, discharged,  
31 recruited, paid and pensioned, subject to civil service

1 provisions hereafter set out. The department may enter into  
2 contracts or agreements, with or without competitive bidding  
3 or procurement, to make available, on a fair, reasonable,  
4 nonexclusive, and nondiscriminatory basis, property and other  
5 structures under department ~~division~~ control for the placement  
6 of new facilities by any wireless provider of mobile service  
7 as defined in 47 U.S.C. s. 153(n) or s. 332(d), and any  
8 telecommunications company as defined in s. 364.02 when it is  
9 determined to be practical and feasible to make such property  
10 or other structures available. The department may, without  
11 adopting a rule, charge a just, reasonable, and  
12 nondiscriminatory fee for placement of the facilities, payable  
13 annually, based on the fair market value of space used by  
14 comparable communications facilities in the state. The  
15 department and a wireless provider or telecommunications  
16 company may negotiate the reduction or elimination of a fee in  
17 consideration of services provided to the department ~~division~~  
18 by the wireless provider or the telecommunications company.  
19 All such fees collected by the department shall be deposited  
20 directly into the State Agency Law Enforcement Radio System  
21 Trust Fund, and may be used to construct, maintain, or support  
22 the system. The department is further specifically authorized  
23 to purchase, sell, trade, rent, lease and maintain all  
24 necessary equipment, uniforms, motor vehicles, communication  
25 systems, housing facilities, office space, and perform any  
26 other acts necessary for the proper administration and  
27 enforcement of this chapter. However, all supplies and  
28 equipment consisting of single items or in lots shall be  
29 purchased under the requirements of s. 287.057. Purchases  
30 shall be made by accepting the bid of the lowest responsive  
31 bidder, the right being reserved to reject all bids. The

1 department shall prescribe a distinctive uniform and  
2 distinctive emblem to be worn by all officers of the Florida  
3 Highway Patrol. It shall be unlawful for any other person or  
4 persons to wear a similar uniform or emblem, or any part or  
5 parts thereof. The department shall also prescribe  
6 distinctive colors for use on motor vehicles and motorcycles  
7 operated by the Florida Highway Patrol. The prescribed colors  
8 shall be referred to as "Florida Highway Patrol black and  
9 tan."

10 Section 17. Section 321.03, Florida Statutes, is  
11 amended to read:

12 321.03 Imitations prohibited; penalty.--It shall be  
13 unlawful for any person or persons in the state to color or  
14 cause to be colored any motor vehicle or motorcycle the same  
15 or similar color as the color or colors so prescribed for the  
16 Florida Highway Patrol. Any person violating any of the  
17 provisions of this section or s. 321.02 with respect to  
18 uniforms, emblems, motor vehicles and motorcycles shall be  
19 guilty of a misdemeanor of the first degree, punishable as  
20 provided in s. 775.082 or s. 775.083. The Department of the  
21 Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~ shall  
22 employ such clerical help and mechanics as may be necessary  
23 for the economical and efficient operation of such department.

24 Section 18. Section 321.04, Florida Statutes, is  
25 amended to read:

26 321.04 Personnel of the highway patrol; rank  
27 classifications; probationary status of new patrol officers;  
28 subsistence; special assignments.--

29 (1) The Department of the Florida Highway Patrol  
30 ~~Highway Safety and Motor Vehicles~~ shall employ patrol  
31 officers, as authorized by the Legislature in appropriating

1 funds for their salaries exclusive of those members of the  
2 patrol who are assigned to and paid by special departments;  
3 and shall establish the necessary supervisory ranks within the  
4 Florida Highway Patrol to efficiently supervise and carry out  
5 the designated functions of the patrol and the department in  
6 accordance with the regulations established by the Department  
7 of Management Services.

8 (2) Each person who is employed as a patrol officer  
9 shall be carried on a probationary status for the period of 1  
10 year from date of employment, during which period he or she  
11 may be dismissed without recourse. Patrol officers when sent  
12 on special detail or missions out of their regular assigned  
13 territories or headquarters shall be reimbursed for travel  
14 expenses as provided in s. 112.061.

15 (3) The Department of the Florida Highway Patrol  
16 ~~Highway Safety and Motor Vehicles~~ shall assign one patrol  
17 officer to the office of the Governor; said patrol officer so  
18 assigned shall be selected by the Governor and shall have rank  
19 and pay not less than that of a lieutenant of the Florida  
20 Highway Patrol, and said patrol officer so assigned shall be  
21 paid by said department from the appropriation made to said  
22 department; said patrol officer shall have and receive all  
23 other benefits provided for in this chapter or any other  
24 statute now in existence or hereinafter enacted.

25 Section 19. Section 321.05, Florida Statutes, is  
26 amended to read:

27 321.05 Duties, functions, and powers of patrol  
28 officers.--The members of the Florida Highway Patrol are  
29 hereby declared to be conservators of the peace and law  
30 enforcement officers of the state, with the common-law right  
31 to arrest a person who, in the presence of the arresting

1 officer, commits a felony or commits an affray or breach of  
2 the peace constituting a misdemeanor, with full power to bear  
3 arms; and they shall apprehend, without warrant, any person in  
4 the unlawful commission of any of the acts over which the  
5 members of the Florida Highway Patrol are given jurisdiction  
6 as hereinafter set out and deliver him or her to the sheriff  
7 of the county that further proceedings may be had against him  
8 or her according to law. In the performance of any of the  
9 powers, duties, and functions authorized by law, members of  
10 the Florida Highway Patrol shall have the same protections and  
11 immunities afforded other peace officers, which shall be  
12 recognized by all courts having jurisdiction over offenses  
13 against the laws of this state, and shall have authority to  
14 apply for, serve, and execute search warrants, arrest  
15 warrants, *ca*pias, and other process of the court in those  
16 matters in which patrol officers have primary responsibility  
17 as set forth in subsection (1). The patrol officers under the  
18 direction and supervision of the Department of the Florida  
19 Highway Patrol ~~Highway Safety and Motor Vehicles~~ shall perform  
20 and exercise throughout the state the following duties,  
21 functions, and powers:

22 (1) To patrol the state highways and regulate,  
23 control, and direct the movement of traffic thereon; to  
24 maintain the public peace by preventing violence on highways;  
25 to apprehend fugitives from justice; to enforce all laws now  
26 in effect regulating and governing traffic, travel, and public  
27 safety upon the public highways and providing for the  
28 protection of the public highways and public property thereon;  
29 to make arrests without warrant for the violation of any state  
30 law committed in their presence in accordance with the laws of  
31 this state; providing that no search shall be made unless it

1 is incident to a lawful arrest, to regulate and direct traffic  
2 concentrations and congestions; to enforce laws governing the  
3 operation, licensing, and taxing and limiting the size,  
4 weight, width, length, and speed of vehicles and licensing and  
5 controlling the operations of drivers and operators of  
6 vehicles; to cooperate with officials designated by law to  
7 collect all state fees and revenues levied as an incident to  
8 the use or right to use the highways for any purpose; to  
9 require the drivers of vehicles to stop and exhibit their  
10 driver's licenses, registration cards, or documents required  
11 by law to be carried by such vehicles; to investigate traffic  
12 accidents, secure testimony of witnesses and of persons  
13 involved, and make report thereof with copy, when requested in  
14 writing, to any person in interest or his or her attorney; to  
15 investigate reported thefts of vehicles and to seize  
16 contraband or stolen property on or being transported on the  
17 highways.

18 (2) To assist other constituted law enforcement  
19 officers of the state to quell mobs and riots, guard  
20 prisoners, and police disaster areas.

21 (3)(a) To make arrests while in fresh pursuit of a  
22 person believed to have violated the traffic and other laws.

23 (b) To make arrest of a person wanted for a felony or  
24 against whom a warrant has been issued on any charge in  
25 violation of federal, state, or county laws or municipal  
26 ordinances.

27 (4)(a) All fines and costs and the proceeds of the  
28 forfeiture of bail bonds and recognizances resulting from the  
29 enforcement of this chapter by patrol officers shall be paid  
30 into the fine and forfeiture fund of the county where the  
31 offense is committed. In all cases of arrest by patrol

1 officers, the person arrested shall be delivered forthwith by  
2 said officer to the sheriff of the county, or he or she shall  
3 obtain from such person arrested a recognizance or, if deemed  
4 necessary, a cash bond or other sufficient security  
5 conditioned for his or her appearance before the proper  
6 tribunal of such county to answer the charge for which he or  
7 she has been arrested; and all fees accruing shall be taxed  
8 against the party arrested, which fees are hereby declared to  
9 be part of the compensation of said sheriffs authorized to be  
10 fixed by the Legislature under s. 5(c), Art. II of the State  
11 Constitution, to be paid such sheriffs in the same manner as  
12 fees are paid for like services in other criminal cases. All  
13 patrol officers are hereby directed to deliver all bonds  
14 accepted and approved by them to the sheriff of the county in  
15 which the offense is alleged to have been committed. However,  
16 no sheriff shall be paid any arrest fee for the arrest of a  
17 person for violation of any section of chapter 316 when the  
18 arresting officer was transported in a Florida Highway Patrol  
19 car to the vicinity where the arrest was made; and no sheriff  
20 shall be paid any fee for mileage for himself or herself or a  
21 prisoner for miles traveled in a Florida Highway Patrol  
22 car. No patrol officer shall be entitled to any fee or  
23 mileage cost except when responding to a subpoena in a civil  
24 cause or except when such patrol officer is appearing as an  
25 official witness to testify at any hearing or law action in  
26 any court of this state as a direct result of his or her  
27 employment as a patrol officer during time not compensated as  
28 a part of his or her normal duties. Nothing herein shall be  
29 construed as limiting the power to locate and to take from any  
30 person under arrest or about to be arrested deadly weapons.  
31 Nothing contained in this section shall be construed as a

1 limitation upon existing powers and duties of sheriffs or  
2 police officers.

3 (b) Any person so arrested and released on his or her  
4 own recognizance by an officer and who shall fail to appear or  
5 respond to a notice to appear shall, in addition to the  
6 traffic violation charge, be guilty of a noncriminal traffic  
7 infraction subject to the penalty provided in s. 318.18(2).

8 (5) The department may employ or assign some fit and  
9 suitable person with experience in the field of public  
10 relations who shall have the duty to promote, coordinate, and  
11 publicize the traffic safety activities in the state and  
12 assign such person to the office of the Governor at a salary  
13 to be fixed by the department. The person so assigned or  
14 employed shall be a member of the uniform division of the  
15 Florida Highway Patrol, and he or she shall have the pay and  
16 rank of lieutenant while on such assignment.

17 (6) The Department ~~Division~~ of the Florida Highway  
18 Patrol is authorized to promulgate rules and regulations which  
19 may be necessary to implement the provisions of chapter 316.

20 Section 20. Subsections (1) and (2) of section  
21 321.051, Florida Statutes, are amended to read:

22 321.051 Florida Highway Patrol wrecker operator  
23 system; penalties for operation outside of system.--

24 (1) As used in this section, the term:

25 (a) "Authorized wrecker operator" means any wrecker  
26 operator who has been designated by the Department ~~Division~~ of  
27 the Florida Highway Patrol as part of the wrecker operator  
28 system.

29 (b) "Unauthorized wrecker operator" means any wrecker  
30 operator who has not been designated by the department  
31 ~~division~~ as part of the wrecker operator system.



1           (2) The Department ~~Division~~ of the Florida Highway  
2 ~~Patrol of the Department of Highway Safety and Motor Vehicles~~  
3 is authorized to establish within areas designated by the  
4 patrol a wrecker operator system using qualified, reputable  
5 wrecker operators for removal and storage of wrecked or  
6 disabled vehicles from a crash scene or for removal and  
7 storage of abandoned vehicles, in the event the owner or  
8 operator is incapacitated or unavailable or leaves the  
9 procurement of wrecker service to the officer at the  
10 scene. All reputable wrecker operators shall be eligible for  
11 use in the system provided their equipment and drivers meet  
12 recognized safety qualifications and mechanical standards set  
13 by rules of the Department ~~Division~~ of the Florida Highway  
14 Patrol for the size of vehicle it is designed to handle. The  
15 department ~~division~~ is authorized to limit the number of  
16 wrecker operators participating in the wrecker operator  
17 system, which authority shall not affect wrecker operators  
18 currently participating in the system established by this  
19 section. The department ~~division~~ is authorized to establish  
20 maximum rates for the towing and storage of vehicles removed  
21 at the department's ~~division's~~ request, where such rates have  
22 not been set by a county or municipality pursuant to s.  
23 125.0103 or s. 166.043. Such rates shall not be considered  
24 rules for the purpose of chapter 120; however, the department  
25 shall establish by rule a procedure for setting such  
26 rates. Any provision in chapter 120 to the contrary  
27 notwithstanding, a final order of the department denying,  
28 suspending, or revoking a wrecker operator's participation in  
29 the system shall be reviewable in the manner and within the  
30 time provided by the Florida Rules of Appellate Procedure only  
31

1 by a writ of certiorari issued by the circuit court in the  
2 county wherein such wrecker operator resides.

3 Section 21. Subsection (1) of section 321.23, Florida  
4 Statutes, is amended to read:

5 321.23 Public records; fees for copies; destruction of  
6 obsolete records; photographing records; effect as evidence.--

7 (1) The purpose of this section is to make available  
8 for the use of the Department of the Florida Highway Patrol  
9 ~~Highway Safety and Motor Vehicles~~ sufficient floor space to  
10 enable it to efficiently administer the affairs of the  
11 department and to provide fees for copies of public records.

12 Section 22. Section 321.25, Florida Statutes, is  
13 amended to read:

14 321.25 Training provided at patrol schools.--The  
15 Department of the Florida Highway Patrol ~~Highway Safety and~~  
16 ~~Motor Vehicles~~ is authorized to provide for the training of  
17 law enforcement officials and individuals in matters relating  
18 to the duties, functions, and powers of the Florida Highway  
19 Patrol in the schools established by the department for the  
20 training of highway patrol candidates and officers. The  
21 Department of the Florida Highway Patrol ~~Highway Safety and~~  
22 ~~Motor Vehicles~~ is authorized to charge a fee for providing the  
23 training authorized by this section. The fee shall be charged  
24 to persons attending the training. The fee shall be based on  
25 the Department of the Florida Highway Patrol's ~~Highway Safety~~  
26 ~~and Motor Vehicles~~ costs for providing the training, and such  
27 costs may include, but are not limited to, tuition, lodging,  
28 and meals. Revenues from the fees shall be used to offset the  
29 Department of the Florida Highway Patrol's ~~Highway Safety and~~  
30 ~~Motor Vehicles~~ costs for providing the training. The cost of  
31 training local enforcement officers shall be paid for by their

1 respective offices, counties or municipalities, as the case  
2 may be. Such cost shall be deemed a proper county or municipal  
3 expense or a proper expenditure of the office of sheriff.

4 Section 23. Subsection (2) of section 338.239, Florida  
5 Statutes, is amended to read:

6 338.239 Traffic control on the turnpike system.--

7 (2) Members of the Florida Highway Patrol are vested  
8 with the power, and charged with the duty, to enforce the  
9 rules of the department. Approved expenditures incurred by the  
10 Florida Highway Patrol in carrying out its powers and duties  
11 under ss. 338.22-338.241 may be treated as a part of the cost  
12 of the operation of the turnpike system, and the Department of  
13 the Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~  
14 shall be reimbursed by the turnpike enterprise for such  
15 expenses incurred on the turnpike system. Florida Highway  
16 Patrol Troop K shall be headquartered with the turnpike  
17 enterprise and shall be the official and preferred law  
18 enforcement troop for the turnpike system. The Department of  
19 the Florida Highway Patrol ~~Highway Safety and Motor Vehicles~~  
20 may, upon request of the executive director of the turnpike  
21 enterprise and approval of the Legislature, increase the  
22 number of authorized positions for Troop K, or the executive  
23 director of the turnpike enterprise may contract with the  
24 Department of the Florida Highway Patrol ~~Highway Safety and~~  
25 ~~Motor Vehicles~~ for additional troops to patrol the turnpike  
26 system.

27 Section 24. Paragraph (a) of subsection (1) of section  
28 943.11, Florida Statutes, is amended to read:

29 943.11 Criminal Justice Standards and Training  
30 Commission; membership; meetings; compensation.--

31

1           (1)(a) There is created a Criminal Justice Standards  
2 and Training Commission within the Department of Law  
3 Enforcement. The commission shall be composed of 19 members,  
4 consisting of the secretary of the Department of Corrections  
5 or a designated assistant; the Attorney General or a  
6 designated assistant; the Commissioner of Education or a  
7 designated assistant; the Director of the Department ~~Division~~  
8 of the Florida Highway Patrol; and 15 members, to be appointed  
9 by the Governor, consisting of 3 sheriffs; 3 chiefs of police;  
10 4 law enforcement officers who are neither sheriffs nor chiefs  
11 of police, at least 3 of whom are of the rank of sergeant or  
12 below within the employing agency; 2 correctional officers, 1  
13 of whom is an administrator of a state correctional  
14 institution and 1 of whom is of the rank of sergeant or below  
15 within the employing agency; 1 training center director; 1  
16 person who is in charge of a county correctional institution;  
17 and 1 resident of the state who falls into none of the  
18 foregoing classifications. Prior to the appointment, the  
19 sheriff, chief of police, law enforcement officer, and  
20 correctional officer members shall have had at least 4 years'  
21 experience as law enforcement officers or correctional  
22 officers.

23           Section 25. Paragraph (a) of subsection (1) of section  
24 72.011, Florida Statutes, is amended to read:

25           72.011 Jurisdiction of circuit courts in specific tax  
26 matters; administrative hearings and appeals; time for  
27 commencing action; parties; deposits.--

28           (1)(a) A taxpayer may contest the legality of any  
29 assessment or denial of refund of tax, fee, surcharge, permit,  
30 interest, or penalty provided for under s. 125.0104, s.  
31 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,

1 chapter 203, chapter 206, chapter 207, chapter 210, chapter  
2 211, chapter 212, chapter 213, chapter 220, chapter 221, s.  
3 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185,  
4 s. 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,  
5 chapter 563, chapter 564, chapter 565, chapter 624, or s.  
6 681.117 by filing an action in circuit court; or,  
7 alternatively, the taxpayer may file a petition under the  
8 applicable provisions of chapter 120. However, once an action  
9 has been initiated under s. 120.56, s. 120.565, s. 120.569, s.  
10 120.57, or s. 120.80(15)(b)~~120.80(14)(b)~~, no action relating  
11 to the same subject matter may be filed by the taxpayer in  
12 circuit court, and judicial review shall be exclusively  
13 limited to appellate review pursuant to s. 120.68; and once an  
14 action has been initiated in circuit court, no action may be  
15 brought under chapter 120.

16 Section 26. Subsection (8) of section 213.015, Florida  
17 Statutes, is amended to read:

18 213.015 Taxpayer rights.--There is created a Florida  
19 Taxpayer's Bill of Rights to guarantee that the rights,  
20 privacy, and property of Florida taxpayers are adequately  
21 safeguarded and protected during tax assessment, collection,  
22 and enforcement processes administered under the revenue laws  
23 of this state. The Taxpayer's Bill of Rights compiles, in one  
24 document, brief but comprehensive statements which explain, in  
25 simple, nontechnical terms, the rights and obligations of the  
26 Department of Revenue and taxpayers. Section 192.0105 provides  
27 additional rights afforded to payors of property taxes and  
28 assessments. The rights afforded taxpayers to ensure that  
29 their privacy and property are safeguarded and protected  
30 during tax assessment and collection are available only  
31 insofar as they are implemented in other parts of the Florida

1 Statutes or rules of the Department of Revenue. The rights so  
2 guaranteed Florida taxpayers in the Florida Statutes and the  
3 departmental rules are:

4 (8) The right to seek review, through formal or  
5 informal proceedings, of any adverse decisions relating to  
6 determinations in the audit or collections processes and the  
7 right to seek a reasonable administrative stay of enforcement  
8 actions while the taxpayer pursues other administrative  
9 remedies available under Florida law (see ss. 120.80(15)(b)  
10 ~~120.80(14)(b)~~, 213.21(1), 220.717, and 220.719(2)).

11 Section 27. Subsection (5) of section 215.26, Florida  
12 Statutes, is amended to read:

13 215.26 Repayment of funds paid into State Treasury  
14 through error.--

15 (5) When a taxpayer has pursued administrative  
16 remedies before the Department of Revenue pursuant to s.  
17 213.21 and has failed to comply with the time limitations and  
18 conditions provided in ss. 72.011 and 120.80(15)(b)  
19 ~~120.80(14)(b)~~, a claim of refund under subsection (1) shall be  
20 denied by the Comptroller. However, the Comptroller may  
21 entertain a claim for refund under this subsection when the  
22 taxpayer demonstrates that his or her failure to pursue  
23 remedies under chapter 72 was not due to neglect or for the  
24 purpose of delaying payment of lawfully imposed taxes and can  
25 demonstrate reasonable cause for such failure.

26 Section 28. Subsection (3) of section 519.101, Florida  
27 Statutes, is amended to read:

28 519.101 Florida equity exchange feasibility study;  
29 structure, operation, and regulation.--

30 (3) Within 30 days following such determination, a  
31 committee shall be appointed to write the constitution and

1 bylaws of the exchange. The Comptroller may provide technical  
2 assistance to the committee on the development of the  
3 constitution and bylaws of the exchange. The committee shall  
4 consist of 15 members, 11 members to be appointed by the  
5 Governor, 2 members to be appointed by the Speaker of the  
6 House of Representatives, and 2 members to be appointed by the  
7 President of the Senate. The chair shall be elected by a  
8 majority of the committee. The committee shall transmit such  
9 proposed constitution, bylaws, and other recommendations for  
10 the approval of the Comptroller no later than 90 days  
11 following the first meeting of the committee. In reviewing  
12 the constitution and the bylaws of the exchange, as well as  
13 any other recommendations made to the Comptroller by the  
14 committee, the Comptroller shall consider whether such  
15 constitution, bylaws, and recommendations are reasonably  
16 consistent with the public interest and the efficient  
17 functioning of the exchange. The Comptroller shall approve  
18 the constitution and bylaws of the exchange if he or she finds  
19 that they specifically describe the types of business that the  
20 exchange will conduct, that such business activities are not  
21 inconsistent with state or federal law, that the form of  
22 business organization of the exchange complies with statutory  
23 requirements, and that the interest of owners or members of  
24 the exchange would be adequately protected. The submission of  
25 the proposed constitution and bylaws to the Comptroller shall  
26 be deemed an application for a license and shall be subject to  
27 the provisions of s. 120.80(10)~~120.80(9)~~.

28 Section 29. Section 321.065, Florida Statutes, is  
29 reenacted to read:

30 321.065 Traffic accident investigation officers;  
31 employment; standards.--The department may employ traffic

1 accident investigation officers who must complete any  
2 applicable standards adopted by the Florida Highway Patrol,  
3 including, but not limited to: cognitive testing, drug  
4 testing, polygraph testing, psychological testing, and an  
5 extensive background check, including a credit check.

6 Section 30. This act shall take effect July 1, 2003.

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