

By Senator Sebesta

16-864A-03

1 A bill to be entitled
2 An act relating to transportation; amending ss.
3 20.23 and 110.205, F.S.; providing for the
4 reorganization of the Department of
5 Transportation; revising duties of the
6 assistant secretaries; providing for additional
7 offices; amending s. 255.20, F.S.; providing
8 for a presumption of prequalification for
9 certain contractors; amending s. 316.1001,
10 F.S.; providing for issuing citations for toll
11 violations by first class mail; providing that
12 mailing constitutes notification of such a
13 violation; amending s. 316.302, F.S.; providing
14 requirements for identifying commercial
15 vehicles; authorizing the department to conduct
16 compliance reviews; amending s. 316.3025, F.S.;
17 conforming references; providing for a civil
18 penalty to be assessed for additional specified
19 violations; providing penalties for commercial
20 trucks found to be operating following an
21 out-of-service order; amending s. 316.3026,
22 F.S.; providing for the Office of Motor Carrier
23 Compliance to enforce laws governing the
24 operating authority of motor carriers;
25 repealing s. 316.3027, F.S., relating to
26 identification requirements of commercial
27 vehicles; amending s. 316.515, F.S.; revising
28 length limitations for certain commercial
29 vehicles; amending s. 316.545, F.S.; providing
30 for placement of a lien on a vehicle for
31 failure to pay an out-of-service fine; deleting

1 obsolete provisions; authorizing weight
2 inspectors to detain a commercial vehicle under
3 certain circumstances; repealing s. 316.610(3),
4 F.S., relating to a commercial vehicle
5 inspection program within the department which
6 no longer exists; amending s. 316.640, F.S.;
7 providing for authorization of traffic accident
8 investigation officers; amending s. 316.650,
9 F.S.; authorizing the transfer of toll
10 violation citations via electronic means;
11 amending s. 316.70, F.S.; authorizing the
12 department to conduct compliance reviews of
13 nonpublic sector buses; amending s. 318.14,
14 F.S.; revising the time period for paying
15 certain civil penalties; amending s. 330.27,
16 F.S.; revising definitions; amending s. 330.29,
17 F.S.; revising duties of the Department of
18 Transportation with respect to the regulation
19 of airport sites and airports; requiring the
20 department to establish requirements for
21 airport site approval, licensure, and
22 registration; requiring the department to
23 establish and maintain a state aviation
24 facility data system; amending s. 330.30, F.S.;
25 revising provisions for airport site approval;
26 revising provisions for airport licensing;
27 providing for a private airport registration
28 process; specifying requirements for such
29 licensing and registration; deleting airport
30 license fees; providing for expiration and
31 revocation of such license or registration;

1 revising provisions for exemption from such
2 registration and licensing requirements;
3 exempting described areas and facilities from
4 such requirements; providing described private
5 airports the option to be inspected and
6 licensed by the department; amending s. 330.35,
7 F.S.; revising provisions for airport zoning
8 protection for public-use airports; amending s.
9 330.36, F.S.; providing for zoning requirements
10 governing the landing of seaplanes; amending s.
11 334.01, F.S.; including chapter 340 within the
12 "Florida Transportation Code"; amending s.
13 334.03, F.S.; defining "511 services" and
14 "interactive voice response"; amending s.
15 334.044, F.S.; expanding the powers and duties
16 of the department to include oversight of
17 traveler information systems; amending s.
18 334.14, F.S.; revising the qualifications
19 required for engineers employed by the
20 department; creating s. 334.60, F.S.; requiring
21 the department to be the lead agency in
22 establishing and coordinating a 511 traveler
23 information phone system; amending s. 336.467,
24 F.S.; authorizing the department to acquire
25 rights-of-way for other governmental entities;
26 amending s. 337.14, F.S.; clarifying the
27 contractor prequalification process;
28 prohibiting a construction contractor from
29 providing testing services; amending s. 337.18,
30 F.S.; clarifying that surety bonds issued in
31 favor of the department for construction and

1 maintenance projects over a specified amount
2 are governed by chapter 337, F.S.; removing
3 certain limitations on contractor incentive
4 payments; amending s. 338.165, F.S.;
5 authorizing the Division of Bond Finance to
6 issue bonds at the department's request for
7 certain facilities; amending s. 338.235, F.S.;
8 authorizing the turnpike authority to secure
9 products, business opportunities, and services
10 by competitive solicitation; amending s.
11 339.08, F.S.; authorizing the payment of costs
12 of projects on the Florida Strategic Intermodal
13 System as a use of moneys in the State
14 Transportation Trust Fund; providing
15 legislative findings, declaration, and intent
16 with respect to the Florida Strategic
17 Intermodal System; providing for the Strategic
18 Intermodal System to consist of specified
19 components; providing for the designation of
20 facilities on the Strategic Intermodal System
21 and subsequent additions to or deletions from
22 the system; providing for the development of a
23 Strategic Intermodal System Plan; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 20.23, Florida Statutes, is amended
29 to read:

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31

1 20.23 Department of Transportation.--There is created
2 a Department of Transportation which shall be a decentralized
3 agency.

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

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

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

29 ~~2. The secretary shall cause the annual department~~
30 ~~budget request, the Florida Transportation Plan, and the~~
31 ~~tentative work program to be prepared in accordance with all~~

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

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

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

26 (e)~~(d)~~ Any secretary appointed after July 5, 1989, and
27 the assistant secretaries shall be exempt from the provisions
28 of part III of chapter 110 and shall receive compensation
29 commensurate with their qualifications and competitive with
30 compensation for comparable responsibility in the private
31 sector. ~~When the salary of any assistant secretary exceeds~~

1 ~~the limits established in part III of chapter 110, the~~
2 ~~Governor shall approve said salary.~~

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

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

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

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

21 (b) The commission shall have the primary functions
22 to:

23 1. Recommend major transportation policies for the
24 Governor's approval, and assure that approved policies and any
25 revisions thereto are properly executed.

26 2. Periodically review the status of the state
27 transportation system including highway, transit, rail,
28 seaport, intermodal development, and aviation components of
29 the system and recommend improvements therein to the Governor
30 and the Legislature.

31

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

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

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

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

23 7. Recommend to the Governor and the Legislature
24 improvements to the department's organization in order to
25 streamline and optimize the efficiency of the department. In
26 reviewing the department's organization, the commission shall
27 determine if the current district organizational structure is
28 responsive to Florida's changing economic and demographic
29 development patterns. The initial report by the commission
30 must be delivered to the Governor and Legislature by December
31 15, 2000, and each year thereafter, as appropriate. The

1 commission may retain such experts as are reasonably necessary
2 to effectuate this subparagraph, and the department shall pay
3 the expenses of such experts.

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

7 1. The awarding of contracts.

8 2. The selection of a consultant or contractor or the
9 prequalification of any individual consultant or contractor.
10 However, the commission may recommend to the secretary
11 standards and policies governing the procedure for selection
12 and prequalification of consultants and contractors.

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

14 4. The specific location of a transportation facility.

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

16 6. The employment, promotion, demotion, suspension,
17 transfer, or discharge of any department personnel.

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

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

22 2. The commission shall hold a minimum of 4 regular
23 meetings annually, and other meetings may be called by the
24 chair upon giving at least 1 week's notice to all members and
25 the public pursuant to chapter 120. Other meetings may also be
26 held upon the written request of at least four other members
27 of the commission, with at least 1 week's notice of such
28 meeting being given to all members and the public by the chair
29 pursuant to chapter 120. Emergency meetings may be held
30 without notice upon the request of all members of the
31 commission. At each meeting of the commission, the secretary

1 or his or her designee shall submit a report of major actions
2 taken by him or her as the official representative of the
3 department.

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

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

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

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

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

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

31 All employees of the commission are exempt from part II of

1 chapter 110 and shall serve at the pleasure of the commission.
2 The salaries and benefits of all employees of the commission
3 shall be set in accordance with the Selected Exempt Service;
4 provided, however, that the commission shall have complete
5 authority for fixing the salary of the executive director and
6 assistant executive director.

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

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

30 ~~(b) The resources necessary to ensure the efficiency,~~
31 ~~effectiveness, and quality of performance by the department of~~

1 ~~its statutory responsibilities shall be allocated to the~~
2 ~~central office.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

31 b. ~~Information systems;~~

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

1 13. The Office of Materials.

2 (d)3. Other offices may be established in accordance
3 with s. 20.04(7). The heads of such offices are exempt from
4 part II of chapter 110. No office or organization shall be
5 created at a level equal to or higher than a division without
6 specific legislative authority.

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

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

30 ~~(f)1. Within the central office there is created an~~
31 ~~Office of Management and Budget. The head of the Office of~~

1 ~~Management and Budget is responsible to the Assistant~~
2 ~~Secretary for Finance and Administration and is exempt from~~
3 ~~part II of chapter 110.~~

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

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

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

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

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

13 ~~(e)(g)~~ The secretary shall ~~may~~ appoint an inspector
14 general pursuant to s. 20.055 who shall be directly
15 responsible to the secretary and shall serve at the pleasure
16 of the secretary.

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

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

26 ~~2. In addition to the authority and responsibilities~~
27 ~~herein provided, the inspector general is required to report~~
28 ~~to the:~~

29 ~~a. Secretary whenever the inspector general makes a~~
30 ~~preliminary determination that particularly serious or~~
31 ~~flagrant problems, abuses, or deficiencies relating to the~~

1 ~~administration of programs and operations of the department~~
2 ~~have occurred. The secretary shall review and assess the~~
3 ~~correctness of the preliminary determination by the inspector~~
4 ~~general. If the preliminary determination is substantiated,~~
5 ~~the secretary shall submit such report to the appropriate~~
6 ~~committees of the Legislature within 7 calendar days, together~~
7 ~~with a report by the secretary containing any comments deemed~~
8 ~~appropriate. Nothing in this section shall be construed to~~
9 ~~authorize the public disclosure of information which is~~
10 ~~specifically prohibited from disclosure by any other provision~~
11 ~~of law.~~

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

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

24 ~~2. The comptroller is the chief financial officer of~~
25 ~~the department and must be a proven, effective administrator~~
26 ~~who by a combination of education and experience clearly~~
27 ~~possesses a broad knowledge of the administrative, financial,~~
28 ~~and technical aspects of a complex cost-accounting system.~~
29 ~~The comptroller must also have a working knowledge of~~
30 ~~generally accepted accounting principles. At a minimum, the~~
31 ~~comptroller must hold an active license to practice public~~

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

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

27 a. ~~The several appropriations available for the use of~~
28 ~~the department;~~

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

31

1 ~~c. The apportionment or division of all such~~
2 ~~appropriations among the several counties and districts, when~~
3 ~~such apportionment or division is made;~~

4 ~~d. The amount or portion of each such apportionment~~
5 ~~against general contractual and other liabilities then~~
6 ~~created;~~

7 ~~e. The amount expended and still to be expended in~~
8 ~~connection with each contractual and other obligation of the~~
9 ~~department;~~

10 ~~f. The expense and operating costs of the various~~
11 ~~activities of the department;~~

12 ~~g. The receipts accruing to the department and the~~
13 ~~distribution thereof;~~

14 ~~h. The assets, investments, and liabilities of the~~
15 ~~department; and~~

16 ~~i. The cash requirements of the department for a~~
17 ~~36-month period.~~

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

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

22 (f)(j) The secretary shall appoint a general counsel
23 who shall be employed full time and shall be directly
24 responsible to the secretary. The general counsel is
25 responsible for all legal matters of the department. The
26 department may employ as many attorneys as it deems necessary
27 to advise and represent the department in all transportation
28 matters.

29 (g)(k) The secretary shall appoint a state
30 transportation development administrator planner who shall
31 report to the Assistant Secretary for Transportation Policy.

1 ~~The state transportation planner's responsibilities shall~~
2 ~~include, but are not limited to, policy planning, systems~~
3 ~~planning, and transportation statistics. This position shall~~
4 ~~be classified at a level equal to a deputy assistant~~
5 ~~secretary.~~

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

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

26 (4)(a) The operations of the department shall be
27 organized into seven districts, each headed by a district
28 secretary and a turnpike enterprise, headed by an executive
29 director. The district secretaries and the turnpike executive
30 director shall be registered professional engineers in
31 accordance with the provisions of chapter 471 or, in lieu of

1 professional engineer registration, a district secretary or
2 turnpike executive director may hold an advanced degree in an
3 appropriate related discipline, such as a Master of Business
4 Administration.~~The district secretaries shall report to the~~
5 ~~Assistant Secretary for District Operations.~~The headquarters
6 of the districts shall be located in Polk, Columbia,
7 Washington, Broward, Volusia, Dade, and Hillsborough Counties.
8 The headquarters of the turnpike enterprise shall be located
9 in Orange County. In order to provide for efficient operations
10 and to expedite the decisionmaking process, the department
11 shall provide for maximum decentralization to the districts.
12 ~~However, before making a decision to centralize or~~
13 ~~decentralize department operations, the department must first~~
14 ~~determine if the decision would be cost-effective and in the~~
15 ~~public's best interest. The department shall periodically~~
16 ~~evaluate such decisions to ensure that they are appropriate.~~
17 ~~(b) The primary responsibility for the implementation~~
18 ~~of the department's transportation programs shall be delegated~~
19 ~~by the secretary to the district secretaries, and sufficient~~
20 ~~authority shall be vested in each district to ensure adequate~~
21 ~~control of the resources commensurate with the delegated~~
22 ~~responsibility. Each district secretary shall also be~~
23 ~~accountable for ensuring their district's quality of~~
24 ~~performance and compliance with all laws, rules, policies, and~~
25 ~~procedures related to the operation of the department.~~
26 (b)(c) Each district secretary may appoint a district
27 director for transportation development and a district
28 director for transportation support or, until July 1, 2005,
29 each district secretary may appoint a district director for
30 planning and programming, a district director for production,
31 and a district director for operations, and a district

1 director for administration. These positions are exempt from
2 part II of chapter 110.

3 (c)~~(d)~~ Within each district, offices shall be
4 established for managing major functional responsibilities of
5 the department. ~~The offices may include planning, design,~~
6 ~~construction, right-of-way, maintenance, and public~~
7 ~~transportation~~. The heads of these offices shall be exempt
8 from part II of chapter 110.

9 (d)~~(e)~~ The district director for the Fort Myers Urban
10 Office of the Department of Transportation is responsible for
11 developing the 5-year Transportation Plan for Charlotte,
12 Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort
13 Myers Urban Office also is responsible for providing policy,
14 direction, local government coordination, and planning for
15 those counties.

16 (e)~~(f)~~1. The responsibility for the turnpike system
17 shall be delegated by the secretary to the executive director
18 of the turnpike enterprise, who shall serve at the pleasure of
19 the secretary. The executive director shall report directly to
20 the secretary, and the turnpike enterprise shall operate
21 pursuant to ss. 338.22-338.241.

22 2. To facilitate the most efficient and effective
23 management of the turnpike enterprise, including the use of
24 best business practices employed by the private sector, the
25 turnpike enterprise, except as provided in s. 287.055, shall
26 be exempt from departmental policies, procedures, and
27 standards, subject to the secretary having the authority to
28 apply any such policies, procedures, and standards to the
29 turnpike enterprise from time to time as deemed appropriate.

30 (5) Notwithstanding the provisions of s. 110.205, the
31 Department of Management Services is authorized to exempt

1 positions within the Department of Transportation which are
2 comparable to positions within the Senior Management Service
3 pursuant to s. 110.205(2)(j) or positions which are comparable
4 to positions in the Selected Exempt Service under s.
5 110.205(2)(m).

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

24 (6)(7) The department is authorized to contract with
25 local governmental entities and with the private sector if the
26 department first determines that:

27 (a) Consultants can do the work at less cost than
28 state employees;

29 (b) State employees can do the work at less cost, but
30 sufficient positions have not been approved by the Legislature

31

1 as requested in the department's most recent legislative
2 budget request;

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

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

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

11

12 Such contracts shall require compliance with applicable
13 federal and state laws, and clearly specify the product or
14 service to be provided.

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

17 110.205 Career service; exemptions.--

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

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

1 Administrator Planner, the State Transportation Operations
2 Administrator Highway Engineer, State Public Transportation
3 Administrator, district secretaries, district directors of
4 transportation development, transportation operations,
5 transportation support, captains and majors of the Office of
6 Motor Carrier Compliance planning and programming, production,
7 and operations, and the managers of the offices specified in
8 s. 20.23(3)(c)~~(d)2-~~, of the Department of Transportation.
9 Unless otherwise fixed by law, the department shall set the
10 salary and benefits of these positions in accordance with the
11 rules of the Senior Management Service; and the county health
12 department directors and county health department
13 administrators of the Department of Health.

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

1 Health that are assigned the duties of Environmental
2 Administrator, Assistant County Health Department Director,
3 and County Health Department Financial Administrator. Unless
4 otherwise fixed by law, the department shall set the salary
5 and benefits of these positions in accordance with the rules
6 established for the Selected Exempt Service.

7 Section 3. Paragraphs (a), (b), (c), (d), (e), (f),
8 and (g) of subsection (1) of section 255.20, Florida Statutes,
9 are redesignated as paragraphs (c), (d), (e), (f), (g), (h),
10 and (i), respectively, and new paragraphs (a) and (b) are
11 added to that subsection, to read:

12 255.20 Local bids and contracts for public
13 construction works; specification of state-produced lumber.--

14 (1) A county, municipality, special district as
15 defined in chapter 189, or other political subdivision of the
16 state seeking to construct or improve a public building,
17 structure, or other public construction works must
18 competitively award to an appropriately licensed contractor
19 each project that is estimated in accordance with generally
20 accepted cost-accounting principles to have total construction
21 project costs of more than \$200,000. For electrical work,
22 local government must competitively award to an appropriately
23 licensed contractor each project that is estimated in
24 accordance with generally accepted cost-accounting principles
25 to have a cost of more than \$50,000. As used in this section,
26 the term "competitively award" means to award contracts based
27 on the submission of sealed bids, proposals submitted in
28 response to a request for proposal, proposals submitted in
29 response to a request for qualifications, or proposals
30 submitted for competitive negotiation. This subsection
31 expressly allows contracts for construction management

1 services, design/build contracts, continuation contracts based
2 on unit prices, and any other contract arrangement with a
3 private sector contractor permitted by any applicable
4 municipal or county ordinance, by district resolution, or by
5 state law. For purposes of this section, construction costs
6 include the cost of all labor, except inmate labor, and
7 include the cost of equipment and materials to be used in the
8 construction of the project. Subject to the provisions of
9 subsection (3), the county, municipality, special district, or
10 other political subdivision may establish, by municipal or
11 county ordinance or special district resolution, procedures
12 for conducting the bidding process.

13 (a) Notwithstanding any other law to the contrary, a
14 county, municipality, special district as defined in chapter
15 189, or other political subdivision of the state seeking to
16 construct or improve bridges, roads, streets, highways, or
17 railroads, and services incidental thereto, at costs in excess
18 of \$250,000 may require that persons interested in performing
19 work under contract first be certified or qualified to perform
20 such work. Any contractor may be considered ineligible to bid
21 by the governmental entity if the contractor is behind on
22 completing an approved progress schedule for the governmental
23 entity by 10 percent or more at the time of advertisement of
24 the work. Any contractor prequalified and considered eligible
25 by the Department of Transportation to bid to perform the type
26 of work described under the contract shall be presumed to be
27 qualified to perform the work described. The governmental
28 entity may provide an appeal process to overcome that
29 presumption with de novo review based on the record below to
30 the circuit court.

31

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

10 Section 4. Subsections (2) and (4) of section
11 316.1001, Florida Statutes, are amended to read:

12 316.1001 Payment of toll on toll facilities required;
13 penalties.--

14 (2)(a) For the purpose of enforcing this section, any
15 governmental entity, as defined in s. 334.03, that owns or
16 operates a toll facility may, by rule or ordinance, authorize
17 a toll enforcement officer to issue a uniform traffic citation
18 for a violation of this section. Toll enforcement officer
19 means the designee of a governmental entity whose ~~sole~~
20 authority is to enforce the payment of tolls. The
21 governmental entity may designate toll enforcement officers
22 pursuant to s. 316.640(1).

23 (b) A citation issued under this subsection may be
24 issued by mailing the citation by first class mail, or by
25 certified mail, return receipt requested, to the address of
26 the registered owner of the motor vehicle involved in the
27 violation. Mailing the citation to this address constitutes
28 notification.In the case of joint ownership of a motor
29 vehicle, the traffic citation must be mailed to the first name
30 appearing on the registration, unless the first name appearing
31 on the registration is a business organization, in which case

1 the second name appearing on the registration may be used. A
2 citation issued under this paragraph must be mailed to the
3 registered owner of the motor vehicle involved in the
4 violation within 14 days after the date of issuance of the
5 violation. In addition to the citation, notification must be
6 sent to the registered owner of the motor vehicle involved in
7 the violation specifying remedies ~~the remedy~~ available under
8 ss. 318.14(12) and ~~s.~~318.18(7).

9 (c) The owner of the motor vehicle involved in the
10 violation is responsible and liable for payment of a citation
11 issued for failure to pay a toll, unless the owner can
12 establish the motor vehicle was, at the time of the violation,
13 in the care, custody, or control of another person. In order
14 to establish such facts, the owner of the motor vehicle is
15 required, within 14 days after the date of issuance of the
16 citation ~~notification of the alleged violation~~, to furnish to
17 the appropriate governmental entity an affidavit setting
18 forth:

19 1. The name, address, date of birth, and, if known,
20 the driver license number of the person who leased, rented, or
21 otherwise had the care, custody, or control of the motor
22 vehicle at the time of the alleged violation; or

23 2. If stolen, the police report indicating that the
24 vehicle was stolen at the time of the alleged violation.

25
26 Upon receipt of an affidavit the person designated as having
27 care, custody, and control of the motor vehicle at the time of
28 the violation may be issued a citation for failure to pay a
29 required toll. The affidavit shall be admissible in a
30 proceeding pursuant to this section for the purpose of
31

1 providing that the person identified in the affidavit was in
2 actual care, custody, or control of the motor vehicle.

3 (d) A written report of a toll enforcement officer or
4 photographic evidence that indicates that a required toll was
5 not paid is admissible in any proceeding to enforce this
6 section and raises a rebuttable presumption that the motor
7 vehicle named in the report or shown in the photographic
8 evidence was used in violation of this section.

9 (4) Any governmental entity may supply the department
10 with data that is machine readable by the department's
11 computer system, listing persons who have one ~~three~~ or more
12 outstanding violations of this section. Pursuant to s.
13 320.03(8), those persons may not be issued a license plate or
14 revalidation sticker for any motor vehicle.

15 Section 5. Paragraph (b) of subsection (1), paragraph
16 (e) of subsection (2), and subsection (5) of section 316.302,
17 Florida Statutes, are amended to read:

18 316.302 Commercial motor vehicles; safety regulations;
19 transporters and shippers of hazardous materials;
20 enforcement.--

21 (1)

22 (b) Except as otherwise provided in this section, all
23 owners or drivers of commercial motor vehicles that are
24 engaged in intrastate commerce are subject to the rules and
25 regulations contained in 49 C.F.R. parts 382, 385, and
26 390-397, with the exception of 49 C.F.R. s. 390.5 as it
27 relates to the definition of bus, as such rules and
28 regulations existed on October 1, 2002 ~~2001~~.

29 (2)

30 (e) A vehicle or combination of vehicles operated
31 pursuant to this subsection having a gross vehicle weight of

1 26,001 pounds or more or three or more axles on the power unit
2 regardless of weight, must display the name of the vehicle
3 owner or motor carrier, and the city or municipality where the
4 vehicle is based, on each side of the power unit, in letters
5 that contrast with the background and that are readable from a
6 distance of 50 feet. A person who violates this
7 vehicle-identification requirement may be assessed a penalty
8 as provided in s. 316.3025(3)(a).~~A person who operates a~~
9 ~~commercial motor vehicle solely in intrastate commerce is~~
10 ~~exempt from subsection (1) while transporting agricultural~~
11 ~~products, including horticultural or forestry products, from~~
12 ~~farm or harvest place to the first place of processing or~~
13 ~~storage, or from farm or harvest place directly to market.~~
14 ~~However, such person must comply with 49 C.F.R. parts 382,~~
15 ~~392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.~~
16 (5) The Department of Transportation may adopt and
17 revise rules to assure the safe operation of commercial motor
18 vehicles. The Department of Transportation may enter into
19 cooperative agreements as provided in 49 C.F.R. part 388.
20 Department of Transportation personnel may conduct compliance
21 reviews of motor carriers carrier and shippers shipper
22 ~~terminal audits~~ only for the purpose of determining compliance
23 with this section ~~49 C.F.R. parts 171, 172, 173, 177, 178,~~
24 ~~180, 382, 391, 393, 396, and 397; 49 C.F.R. s. 395.1(e)(5);~~
25 and s. 627.7415.
26 Section 6. Section 316.3025, Florida Statutes, is
27 amended to read:
28 316.3025 Penalties.--
29 (1) A commercial motor vehicle that is found to be
30 operating in such an unsafe condition as to be declared
31 out-of-service or a driver declared out-of-service or removed

1 from driving status pursuant to the North American Standard
2 ~~Uniform~~ Out-of-Service Criteria must be repaired or returned
3 to driving status before being returned to service.

4 (2) Any person who owns, operates, or causes or
5 permits a commercial motor vehicle that has been declared
6 out-of-service pursuant to the North American Standard ~~Uniform~~
7 Out-of-Service Criteria to be driven before the completion of
8 required repairs is subject to the imposition of a penalty as
9 provided in 49 C.F.R. s. 383.53, in addition to any other
10 penalties imposed against him or her. Any person who operates
11 a commercial motor vehicle while he or she is declared
12 out-of-service or removed from driving status pursuant to the
13 North American Standard ~~Uniform~~ Out-of-Service Criteria, or
14 who causes or permits such out-of-service driver to operate a
15 commercial motor vehicle, is subject to the imposition of a
16 penalty as provided in 49 C.F.R. s. 383.53, in addition to any
17 other penalties imposed against the person.

18 (3)(a) A civil penalty of \$50 may be assessed for a
19 violation of the identification requirements of 49 C.F.R. s.
20 390.21 or s. 316.302(2)(e).

21 (b) A civil penalty of \$100 may be assessed for:

22 1. Each violation of the North American Uniform Driver
23 Out-of-Service Criteria;

24 2. A violation of s. 316.302(2)(b) or (c); ~~or~~

25 3. A violation of 49 C.F.R. s. 392.60; ~~or-~~

26 4. A violation of the North American Standard Vehicle
27 Out-of-Service Criteria resulting from an inspection of a
28 commercial motor vehicle involved in a crash.

29 (c) A civil penalty of \$250 may be assessed for:

30 1. A violation of the placarding requirements of 49
31 C.F.R. parts 171-179;

1 2. A violation of the shipping paper requirements of
2 49 C.F.R. parts 171-179;
3 3. A violation of 49 C.F.R. s. 392.10;
4 4. A violation of 49 C.F.R. s. 397.5;
5 5. A violation of 49 C.F.R. s. 397.7;
6 6. A violation of 49 C.F.R. s. 397.13; or
7 7. A violation of 49 C.F.R. s. 397.15.
8 (d) A civil penalty of \$500 may be assessed for:
9 1. Each violation of the North American Standard
10 Hazardous Materials Out-of-Service Criteria;
11 2. Each violation of 49 C.F.R. s. 390.19, for failure
12 of an interstate or intrastate motor carrier to register;
13 3. Each violation of 49 C.F.R. s. 392.9a, for failure
14 of an interstate motor carrier to obtain operating authority;
15 or
16 4. Each violation of 49 C.F.R. s. 392.9a, for
17 operating beyond the scope of an interstate motor carrier's
18 operating authority.~~each violation of the North American~~
19 ~~Uniform Hazardous Materials Out-of-Service Criteria.~~
20 (e) A civil penalty not to exceed \$5,000 in the
21 aggregate may be assessed for violations found in the conduct
22 of compliance reviews ~~terminal audits~~ pursuant to s.
23 316.302(5). A civil penalty not to exceed \$25,000 in the
24 aggregate may be assessed for violations found in a follow-up
25 compliance review conducted within a 24-month period. A civil
26 penalty not to exceed \$25,000 in the aggregate may be assessed
27 and the motor carrier may be enjoined pursuant to s. 316.3026
28 if violations are found after a second follow-up compliance
29 review within 12 months after the first follow-up compliance
30 review. Motor carriers found to be operating without insurance
31

1 required by s. 627.7415 may be enjoined as provided in s.
2 316.3026.

3 (4) A vehicle operated by an interstate motor carrier
4 found to be in violation of 49 C.F.R. s. 392.9a may be placed
5 out of service for the carrier's failure to obtain operating
6 authority or operating beyond the scope of its operating
7 authority.

8 (5)~~(4)~~ Whenever any person or motor carrier as defined
9 in chapter 320 violates the provisions of this section and
10 becomes indebted to the state because of such violation and
11 refuses to pay the appropriate penalty, in addition to the
12 provisions of s. 316.3026, such ~~the~~ penalty becomes a lien
13 upon the property including the motor vehicles of such person
14 or motor carrier and may be foreclosed by the state in a civil
15 action in any court of this state. It shall be presumed that
16 the owner of the motor vehicle is liable for the sum, and the
17 vehicle may be detained or impounded until the penalty is
18 paid.

19 (6)~~(5)~~(a) ~~Any officer or agent collecting the~~
20 ~~penalties imposed pursuant to this section shall give to the~~
21 ~~owner, motor carrier, or driver of the vehicle an official~~
22 ~~receipt for all penalties collected from him or her. Only an~~
23 officer or agent of the Department of Transportation is
24 authorized to collect the penalty provided by this section.
25 Such officer or agent shall cooperate with the owner or driver
26 of the motor vehicle so as not to unduly delay the vehicle.

27 (b) All penalties imposed and collected under this
28 section ~~by any state agency having jurisdiction~~ shall be paid
29 to the Treasurer, who shall credit the total amount collected
30 to the State Transportation Trust Fund for use in repairing
31 and maintaining the roads of this state.

1 ~~(7)(6)~~ Any person aggrieved by the imposition of a
2 civil penalty pursuant to this section may apply to the
3 Commercial Motor Vehicle Review Board for a modification,
4 cancellation, or revocation of the penalty. The Commercial
5 Motor Vehicle Review Board may modify, cancel, revoke, or
6 sustain such penalty.

7 Section 7. Section 316.3026, Florida Statutes, is
8 amended to read:

9 316.3026 Unlawful operation of motor carriers ~~may be~~
10 ~~enjoined.~~--

11 (1) The Office of Motor Carrier Compliance of the
12 Department of Transportation may issue out-of-service orders
13 to motor carriers, as defined in s. 320.01(33), who have after
14 proper notice failed to pay any penalty or fine assessed by
15 the department, or its agent, against any owner or motor
16 carrier for violations of state law, refused to submit to a
17 compliance review and provide records pursuant to s.
18 316.302(5) or s. 316.70, or violated safety regulations
19 pursuant to s. 316.302 or insurance requirements found in s.
20 627.7415. Such out-of-service orders shall have the effect of
21 prohibiting the operations of any motor vehicles owned,
22 leased, or otherwise operated by the motor carrier upon the
23 roadways of this state, until such time as the violations have
24 been corrected or penalties have been paid. Out-of-service
25 orders issued under this section must be approved by the
26 Secretary of Transportation or his or her designee. An
27 administrative hearing pursuant to s. 120.569 shall be
28 afforded to motor carriers subject to such orders.

29 (2) Any motor carrier enjoined or prohibited from
30 operating by an out-of-service order by this state, any other
31 state, or the Federal Motor Carrier Safety Administration may

1 not operate on the roadways of this state until the motor
2 carrier has been authorized to resume operations by the
3 originating enforcement jurisdiction. Commercial motor
4 vehicles owned or operated by any motor carrier prohibited
5 from operation found on the roadways of this state shall be
6 placed out of service by law enforcement officers of the
7 Department of Transportation, and the motor carrier assessed a
8 \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in
9 addition to any other penalties imposed on the driver or other
10 responsible person. Any person who knowingly drives, operates,
11 or causes to be operated any commercial motor vehicle in
12 violation of an out-of-service order issued by the department
13 in accordance with this section commits a felony of the third
14 degree, punishable as provided in s. 775.082(3)(d). Any costs
15 associated with the impoundment or storage of such vehicles
16 are the responsibility of the motor carrier. Vehicle
17 out-of-service orders may be rescinded when the department
18 receives proof of authorization for the motor carrier to
19 resume operation.

20 (3) In addition to the sanctions found in subsections
21 (1) and (2), the Department of Transportation may petition the
22 circuit courts of this state to enjoin any motor carrier from
23 operating when it fails to comply with out-of-service orders
24 issued by a competent authority within or outside this state.
25 ~~Any motor carrier which operates a commercial motor vehicle~~
26 ~~upon the highways of this state in violation of the provisions~~
27 ~~of this chapter may be enjoined by the courts of this state~~
28 ~~from any such violation. Such injunctive proceeding may be~~
29 ~~instituted by the Department of Transportation.~~

30 Section 8. Section 316.3027, Florida Statutes, is
31 repealed.

1 Section 9. Paragraph (b) of subsection (3) of section
2 316.515, Florida Statutes, is amended to read:

3 316.515 Maximum width, height, length.--

4 (3) LENGTH LIMITATION.--Except as otherwise provided
5 in this section, length limitations apply solely to a
6 semitrailer or trailer, and not to a truck tractor or to the
7 overall length of a combination of vehicles. No combination
8 of commercial motor vehicles coupled together and operating on
9 the public roads may consist of more than one truck tractor
10 and two trailing units. Unless otherwise specifically provided
11 for in this section, a combination of vehicles not qualifying
12 as commercial motor vehicles may consist of no more than two
13 units coupled together; such nonqualifying combination of
14 vehicles may not exceed a total length of 65 feet, inclusive
15 of the load carried thereon, but exclusive of safety and
16 energy conservation devices approved by the department for use
17 on vehicles using public roads. Notwithstanding any other
18 provision of this section, a truck tractor-semitrailer
19 combination engaged in the transportation of automobiles or
20 boats may transport motor vehicles or boats on part of the
21 power unit; and, except as may otherwise be mandated under
22 federal law, an automobile or boat transporter semitrailer may
23 not exceed 50 feet in length, exclusive of the load; however,
24 the load may extend up to an additional 6 feet beyond the rear
25 of the trailer. The 50-foot length limitation does not apply
26 to non-stinger-steered automobile or boat transporters that
27 are 65 feet or less in overall length, exclusive of the load
28 carried thereon, or to stinger-steered automobile or boat
29 transporters that are 75 feet or less in overall length,
30 exclusive of the load carried thereon. For purposes of this
31 subsection, a "stinger-steered automobile or boat transporter"

1 is an automobile or boat transporter configured as a
2 semitrailer combination wherein the fifth wheel is located on
3 a drop frame located behind and below the rearmost axle of the
4 power unit. Notwithstanding paragraphs (a) and (b), any
5 straight truck or truck tractor-semitrailer combination
6 engaged in the transportation of horticultural trees may allow
7 the load to extend up to an additional 10 feet beyond the rear
8 of the vehicle, provided said trees are resting against a
9 retaining bar mounted above the truck bed so that the root
10 balls of the trees rest on the floor and to the front of the
11 truck bed and the tops of the trees extend up over and to the
12 rear of the truck bed, and provided the overhanging portion of
13 the load is covered with protective fabric.

14 (b) Semitrailers.--

15 1. A semitrailer operating in a truck
16 tractor-semitrailer combination may not exceed 48 feet in
17 extreme overall outside dimension, measured from the front of
18 the unit to the rear of the unit and the load carried thereon,
19 exclusive of safety and energy conservation devices approved
20 by the department for use on vehicles using public roads,
21 unless it complies with subparagraph 2. A semitrailer which
22 exceeds 48 feet in length and is used to transport divisible
23 loads may operate in this state only if issued a permit under
24 s. 316.550 and if such trailer meets the requirements of this
25 chapter relating to vehicle equipment and safety. Except for
26 highways on the tandem trailer truck highway network, public
27 roads deemed unsafe for longer semitrailer vehicles or those
28 roads on which such longer vehicles are determined not to be
29 in the interest of public convenience shall, in conformance
30 with s. 316.006, be restricted by the Department of
31 Transportation or by the local authority to use by

1 semitrailers not exceeding a length of 48 feet, inclusive of
2 the load carried thereon but exclusive of safety and energy
3 conservation devices approved by the department for use on
4 vehicles using public roads. Truck tractor-semitrailer
5 combinations shall be afforded reasonable access to terminals;
6 facilities for food, fuel, repairs, and rest; and points of
7 loading and unloading.

8 2. A semitrailer which is more than 48 feet but not
9 more than 53 feet in extreme overall outside dimension, as
10 measured pursuant to subparagraph 1., may operate on public
11 roads, except roads on the State Highway System which are
12 restricted by the Department of Transportation or other roads
13 restricted by local authorities, if:

14 a. The distance between the kingpin or other peg that
15 ~~which~~ locks into the fifth wheel of a truck tractor and the
16 center of the rear axle or rear group of axles does not exceed
17 41 feet, or, in the case of a semitrailer used exclusively or
18 primarily to transport vehicles in connection with motorsports
19 competition events, the distance does not exceed 46 feet from
20 the kingpin to the center of the rear axles; and

21 b. It is equipped with a substantial rear-end
22 underride protection device meeting the requirements of 49
23 C.F.R. s. 393.86, "Rear End Protection."

24 Section 10. Subsections (5), (6), and (10) of section
25 316.545, Florida Statutes, are amended to read:

26 316.545 Weight and load unlawful; special fuel and
27 motor fuel tax enforcement; inspection; penalty; review.--

28 (5) Whenever any person violates the provisions of
29 this chapter and becomes indebted to the state because of such
30 violation in the amounts aforesaid and refuses to pay said
31 penalty, in addition to the provisions of s. 316.3026, such

1 penalty shall become a lien upon the motor vehicle, and the
2 same may be foreclosed by the state in a court of equity. It
3 shall be presumed that the owner of the motor vehicle is
4 liable for the sum. Any person, firm, or corporation claiming
5 an interest in the seized motor vehicle may, at any time after
6 the lien of the state attaches to the motor vehicle, obtain
7 possession of the seized vehicle by filing a good and
8 sufficient forthcoming bond with the officer having possession
9 of the vehicle, payable to the Governor of the state in twice
10 the amount of the state's lien, with a corporate surety duly
11 authorized to transact business in this state as surety,
12 conditioned to have the motor vehicle or combination of
13 vehicles forthcoming to abide the result of any suit for the
14 foreclosure of such lien. It shall be presumed that the owner
15 of the motor vehicle is liable for the penalty imposed under
16 this section. Upon the posting of such bond with the officer
17 making the seizure, the vehicle shall be released and the bond
18 shall be forwarded to the Department of Transportation for
19 safekeeping. The lien of the state against the motor vehicle
20 aforesaid shall be foreclosed in equity, and the ordinary
21 rules of court relative to proceedings in equity shall
22 control. If it appears that the seized vehicle has been
23 released to the defendant upon his or her forthcoming bond,
24 the state shall take judgment of foreclosure against the
25 property itself, and judgment against the defendant and the
26 sureties on the bond for the amount of the lien, including
27 cost of proceedings. After the rendition of the decree, the
28 state may, at its option, proceed to sue out execution against
29 the defendant and his or her sureties for the amount recovered
30 as aforesaid or direct the sale of the vehicle under
31 foreclosure.

1 (6) Any officer or agent collecting the penalties
2 herein imposed shall ~~give to the owner or driver of the~~
3 ~~vehicle an official receipt for all penalties collected.~~ Such
4 ~~officers or agents of the state departments shall cooperate~~
5 with the owners or drivers of motor vehicles so as not to
6 delay unduly the vehicles. All penalties imposed and collected
7 under this section by any state agency having jurisdiction
8 shall be paid to the Treasurer, who shall credit the total
9 amount thereof to the State Transportation Trust Fund, which
10 shall be used to repair and maintain the roads of this state
11 and to enforce this section.

12 (10) The Department of Transportation may employ
13 weight inspectors to operate its fixed-scale facilities.
14 Weight inspectors on duty at a fixed-scale facility are
15 authorized to enforce the laws governing commercial motor
16 vehicle weight, registration, size, and load and to assess and
17 collect civil penalties for violations of said laws. A weight
18 inspector may detain a commercial motor vehicle that has an
19 obvious safety defect critical to the continued safe operation
20 of the vehicle or that is operating in violation of an
21 out-of-service order as reported on the federal Safety and
22 Fitness Electronic Records database. The weight inspector may
23 immediately summon a law enforcement officer of the Department
24 of Transportation, or other law enforcement officer authorized
25 by s. 316.640 to enforce the traffic laws of this state, to
26 take appropriate enforcement action. The vehicle shall be
27 released if the defect is repaired prior to the arrival of a
28 law enforcement officer. Weight inspectors shall not be
29 classified as law enforcement officers subject to
30 certification requirements of chapter 943, and are not
31 authorized to carry weapons or make arrests. Any person who

1 obstructs, opposes, or resists a weight inspector in the
2 performance of the duties herein prescribed shall be guilty of
3 an offense as described in subsection (1) for obstructing,
4 opposing, or resisting a law enforcement officer.

5 Section 11. Subsection (3) of section 316.610, Florida
6 Statutes, is repealed.

7 Section 12. Paragraph (a) of subsection (1) of section
8 316.640, Florida Statutes, is amended to read:

9 316.640 Enforcement.--The enforcement of the traffic
10 laws of this state is vested as follows:

11 (1) STATE.--

12 (a)1.

13 a. The Division of Florida Highway Patrol of the
14 Department of Highway Safety and Motor Vehicles, the Division
15 of Law Enforcement of the Fish and Wildlife Conservation
16 Commission, the Division of Law Enforcement of the Department
17 of Environmental Protection, and law enforcement officers of
18 the Department of Transportation each have authority to
19 enforce all of the traffic laws of this state on all the
20 streets and highways thereof and elsewhere throughout the
21 state wherever the public has a right to travel by motor
22 vehicle. ~~The Division of the Florida Highway Patrol may employ~~
23 ~~as a traffic accident investigation officer any individual who~~
24 ~~successfully completes instruction in traffic accident~~
25 ~~investigation and court presentation through the Selective~~
26 ~~Traffic Enforcement Program as approved by the Criminal~~
27 ~~Justice Standards and Training Commission and funded through~~
28 ~~the National Highway Traffic Safety Administration or a~~
29 ~~similar program approved by the commission, but who does not~~
30 ~~necessarily meet the uniform minimum standards established by~~
31 ~~the commission for law enforcement officers or auxiliary law~~

1 ~~enforcement officers under chapter 943. Any such traffic~~
2 ~~accident investigation officer who makes an investigation at~~
3 ~~the scene of a traffic accident may issue traffic citations,~~
4 ~~based upon personal investigation, when he or she has~~
5 ~~reasonable and probable grounds to believe that a person who~~
6 ~~was involved in the accident committed an offense under this~~
7 ~~chapter, chapter 319, chapter 320, or chapter 322 in~~
8 ~~connection with the accident. This paragraph does not permit~~
9 ~~the carrying of firearms or other weapons, nor do such~~
10 ~~officers have arrest authority.~~

11 b. University police officers shall have authority to
12 enforce all of the traffic laws of this state when such
13 violations occur on or about any property or facilities that
14 are under the guidance, supervision, regulation, or control of
15 a state university, a direct-support organization of such
16 state university, or any other organization controlled by the
17 state university or a direct-support organization of the state
18 university, except that traffic laws may be enforced
19 off-campus when hot pursuit originates on or adjacent to any
20 such property or facilities.

21 c. Community college police officers shall have the
22 authority to enforce all the traffic laws of this state only
23 when such violations occur on any property or facilities that
24 are under the guidance, supervision, regulation, or control of
25 the community college system.

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

30 (I) An airport authority may employ as a parking
31 enforcement specialist any individual who successfully

1 completes a training program established and approved by the
2 Criminal Justice Standards and Training Commission for parking
3 enforcement specialists but who does not otherwise meet the
4 uniform minimum standards established by the commission for
5 law enforcement officers or auxiliary or part-time officers
6 under s. 943.12. Nothing in this sub-sub-subparagraph shall be
7 construed to permit the carrying of firearms or other weapons,
8 nor shall such parking enforcement specialist have arrest
9 authority.

10 (II) A parking enforcement specialist employed by an
11 airport authority is authorized to enforce all state, county,
12 and municipal laws and ordinances governing parking only when
13 such violations are on property or facilities owned or
14 operated by the airport authority employing the specialist, by
15 appropriate state, county, or municipal traffic citation.

16 e. The Office of Agricultural Law Enforcement of the
17 Department of Agriculture and Consumer Services shall have the
18 authority to enforce traffic laws of this state.

19 f. School safety officers shall have the authority to
20 enforce all of the traffic laws of this state when such
21 violations occur on or about any property or facilities which
22 are under the guidance, supervision, regulation, or control of
23 the district school board.

24 2. An agency of the state as described in subparagraph
25 1. is prohibited from establishing a traffic citation quota. A
26 violation of this subparagraph is not subject to the penalties
27 provided in chapter 318.

28 3. Any disciplinary action taken or performance
29 evaluation conducted by an agency of the state as described in
30 subparagraph 1. of a law enforcement officer's traffic
31 enforcement activity must be in accordance with written

1 work-performance standards. Such standards must be approved by
2 the agency and any collective bargaining unit representing
3 such law enforcement officer. A violation of this subparagraph
4 is not subject to the penalties provided in chapter 318.

5 4. The Division of the Florida Highway Patrol may
6 employ as a traffic accident investigation officer any
7 individual who successfully completes instruction in traffic
8 accident investigation and court presentation through the
9 Selective Traffic Enforcement Program as approved by the
10 Criminal Justice Standards and Training Commission and funded
11 through the National Highway Traffic Safety Administration or
12 a similar program approved by the commission, but who does not
13 necessarily meet the uniform minimum standards established by
14 the commission for law enforcement officers or auxiliary law
15 enforcement officers under chapter 943. Any such traffic
16 accident investigation officer who makes an investigation at
17 the scene of a traffic accident may issue traffic citations,
18 based upon personal investigation, when he or she has
19 reasonable and probable grounds to believe that a person who
20 was involved in the accident committed an offense under this
21 chapter, chapter 319, chapter 320, or chapter 322 in
22 connection with the accident. This subparagraph does not
23 permit the officer to carry firearms or other weapons and such
24 an officer does not have authority to make arrests.

25 Section 13. Subsection (3) of section 316.650, Florida
26 Statutes, is amended to read:

27 316.650 Traffic citations.--

28 (3)(a) Except for a traffic citation issued pursuant
29 to s. 316.1001, each ~~Every~~ traffic enforcement officer, upon
30 issuing a traffic citation to an alleged violator of any
31 provision of the motor vehicle laws of this state or of any

1 traffic ordinance of any city or town, shall deposit the
2 original and one copy of such traffic citation or, in the case
3 of a traffic enforcement agency which has an automated
4 citation issuance system, shall provide an electronic
5 facsimile with a court having jurisdiction over the alleged
6 offense or with its traffic violations bureau within 5 days
7 after issuance to the violator.

8 (b) If a traffic citation is issued pursuant to s.
9 316.1001, a traffic enforcement officer may deposit the
10 original and one copy of such traffic citation or, in the case
11 of a traffic enforcement agency that has an automated citation
12 system, may provide an electronic facsimile with a court
13 having jurisdiction over the alleged offense or with its
14 traffic violations bureau within 45 days after the date of
15 issuance to the violator.

16 Section 14. Subsection (2) of section 316.70, Florida
17 Statutes, is amended to read:

18 316.70 Nonpublic sector buses; safety rules.--

19 (2) Department of Transportation personnel may conduct
20 compliance reviews for the purpose of determining compliance
21 with this section. A civil penalty not to exceed \$5,000 in the
22 aggregate may be assessed against any person who violates any
23 provision of this section or who violates any rule or order of
24 the Department of Transportation. A civil penalty not to
25 exceed \$25,000 in the aggregate may be assessed for violations
26 found in a follow-up compliance review conducted within a
27 24-month period. A civil penalty not to exceed \$25,000 in the
28 aggregate may be assessed and the motor carrier may be
29 enjoined pursuant to s. 316.3026 if violations are found after
30 a second follow-up compliance review within 12 months after
31 the first follow-up compliance review. Motor carriers found to

1 be operating without insurance coverage required by s. 627.742
2 or 49 C.F.R. part 387 may be enjoined as provided in s.
3 316.3026.~~The Department of Transportation may assess a civil~~
4 ~~penalty of up to \$5,000 per infraction against any person who~~
5 ~~violates any provision of this section or who violates any~~
6 ~~rule or order of the department.~~

7 Section 15. Subsection (4) of section 318.14, Florida
8 Statutes, is amended, and subsection (12) is added to that
9 section, to read:

10 318.14 Noncriminal traffic infractions; exception;
11 procedures.--

12 (4) Except as provided in subsection (12),any person
13 charged with a noncriminal infraction under this section who
14 does not elect to appear shall pay the civil penalty and
15 delinquent fee, if applicable, either by mail or in person,
16 within 30 days after the date of issuance of ~~receiving~~ the
17 citation. If the person cited follows the above procedure, he
18 or she shall be deemed to have admitted the infraction and to
19 have waived his or her right to a hearing on the issue of
20 commission of the infraction. Such admission shall not be
21 used as evidence in any other proceedings. Any person who is
22 cited for a violation of s. 320.0605 or s. 322.15(1), or
23 subject to a penalty under s. 320.07(3)(a) or (b) or s.
24 322.065, and who makes an election under this subsection shall
25 submit proof of compliance with the applicable section to the
26 clerk of the court. For the purposes of this subsection, proof
27 of compliance consists of a valid driver's license or a valid
28 registration certificate.

29 (12) Any person cited for a violation of s. 316.1001
30 may, in lieu of payment of fine or court appearance, elect to
31 pay \$25 to the governmental entity that issued the citation,

1 as provided in s. 318.18(7). Any person cited for a violation
2 of s. 316.1001 shall have an additional 45 days after the date
3 of issuance of the citation in which to pay the civil penalty
4 and delinquent fee, if applicable, by mail or in person, in
5 accordance with subsection (4).

6 Section 16. Effective October 1, 2003, section 330.27,
7 Florida Statutes, is amended to read:

8 330.27 Definitions, when used in ss. 330.29-330.36,
9 330.38, 330.39.--

10 (1) "Aircraft" means a powered or unpowered machine or
11 device capable of atmospheric flight ~~any motor vehicle or~~
12 ~~contrivance now known, or hereafter invented, which is used or~~
13 ~~designed for navigation of or flight in the air, except a~~
14 parachute or other such device ~~contrivance designed for such~~
15 ~~navigation but used primarily as safety equipment.~~

16 (2) "Airport" means an ~~any~~ area of land or water, ~~or~~
17 ~~any manmade object or facility located thereon, which is used~~
18 for, or intended to be used for, use, for the landing and
19 takeoff of aircraft, including and any appurtenant areas,
20 ~~which are used, or intended for use, for airport buildings, or~~
21 ~~other airport facilities, or rights-of-way~~ necessary to
22 facilitate such use or intended use, together with all airport
23 ~~buildings and facilities located thereon.~~

24 (3) ~~"Airport hazard" means any structure, object of~~
25 ~~natural growth, or use of land which obstructs the airspace~~
26 ~~required for the flight of aircraft in landing or taking off~~
27 ~~at an airport or which is otherwise hazardous to such landing~~
28 ~~or taking off.~~

29 (4) ~~"Aviation" means the science and art of flight and~~
30 ~~includes, but is not limited to, transportation by aircraft;~~
31 ~~the operation, construction, repair, or maintenance of~~

1 ~~aircraft, aircraft power plants, and accessories, including~~
2 ~~the repair, packing, and maintenance of parachutes; the~~
3 ~~design, establishment, construction, extension, operation,~~
4 ~~improvement, repair, or maintenance of airports or other air~~
5 ~~navigation facilities; and instruction in flying or ground~~
6 ~~subjects pertaining thereto.~~

7 (3)~~(5)~~ "Department" means the Department of
8 Transportation.

9 (4)~~(6)~~ "Limited airport" means any ~~an~~ airport,
10 ~~publicly or privately owned,~~ limited exclusively to the
11 specific conditions stated on the site approval order or
12 license.

13 ~~(7)~~ "Operation of aircraft" or "operate aircraft"
14 ~~means the use, navigation, or piloting of aircraft in the~~
15 ~~airspace over this state or upon any airport within this~~
16 ~~state.~~

17 ~~(8)~~ "Political subdivision" means ~~any county,~~
18 ~~municipality, district, port or aviation commission or~~
19 ~~authority, or similar entity authorized to establish or~~
20 ~~operate an airport in this state.~~

21 (5)~~(9)~~ "Private airport" means an airport, publicly or
22 privately owned, which is not open or available for use by the
23 public, used primarily by the licensee but may be made which
24 is available to others for use by invitation of the owner or
25 manager licensee. ~~Services may be provided if authorized by~~
26 ~~the department.~~

27 (6)~~(10)~~ "Public airport" means an airport, publicly or
28 privately owned, which ~~meets minimum safety and service~~
29 ~~standards and is open for use by the public.~~

30
31

1 (7)(11) "Temporary airport" means any ~~an~~ airport,
2 ~~publicly or privately owned,~~ that will be used for a period of
3 less than 30 ~~90~~ days with no more than 10 operations per day.

4 (8)(12) "Ultralight aircraft" means any
5 ~~heavier-than-air, motorized~~ aircraft meeting ~~which meets~~ the
6 criteria for ~~maximum weight, fuel capacity, and airspeed~~
7 ~~established for such aircraft by the Federal Aviation~~
8 ~~Administration under~~ Part 103 of the Federal Aviation
9 Regulations.

10 Section 17. Effective October 1, 2003, section 330.29,
11 Florida Statutes, is amended to read:

12 330.29 Administration and enforcement; rules;
13 requirements ~~standards~~ for airport sites and airports.--It is
14 the duty of the department to:

15 (1) Administer and enforce the provisions of this
16 chapter.

17 (2) Establish requirements for airport site approval,
18 licensure, and registration ~~minimum standards for airport~~
19 ~~sites and airports under its licensing jurisdiction.~~

20 (3) Establish and maintain a state aviation facility
21 data system to facilitate licensing and registration of all
22 airports.

23 (4)(3) Adopt rules pursuant to ss. 120.536(1) and
24 120.54 to implement the provisions of this chapter.

25 Section 18. Effective October 1, 2003, section 330.30,
26 Florida Statutes, is amended to read:

27 330.30 Approval of airport sites; registration and
28 licensure ~~licensing~~ of airports; ~~fees~~.--

29 (1) SITE APPROVALS; REQUIREMENTS, ~~FEES~~, EFFECTIVE
30 PERIOD, REVOCATION.--

31

1 (a) Except as provided in subsection (3), the owner or
2 lessee of any proposed airport shall, prior to site ~~the~~
3 ~~acquisition of the site~~ or ~~prior to the~~ construction or
4 establishment of the proposed airport, obtain approval of the
5 airport site from the department. Applications for approval of
6 a site ~~and for an original license~~ shall be jointly made in on
7 a form and manner prescribed by the department ~~and shall be~~
8 ~~accompanied by a site approval fee of \$100~~. The department,
9 ~~after inspection of the airport site,~~ shall grant the site
10 approval if it is satisfied:

11 1. That the site has is ~~adequate~~ area allocated for
12 the airport as proposed. ~~airport.~~

13 2. That the proposed airport, ~~if constructed or~~
14 ~~established,~~ will conform to licensing or registration
15 requirements ~~minimum standards of safety~~ and will comply with
16 the applicable local government land development regulations
17 or county or municipal zoning requirements.

18 3. That all affected nearby airports, local
19 governments municipalities, and property owners have been
20 notified and any comments submitted by them have been given
21 adequate consideration. ~~and~~

22 4. That safe air-traffic patterns can be established
23 ~~worked out~~ for the proposed airport with ~~and for~~ all existing
24 airports and approved airport sites in its vicinity.

25 (b) Site approval shall be granted for public airports
26 only after a favorable department inspection of the proposed
27 site.

28 (c) Site approval shall be granted for private
29 airports only after receipt of documentation in a form and
30 manner the department deems necessary to satisfy the
31 conditions in paragraph (a).

1 ~~(d)(b)~~ Site approval may be granted subject to any
2 reasonable conditions ~~which~~ the department deems ~~may deem~~
3 necessary to protect the public health, safety, or welfare.

4 ~~(e)~~ Such Approval shall remain valid ~~in effect~~ for a
5 ~~period of 2 years~~ after the date of issue ~~issuance of the site~~
6 ~~approval order~~, unless ~~sooner~~ revoked by the department or
7 unless, prior to the expiration of the 2-year period, a public
8 airport license is issued or private airport registration
9 completed for an airport located on the approved site has been
10 issued pursuant to subsection (2) prior to the expiration
11 date.

12 ~~(f)~~ The department may extend a site approval ~~may be~~
13 ~~extended for subsequent periods of 2 years per extension for a~~
14 ~~maximum of 2 years upon good cause shown by the owner or~~
15 ~~lessee of the airport site~~.

16 ~~(g)(c)~~ The department may revoke a site ~~such~~ approval
17 if it determines:

18 1. That ~~there has been an abandonment of the site~~ has
19 been abandoned as an airport site;

20 2. That ~~there has been a failure within a reasonable~~
21 ~~time to develop the site~~ has not been developed as an airport
22 within a reasonable time period or development does not to
23 comply with the conditions of the site approval;

24 3. That, except as required for in-flight emergencies,
25 ~~the operation of aircraft have operated of a nonemergency~~
26 ~~nature has occurred~~ on the site; or

27 4. That, ~~because of changed physical or legal~~
28 ~~conditions or circumstances,~~ the site is no longer usable for
29 the aviation purposes due to physical or legal changes in
30 conditions that were the subject of the ~~for which the approval~~
31 ~~was granted~~.

1 (2) LICENSES AND REGISTRATIONS; REQUIREMENTS, ~~FEE~~,
2 RENEWAL, REVOCATION.--

3 (a) Except as provided in subsection (3), the owner or
4 lessee of any an airport in this state shall have either a
5 public airport must obtain a license or private airport
6 registration prior to the operation of aircraft to or from the
7 facility on the airport. An Application for a such license or
8 registration shall be made in on a form and manner prescribed
9 by the department and shall be accomplished jointly with an
10 application for site approval. Upon granting site approval;
11 making a favorable final airport inspection report indicating
12 compliance with all license requirements, and receiving the
13 appropriate license fee, the department shall issue a license
14 to the applicant, subject to any reasonable conditions that
15 the department may deem necessary to protect the public
16 health, safety, or welfare.

17 1. For a public airport, the department shall issue a
18 license after a final airport inspection finds the facility to
19 be in compliance with all requirements for the license. The
20 license may be subject to any reasonable conditions that the
21 department may deem necessary to protect the public health,
22 safety, or welfare.

23 2. For a private airport, the department shall provide
24 controlled electronic access to the state aviation facility
25 data system to permit the applicant to complete the
26 registration process. Registration shall be completed upon
27 self-certification by the registrant of operational and
28 configuration data deemed necessary by the department.

29 (b) The department may is authorized to license a
30 public an airport that does not meet all of the minimum
31 standards only if it determines that such exception is

1 justified by unusual circumstances or is in the interest of
2 public convenience and does not endanger the public health,
3 safety, or welfare. Such a license shall bear the designation
4 "special" and shall state the conditions subject to which the
5 license is granted.

6 (c) The department may license a public airport or a
7 private airport may register ~~authorize a site~~ as a temporary
8 airport provided if it finds, after inspection of the site,
9 that the airport will not endanger the public health, safety,
10 or welfare and the airport meets the temporary airport
11 requirements established by the department. A temporary
12 airport license or registration shall be valid for less ~~Such~~
13 ~~authorization shall expire not later than 30~~ 90 days ~~after~~
14 ~~issuance~~ and is not renewable.

15 (d) ~~The license fees for the four categories of~~
16 ~~airport licenses are:~~

- 17 1. ~~Public airport: \$100.~~
- 18 2. ~~Private airport: \$70.~~
- 19 3. ~~Limited airport: \$50.~~
- 20 4. ~~Temporary airport: \$25.~~

21
22 ~~Airports owned or operated by the state, a county, or a~~
23 ~~municipality and emergency helistops operated by licensed~~
24 ~~hospitals are required to be licensed but are exempt from the~~
25 ~~payment of site approval fees and annual license fees.~~

26 (d)(e)1. Each public airport license shall ~~will~~ expire
27 no later than 1 year after the effective date of the license,
28 except that the expiration date of a license may be adjusted
29 to provide a maximum license period of 18 months to facilitate
30 airport inspections, recognize seasonal airport operations, or
31 improve administrative efficiency. ~~If the expiration date for~~

1 ~~a public airport is adjusted, the appropriate license fee~~
2 ~~shall be determined by prorating the annual fee based on the~~
3 ~~length of the adjusted license period.~~

4 2. Registration ~~The license period for private all~~
5 ~~airports shall remain valid provided specific elements of~~
6 ~~airport data, established by the department, are periodically~~
7 ~~recertified by the airport registrant. The ability to~~
8 ~~recertify private airport registration data shall be available~~
9 ~~at all times by electronic submittal. A private airport~~
10 ~~registration that has not been recertified in the 24-month~~
11 ~~period following the last certification shall expire, unless~~
12 ~~the registration period has been adjusted by the department~~
13 ~~for purposes of informing private airport owners of their~~
14 ~~registration responsibilities or promoting administrative~~
15 ~~efficiency. The expiration date of the current registration~~
16 ~~period will be clearly identifiable from the state aviation~~
17 ~~facility data system other than public airports will be set by~~
18 ~~the department, but shall not exceed a period of 5 years. In~~
19 ~~determining the license period for such airports, the~~
20 ~~department shall consider the number of based aircraft, the~~
21 ~~airport location relative to adjacent land uses and other~~
22 ~~airports, and any other factors deemed by the department to be~~
23 ~~critical to airport operation and safety.~~

24 3. The effective date and expiration date shall be
25 shown on public airport licenses ~~stated on the face of the~~
26 ~~license~~. Upon receiving an application for renewal of an
27 airport a license in on a form and manner prescribed by the
28 department and receiving, ~~making~~ a favorable inspection report
29 indicating compliance with all applicable requirements and
30 conditions, ~~and receiving the appropriate annual license fee,~~
31 the department shall renew the license, subject to any

1 conditions deemed necessary to protect the public health,
2 safety, or welfare.

3 4. The department may require a new site approval for
4 any ~~an~~ airport if the license or registration of the airport
5 has expired ~~not been renewed by the expiration date~~.

6 5. If the renewal application for a public airport
7 license has ~~and fees have~~ not been received by the department
8 or no private airport registration recertification has been
9 accomplished within 15 days after the date of expiration ~~of~~
10 ~~the license~~, the department may revoke ~~close~~ the airport
11 license or registration.

12 ~~(e)(f)~~ The department may revoke, or refuse to allow
13 or issue, any airport registration or recertification, or any
14 license or license renewal thereof, or refuse to issue a
15 renewal, if it determines:

16 1. That the site there has been abandoned as an
17 abandonment of the airport as such;

18 2. That the airport does not there has been a failure
19 to comply with the conditions of the license, license or
20 renewal, or site approval thereof; or

21 3. That, ~~because of changed physical or legal~~
22 ~~conditions or circumstances~~, the airport has become either
23 unsafe or unusable for flight operation due to physical or
24 legal changes in conditions that were the subject of approval
25 ~~the aeronautical purposes for which the license or renewal was~~
26 ~~issued~~.

27 (3) EXEMPTIONS.--The provisions of this section do not
28 apply to:

29 (a) An airport owned or operated by the United States.

30 (b) An ultralight aircraft landing area; ~~except that~~
31 any public ultralight airport located more than within 5

1 nautical miles from a ~~of another~~ public airport or military
2 airport, except ~~or~~ any ultralight landing area with more than
3 10 ultralight aircraft operating at ~~from~~ the site ~~is subject~~
4 ~~to the provisions of this section.~~

5 (c) A helistop used solely in conjunction with a
6 construction project undertaken pursuant to the performance of
7 a state contract if the purpose of the helicopter operations
8 at the site is to expedite construction.

9 ~~(d) An airport under the jurisdiction or control of a~~
10 ~~county or municipal aviation authority or a county or~~
11 ~~municipal port authority or the Florida Space Authority;~~
12 ~~however, the department shall license any such airport if such~~
13 ~~authority does not elect to exercise its exemption under this~~
14 ~~subsection.~~

15 ~~(d)(e)~~ A helistop used by mosquito control or
16 emergency services, not to include areas where permanent
17 facilities are installed, such as hospital landing sites.

18 ~~(e)(f)~~ An airport which meets the criteria of s.
19 330.27(7)(~~11~~) used exclusively for aerial application or
20 spraying of crops on a seasonal basis, not to include any
21 licensed airport where permanent crop aerial application or
22 spraying facilities are installed, if the period of operation
23 does not exceed 30 days per calendar year. Such proposed
24 airports, which will be located within 3 miles of existing
25 airports or approved airport sites, shall establish ~~work out~~
26 safe air-traffic patterns with such existing airports or
27 approved airport sites, by memorandums of understanding, or by
28 letters of agreement between the parties representing the
29 airports or sites.

30 (f) Any body of water used for the takeoff and landing
31 of aircraft, including any land, building, structure, or any

1 other contrivance that facilitates private use or intended
2 private use.

3 (4) EXCEPTIONS.--Private airports with 10 or more
4 based aircraft may request to be inspected and licensed by the
5 department. Private airports licensed according to this
6 subsection shall be considered private airports as defined in
7 s. 330.27(5) in all other respects.

8 Section 19. Effective October 1, 2003, section 330.35,
9 Florida Statutes, is amended to read:

10 330.35 Airport zoning, ~~approach zone~~ protection.--

11 (1) Nothing in ss. 330.29-330.36, 330.38, and 330.39
12 shall be construed to limit any right, power, or authority of
13 the state or a political subdivision to regulate airport
14 hazards by zoning.

15 (2) Airports licensed for ~~general~~ public use under the
16 provisions of s. 330.30 are eligible for airport zoning
17 ~~approach zone~~ protection, ~~and the procedure shall be the same~~
18 ~~as is~~ prescribed in chapter 333.

19 (3) The department is granted all powers conferred
20 upon political subdivisions of this state by chapter 333 to
21 regulate airport hazards at state-owned public airports. The
22 procedure shall be to form a joint zoning board with the
23 political subdivision of the state in which the state-owned
24 public airport is located as prescribed in chapter 333.

25 Section 20. Effective October 1, 2003, subsection (2)
26 of section 330.36, Florida Statutes, is amended to read:

27 330.36 Prohibition against county or municipal
28 licensing of airports; regulation of seaplane landings.--

29 (2) Upon adoption of zoning requirements in compliance
30 with subsection (1), a municipality may prohibit or otherwise
31 regulate, for specified public health and safety purposes, the

1 landing of seaplanes in and upon any public waters of the
2 state which are located within the limits or jurisdiction of,
3 or bordering on, the municipality.

4 Section 21. Section 334.01, Florida Statutes, is
5 amended to read:

6 334.01 Florida Transportation Code; short
7 title.--Chapters 334-339, 340,341, 348, and 349 and ss.
8 332.003-332.007, 351.35, 351.36, 351.37, and 861.011 may be
9 cited as the "Florida Transportation Code."

10 Section 22. Subsections (37) and (38) are added to
11 section 334.03, Florida Statutes, to read:

12 334.03 Definitions.--When used in the Florida
13 Transportation Code, the term:

14 (37) "511" or "511 services" means three-digit
15 telecommunications dialing to access interactive voice
16 response telephone traveler information services provided in
17 the state as defined by the Federal Communications Commission
18 in FCC Order No. 00-256, July 31, 2000.

19 (38) "Interactive voice response" means a software
20 application that accepts a combination of voice telephone
21 input and touch-tone keypad selection and provides appropriate
22 responses in the form of voice, fax, callback, e-mail, and
23 other media.

24 Section 23. Present subsection (31) of section
25 334.044, Florida Statutes, is redesignated as subsection (32),
26 and a new subsection (31) is added to that section, to read:

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

29 (31) To provide oversight of traveler information
30 systems that may include the provision of interactive voice
31 response telephone systems accessible via the 511 number as

1 assigned by the Federal Communications Commission for traveler
2 information services. The department shall ensure that uniform
3 standards and criteria for the collection and dissemination of
4 traveler information are applied using interactive voice
5 response systems.

6 Section 24. Section 334.14, Florida Statutes, is
7 amended to read:

8 334.14 Employees of department who are required to be
9 engineers.--Each employee performing engineering as defined in
10 chapter 471 shall be registered in accordance with the
11 provisions of chapter 471.

12 ~~(1) At a minimum, each of the following employees of~~
13 ~~the department must be a professional engineer registered~~
14 ~~under chapter 471:~~

15 ~~(a) The State Highway Engineer and the district~~
16 ~~secretary for each district, except that in lieu of~~
17 ~~engineering registration the district secretary for each~~
18 ~~district may hold an advanced degree in an appropriate related~~
19 ~~discipline such as a master of business administration.~~

20 ~~(b)1. The head of each office, or equivalent unit, of~~
21 ~~the department that is responsible for the design of~~
22 ~~transportation facilities.~~

23 ~~2. Any person who is employed or assigned by any such~~
24 ~~unit to be in responsible charge of an engineering project~~
25 ~~designed by the unit, regardless of whether such person is~~
26 ~~employed in the central office or in a field office.~~

27 ~~(c)1. The head of each office, or equivalent unit, of~~
28 ~~the department that is responsible for the construction of~~
29 ~~transportation facilities or materials testing.~~

30 ~~2. Any area or resident engineer who is in responsible~~
31 ~~charge of an engineering construction project.~~

1 ~~(d)1. The head of each office, or equivalent unit, of~~
2 ~~the department that is directly responsible for traffic~~
3 ~~operations or the maintenance of transportation facilities.~~

4 ~~2. The senior maintenance engineer assigned to a field~~
5 ~~office.~~

6 ~~3. The senior maintenance engineers in charge of the~~
7 ~~various area maintenance yards assigned to the field units.~~

8 ~~(2) As used in this section, the term "responsible~~
9 ~~charge" means the rendering of engineering judgment and~~
10 ~~decisions in the development of technical policy and programs~~
11 ~~or the direct control and personal supervision of work~~
12 ~~performed by himself or herself or by others over whom the~~
13 ~~person holds supervisory authority.~~

14 ~~(3) Any person holding the position of resident~~
15 ~~engineer of construction or senior maintenance engineer of a~~
16 ~~field unit on July 1, 1984, or the position of designer as~~
17 ~~identified in subparagraph (1)(b)2. on July 1, 1985, is not~~
18 ~~subject to the engineering registration requirement. However,~~
19 ~~when such person vacates his or her position, his or her~~
20 ~~replacement must comply with that requirement.~~

21 ~~(4) The department shall employ a district secretary~~
22 ~~for each transportation district whose duties shall be fixed~~
23 ~~by the department and who shall be responsible for the~~
24 ~~efficient operation and administration of that district.~~

25 ~~(5) In addition to the requirement for engineering~~
26 ~~registration in subsection (1), the department, in filling the~~
27 ~~positions described in this section, shall place emphasis on~~
28 ~~proven management ability and experience.~~

29 Section 25. Section 334.60, Florida Statutes, is
30 created to read:

31 334.60 511 traveler information system.--

1 (1) The department is the state's lead agency for
2 implementing 511 services and is the state's point of contact
3 for coordinating 511 services with telecommunications service
4 providers. The department shall:

5 (a) Implement and administer 511 services in the
6 state;

7 (b) Coordinate with other transportation authorities
8 in the state to provide multimodal traveler information
9 through 511 services and other means;

10 (c) Develop uniform standards and criteria for the
11 collection and dissemination of traveler information using the
12 511 number or other interactive voice response systems; and

13 (d) Enter into joint participation agreements or
14 contracts with highway authorities and public transit
15 districts to share the costs of implementing and administering
16 511 services in the state. The department may also enter into
17 other agreements or contracts with private firms relating to
18 the 511 services to offset the costs of implementing and
19 administering 511 services in the state.

20
21 The department shall adopt rules to administer the
22 coordination of 511 traveler information phone services in the
23 state.

24 Section 26. Section 336.467, Florida Statutes, is
25 amended to read:

26 336.467 County-state right-of-way acquisition
27 agreements.--A county or other governmental entity may enter
28 into an agreement with the department to provide for the
29 department to acquire rights-of-way for the county or other
30 governmental entity, ~~provided the highway project is to be~~
31 ~~funded by the 80-percent portion of the constitutional gas tax~~

1 ~~allocated to that county and requires the acquisition of at~~
2 ~~least 10 parcels of land, the total cost of which will equal~~
3 ~~or exceed \$100,000.~~

4 Section 27. Subsections (1), (4), and (7) of section
5 337.14, Florida Statutes, are amended to read:

6 337.14 Application for qualification; certificate of
7 qualification; restrictions; request for hearing.--

8 (1) Any person desiring to bid for the performance of
9 any construction contract in excess of \$250,000 which the
10 department proposes to let must first be certified by the
11 department as qualified pursuant to this section and rules of
12 the department. The rules of the department shall address the
13 qualification of persons to bid on construction contracts in
14 excess of \$250,000 and shall include requirements with respect
15 to the equipment, past record, experience, financial
16 resources, and organizational personnel of the applicant
17 necessary to perform the specific class of work for which the
18 person seeks certification. The department is authorized to
19 limit the dollar amount of any contract upon which a person is
20 qualified to bid or the aggregate total dollar volume of
21 contracts such person is allowed to have under contract at any
22 one time. Each applicant seeking qualification to bid on
23 construction contracts in excess of \$250,000 shall furnish the
24 department a statement under oath, on such forms as the
25 department may prescribe, setting forth detailed information
26 as required on the application. Each application for
27 certification shall be accompanied by the latest annual
28 financial statement of the applicant completed within the last
29 12 months. If the annual financial statement shows the
30 financial condition of the applicant more than 4 months prior
31 to the date on which the application is received by the

1 department, then an interim financial statement must also be
2 submitted. The interim financial statement must cover the
3 period from the end date of the annual statement and must show
4 the financial condition of the applicant no more than 4 months
5 prior to the date on which the application is received by the
6 department. Each required annual or interim financial
7 statement must be audited and accompanied by the opinion of a
8 certified public accountant or a public accountant approved by
9 the department. The information required by this subsection
10 is confidential and exempt from the provisions of s.
11 119.07(1). The department shall act upon the application for
12 qualification within 30 days after the department determines
13 that the application is complete ~~it is presented~~.

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

31

1 with the second request within a reasonable period of time as
2 specified therein, the application shall be denied.

3 (7) No "contractor" as defined in s. 337.165(1)(d) or
4 his or her "affiliate" as defined in s. 337.165(1)(a)
5 qualified with the department under this section may also
6 qualify under s. 287.055 or s. 337.105 to provide testing
7 services, construction, engineering, and inspection services
8 to the department. This limitation shall not apply to any
9 design-build prequalification under s. 337.11(7).

10 Section 28. Subsection (1) and paragraph (a) of
11 subsection (4) of section 337.18, Florida Statutes, are
12 amended to read:

13 337.18 Surety bonds; requirement with respect to
14 contract award; defaults; damage assessments.--

15 (1)(a) A surety bond shall be required of the
16 successful bidder in an amount equal to the awarded contract
17 price. For a project for which the contract price is \$150,000
18 or less, the department may waive the requirement for all or a
19 portion of a surety bond if it determines the project is of a
20 noncritical nature and nonperformance will not endanger public
21 health, safety, or property. The department may require
22 alternate means of security if a surety bond is waived. The
23 surety on such bond shall be a surety company authorized to do
24 business in the state. All bonds shall be payable to the
25 department and conditioned for the prompt, faithful, and
26 efficient performance of the contract according to plans and
27 specifications and within the time period specified, and for
28 the prompt payment of all persons defined in s. 713.01
29 furnishing labor, material, equipment, and supplies for work
30 provided in the contract therefor; however, whenever an
31 improvement, demolition, or removal contract price is \$25,000

1 or less, the security may, in the discretion of the bidder, be
2 in the form of a cashier's check, bank money order of any
3 state or national bank, certified check, or postal money
4 order. The department shall adopt rules to implement this
5 subsection. Such rules shall include provisions under which
6 the department shall refuse to accept bonds on contracts when
7 a surety wrongfully fails or refuses to settle or provide a
8 defense for claims or actions arising under a contract for
9 which the surety previously furnished a bond.

10 (b) Upon execution of the contract, and prior to
11 beginning any work under the contract, the contractor shall
12 record in the public records of the county where the
13 improvement is located the payment and performance bond
14 required under this section. A claimant shall have a right of
15 action against the contractor and surety for the amount due
16 him or her, including unpaid finance charges due under the
17 claimant's contract. Such action shall not involve the
18 department in any expense.

19 (c) A claimant, except a laborer, who is not in
20 privity with the contractor shall, before commencing or not
21 later than 90 days after commencing to furnish labor,
22 materials, or supplies for the prosecution of the work,
23 furnish the contractor with a notice that he or she intends to
24 look to the bond for protection. A claimant who is not in
25 privity with the contractor and who has not received payment
26 for his or her labor, materials, or supplies shall deliver to
27 the contractor and to the surety written notice of the
28 performance of the labor or delivery of the materials or
29 supplies and of the nonpayment. The notice of nonpayment may
30 be served at any time during the progress of the work or
31 thereafter but not before 45 days after the first furnishing

1 of labor, services, or materials, and not later than 90 days
2 after the final furnishing of the labor, services, or
3 materials by the claimant or, with respect to rental
4 equipment, not later than 90 days after the date that the
5 rental equipment was last on the job site available for use.
6 An action by a claimant, except a laborer, who is not in
7 privity with the contractor for the labor, materials, or
8 supplies may not be instituted against the contractor or the
9 surety unless both notices have been given. Notices required
10 or permitted under this section may be served in any manner
11 provided in s. 713.18.

12 (d) An action must be instituted by a claimant,
13 whether in privity with the contractor or not, against the
14 contractor or the surety on the payment bond or the payment
15 provisions of a combined payment and performance bond within
16 365 days after the final acceptance of the contract work by
17 the department. A claimant may not waive in advance his or her
18 right to bring an action under the bond against the surety. In
19 any action brought to enforce a claim against a payment bond
20 under this section, the prevailing party is entitled to
21 recover a reasonable fee for the services of his or her
22 attorney for trial and appeal or for arbitration, in an amount
23 to be determined by the court, which fee must be taxed as part
24 of the prevailing party's costs, as allowed in equitable
25 actions.

26 (e) When a contractor has furnished a payment bond
27 pursuant to this section, he or she may, when the department
28 makes any payment to the contractor, serve a written demand on
29 any claimant who is not in privity with the contractor for a
30 written statement under oath of his or her account showing the
31 nature of the labor or services performed to date, if any; the

1 materials furnished; the materials to be furnished, if known;
2 the amount paid on account to date; the amount due; and the
3 amount to become due, if known, as of the date of the
4 statement by the claimant. Any such demand to a claimant who
5 is not in privity with the contractor must be served on the
6 claimant at the address and to the attention of any person who
7 is designated to receive the demand in the notice to the
8 contractor served by the claimant. The failure or refusal to
9 furnish the statement does not deprive the claimant of his or
10 her rights under the bond if the demand is not served at the
11 address of the claimant or directed to the attention of the
12 person designated to receive the demand in the notice to
13 contractor. The failure to furnish the statement within 60
14 days after the demand, or the furnishing of a false or
15 fraudulent statement, deprives the claimant who fails to
16 furnish the statement, or who furnishes the false or
17 fraudulent statement, of his or her rights under the bond. If
18 the contractor serves more than one demand for statement of
19 account on a claimant and none of the information regarding
20 the account has changed since the claimant's last response to
21 a demand, the failure or refusal to furnish such statement
22 does not deprive the claimant of his or her rights under the
23 bond. The negligent inclusion or omission of any information
24 deprives the claimant of his or her rights under the bond to
25 the extent that the contractor can demonstrate prejudice from
26 such act or omission by the claimant. The failure to furnish a
27 response to a demand for statement of account does not affect
28 the validity of any claim on the bond being enforced in a
29 lawsuit filed before the date the demand for statement of
30 account is received by the claimant.

31

1 (f) The bonds provided for in this section are
2 statutory bonds. The provisions of s. 255.05 are not
3 applicable to bonds issued pursuant to this section.

4 (4)(a) If the department determines and adequately
5 documents that the timely completion of any project will
6 provide a substantial benefit to the public health, safety, or
7 welfare; will limit the disruptive effect of construction on
8 the community; or is cost beneficial on a revenue-producing
9 project, the contract for such project may provide for an
10 incentive payment payable to the contractor for early
11 completion of the project or critical phases of the work and
12 for additional damages to be assessed against the contractor
13 for the completion of the project or critical phases of the
14 work in excess of the time specified. All contracts containing
15 such provisions shall be approved by the head of the
16 department or his or her designee. The amount of such
17 incentive payment or such additional damages shall be
18 established in the contract based on an analysis of the cost
19 savings to the traveling public or revenue projections for a
20 revenue-producing project but shall not exceed \$10,000 per
21 calendar day, except that for revenue-producing projects the
22 amounts and periods of the incentive may be greater if an
23 analysis indicates that additional revenues projected to be
24 received upon completion of the project will exceed the cost
25 of the incentive payments. Any liquidated damages provided for
26 under subsection (2) and any additional damages provided for
27 under this subsection shall be payable to the department
28 because of the contractor's failure to complete the contract
29 work within the time stipulated in the contract or within such
30 additional time as may have been granted by the department.

31

1 Section 29. Subsection (3) of section 338.165, Florida
2 Statutes, is amended to read:

3 338.165 Continuation of tolls.--

4 (3) Notwithstanding any other law to the contrary,
5 pursuant to s. 11, Art. VII of the State Constitution, and
6 subject to the requirements of subsection (2), the Department
7 of Transportation may request the Division of Bond Finance to
8 issue bonds secured by toll revenues collected on the
9 Alligator Alley, Sunshine Skyway Bridge, Beeline-East
10 Expressway, and Pinellas Bayway to fund transportation
11 projects located within the county or counties in which the
12 facility is located and contained in the ~~1993-1994 Adopted~~
13 ~~Work Program or in any subsequent~~ adopted work program of the
14 department.

15 Section 30. Subsection (2) of section 338.235, Florida
16 Statutes, is amended to read:

17 338.235 Contracts with department for provision of
18 services on the turnpike system.--

19 (2) In order to secure high-quality products, business
20 opportunities, and services on the turnpike system, products,
21 business opportunities, and services authorized by s. 338.234
22 may be secured by competitive solicitation for turnpike
23 ~~patrons, products and services authorized by s. 338.234(1) may~~
24 ~~be secured through the request-for-proposal process. If the~~
25 department receives an unsolicited proposal for products,
26 business opportunities, or services that it wishes to
27 consider, it shall publish a notice in a newspaper of general
28 circulation at least once a week for 2 weeks, or may broadcast
29 such notice by electronic media for 2 weeks, stating that it
30 has received a proposal and will accept other proposals on the
31 same subject for 30 days after the date of publication.The

1 department may select offers that ~~the proposal and fee which~~
2 best satisfy the conditions of a quality service, business
3 opportunity, or ~~and product operation~~ for the turnpike system.

4 The factors to be used in evaluating proposals include, but
5 are not limited to:

- 6 (a) The financial capacity of the provider;
7 (b) The willingness to contribute toward the cost of
8 facility construction;
9 (c) The type and quality of the service or product
10 offered;
11 (d) The price structure of the service or product
12 offered;
13 (e) Management experience and capabilities;
14 (f) The national brand names offered;
15 (g) The originality of the concept and its
16 relationship to the turnpike system;
17 (h) The lease rate; and
18 (i) Other factors that the department may deem
19 pertinent.

20 Section 31. Subsections (1) and (2) of section 339.08,
21 Florida Statutes, are amended to read:

22 339.08 Use of moneys in State Transportation Trust
23 Fund.--

24 (1) The department shall expend ~~by rule provide for~~
25 ~~the expenditure of the~~ moneys in the State Transportation
26 Trust Fund accruing to the department, in accordance with its
27 annual budget.

28 (2) ~~These rules must restrict~~ The use of such moneys
29 shall be restricted to the following purposes:

- 30 (a) To pay administrative expenses of the department,
31 including administrative expenses incurred by the several

1 state transportation districts, but excluding administrative
2 expenses of commuter rail authorities that do not operate rail
3 service.

4 (b) To pay the cost of construction of the State
5 Highway System.

6 (c) To pay the cost of maintaining the State Highway
7 System.

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

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

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

15 (g) To lend or pay a portion of the operating,
16 maintenance, and capital costs of a revenue-producing
17 transportation project that is located on the State Highway
18 System or that is demonstrated to relieve traffic congestion
19 on the State Highway System.

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

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

26 (j) To pay the cost of county or municipal road
27 projects selected in accordance with the County Incentive
28 Grant Program created in s. 339.2817 and the Small County
29 Outreach Program created in s. 339.2818.

30 (k) To provide loans and credit enhancements for use
31 in constructing and improving highway transportation

1 facilities selected in accordance with the state-funded
2 infrastructure bank created in s. 339.55.

3 (l) To fund the Transportation Outreach Program
4 created in s. 339.137.

5 (m) To pay the cost of projects on the Florida
6 Strategic Intermodal System.

7 (n)~~(m)~~ To pay other lawful expenditures of the
8 department.

9 Section 32. Florida Strategic Intermodal System;
10 legislative findings, declaration, and intent; system
11 components; system plan.--

12 (1) There is created the Florida Strategic Intermodal
13 System.

14 (2) It is the finding of the Legislature that
15 increasing demands are continuing to be placed on the state's
16 transportation system by a fast-growing economy; continued
17 population growth; and projected increases in freight
18 movement, international trade, and tourism. The Legislature
19 also finds that Florida's growing regional and intercity
20 economic centers will increase the demand for interregional
21 and intercity travel and that the evolving service-based and
22 information-based industries will change the type of
23 transportation system that business and industry demands,
24 increasing the importance of speed and reliability. The
25 Legislature further finds that our transportation system must
26 be designed and operated in such a way that it preserves the
27 abundance of natural and manmade amenities that have been so
28 successful in attracting new residents, businesses, and
29 tourists to this state. Therefore, the Legislature declares
30 that the development of a Strategic Intermodal System,
31 composed of facilities and services of statewide and

1 interregional significance, will efficiently serve the
2 mobility needs of the public, help the state become a
3 worldwide economic leader, enhance economic prosperity and
4 competitiveness, enrich quality of life, and reflect
5 responsible environmental stewardship. To that end, it is the
6 intent of the Legislature that the Strategic Intermodal System
7 shall consist of transportation facilities of compelling state
8 interest and that limited resources available for the
9 implementation of statewide and interregional transportation
10 priorities shall be focused on that system.

11 (3) The Strategic Intermodal System shall consist of
12 appropriate components of:

13 (a) The Florida Intrastate Highway System established
14 pursuant to section 338.001, Florida Statutes.

15 (b) The National Highway System.

16 (c) Airport, seaport, and spaceport facilities.

17 (d) Rail facilities.

18 (e) Selected intermodal facilities; passenger and
19 freight terminals; and appropriate components of the State
20 Highway System, county road system, city street system, and
21 local public transit systems that serve as connections between
22 the components listed in paragraphs (a)-(d).

23 (f) Existing or planned corridors that serve a
24 statewide or interregional purpose.

25 (4) The initial Strategic Intermodal System shall
26 include all facilities that meet the criteria recommended by
27 the Strategic Intermodal Steering Committee in a report titled
28 "Steering Committee Final Report: Recommendation for
29 Designating Florida's Strategic Intermodal System," dated
30 December 2002.

31

1 (5) Subsequent to the initial designation of the
2 Strategic Intermodal System, the Secretary of Transportation
3 shall periodically add facilities to or delete facilities from
4 the Strategic Intermodal System based upon adopted criteria.

5 (6) The Department of Transportation shall develop, in
6 cooperation with metropolitan planning organizations, regional
7 planning councils, local governments, and other transportation
8 providers, a Strategic Intermodal System Plan. The plan shall
9 be consistent with the Florida Transportation Plan developed
10 pursuant to section 339.155, Florida Statutes, and shall be
11 updated at least once every 5 years, subsequent to updates of
12 the Florida Transportation Plan.

13 (7) During the development of the Strategic Intermodal
14 System Plan, and the development of all subsequent updates,
15 the department shall provide metropolitan planning
16 organizations, regional planning councils, local governments,
17 transportation providers, affected public agencies, and
18 members of the public with an opportunity to participate in
19 and comment on the development of the proposed plan or update.

20 (8) The Strategic Intermodal System Plan shall
21 include:

22 (a) A needs assessment.

23 (b) A project prioritization process.

24 (c) A map of facilities designated as Strategic
25 Intermodal System facilities, as well as facilities that are
26 emerging in importance and are likely to be designated as part
27 of the system in the future.

28 (d) A finance plan based on projections of revenues
29 that can reasonably be expected. The finance plan shall
30 include both 10-year and 20-year cost-feasible components.

31

