

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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.



1 Representative Reagan offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (b) of subsection (7) of section

6 20.04, Florida Statutes, is amended to read:

7 20.04 Structure of executive branch.--The executive branch  
8 of state government is structured as follows:

9 (7)

10 (b) Within the limitations of this subsection, the head of  
11 the department may recommend the establishment of additional  
12 divisions, bureaus, sections, and subsections of the department  
13 to promote efficient and effective operation of the department.  
14 However, additional divisions, or offices in the Department of  
15 Children and Family Services, and the Department of Corrections,  
16 ~~and the Department of Transportation,~~ may be established only by

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17 specific statutory enactment. New bureaus, sections, and  
18 subsections of departments may be initiated by a department and  
19 established as recommended by the Department of Management  
20 Services and approved by the Executive Office of the Governor,  
21 or may be established by specific statutory enactment.

22 Section 2. Paragraph (d) of subsection (1), subsection  
23 (3), and paragraph (b) of subsection (4) of section 20.23,  
24 Florida Statutes, are amended to read:

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

28 (1)

29 (d) The secretary may ~~shall~~ appoint up to three ~~two~~  
30 assistant secretaries who shall be directly responsible to the  
31 secretary and who shall perform such duties as are assigned by  
32 the secretary. The secretary may delegate to any assistant  
33 secretary the authority to act in the absence of the secretary.

34 (3)(a) The central office shall establish departmental  
35 policies, rules, procedures, and standards and shall monitor the  
36 implementation of such policies, rules, procedures, and  
37 standards in order to ensure uniform compliance and quality  
38 performance by the districts and central office units that  
39 implement transportation programs. Major transportation policy  
40 initiatives or revisions shall be submitted to the commission  
41 for review.

42 ~~(b) The secretary shall appoint an Assistant Secretary for~~  
43 ~~Transportation Development and Operations and an Assistant~~  
44 ~~Secretary for Transportation Support.~~

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45        ~~(b)(e)~~ The secretary may appoint positions at the level of  
46 deputy assistant secretary or director which the secretary deems  
47 necessary to accomplish the mission and goals of the department,  
48 including, but not limited to, the areas of program  
49 responsibility provided in this paragraph ~~following offices are~~  
50 ~~established and shall be headed by a manager,~~ each of whom shall  
51 be appointed by and serve at the pleasure of the secretary. As  
52 needed, the secretary may combine, separate, or abolish offices  
53 as recommended by the Department of Management Services and  
54 approved by the Executive Office of the Governor. The  
55 department's areas of program responsibility include, but are  
56 not limited to ~~positions shall be classified at a level equal to~~  
57 ~~a division director:~~

- 58        1. ~~The Office of Administration.~~†
- 59        2. ~~The Office of Planning and Environmental Management.~~†
- 60        3. Public transportation.
- 61        4.3. ~~The Office of Design.~~†
- 62        5.4. ~~The Office of Highway operations.~~†
- 63        6.5. ~~The Office of Right-of-way.~~†
- 64        7.6. ~~The Office of Toll operations.~~†
- 65        8.7. ~~The Office of Information systems.~~†
- 66        9.8. ~~The Office of Motor carrier compliance.~~†
- 67        10.9. ~~The Office of Management and budget.~~†
- 68        11.10. ~~The Office of Comptroller.~~†
- 69        12.11. ~~The Office of Construction.~~†
- 70        13.12. ~~The Office of Maintenance.~~† and
- 71        14.13. ~~The Office of Materials.~~

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72 ~~(c)(d) Other offices may be established in accordance with~~  
73 ~~s. 20.04(7).~~ The heads of such offices are exempt from part II  
74 of chapter 110. ~~No office or organization shall be created at a~~  
75 ~~level equal to or higher than a division without specific~~  
76 ~~legislative authority.~~

77 ~~(d)(e)~~ The secretary shall appoint an inspector general  
78 pursuant to s. 20.055 who shall be directly responsible to the  
79 secretary and shall serve at the pleasure of the secretary.

80 ~~(e)(f)~~ The secretary shall appoint a general counsel who  
81 shall be directly responsible to the secretary. The general  
82 counsel is responsible for all legal matters of the department.  
83 The department may employ as many attorneys as it deems  
84 necessary to advise and represent the department in all  
85 transportation matters.

86 ~~(g) The secretary shall appoint a state transportation~~  
87 ~~development administrator. This position shall be classified at~~  
88 ~~a level equal to a deputy assistant secretary.~~

89 ~~(h) The secretary shall appoint a state transportation~~  
90 ~~operations administrator. This position shall be classified at a~~  
91 ~~level equal to a deputy assistant secretary.~~

92 ~~(i) The secretary shall appoint a state public~~  
93 ~~transportation and modal administrator. This position shall be~~  
94 ~~classified at a level equal to a deputy assistant secretary.~~

95 (4)

96 (b) Each district secretary may appoint up to three a  
97 district directors ~~director for transportation development, a~~  
98 ~~district director for transportation operations, and a district~~  
99 ~~director for transportation support~~ or, until July 1, 2005, each

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100 district secretary may appoint up to four a district directors  
101 ~~director for planning and programming, a district director for~~  
102 ~~production, a district director for operations, and a district~~  
103 ~~director for administration~~. These positions are exempt from  
104 part II of chapter 110.

105 Section 3. Section 95.361, Florida Statutes, is amended to  
106 read:

107 95.361 Roads presumed to be dedicated.--

108 (1) When a road, constructed by a county, a municipality,  
109 or the Department of Transportation, has been maintained or  
110 repaired continuously and uninterruptedly for 4 years by the  
111 county, municipality, or the Department of Transportation,  
112 jointly or severally, the road shall be deemed to be dedicated  
113 to the public to the extent in width that has been actually  
114 maintained for the prescribed period, whether or not the road  
115 has been formally established as a public highway. The  
116 dedication shall vest all right, title, easement, and  
117 appurtenances in and to the road in:

118 (a) The county, if it is a county road;

119 (b) The municipality, if it is a municipal street or road;  
120 or

121 (c) The state, if it is a road in the State Highway System  
122 or State Park Road System,

123  
124 whether or not there is a record of a conveyance, dedication, or  
125 appropriation to the public use.

126 (2) In those instances where a road has been constructed  
127 by a nongovernmental entity, or where the road was not

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128 constructed by the entity currently maintaining or repairing it,  
129 or where it cannot be determined who constructed the road, and  
130 when such road has been regularly maintained or repaired for the  
131 immediate past 7 years by a county, a municipality, or the  
132 Department of Transportation, whether jointly or severally, such  
133 road shall be deemed to be dedicated to the public to the extent  
134 of the width that actually has been maintained or repaired for  
135 the prescribed period, whether or not the road has been formally  
136 established as a public highway. This subsection shall not apply  
137 to an electric utility, as defined in s. 366.02(2). The  
138 dedication shall vest all rights, title, easement, and  
139 appurtenances in and to the road in:

140 (a) The county, if it is a county road;

141 (b) The municipality, if it is a municipal street or road;

142 or

143 (c) The state, if it is a road in the State Highway System  
144 or State Park Road System, whether or not there is a record of  
145 conveyance, dedication, or appropriation to the public use.

146 (3) The filing of a map in the office of the clerk of the  
147 circuit court of the county where the road is located showing  
148 the lands and reciting on it that the road has vested in the  
149 state, a county, or a municipality in accordance with subsection  
150 (1) or subsection (2) or by any other means of acquisition, duly  
151 certified by:

152 (a) The secretary of the Department of Transportation, or  
153 the secretary's designee, if the road is a road in the State  
154 Highway System or State Park Road System;

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155 (b) The chair and clerk of the board of county  
156 commissioners of the county, if the road is a county road; or

157 (c) The mayor and clerk of the municipality, if the road  
158 is a municipal road or street,

159  
160 shall be prima facie evidence of ownership of the land by the  
161 state, county, or municipality, as the case may be.

162 (4) Any person, firm, corporation, or entity having or  
163 claiming any interest in and to any of the property affected by  
164 subsection (2) shall have and is hereby allowed a period of 1  
165 year after the effective date of this subsection, or a period of  
166 7 years after the initial date of regular maintenance or repair  
167 of the road, whichever period is greater, to file a claim in  
168 equity or with a court of law against the particular governing  
169 authority assuming jurisdiction over such property to cause a  
170 cessation of the maintenance and occupation of the property.  
171 Such timely filed and adjudicated claim shall prevent the  
172 dedication of the road to the public pursuant to subsection (2).

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

175 110.205 Career service; exemptions.--

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

178 (j) The appointed secretaries, assistant secretaries,  
179 deputy secretaries, and deputy assistant secretaries of all  
180 departments; the executive directors, assistant executive  
181 directors, deputy executive directors, and deputy assistant  
182 executive directors of all departments; the directors of all

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183 divisions and those positions determined by the department to  
184 have managerial responsibilities comparable to such positions,  
185 which positions include, but are not limited to, program  
186 directors, assistant program directors, district administrators,  
187 deputy district administrators, the Director of Central  
188 Operations Services of the Department of Children and Family  
189 Services, the State Transportation Development Administrator,  
190 State Public Transportation and Modal Administrator, district  
191 secretaries, district directors of transportation development,  
192 transportation operations, transportation support, and the  
193 managers of the offices specified in s. 20.23(3)(b) ~~s.~~  
194 ~~20.23(3)(e)~~, of the Department of Transportation. Unless  
195 otherwise fixed by law, the department shall set the salary and  
196 benefits of these positions in accordance with the rules of the  
197 Senior Management Service; and the county health department  
198 directors and county health department administrators of the  
199 Department of Health.

200 (m) All assistant division director, deputy division  
201 director, and bureau chief positions in any department, and  
202 those positions determined by the department to have managerial  
203 responsibilities comparable to such positions, which positions  
204 include, but are not limited to:

205 1. Positions in the Department of Health and the  
206 Department of Children and Family Services that are assigned  
207 primary duties of serving as the superintendent or assistant  
208 superintendent of an institution.

209 2. Positions in the Department of Corrections that are  
210 assigned primary duties of serving as the warden, assistant

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211 warden, colonel, or major of an institution or that are assigned  
212 primary duties of serving as the circuit administrator or deputy  
213 circuit administrator.

214 3. Positions in the Department of Transportation that are  
215 assigned primary duties of serving as regional toll managers and  
216 managers of offices as defined in s. 20.23(3)(b) ~~s. 20.23(3)(c)~~  
217 and (4)(d), and captains and majors of the Office of Motor  
218 Carrier Compliance.

219 4. Positions in the Department of Environmental Protection  
220 that are assigned the duty of an Environmental Administrator or  
221 program administrator.

222 5. Positions in the Department of Health that are assigned  
223 the duties of Environmental Administrator, Assistant County  
224 Health Department Director, and County Health Department  
225 Financial Administrator.

226  
227 Unless otherwise fixed by law, the department shall set the  
228 salary and benefits of the positions listed in this paragraph in  
229 accordance with the rules established for the Selected Exempt  
230 Service.

231 Section 5. Subsection (13) and subsection (15) of section  
232 177.031, Florida Statutes, are amended to read:

233 177.031 Definitions.--As used in this part:

234 (13) "P.C.P." means permanent control point and shall be  
235 considered a reference monument.

236 (a) "P.C.P.s" set in impervious surfaces must:

237 1. Be composed of a metal marker with a point of  
238 reference.

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239           2. Have a metal cap or disk bearing either the Florida  
240 registration number of the professional surveyor and mapper in  
241 responsible charge or the certificate of authorization number of  
242 the legal entity, which number shall be preceded by LS or LB as  
243 applicable and the letters "P.C.P."

244           (b) "P.C.P.s" set in pervious surfaces must:

245           1. Consist of a metal rod having a minimum length of 18  
246 inches and a minimum cross-section area of material of 0.2  
247 square inches ~~encased in concrete~~. In certain materials,  
248 encasement in concrete is optional for stability of the rod.  
249 When used, the concrete shall have a minimum cross-section area  
250 of 12.25 square inches and be a minimum of 24 inches long.

251           2. Be identified with a durable marker or cap with the  
252 point of reference marked thereon bearing either the Florida  
253 registration number of the professional surveyor and mapper in  
254 responsible charge or the certificate of authorization number of  
255 the legal entity, which number shall be preceded by LS or LB as  
256 applicable and the letters "P.C.P."

257           (c) "P.C.P.s" must be detectable with conventional  
258 instruments for locating ferrous or magnetic objects.

259           (15) "P.R.M." means a permanent reference monument which  
260 must:

261           (a) Consist of a metal rod having a minimum length of 18  
262 inches and a minimum cross-section area of material of 0.2  
263 square inches ~~encased in concrete~~. In certain materials,  
264 encasement in concrete is optional for stability of the rod.  
265 When used, the concrete shall have a minimum cross-section area  
266 of 12.25 square inches and be a minimum of 24 inches long.

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267 (b) Be identified with a durable marker or cap with the  
268 point of reference marked thereon bearing either the Florida  
269 registration number of the professional surveyor and mapper in  
270 responsible charge or the certificate of authorization number of  
271 the legal entity, which number shall be preceded by LS or LB as  
272 applicable and the letters "P.R.M."

273 (c) Be detectable with conventional instruments for  
274 locating ferrous or magnetic objects.

275  
276 If the location of the "P.R.M." falls in a hard surface such as  
277 asphalt or concrete, alternate monumentation may be used that is  
278 durable and identifiable.

279 Section 6. Section 334.30, Florida Statutes, is amended to  
280 read:

281 334.30 Public-private ~~Private~~ transportation facilities.--  
282 The Legislature hereby finds and declares that there is a public  
283 need for rapid construction of safe and efficient transportation  
284 facilities for the purpose of travel within the state, and that  
285 it is in the public's interest to provide for the construction  
286 of additional safe, convenient, and economical transportation  
287 facilities.

288 (1) The department may receive or solicit proposals and,  
289 with legislative approval as evidenced by approval of the  
290 project in the department's work program ~~by a separate bill for~~  
291 ~~each facility~~, enter into agreements with private entities, or  
292 consortia thereof, for the building, operation, ownership, or  
293 financing of transportation facilities. The department shall by  
294 rule establish an application fee for the submission of

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295 proposals under this section. The fee must be sufficient to pay  
296 the costs of evaluating the proposals. The department may engage  
297 the services of private consultants to assist in the evaluation.  
298 Before ~~seeking legislative~~ approval, the department must  
299 determine that the proposed project:

300 (a) Is in the public's best interest;

301 (b) Would not require state funds to be used unless the  
302 project is on the State Highway System ~~there is an overriding~~  
303 ~~state interest~~; and

304 (c) Would have adequate safeguards in place to ensure that  
305 no additional costs or service disruptions would be realized by  
306 the traveling public and citizens of the state in the event of  
307 default or cancellation of the agreement by the department.

308  
309 The department shall ensure that all reasonable costs to the  
310 state ~~and substantially affected local governments and~~  
311 ~~utilities~~, related to ~~the private~~ facilities that  
312 are not part of the State Highway System facility, are borne by  
313 the private entity. The department shall also ensure that all  
314 reasonable costs to the state and substantially affected local  
315 governments and utilities, related to the private transportation  
316 facility, are borne by the private entity for transportation  
317 facilities that are owned by private entities. For projects on  
318 the State Highway System, the department may use state resources  
319 to participate in funding and financing the project as provided  
320 for under the department's enabling legislation.

321 (2) Agreements entered into pursuant to this section may  
322 authorize the private entity to impose tolls or fares for the

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323 use of the facility. However, the amount and use of toll or  
324 fare revenues shall ~~may~~ be regulated by the department to avoid  
325 unreasonable costs to users of the facility.

326 (3) Each private transportation facility constructed  
327 pursuant to this section shall comply with all requirements of  
328 federal, state, and local laws; state, regional, and local  
329 comprehensive plans; department rules, policies, procedures, and  
330 standards for transportation facilities; and any other  
331 conditions which the department determines to be in the public's  
332 best interest.

333 (4) The department may exercise any power possessed by it,  
334 including eminent domain, with respect to the development and  
335 construction of state transportation projects to facilitate the  
336 development and construction of transportation projects pursuant  
337 to this section. The department may provide services to the  
338 private entity. Agreements for maintenance, law enforcement,  
339 and other services entered into pursuant to this section shall  
340 provide for full reimbursement for services rendered for  
341 projects not on the State Highway System.

342 (5) Except as herein provided, the provisions of this  
343 section are not intended to amend existing laws by granting  
344 additional powers to, or further restricting, local governmental  
345 entities from regulating and entering into cooperative  
346 arrangements with the private sector for the planning,  
347 construction, and operation of transportation facilities.

348 (6) The department may request proposals from private  
349 entities for public-private transportation projects or, if the  
350 department receives an unsolicited proposal, the department

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351 shall publish a notice in the Florida Administrative Weekly and  
352 a newspaper of general circulation at least once a week for 2  
353 weeks stating that the department has received the proposal and  
354 will accept, for 60 days after the initial date of publication,  
355 other proposals for the same project purpose. A copy of the  
356 notice must be mailed to each local government in the affected  
357 area. After the public notification period has expired, the  
358 department shall rank the proposals in order of preference. In  
359 ranking the proposals the department may consider factors,  
360 including, but not limited to, professional qualifications,  
361 general business terms, innovative engineering or cost-reduction  
362 terms, finance plans, and the need for state funds to deliver  
363 the project. If the department is not satisfied with the results  
364 of the negotiations, the department may, at its sole discretion,  
365 terminate negotiations with the proposer. If these negotiations  
366 are unsuccessful, the department may go to the second-ranked and  
367 lower-ranked firms, in order, using this same procedure. If only  
368 one proposal is received, the department may negotiate in good  
369 faith and, if the department is not satisfied with the results  
370 of the negotiations, the department may, at its sole discretion,  
371 terminate negotiations with the proposer. Notwithstanding this  
372 subsection, the department may, at its discretion, reject all  
373 proposals at any point in the process up to completion of a  
374 contract with the proposer.

375 (7)(a) The department may advance projects programmed in  
376 the adopted 5-year work program using funds provided by public-  
377 private partnerships or private entities to be reimbursed from

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378 department funds for the project as programmed in the adopted  
379 work program.

380 (b) The department also may lend funds from the Toll  
381 Facilities Revolving Trust Fund, as outlined in s. 338.251, to  
382 private entities that construct projects on the State Highway  
383 System containing toll facilities that are approved under this  
384 section. To be eligible, a private entity must comply with s.  
385 338.251 and must provide an indication from a nationally  
386 recognized rating agency that the senior bonds for the project  
387 will be investment grade, or must provide credit support such as  
388 a letter of credit or other means acceptable to the department,  
389 to ensure that the loans will be fully repaid.

390 (8) The state's liability for the funding of a facility  
391 constructed under this section is limited to the amount approved  
392 for that specific facility in the department's 5-year work  
393 program adopted pursuant to s. 339.135.

394 (9)(6) A fixed-guideway transportation system authorized  
395 by the department to be wholly or partially within the  
396 department's right-of-way pursuant to a lease granted under s.  
397 337.251 may operate at any safe speed.

398 Section 7. Subsection (1) of section 337.401, Florida  
399 Statutes, is amended to read:

400 337.401 Use of right-of-way for utilities subject to  
401 regulation; permit; fees.--

402 (1) The department and local governmental entities,  
403 referred to in ss. 337.401-337.404 as the "authority," that have  
404 jurisdiction and control of public roads or publicly owned rail  
405 corridors are authorized to prescribe and enforce reasonable

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406 | rules or regulations with reference to the placing and  
407 | maintaining along, across, or on any road or publicly owned rail  
408 | corridors under their respective jurisdictions any electric  
409 | transmission, telephone, telegraph, or other communications  
410 | services lines; pole lines; poles; railways; ditches; sewers;  
411 | water, heat, or gas mains; pipelines; fences; gasoline tanks and  
412 | pumps; or other structures hereinafter referred to as the  
413 | "utility." The department may enter into a permit-delegation  
414 | agreement with a governmental entity if issuance of a permit is  
415 | based on requirements that the department finds will ensure the  
416 | safety and integrity of facilities of the Department of  
417 | Transportation; however, such permit-delegation agreement shall  
418 | not apply to facilities of electric utilities as defined in s.  
419 | 366.02(2).

420 | Section 8. Section 337.408, Florida Statutes, is amended  
421 | to read:

422 | 337.408 Regulation of benches, transit shelters, street  
423 | light poles, ~~and~~ waste disposal receptacles, and modular news  
424 | racks within rights-of-way.--

425 | (1) Benches or transit shelters, including advertising  
426 | displayed on benches or transit shelters, may be installed  
427 | within the right-of-way limits of any municipal, county, or  
428 | state road, except a limited access highway, ~~+~~ provided that such  
429 | benches or transit shelters are for the comfort or convenience  
430 | of the general public, ~~7~~ or are at designated stops on official  
431 | bus routes; ~~and, 7~~ provided ~~further, 7~~ that written authorization  
432 | has been given to a qualified private supplier of such service  
433 | by the municipal government within whose incorporated limits

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434 such benches or transit shelters are installed, or by the county  
435 government within whose unincorporated limits such benches or  
436 transit shelters are installed. A municipality or county may  
437 authorize the installation, without public bid, of benches and  
438 transit shelters together with advertising displayed thereon,  
439 within the right-of-way limits of such roads. Any contract for  
440 the installation of benches or transit shelters or advertising  
441 on benches or transit shelters which was entered into before  
442 April 8, 1992, without public bidding, is ratified and affirmed.  
443 Such benches or transit shelters may not interfere with right-  
444 of-way preservation and maintenance. Any bench or transit  
445 shelter located on a sidewalk within the right-of-way limits of  
446 any road on the State Highway System or the county road system  
447 shall be located so as to leave at least 36 inches of clearance  
448 for pedestrians and persons in wheelchairs. Such clearance shall  
449 be measured in a direction perpendicular to the centerline of  
450 the road.

451 (2) Waste disposal receptacles of less than 110 gallons in  
452 capacity, including advertising displayed on such waste disposal  
453 receptacles, may be installed within the right-of-way limits of  
454 any municipal, county, or state road, except a limited access  
455 highway, provided that written authorization has been given to  
456 a qualified private supplier of such service by the appropriate  
457 municipal or county government. A municipality or county may  
458 authorize the installation, without public bid, of waste  
459 disposal receptacles together with advertising displayed thereon  
460 within the right-of-way limits of such roads. Such waste

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461 disposal receptacles may not interfere with right-of-way  
462 preservation and maintenance.

463 (3) Modular news racks, including advertising thereon, may  
464 be located within the right-of-way limits of any municipal,  
465 county, or state road, except a limited access highway, provided  
466 the municipal government within whose incorporated limits such  
467 racks are installed or the county government within whose  
468 unincorporated limits such racks are installed has passed an  
469 ordinance regulating the placement of modular news racks within  
470 the right-of-way and has authorized a qualified private supplier  
471 of modular news racks to provide such service. The modular news  
472 rack or advertising thereon shall not exceed a height of 56  
473 inches or a total advertising space of 56 square feet. No later  
474 than 45 days prior to installation of modular news racks, the  
475 private supplier shall provide a map of proposed locations and  
476 typical installation plans to the department for approval. If  
477 the department does not respond within 45 days after receipt of  
478 the submitted plans, installation may proceed.

479 (4)(3) The department has the authority to direct the  
480 immediate relocation or removal of any bench, transit shelter,  
481 ~~or~~ waste disposal receptacle, or modular news rack which  
482 endangers life or property, except that transit bus benches  
483 which have been placed in service prior to April 1, 1992, are  
484 not required ~~do not have~~ to comply with bench size and  
485 advertising display size requirements which have been  
486 established by the department prior to March 1, 1992. Any  
487 transit bus bench that was in service prior to April 1, 1992,  
488 may be replaced with a bus bench of the same size or smaller, if

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489 the bench is damaged or destroyed or otherwise becomes unusable.  
490 The department is authorized to adopt ~~promulgate~~ rules relating  
491 to the regulation of bench size and advertising display size  
492 requirements. ~~However,~~ If a municipality or county within which  
493 a bench is to be located has adopted an ordinance or other  
494 applicable regulation that establishes bench size or advertising  
495 display sign requirements different from requirements specified  
496 in department rule, ~~then~~ the local government requirement shall  
497 be applicable within the respective municipality or county.  
498 Placement of any bench or advertising display on the National  
499 Highway System under a local ordinance or regulation adopted  
500 pursuant to this subsection shall be subject to approval of the  
501 Federal Highway Administration.

502 (5)~~(4)~~ No bench, transit shelter, ~~or~~ waste disposal  
503 receptacle, or modular news rack, or advertising thereon, shall  
504 be erected or so placed on the right-of-way of any road which  
505 conflicts with the requirements of federal law, regulations, or  
506 safety standards, thereby causing the state or any political  
507 subdivision the loss of federal funds. Competition among persons  
508 seeking to provide bench, transit shelter, ~~or~~ waste disposal  
509 receptacle, or modular news rack services or advertising on such  
510 benches, shelters, ~~or~~ receptacles, or news racks may be  
511 regulated, restricted, or denied by the appropriate local  
512 government entity consistent with the provisions of this  
513 section.

514 (6)~~(5)~~ Street light poles, including attached public  
515 service messages and advertisements, may be located within the  
516 right-of-way limits of municipal and county roads in the same

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517 manner as benches, transit shelters, ~~and~~ waste disposal  
518 receptacles, and modular news racks as provided in this section  
519 and in accordance with municipal and county ordinances. Public  
520 service messages and advertisements may be installed on street  
521 light poles on roads on the State Highway System in accordance  
522 with height, size, setback, spacing distance, duration of  
523 display, safety, traffic control, and permitting requirements  
524 established by administrative rule of the Department of  
525 Transportation. Public service messages and advertisements shall  
526 be subject to bilateral agreements, where applicable, to be  
527 negotiated with the owner of the street light poles, which shall  
528 consider, among other things, power source rates, design,  
529 safety, operational and maintenance concerns, and other matters  
530 of public importance. For the purposes of this section, the term  
531 "street light poles" does not include electric transmission or  
532 distribution poles. The department shall have authority to adopt  
533 ~~establish administrative rules pursuant to ss. 120.536(1) and~~  
534 120.54 to implement the provisions of this section subsection.  
535 No advertising on light poles shall be permitted on the  
536 Interstate Highway System. No permanent structures carrying  
537 advertisements attached to light poles shall be permitted on the  
538 National Highway System.

539 (7)(6) Wherever the provisions of this section are  
540 inconsistent with other provisions of this chapter or with the  
541 provisions of chapter 125, chapter 335, chapter 336, or chapter  
542 479, the provisions of this section shall prevail.

543 Section 9. Notwithstanding section 338.165, Florida  
544 Statutes, or any other provision of law or rule, the Department

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545 of Transportation may not collect a toll for use of the Navarre  
546 Bridge in Santa Rosa County and a toll may not be charged or  
547 collected on that bridge.

548 Section 10. Subsection (11) of section 338.251, Florida  
549 Statutes, is renumbered as subsection (12) and a new subsection  
550 (11) is added to that section to read:

551 338.251 Toll Facilities Revolving Trust Fund.--The Toll  
552 Facilities Revolving Trust Fund is hereby created for the  
553 purpose of encouraging the development and enhancing the  
554 financial feasibility of revenue-producing road projects  
555 undertaken by local governmental entities in a county or  
556 combination of contiguous counties and the turnpike enterprise.

557 (11) Notwithstanding subsection (4), by agreement with the  
558 department, the Emerald Coast Bridge Authority may revise the  
559 repayment schedule of any previous advances, which shall not be  
560 considered a failure to repay if the effort to undertake a  
561 revenue-producing road project is being conducted in good faith  
562 and all other requirements of law are met.

563 Section 11. Effective July 1, 2005, paragraph (m) of  
564 subsection (2) of section 348.0004, Florida Statutes, is  
565 repealed, and subsection (9) is added to said section, to read:

566 348.0004 Purposes and powers.--

567 (2) Each authority may exercise all powers necessary,  
568 appurtenant, convenient, or incidental to the carrying out of  
569 its purposes, including, but not limited to, the following  
570 rights and powers:

571 ~~(m) An expressway authority in any county as defined in s.~~  
572 ~~125.011(1) may consider any unsolicited proposals from private~~

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573 ~~entities and all factors it deems important in evaluating such~~  
574 ~~proposals. Such an expressway authority shall adopt rules or~~  
575 ~~policies in compliance with s. 334.30 for the receipt,~~  
576 ~~evaluation, and consideration of such proposals in order to~~  
577 ~~enter into agreements for the planning design, engineering,~~  
578 ~~construction, operation, ownership, or financing of additional~~  
579 ~~expressways in that county. Such rules must require~~  
580 ~~substantially similar technical information as is required by~~  
581 ~~rule 14-107.0011(3)(a)-(e), Florida Administrative Code. In~~  
582 ~~accepting a proposal and entering into such an agreement, the~~  
583 ~~expressway authority and the private entity shall for all~~  
584 ~~purposes be deemed to have complied with chapters 255 and 287.~~  
585 ~~Similar proposals shall be reviewed and acted on by the~~  
586 ~~authority in the order in which they were received. An~~  
587 ~~additional expressway may not be constructed under this section~~  
588 ~~without the prior express written consent of the board of county~~  
589 ~~commissioners of each county located within the geographical~~  
590 ~~boundaries of the authority. The powers granted by this section~~  
591 ~~are in addition to all other powers of the authority granted by~~  
592 ~~this chapter.~~

593 (9) The Legislature declares that there is a public  
594 need for rapid construction of safe and efficient  
595 transportation facilities for travel within the state and that  
596 it is in the public interest to provide for public-private  
597 partnership agreements to effectuate the construction of  
598 additional safe, convenient, and economical transportation  
599 facilities.

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600        (a) Notwithstanding any other provision of the Florida  
601 Expressway Authority Act, any expressway authority may receive  
602 or solicit proposals and enter into agreements with private  
603 entities, or consortia thereof, for the building, operation,  
604 ownership, or financing of expressway authority transportation  
605 facilities or new transportation facilities within the  
606 jurisdiction of the expressway authority. An expressway  
607 authority is authorized to adopt rules to implement this  
608 subsection and shall, by rule, establish an application fee for  
609 the submission of unsolicited proposals under this subsection.  
610 The fee must be sufficient to pay the costs of evaluating the  
611 proposals. An expressway authority may engage private  
612 consultants to assist in the evaluation. Before approval, an  
613 expressway authority must determine that a proposed project:  
614        1. Is in the public's best interest.  
615        2. Would not require state funds to be used unless the  
616 project is on or provides increased mobility on the State  
617 Highway System.  
618        3. Would have adequate safeguards to ensure that no  
619 additional costs or service disruptions would be realized by the  
620 traveling public and citizens of the state in the event of  
621 default or the cancellation of the agreement by the expressway  
622 authority.  
623        (b) The expressway authority shall ensure that all  
624 reasonable costs to the state, related to transportation  
625 facilities that are not part of the State Highway System, are  
626 borne by the private entity. The expressway authority shall also  
627 ensure that all reasonable costs to the state and substantially

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628 affected local governments and utilities, related to the private  
629 transportation facility, are borne by the private entity for  
630 transportation facilities that are owned by private entities.  
631 For projects on the State Highway System, the department may use  
632 state resources to participate in funding and financing the  
633 project as provided for under the department's enabling  
634 legislation.

635 (c) The expressway authority may request proposals for  
636 public-private transportation projects or, if it receives an  
637 unsolicited proposal, it must publish a notice in the Florida  
638 Administrative Weekly and a newspaper of general circulation in  
639 the county in which it is located at least once a week for 2  
640 weeks stating that it has received the proposal and will accept,  
641 for 60 days after the initial date of publication, other  
642 proposals for the same project purpose. A copy of the notice  
643 must be mailed to each local government in the affected areas.  
644 After the public notification period has expired, the expressway  
645 authority shall rank the proposals in order of preference. In  
646 ranking the proposals, the expressway authority shall consider  
647 professional qualifications, general business terms, innovative  
648 engineering or cost-reduction terms, finance plans, and the need  
649 for state funds to deliver the proposal. If the expressway  
650 authority is not satisfied with the results of the negotiations,  
651 it may, at its sole discretion, terminate negotiations with the  
652 proposer. If these negotiations are unsuccessful, the expressway  
653 authority may go the second and lower-ranked firms, in order,  
654 using the same procedure. If only one proposal is received, the  
655 expressway authority may negotiate in good faith and, if it is

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656 not satisfied with the results, it may, at its sole discretion,  
657 terminate negotiations with the proposer. Notwithstanding this  
658 paragraph, the expressway authority may, at its discretion,  
659 reject all proposals at any point in the process up to  
660 completion of a contract with the proposer.

661 (d) The department may lend funds from the Toll Facilities  
662 Revolving Trust Fund, as outlined in s. 338.251, to public-  
663 private partnerships. To be eligible, a private entity must  
664 comply with s. 338.251 and must provide an indication from a  
665 nationally recognized rating agency that the senior bonds for  
666 the project will be investment grade or provide credit support,  
667 such as a letter of credit or other means acceptable to the  
668 department, to ensure that the loans will be fully repaid.

669 (e) Agreements entered into pursuant to this subsection  
670 may authorize the public-private entity to impose tolls or fares  
671 for the use of the facility; however, the amount and use of toll  
672 or fare revenues shall be regulated by the expressway authority  
673 to avoid unreasonable costs to users of the facility.

674 (f) Each public-private transportation facility  
675 constructed pursuant to this subsection shall comply with all  
676 requirements of federal, state, and local laws; state, regional,  
677 and local comprehensive plans; the expressway authority's rules,  
678 policies, procedures, and standards for transportation  
679 facilities; and any other conditions that the expressway  
680 authority determines to be in the public's best interest.

681 (g) An expressway authority may exercise any power  
682 possessed by it, including eminent domain, to facilitate the  
683 development and construction of transportation projects pursuant

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684 to this subsection. An expressway authority may pay all or part  
685 of the cost of operating and maintaining the facility or may  
686 provide services to the private entity for which it receives  
687 full or partial reimbursement for services rendered.

688 (h) Except as otherwise provided in this subsection, this  
689 subsection is not intended to amend existing laws by granting  
690 additional powers to governmental entities for or further  
691 restrict governmental entities from regulating transportation  
692 facilities and entering into cooperative arrangements with the  
693 private sector for the planning, construction, and operation of  
694 transportation facilities.

695 Section 12. Subsection (2) of section 2 of chapter 88-418,  
696 Laws of Florida, as amended in chapter 2002-20, Laws of Florida,  
697 is further amended to read:

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

700 (2) The alteration of the physical dimensions or location  
701 of Crandon Boulevard, the median strip thereof, or the land  
702 adjacent thereto, except for:

703 (a) The routine or emergency utilities maintenance  
704 activities necessitated to maintain the road as a utility  
705 corridor serving the village of Key Biscayne; ~~or~~

706 (b) The modification or improvements made to provide for  
707 vehicular ingress and egress of governmental public safety  
708 vehicles; or

709 (c) Alterations, modifications, or improvements made for  
710 the purpose of enhancing life-safety vehicular and pedestrian  
711 use of Crandon Boulevard so long as said alternations,

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712 modifications, or improvements are heard in a public hearing and  
713 subsequently approved by the village council of the Village of  
714 Key Biscayne, Florida.

715 Section 13. Except as otherwise provided herein, this act  
716 shall take effect upon becoming a law.

717  
718

719 ===== T I T L E A M E N D M E N T =====

720 Remove the entire title and insert:

721 A bill to be entitled

722 An act relating to transportation; amending s. 20.04,  
723 F.S.; removing requirement that additional divisions of  
724 the Department of Transportation be established by  
725 statutory enactment; amending s. 20.23, F.S.; authorizing  
726 the secretary of the Department of Transportation to make  
727 additional staff appointments; revising the organization  
728 of the department to specify areas of program  
729 responsibility; authorizing the secretary to reorganize  
730 offices within the department if recommended by the state  
731 Department of Management Services and approved by the  
732 Executive Office of the Governor; revising organizational  
733 duties and authority of the secretary; amending s. 95.361,  
734 F.S.; providing that certain filed claims shall not affect  
735 rights of certain utilities; amending s. 110.205, F.S.;  
736 conforming provisions relating to career service to  
737 changes made by the act; amending s. 177.031, F.S.;  
738 deleting requirement that survey markers must be encased  
739 in concrete; providing that for certain materials,

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740 encasing survey markers in concrete is optional; amending  
741 s. 334.30, F.S.; revising provisions for public-private  
742 construction of transportation facilities; providing  
743 procedures for requests for proposals and receipt of  
744 unsolicited proposals by the department; providing for use  
745 of certain funds under described conditions; providing for  
746 advancement of projects already in department's work  
747 program to private entities; authorizing use of funds in  
748 the Toll Facilities Revolving Trust Fund for certain  
749 purposes; limiting the state's liability; amending s.  
750 337.401, F.S.; exempting certain electric utilities from  
751 the application of certain permit-delegation agreements  
752 between the department and other governmental entities;  
753 amending s. 337.408, F.S.; providing for placement of  
754 certain modular news racks, including advertising thereon,  
755 within the right-of-way limits of any municipal, county,  
756 or state road; providing requirements, restrictions, and  
757 limitations; authorizing removal under certain  
758 circumstances; authorizing the department to adopt rules;  
759 prohibiting the department from collecting a toll on the  
760 Navarre Bridge in Santa Rosa County; amending s. 338.251,  
761 F.S.; providing for Emerald Coast Bridge Authority to  
762 revise its loan repayment schedule to the department;  
763 amending s. 348.0004, F.S.; revising purposes and powers  
764 of expressway authorities; providing legislative  
765 declaration of public need; removing obsolete provisions  
766 related to expressway authorities; providing for  
767 expressway authorities to enter into partnerships with

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768 private entities; providing procedures for requests for  
769 proposals and receipt of unsolicited proposals;  
770 authorizing expressway authorities to adopt rules  
771 concerning public-private partnerships; specifying public  
772 notice requirements; providing criteria for project  
773 approval; requiring certain costs be borne by the private  
774 entity; authorizing the department to lend funds from the  
775 Toll Facilities Revolving Loan Trust Fund under certain  
776 conditions; authorizing public-private entities to impose  
777 tolls; providing for regulation of the amount and use of  
778 the tolls by the expressway authority; specifying project  
779 requirements; authorizing the expressway authority to  
780 facilitate partnership projects; providing legislative  
781 intent concerning existing laws and powers of expressway  
782 authorities; amending chapter 88-418, Laws of Florida;  
783 authorizing use of funds for modifications of Crandon  
784 Boulevard for certain purposes; requiring public hearing  
785 and approval by the council of the Villages of Key  
786 Biscayne; providing effective dates.