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A bill to be entitled

An act relating to the Department of Transportation; amending s. 20.23, F.S.; authorizing the secretary of the department to appoint an additional assistant secretary and deputy assistant secretaries or directors; revising the organization of the department to specify areas of program responsibility; authorizing the secretary to reorganize offices within the department in consultation with the Executive Office of the Governor; amending s. 95.361, F.S.; providing that certain filed claims shall not affect rights of certain public utilities; amending s. 110.205, F.S.; conforming provisions relating to career service to changes made by the act; amending s. 337.401, F.S.; exempting public utilities from the application of certain permit-delegation agreements between the department and other governmental entities; providing an effective date.

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

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

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

(1)

(d) The secretary may ~~shall~~ appoint up to three ~~two~~ assistant secretaries who shall be directly responsible to the

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30 secretary and who shall perform such duties as are assigned by  
 31 the secretary. The secretary may delegate to any assistant  
 32 secretary the authority to act in the absence of the secretary.

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

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

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

- 56 1. ~~The Office of Administration.~~
- 57 2. ~~The Office of Planning and Environmental Management.~~
- 58 3. Public transportation.

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59        ~~4.3.~~    The Office of Design.‡  
 60        ~~5.4.~~    The Office of Highway operations.‡  
 61        ~~6.5.~~    The Office of Right-of-way.‡  
 62        ~~7.6.~~    The Office of Toll operations.‡  
 63        ~~8.7.~~    The Office of Information systems.‡  
 64        ~~9.8.~~    The Office of Motor carrier compliance.‡  
 65        ~~10.9.~~   The Office of Management and budget.‡  
 66        ~~11.10.~~   The Office of Comptroller.‡  
 67        ~~12.11.~~   The Office of Construction.‡  
 68        ~~13.12.~~   The Office of Maintenance.‡ and  
 69        ~~14.13.~~   The Office of Materials.  
 70        ~~(c)(d)~~   Other offices may be established in accordance with  
 71        s. 20.04(7). The heads of such offices are exempt from part II  
 72        of chapter 110. ~~No office or organization shall be created at a~~  
 73        ~~level equal to or higher than a division without specific~~  
 74        ~~legislative authority.~~  
 75        ~~(d)(e)~~   The secretary shall appoint an inspector general  
 76        pursuant to s. 20.055 who shall be directly responsible to the  
 77        secretary and shall serve at the pleasure of the secretary.  
 78        ~~(e)(f)~~   The secretary shall appoint a general counsel who  
 79        shall be directly responsible to the secretary. The general  
 80        counsel is responsible for all legal matters of the department.  
 81        The department may employ as many attorneys as it deems  
 82        necessary to advise and represent the department in all  
 83        transportation matters.  
 84        ~~(g)~~      The secretary shall appoint a state transportation  
 85        ~~development administrator. This position shall be classified at~~  
 86        ~~a level equal to a deputy assistant secretary.~~

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

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

93 (4)

94 (b) Each district secretary may appoint up to three a  
 95 district directors ~~director for transportation development, a~~  
 96 ~~district director for transportation operations, and a district~~  
 97 ~~director for transportation support~~ or, until July 1, 2005, each  
 98 district secretary may appoint up to four a district directors  
 99 ~~director for planning and programming, a district director for~~  
 100 ~~production, a district director for operations, and a district~~  
 101 ~~director for administration.~~ These positions are exempt from  
 102 part II of chapter 110.

103 Section 2. Section 95.361, Florida Statutes, is amended to  
 104 read:

105 95.361 Roads presumed to be dedicated.--

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

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

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

118 or

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

121  
122 whether or not there is a record of a conveyance, dedication, or  
123 appropriation to the public use.

124 (2) In those instances where a road has been constructed  
125 by a nongovernmental entity, or where the road was not  
126 constructed by the entity currently maintaining or repairing it,  
127 or where it cannot be determined who constructed the road, and  
128 when such road has been regularly maintained or repaired for the  
129 immediate past 7 years by a county, a municipality, or the  
130 Department of Transportation, whether jointly or severally, such  
131 road shall be deemed to be dedicated to the public to the extent  
132 of the width that actually has been maintained or repaired for  
133 the prescribed period, whether or not the road has been formally  
134 established as a public highway. The dedication shall vest all  
135 rights, title, easement, and appurtenances in and to the road  
136 in:

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

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

139 or

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

143 (3) The filing of a map in the office of the clerk of the  
144 circuit court of the county where the road is located showing

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145 the lands and reciting on it that the road has vested in the  
 146 state, a county, or a municipality in accordance with subsection  
 147 (1) or subsection (2) or by any other means of acquisition, duly  
 148 certified by:

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

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

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

156  
 157 shall be prima facie evidence of ownership of the land by the  
 158 state, county, or municipality, as the case may be.

159 (4) Any person, firm, corporation, or entity having or  
 160 claiming any interest in and to any of the property affected by  
 161 subsection (2) shall have and is hereby allowed a period of 1  
 162 year after the effective date of this subsection, or a period of  
 163 7 years after the initial date of regular maintenance or repair  
 164 of the road, whichever period is greater, to file a claim in  
 165 equity or with a court of law against the particular governing  
 166 authority assuming jurisdiction over such property to cause a  
 167 cessation of the maintenance and occupation of the property.  
 168 Such timely filed and adjudicated claim shall prevent the  
 169 dedication of the road to the public pursuant to subsection (2).  
 170 This subsection shall not apply to a public utility.

171 (5) Nothing in this section shall negate or affect the  
 172 rights of a public utility with facilities on the property  
 173 affected by this section.

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174 Section 3. Paragraphs (j) and (m) of subsection (2) of  
 175 section 110.205, Florida Statutes, are amended to read:

176 110.205 Career service; exemptions.--

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

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

201 (m) All assistant division director, deputy division  
 202 director, and bureau chief positions in any department, and

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203 those positions determined by the department to have managerial  
 204 responsibilities comparable to such positions, which positions  
 205 include, but are not limited to:

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

210 2. Positions in the Department of Corrections that are  
 211 assigned primary duties of serving as the warden, assistant  
 212 warden, colonel, or major of an institution or that are assigned  
 213 primary duties of serving as the circuit administrator or deputy  
 214 circuit administrator.

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

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

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

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



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232 Section 4. Subsection (1) of section 337.401, Florida  
 233 Statutes, is amended to read:

234 337.401 Use of right-of-way for utilities subject to  
 235 regulation; permit; fees.--

236 (1) The department and local governmental entities,  
 237 referred to in ss. 337.401-337.404 as the "authority," that have  
 238 jurisdiction and control of public roads or publicly owned rail  
 239 corridors are authorized to prescribe and enforce reasonable  
 240 rules or regulations with reference to the placing and  
 241 maintaining along, across, or on any road or publicly owned rail  
 242 corridors under their respective jurisdictions any electric  
 243 transmission, telephone, telegraph, or other communications  
 244 services lines; pole lines; poles; railways; ditches; sewers;  
 245 water, heat, or gas mains; pipelines; fences; gasoline tanks and  
 246 pumps; or other structures hereinafter referred to as the  
 247 "utility." The department may enter into a permit-delegation  
 248 agreement with a governmental entity if issuance of a permit is  
 249 based on requirements that the department finds will ensure the  
 250 safety and integrity of facilities of the Department of  
 251 Transportation; however, such permit-delegation agreement shall  
 252 not apply to facilities of public utilities.

253 Section 5. This act shall take effect upon becoming a law.