

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 332.007, F.S.; authorizing the department to
4 fund certain eligible aviation planning projects to be
5 performed by not-for-profit organizations representing a
6 majority of public airports; amending s. 337.11, F.S.;
7 providing for department contracts to use written work
8 orders pursuant to certain contingency items or
9 supplemental agreements; removing requirement for surety
10 approval of supplemental agreements; limiting liability of
11 the surety when unapproved contract changes exceed a
12 certain amount; providing purposes for the use of written
13 work orders; revising criteria for use of supplemental
14 agreements in department contracts; creating s. 337.195,
15 F.S.; limiting liability under certain circumstances of a
16 contractor who constructs or repairs a highway, road,
17 street, or bridge for the department; amending s. 337.251,
18 F.S.; authorizing the department to adopt rules governing
19 the leasing of property for joint public-private
20 development; amending s. 339.55, F.S.; establishing a
21 limit on state-funded infrastructure bank loans to the
22 State Transportation Trust Fund; amending s. 339.61, F.S.;
23 revising legislative intent for transportation facilities
24 comprising the Strategic Intermodal System; adding
25 economic development and job growth as criteria for
26 projects; amending s. 339.62, F.S.; adding planned
27 facilities meeting certain criteria and thresholds to
28 components of the Strategic Intermodal System; amending s.

29 339.64, F.S.; directing the Florida Transportation
30 Commission to include as part of its annual work program
31 review an assessment of the department's progress on the
32 Strategic Intermodal System; requiring an annual report;
33 directing the department to coordinate with federal,
34 regional, and local entities for transportation planning
35 impacting military installations; requiring the Strategic
36 Intermodal System Plan to include an assessment of the
37 impacts of proposed projects on military installations;
38 adding a military representative to the Governor's
39 appointees to the Statewide Intermodal Transportation
40 Advisory Council; amending s. 373.4137, F.S.; revising
41 requirements for projects intended to mitigate the adverse
42 effects of transportation projects; removing the
43 Department of Environmental Protection from the mitigation
44 process; revising requirements for the Department of
45 Transportation and transportation authorities with respect
46 to submitting plans and inventories; authorizing the use
47 of current-year funds for future projects; revising the
48 requirements for reconciling escrow accounts used to fund
49 mitigation projects; authorizing payments to a water
50 management district to fund the costs of future
51 maintenance and monitoring; requiring specified lump-sum
52 payments to be used for the mitigation costs of certain
53 projects; authorizing a governing board of a water
54 management district to approve the use of mitigation funds
55 for certain future projects; requiring that mitigation
56 plans be approved by the water management district rather

57 | than the Department of Environmental Protection; providing
58 | an effective date.

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

62 | Section 1. Subsection (10) is added to section 332.007,
63 | Florida Statutes, to read:

64 | 332.007 Administration and financing of aviation and
65 | airport programs and projects; state plan.--

66 | (10) The department may also fund eligible projects
67 | performed by not-for-profit organizations that represent a
68 | majority of public airports in the state. Eligible projects may
69 | include activities associated with aviation master planning,
70 | professional education, safety and security planning, enhancing
71 | economic development and efficiency at the state's airports, or
72 | other planning efforts to improve the viability of the state's
73 | airports.

74 | Section 2. Paragraphs (a) and (b) of subsection (8) of
75 | section 337.11, Florida Statutes, are amended to read:

76 | 337.11 Contracting authority of department; bids;
77 | emergency repairs, supplemental agreements, written work orders,
78 | and change orders; combined design and construction contracts;
79 | progress payments; records; requirements of vehicle
80 | registration.--

81 | (8)(a) The department shall permit the use of written
82 | supplemental agreements, written work orders pursuant to a
83 | contingency pay item or contingency supplemental agreement, and
84 | written change orders to any contract entered into by the

85 department. Any supplemental agreement shall be reduced to
 86 written contract form, ~~approved by the contractor's surety,~~ and
 87 executed by the contractor and the department. Any supplemental
 88 agreement modifying any item in the original contract must be
 89 approved by the head of the department, or his or her designee,
 90 and executed by the appropriate person designated by him or her.
 91 Any surety issuing a bond pursuant to s. 337.18 shall be fully
 92 liable under such surety bond to the full extent of any modified
 93 contract amount up to and including 25 percent over the original
 94 contract amount, and without regard to the fact that the surety
 95 was not aware of or approved such modifications. However, if
 96 modifications of the original contract amount cumulatively
 97 result in modifications of the contract amount in excess of 25
 98 percent of the original contract amount, the surety's approval
 99 shall be required to bind the surety under the bond on that
 100 portion in excess of 25 percent of the original contract amount.

101 (b) Supplemental agreements and written work orders
 102 pursuant to a contingency pay item or contingency supplemental
 103 agreement shall be used to clarify the plans and specifications
 104 of a contract; ~~to provide for major quantity differences which~~
 105 ~~result in the contractor's work effort exceeding the original~~
 106 ~~contract amount by more than 5 percent;~~ to provide for
 107 unforeseen work, grade changes, or alterations in plans which
 108 could not reasonably have been contemplated or foreseen in the
 109 original plans and specifications; to change the limits of
 110 construction to meet field conditions; to provide a safe and
 111 functional connection to an existing pavement; to settle
 112 contract claims; and to make the project functionally

113 operational in accordance with the intent of the original
 114 contract. Supplemental agreements may be used to expand the
 115 physical limits of a project only to the extent necessary to
 116 make the project functionally operational in accordance with the
 117 intent of the original contract. The cost of any such agreement
 118 extending the physical limits of a project shall not exceed
 119 \$100,000 or 10 percent of the original contract price, whichever
 120 is greater.

121 Section 3. Section 337.195, Florida Statutes, is created
 122 to read:

123 337.195 Contractor liability.--A contractor who constructs
 124 or repairs a highway, road, street, or bridge for the department
 125 is not liable to a claimant for personal injury, property
 126 damage, or death arising from the performance of the
 127 construction or repair if, at the time of the personal injury,
 128 property damage, or death, the contractor is in compliance with
 129 contract documents material to the condition or defect that was
 130 the proximate cause of the personal injury, property damage, or
 131 death.

132 Section 4. Subsection (10) is added to section 337.251,
 133 Florida Statutes, to read:

134 337.251 Lease of property for joint public-private
 135 development and areas above or below department property.--

136 (10) The department may adopt rules to administer the
 137 provisions of this section.

138 Section 5. Subsection (2) of section 339.55, Florida
 139 Statutes, is amended to read:

140 339.55 State-funded infrastructure bank.--

141 (2) The bank may lend capital costs or provide credit
 142 enhancements for a transportation facility project that is on
 143 the State Highway System or that provides for increased mobility
 144 on the state's transportation system or provides intermodal
 145 connectivity with airports, seaports, rail facilities, and other
 146 transportation terminals, pursuant to s. 341.053, for the
 147 movement of people and goods. Loans from the bank may be
 148 subordinated to senior project debt that has an investment grade
 149 rating of "BBB" or higher. Notwithstanding any other provision
 150 of law, the total outstanding state-funded infrastructure bank
 151 loan repayments over the average term of the loan repayment
 152 period, as needed to meet the requirements of the documents
 153 authorizing the bonds issued or proposed to be issued under s.
 154 215.617 to be paid from the State Transportation Trust Fund, may
 155 not exceed 0.75 percent of the revenues deposited into the State
 156 Transportation Trust Fund.

157 Section 6. Section 339.61, Florida Statutes, is amended to
 158 read:

159 339.61 Florida Strategic Intermodal System; legislative
 160 findings, declaration, and intent.--

161 (1) There is hereby created the Florida Strategic
 162 Intermodal System. For purposes of funding projects under the
 163 system, the department shall allocate from the State
 164 Transportation Trust Fund in its program and resource plan a
 165 minimum of \$60 million each year, ~~beginning in the 2004-2005~~
 166 ~~fiscal year~~. This allocation of funds is in addition to any
 167 funding provided to this system by any other provision of law.

168 (2) The Legislature finds that increasing demands are

169 continuing to be placed on the state's transportation system by
170 a fast-growing economy, continued population growth, and
171 projected increases in freight movement, international trade,
172 and tourism. The Legislature also finds that the state's growing
173 regional and intercity economic centers will increase the demand
174 for interregional and intercity travel and that the evolving
175 service-based and information-based industries will change the
176 type of transportation system that business and industry demand,
177 increasing the importance of speed and reliability. The
178 Legislature further finds that our transportation system must be
179 designed and operated in such a way that it preserves the
180 abundance of natural and manmade amenities that have been so
181 successful in attracting new residents, businesses, and tourists
182 to this state. Therefore, the Legislature declares that the
183 designation of a strategic intermodal system, composed of
184 facilities and services of statewide and interregional
185 significance, will efficiently serve the mobility needs of
186 Florida's citizens, businesses, and visitors and will help
187 Florida become a worldwide economic leader, enhance economic
188 prosperity and competitiveness, enrich quality of life, and
189 reflect responsible environmental stewardship. To that end, it
190 is the intent of the Legislature that the Strategic Intermodal
191 System consist of transportation facilities that meet a
192 strategic and essential state interest and help generate
193 economic development and job growth and that limited resources
194 available for the implementation of statewide and interregional
195 transportation priorities be focused on that system.

196 Section 7. Subsection (7) is added to section 339.62,

197 Florida Statutes, to read:

198 339.62 System components.--The Strategic Intermodal System
 199 shall consist of appropriate components of:

200 (7) Planned facilities, defined as transportation
 201 infrastructure that is projected to meet all applicable criteria
 202 and thresholds within the first 3 years of operation, has the
 203 consensus support of transportation partners to implement the
 204 project, and is financially feasible as demonstrated by
 205 inclusion in the department's work program or some other
 206 appropriate plan.

207 Section 8. Subsections (2), (3), and (4) and paragraph (b)
 208 of subsection (5) of section 339.64, Florida Statutes, are
 209 amended to read:

210 339.64 Strategic Intermodal System Plan.--

211 (2) In association with the continued development of the
 212 ~~initial~~ Strategic Intermodal System Plan ~~and other~~
 213 ~~transportation plans~~, the Florida Transportation Commission as
 214 part of its work program review process shall conduct an annual
 215 assessment of the progress the department and its transportation
 216 partners have made in realizing the goals of economic
 217 development, improved mobility, and increased intermodal
 218 connectivity ~~need for an improved philosophical approach to~~
 219 ~~regional and intermodal input in the planning for and governing~~
 220 of the Strategic Intermodal System ~~and other transportation~~
 221 ~~systems~~. The Florida Transportation Commission shall coordinate
 222 with the department, the Statewide Intermodal Transportation
 223 Advisory Council, and other appropriate entities when developing
 224 this assessment. The Florida Transportation Commission shall

225 deliver a report to the Governor and Legislature no later than
 226 14 days after the regular session of the Legislature begins ~~by~~
 227 ~~December 15, 2003,~~ with recommendations as necessary to fully
 228 implement the Strategic Intermodal System.

229 (3)(a) During the development of updates to the Strategic
 230 Intermodal System Plan ~~and the development of all subsequent~~
 231 ~~updates,~~ the department shall provide metropolitan planning
 232 organizations, regional planning councils, local governments,
 233 transportation providers, affected public agencies, and citizens
 234 with an opportunity to participate in and comment on the
 235 development of the ~~proposed plan or~~ update.

236 (b) The department also shall coordinate with federal,
 237 regional, and local partners the planning for the Strategic
 238 Highway Network and the Strategic Rail Corridor Network
 239 transportation facilities that either are included in the
 240 Strategic Intermodal System or provide a direct connection
 241 between military installations and the Strategic Intermodal
 242 System. In addition, the department shall coordinate with
 243 regional and local partners to determine whether the road and
 244 other transportation infrastructure that connect military
 245 installations to the Strategic Intermodal System, the Strategic
 246 Highway Network, or the Strategic Rail Corridor are regionally
 247 significant and should be included in the Strategic Intermodal
 248 System Plan.

249 (4) The Strategic Intermodal System Plan shall include the
 250 following:

- 251 (a) A needs assessment.
- 252 (b) A project prioritization process.

253 (c) A map of facilities designated as Strategic Intermodal
 254 System facilities, ~~and~~ facilities that are emerging in
 255 importance that are likely to become part of the system in the
 256 future, and planned facilities that will meet the established
 257 criteria.

258 (d) A finance plan based on reasonable projections of
 259 anticipated revenues, including both 10-year and 20-year cost-
 260 feasible components.

261 (e) An assessment of the impacts of proposed improvements
 262 to Strategic Intermodal System corridors on military
 263 installations that are either located directly on the Strategic
 264 Intermodal System or located on the Strategic Highway Network or
 265 Strategic Rail Corridor Network.

266 (5) STATEWIDE INTERMODAL TRANSPORTATION ADVISORY
 267 COUNCIL.--

268 (b) MEMBERSHIP.--Members of the Statewide Intermodal
 269 Transportation Advisory Council shall consist of the following:

270 1. ~~Six~~ Five intermodal industry representatives selected
 271 by the Governor as follows:

272 a. One representative from an airport involved in the
 273 movement of freight and people from their airport facility to
 274 another transportation mode.

275 b. One individual representing a fixed-route, local-
 276 government transit system.

277 c. One representative from an intercity bus company
 278 providing regularly scheduled bus travel as determined by
 279 federal regulations.

280 d. One representative from a spaceport.

281 e. One representative from intermodal trucking companies.

282 f. One representative with command responsibilities of a
 283 major military installation.

284 2. Three intermodal industry representatives selected by
 285 the President of the Senate as follows:

286 a. One representative from major-line railroads.

287 b. One representative from seaports listed in s. 311.09(1)
 288 from the Atlantic Coast.

289 c. One representative from an airport involved in the
 290 movement of freight and people from their airport facility to
 291 another transportation mode.

292 3. Three intermodal industry representatives selected by
 293 the Speaker of the House of Representatives as follows:

294 a. One representative from short-line railroads.

295 b. One representative from seaports listed in s. 311.09(1)
 296 from the Gulf Coast.

297 c. One representative from intermodal trucking companies.

298 In no event may this representative be employed by the same
 299 company that employs the intermodal trucking company
 300 representative selected by the Governor.

301 Section 9. Section 373.4137, Florida Statutes, is amended
 302 to read:

303 373.4137 Mitigation requirements for specified
 304 transportation projects.--

305 (1) The Legislature finds that environmental mitigation
 306 for the impact of transportation projects proposed by the
 307 Department of Transportation or a transportation authority
 308 established pursuant to chapter 348 or chapter 349 can be more

309 effectively achieved by regional, long-range mitigation planning
 310 rather than on a project-by-project basis. It is the intent of
 311 the Legislature that mitigation to offset the adverse effects of
 312 these transportation projects be funded by the Department of
 313 Transportation and be carried out by ~~the Department of~~
 314 ~~Environmental Protection and~~ the water management districts,
 315 including the use of mitigation banks established pursuant to
 316 this part.

317 (2) Environmental impact inventories for transportation
 318 projects proposed by the Department of Transportation or a
 319 transportation authority established pursuant to chapter 348 or
 320 chapter 349 shall be developed as follows:

321 (a) By July ~~May~~ 1 of each year, the Department of
 322 Transportation or a transportation authority established
 323 pursuant to chapter 348 or chapter 349 shall submit to ~~the~~
 324 ~~Department of Environmental Protection and~~ the water management
 325 districts a copy of its adopted work program and an
 326 environmental impact inventory of habitats addressed in the
 327 rules adopted ~~tentatively~~, pursuant to this part and s. 404 of
 328 the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by
 329 its plan of construction for transportation projects in the next
 330 3 years of the tentative work program. The Department of
 331 Transportation or a transportation authority established
 332 pursuant to chapter 348 or chapter 349 may also include in its
 333 environmental impact inventory the habitat impacts of any future
 334 transportation project ~~identified in the tentative work program.~~
 335 The Department of Transportation and each transportation
 336 authority established pursuant to chapter 348 or chapter 349 may

337 fund any mitigation activities for future projects using
 338 current-year funds.

339 (b) The environmental impact inventory shall include a
 340 description of these habitat impacts, including their location,
 341 acreage, and type; state water quality classification of
 342 impacted wetlands and other surface waters; any other state or
 343 regional designations for these habitats; and a survey of
 344 threatened species, endangered species, and species of special
 345 concern affected by the proposed project.

346 (3)(a) To fund development and implementation of the
 347 mitigation plan for the projected impacts identified in the
 348 environmental impact inventory described in subsection (2), the
 349 Department of Transportation shall identify funds quarterly in
 350 an escrow account within the State Transportation Trust Fund for
 351 the environmental mitigation phase of projects budgeted by the
 352 Department of Transportation for the current fiscal year. The
 353 escrow account shall be maintained by the Department of
 354 Transportation for the benefit of ~~the Department of~~
 355 ~~Environmental Protection and~~ the water management districts. Any
 356 interest earnings from the escrow account shall remain with the
 357 Department of Transportation.

358 (b) Each transportation authority established pursuant to
 359 chapter 348 or chapter 349 that chooses to participate in this
 360 program shall create an escrow account within its financial
 361 structure and deposit funds in the account to pay for the
 362 environmental mitigation phase of projects budgeted for the
 363 current fiscal year. The escrow account shall be maintained by
 364 the authority for the benefit of ~~the Department of Environmental~~

365 ~~Protection and~~ the water management districts. Any interest
 366 earnings from the escrow account shall remain with the
 367 authority.

368 (c) Except for current mitigation projects in the
 369 monitoring and maintenance phase and except as allowed by
 370 paragraph (d), the Department of Environmental Protection or
 371 water management districts may request a transfer of funds from
 372 an escrow account no sooner than 30 days prior to the date the
 373 funds are needed to pay for activities associated with
 374 development or implementation of the approved mitigation plan
 375 described in subsection (4) for the current fiscal year,
 376 including, but not limited to, design, engineering, production,
 377 and staff support. Actual conceptual plan preparation costs
 378 incurred before plan approval may be submitted to the Department
 379 of Transportation or the appropriate transportation authority
 380 ~~and the Department of Environmental Protection by November 1 of~~
 381 each year with the plan. The conceptual plan preparation costs
 382 of each water management district will be paid from mitigation
 383 funds associated with the environmental impact inventory for the
 384 current year based on the amount approved on the mitigation plan
 385 ~~and allocated to the current fiscal year projects identified by~~
 386 ~~the water management district.~~ The amount transferred to the
 387 escrow accounts each year by the Department of Transportation
 388 and participating transportation authorities established
 389 pursuant to chapter 348 or chapter 349 shall correspond to a
 390 cost per acre of \$75,000 multiplied by the projected acres of
 391 impact identified in the environmental impact inventory
 392 described in subsection (2). However, the \$75,000 cost per acre

393 does not constitute an admission against interest by the state
 394 or its subdivisions nor is the cost admissible as evidence of
 395 full compensation for any property acquired by eminent domain or
 396 through inverse condemnation. Each July 1, the cost per acre
 397 shall be adjusted by the percentage change in the average of the
 398 Consumer Price Index issued by the United States Department of
 399 Labor for the most recent 12-month period ending September 30,
 400 compared to the base year average, which is the average for the
 401 12-month period ending September 30, 1996. Each quarter ~~At the~~
 402 ~~end of each year,~~ the projected acreage of impact shall be
 403 reconciled with the acreage of impact of projects as permitted,
 404 including permit modifications, pursuant to this part and s. 404
 405 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's
 406 transfer of funds shall be adjusted accordingly to reflect the
 407 acreage of impacts as permitted ~~overtransfer or undertransfer of~~
 408 ~~funds from the preceding year.~~ The Department of Transportation
 409 and participating transportation authorities established
 410 pursuant to chapter 348 or chapter 349 are authorized to
 411 transfer such funds from the escrow accounts to ~~the Department~~
 412 ~~of Environmental Protection and~~ the water management districts
 413 to carry out the mitigation programs. For a mitigation project
 414 that is in the maintenance and monitoring phase, the water
 415 management district may request and receive a one-time payment
 416 based on the project's expected future maintenance and
 417 monitoring costs. Upon disbursement of the final maintenance and
 418 monitoring payment, the escrow account for the project
 419 established by the Department of Transportation or the
 420 participating transportation authority may be closed. Any

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421 interest earned on these disbursed funds shall remain with the
422 water management district and must be used as authorized under
423 paragraph (4)(c).

424 (d) Beginning in the 2005-2006 fiscal year, each water
425 management district shall be paid a lump-sum amount of \$75,000
426 per acre, adjusted as provided under paragraph (c), for
427 federally funded transportation projects that are included on
428 the environmental impact inventory and that have an approved
429 mitigation plan. Beginning in the 2009-2010 fiscal year, each
430 water management district shall be paid a lump-sum amount of
431 \$75,000 per acre, adjusted as provided under paragraph (c), for
432 federally funded and nonfederally funded transportation projects
433 that have an approved mitigation plan. All mitigation costs,
434 including, but not limited to, the costs of preparing conceptual
435 plans and the costs of design, construction, staff support,
436 future maintenance, and monitoring the mitigated acres, shall be
437 funded through these lump-sum amounts.

438 (4) Prior to March ~~December~~ 1 of each year, each water
439 management district, in consultation with the Department of
440 Environmental Protection, the United States Army Corps of
441 Engineers, the Department of Transportation, transportation
442 authorities established pursuant to chapter 348 or chapter 349,
443 and other appropriate federal, state, and local governments, and
444 other interested parties, including entities operating
445 mitigation banks, shall develop a plan for the primary purpose
446 of complying with the mitigation requirements adopted pursuant
447 to this part and 33 U.S.C. s. 1344. ~~This plan shall also address~~
448 ~~significant invasive plant problems within wetlands and other~~

449 ~~surface waters.~~ In developing such plans, the districts shall
450 utilize sound ecosystem management practices to address
451 significant water resource needs and shall focus on activities
452 of the Department of Environmental Protection and the water
453 management districts, such as surface water improvement and
454 management (SWIM) projects ~~waterbodies~~ and lands identified for
455 potential acquisition for preservation, restoration or, ~~and~~
456 enhancement, and the control of invasive and exotic plants in
457 wetlands and other surface waters, to the extent that such
458 activities comply with the mitigation requirements adopted under
459 this part and 33 U.S.C. s. 1344. In determining the activities
460 to be included in such plans, the districts shall also consider
461 the purchase of credits from public or private mitigation banks
462 permitted under s. 373.4136 and associated federal authorization
463 and shall include such purchase as a part of the mitigation plan
464 when such purchase would offset the impact of the transportation
465 project, provide equal benefits to the water resources than
466 other mitigation options being considered, and provide the most
467 cost-effective mitigation option. The mitigation plan shall be
468 submitted to ~~preliminarily approved by~~ the water management
469 district governing board or its designee ~~and shall be submitted~~
470 ~~to the secretary of the Department of Environmental Protection~~
471 ~~for review and final approval. The preliminary approval by the~~
472 ~~water management district governing board does not constitute a~~
473 ~~decision that affects substantial interests as provided by s.~~
474 ~~120.569.~~ At least 14 ~~30~~ days prior to ~~preliminary~~ approval, the
475 water management district shall provide a copy of the draft
476 mitigation plan to any person who has requested a copy.

477 (a) For each transportation project with a funding request
 478 for the next fiscal year, the mitigation plan must include a
 479 brief explanation of why a mitigation bank was or was not chosen
 480 as a mitigation option, including an estimation of identifiable
 481 costs of the mitigation bank and nonbank options to the extent
 482 practicable.

483 (b) Specific projects may be excluded from the mitigation
 484 plan, in whole or in part, and shall not be subject to this
 485 section upon the agreement of the Department of Transportation,
 486 or a transportation authority if applicable, ~~the Department of~~
 487 ~~Environmental Protection,~~ and the appropriate water management
 488 district that the inclusion of such projects would hamper the
 489 efficiency or timeliness of the mitigation planning and
 490 permitting process, ~~or the Department of Environmental~~
 491 ~~Protection and~~ The water management district may choose to
 492 exclude a project, in whole or in part, if the district is are
 493 unable to identify mitigation that would offset ~~the~~ impacts of
 494 the project.

495 (c) Surface water improvement and management or invasive
 496 plant control projects undertaken using the \$12 million advance
 497 transferred from the Department of Transportation to the
 498 Department of Environmental Protection in fiscal year 1996-1997
 499 which meet the requirements for mitigation under this part and
 500 33 U.S.C. s. 1344 shall remain available for mitigation until
 501 the \$12 million is fully credited ~~up to and including fiscal~~
 502 ~~year 2005-2006~~. When these projects are used as mitigation, the
 503 \$12 million advance shall be reduced by \$75,000 per acre of
 504 impact mitigated. ~~For any fiscal year through and including~~

505 ~~fiscal year 2005-2006,~~ To the extent the cost of developing and
 506 implementing the mitigation plans is less than the funds placed
 507 in the escrow account ~~amount transferred~~ pursuant to subsection
 508 (3), the difference shall be retained by the Department of
 509 Transportation and credited towards the \$12 million advance
 510 until the Department of Transportation is fully refunded for
 511 this advance funding. After the \$12 million advance funding is
 512 fully credited ~~Except as provided in this paragraph,~~ any funds
 513 not directed to implement the mitigation plan should, to the
 514 greatest extent possible, be directed to fund invasive plant
 515 control within wetlands and other surface waters, SWIM projects,
 516 or other water-resource projects approved by the governing board
 517 of the water management district which may be appropriate to
 518 offset environmental impacts of future transportation projects.
 519 The water management districts may request these funds upon
 520 submittal of the final invoice for each road project.

521 (5) The water management district shall be responsible for
 522 ensuring that mitigation requirements pursuant to 33 U.S.C. s.
 523 1344 are met for the impacts identified in the environmental
 524 impact inventory described in subsection (2), by implementation
 525 of the approved plan described in subsection (4) to the extent
 526 funding is provided by the Department of Transportation, or a
 527 transportation authority established pursuant to chapter 348 or
 528 chapter 349, if applicable. During the federal permitting
 529 process, the water management district may deviate from the
 530 approved mitigation plan in order to comply with federal
 531 permitting requirements.

532 (6) The mitigation plans shall be updated annually to

533 reflect the most current Department of Transportation work
534 program and project list of a transportation authority
535 established pursuant to chapter 348 or chapter 349, if
536 applicable, and may be amended throughout the year to anticipate
537 schedule changes or additional projects which may arise. Each
538 update and amendment of the mitigation plan shall be submitted
539 to the governing board of the water management district or its
540 designee ~~secretary of the Department of Environmental Protection~~
541 for approval. However, such approval shall not be applicable to
542 a deviation as described in subsection (5).

543 (7) Upon approval by the governing board of the water
544 management district or its designee ~~secretary of the Department~~
545 ~~of Environmental Protection~~, the mitigation plan shall be deemed
546 to satisfy the mitigation requirements under this part for
547 impacts specifically identified in the environmental impact
548 inventory described in subsection (2) and any other mitigation
549 requirements imposed by local, regional, and state agencies for
550 these same impacts identified in the inventory described in
551 ~~subsection (2)~~. The approval of the governing board of the water
552 management district or its designee ~~secretary~~ shall authorize
553 the activities proposed in the mitigation plan, and no other
554 state, regional, or local permit or approval shall be necessary.

555 (8) This section shall not be construed to eliminate the
556 need for the Department of Transportation or a transportation
557 authority established pursuant to chapter 348 or chapter 349 to
558 comply with the requirement to implement practicable design
559 modifications, including realignment of transportation projects,
560 to reduce or eliminate the impacts of its transportation

561 projects on wetlands and other surface waters as required by
562 rules adopted pursuant to this part, or to diminish the
563 authority under this part to regulate other impacts, including
564 water quantity or water quality impacts, or impacts regulated
565 under this part that are not identified in the environmental
566 impact inventory described in subsection (2).

567 (9) The process for environmental mitigation for the
568 impact of transportation projects under this section shall be
569 available to an expressway, bridge, or transportation authority
570 established under chapter 348 or chapter 349. Use of this
571 process may be initiated by an authority depositing the
572 requisite funds into an escrow account set up by the authority
573 and filing an environmental impact inventory with the
574 appropriate water management district. An authority that
575 initiates the environmental mitigation process established by
576 this section shall comply with subsection (6) by timely
577 providing the appropriate water management district ~~and the~~
578 ~~Department of Environmental Protection~~ with the requisite work
579 program information. A water management district may draw down
580 funds from the escrow account as provided in this section.

581 Section 10. This act shall take effect July 1, 2005.