

By Senator Baker

20-1334B-07

1                                   A bill to be entitled  
2           An act relating to transportation; amending s.  
3           332.007, F.S.; authorizing the Department of  
4           Transportation to provide funds for certain  
5           general aviation projects under certain  
6           circumstances; extending the timeframe during  
7           which the department is authorized to provide  
8           operational and maintenance assistance to  
9           certain airports and may redirect the use of  
10          certain funds to security-related or  
11          economic-impact projects related to the events  
12          of September 11, 2001; amending s. 337.11,  
13          F.S.; providing that certain construction  
14          projects be advertised for bids in local  
15          newspapers; amending s. 337.14, F.S.;  
16          authorizing the department to waive specified  
17          prequalification requirements for certain  
18          transportation projects under certain  
19          conditions; amending s. 337.18, F.S.; revising  
20          surety bond requirements for construction or  
21          maintenance contracts; providing for  
22          incremental annual surety bonds for multiyear  
23          maintenance contracts under certain conditions;  
24          revising the threshold for transportation  
25          projects eligible for a waiver of surety bond  
26          requirements; authorizing the department to  
27          provide for phased surety bond coverage or an  
28          alternate means of security for a portion of  
29          the contract amount in lieu of the surety bond;  
30          amending s. 338.221, F.S.; redefining the term  
31          "economically feasible" for purposes of certain

1 | turnpike projects; amending s. 338.2275, F.S.;  
2 | deleting obsolete provisions relating to  
3 | approved turnpike projects; revising the  
4 | maximum amount of bonds that are available for  
5 | turnpike projects; creating s. 339.282, F.S.;  
6 | creating the Enhanced Bridge Program for  
7 | Sustainable Transportation within the  
8 | Department of Transportation; providing for the  
9 | use of funds in the program; providing project  
10 | guidelines for program funding; amending s.  
11 | 339.08, F.S.; allowing moneys in the State  
12 | Transportation Trust Fund to pay the cost of  
13 | the Enhanced Bridge System; amending s. 339.55,  
14 | F.S.; providing for the use of State  
15 | Infrastructure Bank loans for certain damaged  
16 | transportation facilities in areas officially  
17 | declared to be in a state of emergency;  
18 | providing criteria; amending s. 341.071, F.S.;  
19 | requiring certain public transit providers to  
20 | annually report potential productivity and  
21 | performance enhancements; defining the terms  
22 | "agency" and "construction aggregate  
23 | materials"; providing legislative intent;  
24 | establishing the Strategic Aggregates Review  
25 | Task Force; providing for membership, staffing,  
26 | reporting, and expiration; requiring state  
27 | agencies to consider the effect of  
28 | decisionmaking on the availability of  
29 | construction aggregate materials; providing an  
30 | effective date.  
31 |

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

2

3 Section 1. Paragraph (c) of subsection (6) and  
4 subsection (8) of section 332.007, Florida Statutes, are  
5 amended to read:

6 332.007 Administration and financing of aviation and  
7 airport programs and projects; state plan.--

8 (6) Subject to the availability of appropriated funds,  
9 the department may participate in the capital cost of eligible  
10 public airport and aviation development projects in accordance  
11 with the following rates, unless otherwise provided in the  
12 General Appropriations Act or the substantive bill  
13 implementing the General Appropriations Act:

14 (c) When federal funds are not available, the  
15 department may fund up to 80 percent of master planning and  
16 eligible aviation development projects at publicly owned,  
17 publicly operated airports. If federal funds are available but  
18 insufficient to meet the maximum authorized federal share, the  
19 department may fund up to 80 percent of the nonfederal share  
20 of such projects. Such funding is limited to airports that  
21 have no scheduled commercial service.

22 (8) Notwithstanding any other provision of law to the  
23 contrary, the department is authorized to fund security  
24 projects at ~~provide operational and maintenance assistance to~~  
25 publicly owned public-use airports. ~~Such assistance shall be~~  
26 ~~to comply with enhanced federal security requirements or to~~  
27 ~~address related economic impacts from the events of September~~  
28 ~~11, 2001.~~ For projects in the current adopted work program, or  
29 projects added using the available budget of the department,  
30 airports may request that the department change the project  
31 purpose in accordance with this provision notwithstanding the

1 provisions of s. 339.135(7). For purposes of this subsection,  
2 the department may fund up to 100 percent of eligible project  
3 costs that are not funded by the Federal Government. ~~Prior to~~  
4 ~~releasing any funds under this section, the department shall~~  
5 ~~review and approve the expenditure plans submitted by the~~  
6 ~~airport. The department shall inform the Legislature of any~~  
7 ~~change that it approves under this subsection.~~ This subsection  
8 shall expire on June 30, 2012 ~~2007~~.

9 Section 2. Paragraph (a) of subsection (3) of section  
10 337.11, Florida Statutes, is amended to read:

11 337.11 Contracting authority of department; bids;  
12 emergency repairs, supplemental agreements, and change orders;  
13 combined design and construction contracts; progress payments;  
14 records; requirements of vehicle registration.--

15 (3)(a) On all construction contracts of \$250,000 or  
16 less, and any construction contract of less than \$500,000 for  
17 which the department has waived prequalification under s.  
18 337.14, the department shall advertise for bids in a newspaper  
19 having general circulation in the county where the proposed  
20 work is to be located. Publication shall be at least once a  
21 week for no less than 2 consecutive weeks, and the first  
22 publication shall be no less than 14 days prior to the date on  
23 which bids are to be received.

24 Section 3. Subsection (1) of section 337.14, Florida  
25 Statutes, is amended to read:

26 337.14 Application for qualification; certificate of  
27 qualification; restrictions; request for hearing.--

28 (1) Any person desiring to bid for the performance of  
29 any construction contract in excess of \$250,000 which the  
30 department proposes to let must first be certified by the  
31 department as qualified pursuant to this section and rules of

1 | the department. The rules of the department shall address the  
2 | qualification of persons to bid on construction contracts in  
3 | excess of \$250,000 and shall include requirements with respect  
4 | to the equipment, past record, experience, financial  
5 | resources, and organizational personnel of the applicant  
6 | necessary to perform the specific class of work for which the  
7 | person seeks certification. The department is authorized to  
8 | limit the dollar amount of any contract upon which a person is  
9 | qualified to bid or the aggregate total dollar volume of  
10 | contracts such person is allowed to have under contract at any  
11 | one time. Each applicant seeking certification ~~qualification~~  
12 | to bid on construction contracts in excess of \$250,000 shall  
13 | furnish the department a statement under oath, on such forms  
14 | as the department may prescribe, setting forth detailed  
15 | information as required on the application. Each application  
16 | for certification shall be accompanied by the latest annual  
17 | financial statement of the applicant completed within the last  
18 | 12 months. If the annual financial statement shows the  
19 | financial condition of the applicant more than 4 months prior  
20 | to the date on which the application is received by the  
21 | department, then an interim financial statement must also be  
22 | submitted. The interim financial statement must cover the  
23 | period from the end date of the annual statement and must show  
24 | the financial condition of the applicant no more than 4 months  
25 | prior to the date on which the application is received by the  
26 | department. Each required annual or interim financial  
27 | statement must be audited and accompanied by the opinion of a  
28 | certified public accountant or a public accountant approved by  
29 | the department. The information required by this subsection is  
30 | confidential and exempt from the provisions of s. 119.07(1).  
31 | The department shall act upon the application ~~for~~

1 ~~qualification~~ within 30 days after the department determines  
2 that the application is complete. The department may waive the  
3 requirements of this subsection for projects having a contract  
4 price of \$500,000 or less if the department determines that  
5 the project is of a noncritical nature and the waiver will not  
6 endanger public health, safety, or property.

7 Section 4. Paragraph (a) of subsection (1) of section  
8 337.18, Florida Statutes, is amended to read:

9 337.18 Surety bonds for construction or maintenance  
10 contracts; requirement with respect to contract award; bond  
11 requirements; defaults; damage assessments.--

12 (1)(a) A surety bond shall be required of the  
13 successful bidder in an amount equal to the awarded contract  
14 price. However, the department may choose, in its discretion  
15 and applicable only to multiyear maintenance contracts, to  
16 allow for incremental annual contract bonds that cumulatively  
17 total the full, awarded, multiyear contract price. For a  
18 project for which the contract price is ~~\$250,000~~\$150,000 or  
19 less, the department may waive the requirement for all or a  
20 portion of a surety bond if it determines the project is of a  
21 noncritical nature and nonperformance will not endanger public  
22 health, safety, or property. If the secretary or his designee  
23 determines that it is in the best interests of the state to  
24 reduce the bonding requirement for a project and that to do so  
25 will not endanger public health, safety, or property, the  
26 department may waive the requirement of a surety bond in an  
27 amount equal to the awarded contract price for a project  
28 having a contract price of \$250 million or more and, in its  
29 place, may set a surety bond amount that is a portion of the  
30 total contract price and provide an alternate means of  
31 security for the balance of the contract amount that is not

1 covered by the surety bond or provide for incremental surety  
2 bonding and provide an alternate means of security for the  
3 balance of the contract amount that is not covered by the  
4 surety bond. Such alternative means of security may include  
5 letters of credit, United States bonds and notes, parent  
6 company guaranties, and cash collateral. The department may  
7 require alternate means of security if a surety bond is  
8 waived. The surety on such bond shall be a surety company  
9 authorized to do business in the state. All bonds shall be  
10 payable to the department and conditioned for the prompt,  
11 faithful, and efficient performance of the contract according  
12 to plans and specifications and within the time period  
13 specified, and for the prompt payment of all persons  
14 furnishing, as, defined in s. 713.01, ~~furnishing~~ labor,  
15 material, equipment, and supplies for work provided in the  
16 contract; however, whenever an improvement, demolition, or  
17 removal contract price is \$25,000 or less, the security may,  
18 in the discretion of the bidder, be in the form of a cashier's  
19 check, bank money order of any state or national bank,  
20 certified check, or postal money order. The department shall  
21 adopt rules to implement this subsection. Such rules shall  
22 include provisions under which the department shall refuse to  
23 accept bonds on contracts when a surety wrongfully fails or  
24 refuses to settle or provide a defense for claims or actions  
25 arising under a contract for which the surety previously  
26 furnished a bond.

27 Section 5. Subsection (8) of section 338.221, Florida  
28 Statutes, is amended to read:

29 338.221 Definitions of terms used in ss.  
30 338.22-338.241.--As used in ss. 338.22-338.241, the following  
31

1 words and terms have the following meanings, unless the  
2 context indicates another or different meaning or intent:

3 (8) "Economically feasible" means:

4 (a) For a proposed turnpike project~~7~~ that, as  
5 determined by the department before the issuance of revenue  
6 bonds for the project, the estimated net revenues of the  
7 proposed turnpike project, excluding feeder roads and turnpike  
8 improvements, will be sufficient to pay at least ~~50 percent of~~  
9 ~~the debt service on the bonds by the end of the 12th year of~~  
10 ~~operation and to pay at least~~ 100 percent of the annual debt  
11 service on the bonds associated with the project by the end of  
12 the 30th ~~22nd~~ year of operation. In implementing this  
13 paragraph, up to 50 percent of the adopted work program costs  
14 of the project may be funded from turnpike revenues.

15 (b) For turnpike projects, except for feeder roads and  
16 turnpike improvements, financed from revenues of the turnpike  
17 system, such project~~7~~ or ~~such~~ group of projects, originally  
18 financed from revenues of the turnpike system, that the  
19 project is expected to generate sufficient revenues to  
20 amortize project costs within 15 years of opening to traffic.

21  
22 This subsection does not prohibit the pledging of revenues  
23 from the entire turnpike system to bonds issued to finance or  
24 refinance a turnpike project or group of turnpike projects.

25 Section 6. Subsection (3) of section 338.2275, Florida  
26 Statutes, is repealed and subsection (1) of that section is  
27 amended to read:

28 338.2275 Approved turnpike projects.--

29 (1) Legislative approval of the department's tentative  
30 work program that contains the turnpike project constitutes  
31 approval to issue bonds as required by s. 11(f), Art. VII of



1 | ~~the State Constitution. No more than \$9 billion of bonds may~~  
2 | ~~be outstanding to fund approved turnpike projects. Turnpike~~  
3 | ~~projects approved to be included in future tentative work~~  
4 | ~~programs include, but are not limited to, projects contained~~  
5 | ~~in the 2003-2004 tentative work program. A maximum of \$4.5~~  
6 | ~~billion of bonds may be issued to fund approved turnpike~~  
7 | ~~projects.~~

8 |       Section 7. Section 339.282, Florida Statutes, is  
9 | created to read:

10 |       339.282 Enhanced Bridge Program for Sustainable  
11 | Transportation.--

12 |       (1) There is created within the Department of  
13 | Transportation the Enhanced Bridge Program for Sustainable  
14 | Transportation for the purpose of providing funds to improve  
15 | the sufficiency rating of local bridges and to improve  
16 | congested roads on the State Highway System or local corridors  
17 | on which high-cost bridges are located in order to improve a  
18 | corridor or provide an alternative corridor.

19 |       (2) Matching funds provided from the program may fund  
20 | up to 50 percent of project costs.

21 |       (3) The department shall allocate a minimum of 25  
22 | percent of funding available for the program for local bridge  
23 | projects to replace, rehabilitate, paint, or install scour  
24 | countermeasures to highway bridges located on public roads,  
25 | other than those on the State Highway System. A project to be  
26 | funded must, at a minimum:

27 |       (a) Be classified as a structurally deficient bridge  
28 | having a poor condition rating for the deck, superstructure,  
29 | substructure component, or culvert;

30 |       (b) Have a sufficiency rating of 35 or below; and  
31 |

1           (c) Have average daily traffic of at least 500  
2 vehicles.

3           (4) Special consideration shall be given to bridges  
4 that are closed to all traffic or that have a load restriction  
5 of less than 10 tons.

6           (5) The department shall allocate remaining funding  
7 available for the program to improve highly congested roads on  
8 the State Highway System or local corridors on which high-cost  
9 bridges are located in order to improve the corridor or  
10 provide an alternative corridor. A project to be funded must,  
11 at a minimum:

12           (a) Be on or provide direct relief to an existing  
13 corridor that is backlogged or constrained; and

14           (b) Be a major bridge having an estimated cost greater  
15 than \$25 million.

16           (6) Preference shall be given to bridge projects  
17 located on corridors that connect to the Strategic Intermodal  
18 System created in s. 339.61, and that have been identified as  
19 regionally significant in accordance with s.  
20 339.155(5)(c), (d), and (e).

21           Section 8. Subsection (1) of section 339.08, Florida  
22 Statutes, is amended to read:

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

25           (1) The department shall expend moneys in the State  
26 Transportation Trust Fund accruing to the department, in  
27 accordance with its annual budget. The use of such moneys  
28 shall be restricted to the following purposes:

29           (a) To pay administrative expenses of the department,  
30 including administrative expenses incurred by the several  
31 state transportation districts, but excluding administrative

1 expenses of commuter rail authorities that do not operate rail  
2 service.

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

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

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

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

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

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

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

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

25 (j) To pay the cost of county or municipal road  
26 projects selected in accordance with the County Incentive  
27 Grant Program created in s. 339.2817, ~~and~~ the Small County  
28 Outreach Program created in s. 339.2818, and the Enhanced  
29 Bridge Program created in s. 339.282.

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

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

3 (l) To pay the cost of projects on the Florida  
4 Strategic Intermodal System created in s. 339.61.

5 (m) To pay the cost of transportation projects  
6 selected in accordance with the Transportation Regional  
7 Incentive Program created in s. 339.2819.

8 (n) To pay other lawful expenditures of the  
9 department.

10 Section 9. Subsection (4) of section 339.55, Florida  
11 Statutes, is amended, and paragraph (c) is added to subsection  
12 (2) and paragraph (j) is added to subsection (7) of that  
13 section, to read:

14 339.55 State-funded infrastructure bank.--

15 (2) The bank may lend capital costs or provide credit  
16 enhancements for:

17 (c)1. Emergency loans for damages incurred to  
18 public-use commercial deepwater seaports, public-use airports,  
19 and other public-use transit and intermodal facilities that  
20 are within an area that is part of an official state  
21 declaration of emergency pursuant to chapter 252 and all other  
22 applicable laws. Such loans:

23 a. May not exceed 24 months in duration except in  
24 extreme circumstances, for which the Secretary of  
25 Transportation may grant up to 36 months upon making written  
26 findings specifying the conditions requiring a 36-month term.

27 b. Require application from the recipient to the  
28 department that includes documentation of damage claims filed  
29 with the Federal Emergency Management Agency or an applicable  
30 insurance carrier and documentation of the recipient's overall  
31 financial condition.

1           c. Are subject to approval by the Secretary of  
2 Transportation and the Legislative Budget Commission.

3           2. Loans provided under this paragraph must be repaid  
4 upon receipt by the recipient of eligible program funding for  
5 damages in accordance with the claims filed with the Federal  
6 Emergency Management Agency or an applicable insurance  
7 carrier, but no later than the duration of the loan.

8           (4) Loans from the bank may bear interest at or below  
9 market interest rates, as determined by the department.

10 Repayment of any loan ~~from the bank~~ shall commence not later  
11 than 5 years after the project has been completed or, in the  
12 case of a highway project, the facility has opened to traffic,  
13 whichever is later, and shall be repaid within in no more than  
14 30 years, except for loans provided under paragraph (2)(c),  
15 which shall be repaid within 36 months.

16           (7) The department may consider, but is not limited  
17 to, the following criteria for evaluation of projects for  
18 assistance from the bank:

19           (j) The extent to which damage from a disaster that  
20 results in a declaration of emergency has impacted a public  
21 transportation facility's ability to maintain its previous  
22 level of service and remain accessible to the public or has  
23 had a major impact on the cash flow or revenue-generation  
24 ability of the public-use facility.

25           Section 10. Subsection (2) of section 341.071, Florida  
26 Statutes, is amended to read:

27           341.071 Transit productivity and performance measures;  
28 reports.--

29           (2) Each public transit provider shall establish  
30 productivity and performance measures, which must be approved  
31 by the department and which must be selected from measures

1 developed pursuant to s. 341.041(3). Each provider shall by  
2 January 31 of each year report ~~annually~~ to the department  
3 relative to these measures. In approving these measures, the  
4 department shall give consideration to the goals and  
5 objectives of each system, the needs of the local area, and  
6 the role for public transit in the local area. The report  
7 shall also specifically address potential enhancements to  
8 productivity and performance which would have the effect of  
9 increasing farebox recovery ratio.

10 Section 11. Construction aggregate materials.--

11 (1) DEFINITIONS.--

12 (a) "Agency" means:

13 1. The Governor in the exercise of all executive  
14 powers other than those derived from the constitution.

15 2. Each:

16 a. State officer and state department, and each  
17 departmental unit described in s. 20.04.

18 b. Authority, including a regional water supply  
19 authority.

20 c. Board.

21 d. Commission, including the Commission on Ethics and  
22 the Fish and Wildlife Conservation Commission when acting  
23 pursuant to statutory authority derived from the Legislature.

24 e. Regional planning agency.

25 f. Multicounty special district of which a majority of  
26 its governing board is comprised of nonelected persons.

27 g. Educational units.

28 h. Entity described in chapters 163, 373, 380, and 582  
29 and s. 186.504.

30 3. Each other unit of government in the state,  
31 including counties and municipalities.

1           **(b) "Construction aggregate materials" means crushed**  
2 **stone, limestone, dolomite, limerock, shell rock, high-quality**  
3 **sand, and other mined resources providing the basic material**  
4 **for concrete, asphalt, and road base.**

5           **(2) LEGISLATIVE INTENT.--The Legislature finds that**  
6 **there is a strategic and critical need for an available supply**  
7 **of construction aggregate materials within the state and**  
8 **disruption of the supply would cause significant detriment to**  
9 **the state's construction industry, transportation system, and**  
10 **overall health, safety, and welfare of the state.**

11           **(3) AGENCY DECISIONMAKING.--An agency considering a**  
12 **proposed land use zoning change, comprehensive plan amendment,**  
13 **land use permit decision, or order must address the affect**  
14 **such change, amendment, permit decision, or order would have**  
15 **on the availability, transportation, and potential extraction**  
16 **of construction aggregate materials on the local area, the**  
17 **region, and the state.**

18           **(4) STRATEGIC AGGREGATES REVIEW TASK FORCE.--**

19           **(a) The Strategic Aggregates Review Task Force is**  
20 **created to evaluate the availability and disposition of**  
21 **construction aggregate materials and related mining and land**  
22 **use practices in this state.**

23           **(b) The task force shall be appointed by August 1,**  
24 **2007, and shall be composed of the following 15 members:**

25           **1. The President of the Senate, the Speaker of the**  
26 **House of Representatives, and the Governor shall each appoint**  
27 **one member from each of the following groups:**

28           **a. The mining or construction industries.**

29           **b. The transportation industries, including seaports,**  
30 **trucking, railroads, or roadbuilders.**

31           **c. Elected county government.**

1           d. Environmental advocacy groups.

2           2. The Secretary of Environmental Protection or  
3 designee.

4           3. The Secretary of Community Affairs or designee.

5           4. The Secretary of Transportation or designee.

6           (c) Members of the commission shall serve without  
7 compensation. Travel and per diem expenses for members who are  
8 not state employees shall be paid by the Department of  
9 Transportation in accordance with s. 112.061, Florida  
10 Statutes.

11           (d) The Department of Community Affairs shall organize  
12 and provide administrative support for the task force and  
13 coordinate with other state agencies and local governments in  
14 obtaining and providing such data and information as may be  
15 needed by the task force to complete its evaluation. The  
16 department may conduct any supporting studies as are required  
17 to obtain needed information or otherwise assist the task  
18 force in its review and deliberations.

19           (e) The Department of Transportation shall collect and  
20 provide information to the task force relating to construction  
21 aggregate materials and the amount of such materials used by  
22 the department on state road infrastructure projects, and  
23 shall provide any technical and supporting information  
24 relating to the use of such materials as is available to the  
25 department.

26           (f) The task force shall report its findings to the  
27 Governor, the President of the Senate, and the Speaker of the  
28 House of Representatives by December 15, 2007. The report must  
29 identify locations with significant concentrations of  
30 construction aggregate materials and recommend actions  
31



1 intended to ensure the continued extraction and availability  
2 of construction aggregate materials.

3 (g) The task force shall be dissolved on July 1, 2008.

4 Section 12. This act shall take effect July 1, 2007.

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7 SENATE SUMMARY

8 Revises a variety of provisions and adds new provisions  
9 relating to transportation, including payment for general  
10 aviation projects, advertisement of construction  
11 projects, surety bond requirements, deletion of obsolete  
12 provisions relating to turnpike projects, creation of the  
13 Enhanced Bridge Program for Sustainable Transportation  
14 and providing for its funding, use of specified funds for  
15 transportation facilities in areas declared to be in a  
16 state of emergency, and productivity and performance  
17 enhancements by public transit providers. Provides  
18 legislative intent. Establishes the Strategic  
19 Construction Aggregates Review Task Force. Provides for  
20 membership, staffing, reporting, and expiration of the  
21 task force. Requires state agencies to consider the  
22 effect of decisionmaking on the availability of  
23 construction aggregate materials. (See bill for details.)  
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