

By Senator Latvala

16-01615A-11

20111966__

1 A bill to be entitled
2 An act relating to transportation; amending s.
3 310.002, F.S.; redefining the term "port" to include
4 Port Citrus; amending s. 311.09, F.S.; including a
5 representative of Port Citrus as a member of the
6 Florida Seaport Transportation and Economic
7 Development Council; amending s. 316.075, F.S.;
8 providing for minimum yellow light change interval
9 times for traffic control devices; amending s.
10 316.0083, F.S.; prohibiting the issuance of a traffic
11 citation for certain traffic light violations unless
12 the light meets specified requirements; repealing s.
13 316.2045, F.S., relating to obstruction of public
14 streets, highways, and roads; creating s. 316.2046,
15 F.S., relating to obstruction of public streets,
16 highways, and roads; providing legislative findings;
17 defining the term "solicit"; requiring a permit in
18 order to obstruct the use of any public street,
19 highway, or road when that obstruction may endanger
20 the safe movement of vehicles or pedestrians;
21 requiring each county or municipality to adopt a
22 permitting process that protects public safety but
23 does not impair the rights of free speech; providing
24 criteria for the permitting process; limiting the cost
25 of the permit to the amount required to administer the
26 permitting process; prohibiting the denial of a permit
27 due to lack of funds, as attested to by a signed
28 affidavit; providing for jurisdiction over interstate,
29 state, and local roads, streets, and highways for

16-01615A-11

20111966__

30 counties and municipalities; providing exceptions;
31 providing that a violation of the act is a pedestrian
32 violation, punishable under ch. 318, F.S.; providing
33 for an additional fine; providing for the disposition
34 of moneys collected; providing for enforcement by the
35 Department of Highway Safety and Motor Vehicles and
36 other law enforcement agencies; creating s. 316.2047,
37 F.S., relating to panhandling; providing legislative
38 findings; defining terms; prohibiting aggressive
39 panhandling, panhandling under certain circumstances,
40 and fraudulent panhandling; authorizing counties and
41 municipalities to increase the restrictions on
42 panhandling under certain conditions; providing that a
43 violation of the act is a pedestrian violation,
44 punishable under ch. 318, F.S.; providing for an
45 additional fine; providing for the disposition of
46 moneys collected; providing for enforcement by the
47 Department of Highway Safety and Motor Vehicles and
48 other law enforcement agencies; amending s. 316.302,
49 F.S.; providing that certain restrictions on the
50 number of consecutive hours that a commercial motor
51 vehicle may operate do not apply to a farm labor
52 vehicle operated during a state of emergency or during
53 an emergency pertaining to agriculture; amending s.
54 334.044, F.S.; revising the types of transportation
55 projects for which landscaping materials must be
56 purchased; limiting the amount of funds that may be
57 allocated for such purchases; amending s. 337.406,
58 F.S.; removing the Department of Transportation's

16-01615A-11

20111966__

59 authority to provide exceptions to the unlawful use of
60 the right-of-way of any state transportation facility;
61 broadening provisions to prohibit the unlawful use of
62 any limited access highway; removing solicitation for
63 charitable purposes from the list of prohibited uses;
64 removing an exception to prohibited uses provided for
65 art festivals, parades, fairs, or other special
66 events; removing a local government's authority to
67 issue certain permits; authorizing counties and
68 municipalities to regulate the use of transportation
69 facilities within their respective jurisdictions, with
70 the exception of limited access highways; authorizing
71 the Department of Transportation to regulate the use
72 of welcome centers and rest stops; removing provisions
73 authorizing valid peddler licensees to make sales from
74 vehicles standing on the rights-of-way of welcome
75 centers and rest stops; amending s. 373.413, F.S.;
76 providing legislative intent regarding flexibility in
77 the permitting of stormwater management systems;
78 requiring the cost of stormwater treatment for a
79 transportation project to be balanced with benefits to
80 the public; absolving the Department of Transportation
81 of responsibility for the abatement of pollutants
82 entering its stormwater facilities from offsite
83 sources and from updating permits for adjacent lands
84 impacted by right-of-way acquisition; authorizing the
85 water management districts and the department to adopt
86 rules; amending s. 373.4137, F.S.; revising mitigation
87 requirements for transportation projects to include

16-01615A-11

20111966__

88 other nonspecified mitigation options; providing for
89 the release of escrowed mitigation funds under certain
90 circumstances; providing for the exclusion of projects
91 from a mitigation plan upon the election of one or
92 more agencies rather than the agreement of all
93 parties; amending s. 374.976, F.S.; conforming
94 provisions to include Port Citrus in provisions
95 relating to the authority of inland navigation
96 districts; amending s. 403.021, F.S.; conforming
97 provisions to include Port Citrus in legislative
98 declarations relating to environmental control;
99 amending s. 403.061, F.S.; conforming provisions to
100 include Port Citrus in provisions relating to powers
101 of the Department of Environmental Protection;
102 amending s. 403.813, F.S.; conforming provisions to
103 include Port Citrus in provisions relating to permits
104 issued at Department of Environmental Protection
105 district centers; amending s. 403.816, F.S.;
106 conforming provisions to include Port Citrus in
107 provisions relating to certain maintenance projects at
108 deepwater ports and beach restoration projects;
109 providing an effective date.

110
111 WHEREAS, the state has a significant and substantial
112 interest in vehicular and pedestrian safety and the free flow of
113 traffic, and

114 WHEREAS, studies have shown that Florida is one of the most
115 dangerous states in the country for pedestrians, and

116 WHEREAS, while the streets may have been the natural and

16-01615A-11

20111966__

117 proper places for the public dissemination of information prior
118 to the advent of the automobile, the streets, highways, and
119 roads of this state are now used primarily for transportation,
120 and

121 WHEREAS, obstructing the flow of pedestrian traffic on a
122 sidewalk can cause pedestrians to enter into the roadway and is
123 a serious threat to public safety, and

124 WHEREAS, the current permitting provisions curtail behavior
125 only on sidewalks and streets, which is a danger to public
126 safety, and

127 WHEREAS, the provisions of this act directed toward
128 ordinary panhandling are designed to promote public safety,
129 including minimizing panhandling in transit systems or in areas
130 where panhandling is likely to intimidate persons who are
131 solicited, and

132 WHEREAS, aggressive panhandling may obstruct the free flow
133 of traffic when carried out in or adjacent to a roadway, may
134 intimidate citizens who may choose to avoid certain public areas
135 or give money to panhandlers in order to avoid an escalation of
136 aggressive behavior, and generally threatens public safety and
137 diminishes the quality of life for residents and tourists alike,
138 and

139 WHEREAS, an important public purpose is served when the
140 public safety is protected in keeping with rights granted by the
141 First Amendment to the United States Constitution, NOW,
142 THEREFORE,

143

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

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16-01615A-11

20111966__

146 Section 1. Subsection (4) of section 310.002, Florida
147 Statutes, is amended to read:

148 310.002 Definitions.—As used in this chapter, except where
149 the context clearly indicates otherwise:

150 (4) "Port" means any place in the state into which vessels
151 enter or depart and includes, without limitation, Fernandina,
152 Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port
153 Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key
154 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port
155 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,
156 Carrabelle, Panama City, Port St. Joe, and Pensacola.

157 Section 2. Subsection (1) of section 311.09, Florida
158 Statutes, is amended to read:

159 311.09 Florida Seaport Transportation and Economic
160 Development Council.—

161 (1) The Florida Seaport Transportation and Economic
162 Development Council is created within the Department of
163 Transportation. The council consists of the following 18 ~~17~~
164 members: the port director, or the port director's designee, of
165 each of the ports of Jacksonville, Port Canaveral, Port Citrus,
166 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
167 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
168 West, and Fernandina; the secretary of the Department of
169 Transportation or his or her designee; the director of the
170 Office of Tourism, Trade, and Economic Development or his or her
171 designee; and the secretary of the Department of Community
172 Affairs or his or her designee.

173 Section 3. Subsection (3) of section 316.075, Florida
174 Statutes, is amended to read:

16-01615A-11

20111966__

175 316.075 Traffic control signal devices.—

176 (3) (a) No traffic control signal device shall be used which
177 does not exhibit a yellow or "caution" light between the green
178 or "go" signal and the red or "stop" signal.

179 (b) No traffic control signal device shall display other
180 than the color red at the top of the vertical signal, nor shall
181 it display other than the color red at the extreme left of the
182 horizontal signal.

183 (c) The Department of Transportation shall establish
184 minimum yellow light change interval times for traffic control
185 devices. The minimum yellow light change interval time shall be
186 established in accordance with nationally recognized engineering
187 standards set forth in the Institute of Transportation Engineers
188 Traffic Engineering Handbook, and any such established time may
189 not be less than the recognized national standard.

190 Section 4. Present subsections (3) and (4) of section
191 316.0083, Florida Statutes, are renumbered as subsections (4)
192 and (5), respectively, and a new subsection (3) is added to that
193 section, to read:

194 316.0083 Mark Wandall Traffic Safety Program;
195 administration; report.—

196 (3) A notice of violation and a traffic citation may not be
197 issued pursuant to this section for a violation committed at an
198 intersection where the traffic signal device does not meet all
199 requirements under s. 316.075(3). Any such notice of violation
200 or citation is unenforceable and the court, clerk of court,
201 designated official, or authorized operator of a traffic
202 violations bureau shall dismiss the citation without penalty or
203 assessment of points against the license of the person cited.

16-01615A-11

20111966__

204 Section 5. Section 316.2045, Florida Statutes, is repealed.

205 Section 6. Section 316.2046, Florida Statutes, is created
206 to read:

207 316.2046 Obstruction of public streets, highways, and
208 roads.—

209 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

210 (a) Ensuring public safety on public streets, highways, and
211 roads is an important and substantial state interest.

212 (b) Obstruction of the free flow of traffic on public
213 streets, highways, and roads endangers the public safety.

214 (c) Obtrusive and distracting activities that impede
215 pedestrian traffic adjacent to streets, highways, and roads can
216 also disrupt the free flow of traffic and endanger public
217 safety.

218 (d) Soliciting funds or engaging in a commercial exchange
219 with a person who is in a vehicle that is not stopped in a
220 driveway or designated parking area endangers the safe movement
221 of vehicles.

222 (2) DEFINITIONS.—As used in this section, the term
223 “solicit” means to request employment, business, contributions,
224 donations, sales, or exchanges of any kind.

225 (3) PERMIT REQUIRED.—It is unlawful for any person,
226 willfully and without a permit, to solicit or obstruct the free,
227 convenient, and normal use of any public street, highway, or
228 road by standing or approaching motor vehicles while on or
229 immediately adjacent to the street, highway, or road in a manner
230 that could endanger the safe movement of vehicles or pedestrians
231 traveling thereon.

232 (a) Each county and municipality shall adopt a permitting

16-01615A-11

20111966__

233 process that protects public safety but does not impair the
234 rights of free speech, except to the extent necessary to protect
235 public safety. The permitting process must authorize or deny a
236 permit within 24 hours. Permits may be issued if the county or
237 municipality determines that the permit applicant will not:

- 238 1. Increase the likelihood of traffic accidents;
239 2. Violate traffic laws, rules, or ordinances;
240 3. Make the sidewalk impassable for pedestrians; or
241 4. Significantly increase the likelihood of harm to
242 motorists and passersby.

243 (b) If the county or municipality approves the permit, it
244 must issue to the applicant a document specifying:

- 245 1. The name and address of the person to whom the permit is
246 granted;
247 2. The name of the company the person represents, if any;
248 and
249 3. The expiration date of the permit.

250 (c) The permit holder must keep the permit on his or her
251 person at all times when engaging in activity authorized by the
252 permit.

253 (d) The cost of the permit may not exceed an amount that is
254 reasonably necessary to administer the permitting process.
255 However, a permit may not be denied to any applicant for lack of
256 financial means, as attested to by a signed affidavit.

257 (4) LOCAL GOVERNMENT JURISDICTION.—For purposes of this
258 section, counties and municipalities have original jurisdiction
259 over interstate, state, and local roads, streets, and highways
260 within their physical jurisdiction. Counties and municipalities
261 may increase the restrictions of the permit program if those

16-01615A-11

20111966

262 restrictions are narrowly tailored to serve an important public
263 purpose. A county or municipality may opt out of the permit
264 program by a majority vote of the members of the county or
265 municipal governing body. This section does not preempt any
266 existing ordinances.

267 (5) EXCEPTIONS.—This section does not:

268 (a) Restrict a person from passively standing or sitting on
269 a public sidewalk and holding a sign if that person does not
270 obstruct the flow of vehicle or pedestrian traffic.

271 (b) Apply to any art festival, parade, fair, or other
272 special event permitted by the appropriate county or
273 municipality where the streets are blocked off from the normal
274 flow of traffic.

275 (c) Apply to:

276 1. Law enforcement officers carrying out their duties;

277 2. Emergency vehicles responding to an emergency or
278 possible emergency;

279 3. Mail-delivery vehicles;

280 4. Service vehicles performing work adjacent to the
281 roadway; and

282 5. Any commercial vehicle that is used solely for the
283 purpose of collecting solid waste or recyclable or recovered
284 materials and that is stopped for the sole purpose of collecting
285 solid waste or recyclable or recovered materials.

286 (6) VIOLATIONS.—Any person who violates the provisions of
287 this section, upon conviction, shall be cited for a pedestrian
288 violation, punishable as provided in chapter 318. An additional
289 \$10 shall be added to the fine levied under chapter 318. Moneys
290 collected from this additional \$10 fine shall be deposited into

16-01615A-11

20111966__

291 the Grants and Donations Trust Fund of the Department of
292 Children and Family Services and used by the State Office on
293 Homelessness to supplement grants made under s. 420.622(4) and
294 (5).

295 (7) ENFORCEMENT.—The Department of Highway Safety and Motor
296 Vehicles and other law enforcement agencies are authorized and
297 directed to enforce this section.

298 Section 7. Section 316.2047, Florida Statutes, is created
299 to read:

300 316.2047 Panhandling.—

301 (1) LEGISLATIVE FINDINGS.—The Legislature finds that
302 panhandling, soliciting, or demanding money, gifts, or donations
303 may interfere with the safe ingress and egress of human and
304 vehicular traffic into public buildings, public areas, and
305 public transportation areas, thereby constituting a threat to
306 the public health, welfare, and safety of the citizenry. The
307 Legislature also finds that aggressive and fraudulent
308 panhandling are threats to public safety and personal security.

309 (2) DEFINITIONS.—As used in this section, the term:

310 (a) "Aggressive panhandling" means to knowingly request
311 money, gifts, or donations:

312 1. By unwanted touching, detaining, impeding, or
313 intimidation;

314 2. Under circumstances that warrant justifiable and
315 reasonable alarm or immediate concern for the safety of persons
316 or property in the vicinity;

317 3. By following the solicited person after that person has
318 made a negative response; or

319 4. By using obscene or abusive language or gestures that

16-01615A-11

20111966__

320 are reasonably likely to intimidate or cause fear of bodily
321 harm.

322 (b) "False or misleading representation" means, without
323 limitation:

324 1. Stating that the donation is needed to meet a specific
325 need, when the solicitor already has sufficient funds to meet
326 that need and does not disclose that fact;

327 2. Stating that the solicitor is from out of town and
328 stranded, when such is not true;

329 3. Wearing a military uniform or other indication of
330 military service when the solicitor is not a present or former
331 member of the service indicated;

332 4. Wearing or displaying an indication of physical
333 disability, when the solicitor does not suffer the disability
334 indicated;

335 5. Using any makeup or device to simulate any deformity; or

336 6. Stating that the solicitor is homeless, when he or she
337 is not.

338 (c) "Fraudulent panhandling" means to knowingly make any
339 false or misleading representation in the course of soliciting a
340 donation.

341 (d) "Panhandling" means to:

342 1. Solicit, request, or beg for an immediate donation of
343 money or something else of value; or

344 2. Offer an individual an item of little or no monetary
345 value in exchange for money or another gratuity under
346 circumstances that would cause a reasonable individual to
347 understand that the transaction is only a donation.

348 (3) PROHIBITED ACTIVITY.—It is unlawful to:

16-01615A-11

20111966__

- 349 (a) Engage in aggressive panhandling.
- 350 (b) Engage in panhandling:
- 351 1. Within 20 feet of a bus stop;
- 352 2. Within 20 feet of an automated teller machine or the
353 entrance to a bank;
- 354 3. While blocking the entrance to a building or motor
355 vehicle; or
- 356 4. In a parking garage owned or operated by a county, a
357 municipality, or an agency of the state or the Federal
358 Government.
- 359 (c) Engage in fraudulent panhandling.
- 360 (4) LOCAL GOVERNMENT JURISDICTION.—Counties and
361 municipalities may increase the restrictions on panhandling if
362 those restrictions are nondiscriminatory and narrowly tailored
363 to serve an important public purpose. A county or municipality
364 may opt out of the provisions of this section by a majority vote
365 of the members of the county or municipal governing body. This
366 section does not preempt any existing ordinances that are
367 consistent with this section.
- 368 (5) VIOLATIONS; PENALTIES.—Any person who violates the
369 provisions of this section, upon conviction, shall be cited for
370 a pedestrian violation, punishable as provided in chapter 318.
371 An additional \$10 shall be added to the fine levied under
372 chapter 318. Moneys collected from this additional \$10 fine
373 shall be deposited into the Grants and Donations Trust Fund of
374 the Department of Children and Family Services and used by the
375 State Office on Homelessness to supplement grants made under s.
376 420.622(4) and (5).
- 377 (6) ENFORCEMENT.—The Department of Highway Safety and Motor

16-01615A-11

20111966__

378 Vehicles and other law enforcement agencies are authorized and
379 directed to enforce this section.

380 Section 8. Paragraph (c) of subsection (2) of section
381 316.302, Florida Statutes, is amended to read:

382 316.302 Commercial motor vehicles; safety regulations;
383 transporters and shippers of hazardous materials; enforcement.-

384 (2)

385 (c) Except as provided in 49 C.F.R. s. 395.1, a person who
386 operates a commercial motor vehicle solely in intrastate
387 commerce not transporting any hazardous material in amounts that
388 require placarding pursuant to 49 C.F.R. part 172 may not drive
389 after having been on duty more than 70 hours in any period of 7
390 consecutive days or more than 80 hours in any period of 8
391 consecutive days if the motor carrier operates every day of the
392 week. Thirty-four consecutive hours off duty shall constitute
393 the end of any such period of 7 or 8 consecutive days. This
394 weekly limit does not apply to a person who operates a
395 commercial motor vehicle solely within this state while
396 transporting, during harvest periods, any unprocessed
397 agricultural products or unprocessed food or fiber that is
398 subject to seasonal harvesting from place of harvest to the
399 first place of processing or storage or from place of harvest
400 directly to market or while transporting livestock, livestock
401 feed, or farm supplies directly related to growing or harvesting
402 agricultural products. Upon request of the Department of
403 Transportation, motor carriers shall furnish time records or
404 other written verification to that department so that the
405 Department of Transportation can determine compliance with this
406 subsection. These time records must be furnished to the

16-01615A-11

20111966__

407 Department of Transportation within 2 days after receipt of that
408 department's request. Falsification of such information is
409 subject to a civil penalty not to exceed \$100. The provisions of
410 this paragraph do not apply to operators of farm labor vehicles
411 operated during a state of emergency declared by the Governor or
412 operated pursuant to s. 570.07(21), and do not apply to drivers
413 of utility service vehicles as defined in 49 C.F.R. s. 395.2.

414 Section 9. Subsection (26) of section 334.044, Florida
415 Statutes, is amended to read:

416 334.044 Department; powers and duties.—The department shall
417 have the following general powers and duties:

418 (26) To provide for the enhancement of environmental
419 benefits, including air and water quality; to prevent roadside
420 erosion; to conserve the natural roadside growth and scenery;
421 and to provide for the implementation and maintenance of
422 roadside conservation, enhancement, and stabilization programs.
423 No less than 1.5 percent of the amount contracted for
424 construction projects that add capacity to the existing system
425 shall be allocated by the department for the purchase of plant
426 materials, if such amount does not exceed \$1 million per
427 project. ~~with,~~ To the greatest extent practical, a minimum of 50
428 percent of these funds shall be allocated for large plant
429 materials and the remaining funds for other plant materials. All
430 such plant materials shall be purchased from Florida commercial
431 nursery stock in this state on a uniform competitive bid basis.
432 The department will develop grades and standards for landscaping
433 materials purchased through this process. To accomplish these
434 activities, the department may contract with nonprofit
435 organizations having the primary purpose of developing youth

16-01615A-11

20111966__

436 employment opportunities.

437 Section 10. Section 337.406, Florida Statutes, is amended
438 to read:

439 337.406 Unlawful use of state transportation facility
440 right-of-way; penalties.—

441 (1) Except when leased as provided in s. 337.25(5) ~~or~~
442 ~~otherwise authorized by the rules of the department,~~ it is
443 unlawful to make any use of any limited access highway ~~the~~
444 ~~right-of-way of any state transportation facility,~~ including
445 appendages thereto, ~~outside of an incorporated municipality~~ in
446 any manner that interferes with the safe and efficient movement
447 of people and property from place to place on the transportation
448 facility. Failure to prohibit the use of right-of-way in this
449 manner will endanger the health, safety, and general welfare of
450 the public by causing distractions to motorists, unsafe
451 pedestrian movement within travel lanes, sudden stoppage or
452 slowdown of traffic, rapid lane changing and other dangerous
453 traffic movement, increased vehicular accidents, and motorist
454 injuries and fatalities. Such prohibited uses include, but are
455 not limited to, the free distribution or sale, or display or
456 solicitation for free distribution or sale, of any merchandise,
457 goods, property or services; ~~the solicitation for charitable~~
458 ~~purposes;~~ the servicing or repairing of any vehicle, except the
459 rendering of emergency service; the storage of vehicles being
460 serviced or repaired on abutting property or elsewhere; and the
461 display of advertising of any sort, ~~except that any portion of a~~
462 ~~state transportation facility may be used for an art festival,~~
463 ~~parade, fair, or other special event if permitted by the~~
464 ~~appropriate local governmental entity.~~ Counties and

16-01615A-11

20111966__

465 municipalities shall regulate the use of transportation
466 facilities within their jurisdiction, except limited access
467 highways, pursuant to s. 316.2046. The Department of
468 Transportation shall regulate the use of rest areas and welcome
469 centers as limited public forums that are provided to the public
470 for safety rest stops. Accordingly, the uses within these rest
471 areas and welcome centers may be limited. Local government
472 entities may issue permits of limited duration for the temporary
473 use of the right-of-way of a state transportation facility for
474 any of these prohibited uses if it is determined that the use
475 will not interfere with the safe and efficient movement of
476 traffic and the use will cause no danger to the public. The
477 permitting authority granted in this subsection shall be
478 exercised by the municipality within incorporated municipalities
479 and by the county outside an incorporated municipality. Before a
480 road on the State Highway System may be temporarily closed for a
481 special event, the local governmental entity which permits the
482 special event to take place must determine that the temporary
483 closure of the road is necessary and must obtain the prior
484 written approval for the temporary road closure from the
485 department. Nothing in this subsection shall be construed to
486 authorize such activities on any limited access highway. Local
487 governmental entities may, within their respective
488 jurisdictions, initiate enforcement action by the appropriate
489 code enforcement authority or law enforcement authority for a
490 violation of this section.

491 ~~(2) Persons holding valid peddlers' licenses issued by~~
492 ~~appropriate governmental entities may make sales from vehicles~~
493 ~~standing on the right-of-way to occupants of abutting property~~

16-01615A-11

20111966__

494 ~~only.~~

495 (2)~~(3)~~ The Department of Highway Safety and Motor Vehicles
496 and other law enforcement agencies are authorized and directed
497 to enforce this statute.

498 (3)~~(4)~~ Camping is prohibited on any portion of the right-
499 of-way of the State Highway System that is within 100 feet of a
500 bridge, causeway, overpass, or ramp.

501 (4)~~(5)~~ The violation of any provision of this section or
502 any rule promulgated by the department pursuant to this section
503 constitutes a misdemeanor of the second degree, punishable as
504 provided in s. 775.082 or s. 775.083, and each day a violation
505 continues to exist constitutes a separate offense.

506 Section 11. Section 373.413, Florida Statutes, is amended
507 to read:

508 373.413 Permits for construction or alteration.—

509 (1) Except for the exemptions set forth herein, the
510 governing board or the department may require such permits and
511 impose such reasonable conditions as are necessary to assure
512 that the construction or alteration of any stormwater management
513 system, dam, impoundment, reservoir, appurtenant work, or works
514 will comply with the provisions of this part and applicable
515 rules promulgated thereto and will not be harmful to the water
516 resources of the district. The department or the governing board
517 may delineate areas within the district wherein permits may be
518 required.

519 (2) A person proposing to construct or alter a stormwater
520 management system, dam, impoundment, reservoir, appurtenant
521 work, or works subject to such permit shall apply to the
522 governing board or department for a permit authorizing such

16-01615A-11

20111966__

523 construction or alteration. The application shall contain the
524 following:

525 (a) Name and address of the applicant.

526 (b) Name and address of the owner or owners of the land
527 upon which the works are to be constructed and a legal
528 description of such land.

529 (c) Location of the work.

530 (d) Sketches of construction pending tentative approval.

531 (e) Name and address of the person who prepared the plans
532 and specifications of construction.

533 (f) Name and address of the person who will construct the
534 proposed work.

535 (g) General purpose of the proposed work.

536 (h) Such other information as the governing board or
537 department may require.

538 (3) After receipt of an application for a permit, the
539 governing board or department shall publish notice of the
540 application by sending a notice to any persons who have filed a
541 written request for notification of any pending applications
542 affecting the particular designated area. Such notice may be
543 sent by regular mail. The notice shall contain the name and
544 address of the applicant; a brief description of the proposed
545 activity, including any mitigation; the location of the proposed
546 activity, including whether it is located within an Outstanding
547 Florida Water or aquatic preserve; a map identifying the
548 location of the proposed activity subject to the application; a
549 depiction of the proposed activity subject to the application; a
550 name or number identifying the application and the office where
551 the application can be inspected; and any other information

16-01615A-11

20111966__

552 required by rule.

553 (4) In addition to the notice required by subsection (3),
554 the governing board or department may publish, or require an
555 applicant to publish at the applicant's expense, in a newspaper
556 of general circulation within the affected area, a notice of
557 receipt of the application and a notice of intended agency
558 action. This subsection does not limit the discretionary
559 authority of the department or the governing board of a water
560 management district to publish, or to require an applicant to
561 publish at the applicant's expense, any notice under this
562 chapter. The governing board or department shall also provide
563 notice of this intended agency action to the applicant and to
564 persons who have requested a copy of the intended agency action
565 for that specific application.

566 (5) The governing board or department may charge a
567 subscription fee to any person who has filed a written request
568 for notification of any pending applications to cover the cost
569 of duplication and mailing charges.

570 (6) It is the intent of the Legislature that the governing
571 board or department exercise flexibility in the permitting of
572 stormwater management systems associated with the construction
573 or alteration of systems serving state transportation projects
574 and facilities. Because of the unique limitations of linear
575 facilities, the governing board or department shall take the
576 expenditure of public funds for stormwater treatment for state
577 transportation projects and facilities into account and balance
578 the costs and benefits to the public. If it is found to be cost-
579 effective and prudent, the regionalization of stormwater
580 treatment shall be considered. In addition, the Department of

16-01615A-11

20111966__

581 Transportation is not responsible for the abatement of
582 pollutants and flows entering its stormwater management systems
583 from offsite sources or for updating stormwater permits for
584 adjacent lands impacted by right-of-way acquisition from public
585 transportation projects; however, this subsection does not
586 prohibit the Department of Transportation from receiving and
587 managing such pollutants and flows when it is found to be cost-
588 effective and prudent. To accomplish this, the governing board
589 or department may establish rules for these activities.

590 Section 12. Subsections (1), (2), (3), (4), and (5) of
591 section 373.4137, Florida Statutes, are amended to read:

592 373.4137 Mitigation requirements for specified
593 transportation projects.—

594 (1) The Legislature finds that environmental mitigation for
595 the impact of transportation projects proposed by the Department
596 of Transportation or a transportation authority established
597 pursuant to chapter 348 or chapter 349 can be more effectively
598 achieved by regional, long-range mitigation planning rather than
599 on a project-by-project basis. It is the intent of the
600 Legislature that mitigation to offset the adverse effects of
601 these transportation projects be funded by the Department of
602 Transportation and be carried out by the water management
603 districts, including the use of mitigation banks and any other
604 mitigation options that satisfy state and federal requirements
605 established pursuant to this part.

606 (2) Environmental impact inventories for transportation
607 projects proposed by the Department of Transportation or a
608 transportation authority established pursuant to chapter 348 or
609 chapter 349 shall be developed as follows:

16-01615A-11

20111966__

610 (a) By July 1 of each year, the Department of
611 Transportation or a transportation authority established
612 pursuant to chapter 348 or chapter 349 which chooses to
613 participate in this program shall submit to the water management
614 districts a list ~~copy~~ of its projects in the adopted work
615 program and an environmental impact inventory of habitats
616 addressed in the rules adopted pursuant to this part and s. 404
617 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted
618 by its plan of construction for transportation projects in the
619 next 3 years of the tentative work program. The Department of
620 Transportation or a transportation authority established
621 pursuant to chapter 348 or chapter 349 may also include in its
622 environmental impact inventory the habitat impacts of any future
623 transportation project. The Department of Transportation and
624 each transportation authority established pursuant to chapter
625 348 or chapter 349 may fund any mitigation activities for future
626 projects using current year funds.

627 (b) The environmental impact inventory shall include a
628 description of these habitat impacts, including their location,
629 acreage, and type; state water quality classification of
630 impacted wetlands and other surface waters; any other state or
631 regional designations for these habitats; and a list ~~survey~~ of
632 threatened species, endangered species, and species of special
633 concern affected by the proposed project.

634 (3) (a) To fund development and implementation of the
635 mitigation plan for the projected impacts identified in the
636 environmental impact inventory described in subsection (2), the
637 Department of Transportation shall identify funds quarterly in
638 an escrow account within the State Transportation Trust Fund for

16-01615A-11

20111966__

639 the environmental mitigation phase of projects budgeted by the
640 Department of Transportation for the current fiscal year. The
641 escrow account shall be maintained by the Department of
642 Transportation for the benefit of the water management
643 districts. Any interest earnings from the escrow account shall
644 remain with the Department of Transportation.

645 (b) Each transportation authority established pursuant to
646 chapter 348 or chapter 349 that chooses to participate in this
647 program shall create an escrow account within its financial
648 structure and deposit funds in the account to pay for the
649 environmental mitigation phase of projects budgeted for the
650 current fiscal year. The escrow account shall be maintained by
651 the authority for the benefit of the water management districts.
652 Any interest earnings from the escrow account shall remain with
653 the authority.

654 (c) Except for current mitigation projects in the
655 monitoring and maintenance phase and except as allowed by
656 paragraph (d), the water management districts may request a
657 transfer of funds from an escrow account no sooner than 30 days
658 prior to the date the funds are needed to pay for activities
659 associated with development or implementation of the approved
660 mitigation plan described in subsection (4) for the current
661 fiscal year, including, but not limited to, design, engineering,
662 production, and staff support. Actual conceptual plan
663 preparation costs incurred before plan approval may be submitted
664 to the Department of Transportation or the appropriate
665 transportation authority each year with the plan. The conceptual
666 plan preparation costs of each water management district will be
667 paid from mitigation funds associated with the environmental

16-01615A-11

20111966__

668 impact inventory for the current year. The amount transferred to
669 the escrow accounts each year by the Department of
670 Transportation and participating transportation authorities
671 established pursuant to chapter 348 or chapter 349 shall
672 correspond to a cost per acre of \$75,000 multiplied by the
673 projected acres of impact identified in the environmental impact
674 inventory described in subsection (2). However, the \$75,000 cost
675 per acre does not constitute an admission against interest by
676 the state or its subdivisions nor is the cost admissible as
677 evidence of full compensation for any property acquired by
678 eminent domain or through inverse condemnation. Each July 1, the
679 cost per acre shall be adjusted by the percentage change in the
680 average of the Consumer Price Index issued by the United States
681 Department of Labor for the most recent 12-month period ending
682 September 30, compared to the base year average, which is the
683 average for the 12-month period ending September 30, 1996. Each
684 quarter, the projected acreage of impact shall be reconciled
685 with the acreage of impact of projects as permitted, including
686 permit modifications, pursuant to this part and s. 404 of the
687 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer
688 of funds shall be adjusted accordingly to reflect the acreage of
689 impacts as permitted. The Department of Transportation and
690 participating transportation authorities established pursuant to
691 chapter 348 or chapter 349 are authorized to transfer such funds
692 from the escrow accounts to the water management districts to
693 carry out the mitigation programs. Environmental mitigation
694 funds that are identified or maintained in an escrow account for
695 the benefit of a water management district may be released if
696 the associated transportation project is excluded in whole or

16-01615A-11

20111966__

697 part from the mitigation plan. For a mitigation project that is
698 in the maintenance and monitoring phase, the water management
699 district may request and receive a one-time payment based on the
700 project's expected future maintenance and monitoring costs. Upon
701 disbursement of the final maintenance and monitoring payment,
702 the obligation of the department or the participating
703 transportation authority is satisfied, the water management
704 district has the continuing responsibility for the mitigation
705 project, and the escrow account for the project established by
706 the Department of Transportation or the participating
707 transportation authority may be closed. Any interest earned on
708 these disbursed funds shall remain with the water management
709 district and must be used as authorized under this section.

710 (d) Beginning in the 2005-2006 fiscal year, each water
711 management district shall be paid a lump-sum amount of \$75,000
712 per acre, adjusted as provided under paragraph (c), for
713 federally funded transportation projects that are included on
714 the environmental impact inventory and that have an approved
715 mitigation plan. Beginning in the 2009-2010 fiscal year, each
716 water management district shall be paid a lump-sum amount of
717 \$75,000 per acre, adjusted as provided under paragraph (c), for
718 federally funded and nonfederally funded transportation projects
719 that have an approved mitigation plan. All mitigation costs,
720 including, but not limited to, the costs of preparing conceptual
721 plans and the costs of design, construction, staff support,
722 future maintenance, and monitoring the mitigated acres shall be
723 funded through these lump-sum amounts.

724 (4) Prior to March 1 of each year, each water management
725 district, in consultation with the Department of Environmental

16-01615A-11

20111966__

726 Protection, the United States Army Corps of Engineers, the
727 Department of Transportation, participating transportation
728 authorities established pursuant to chapter 348 or chapter 349,
729 and other appropriate federal, state, and local governments, and
730 other interested parties, including entities operating
731 mitigation banks, shall develop a plan for the primary purpose
732 of complying with the mitigation requirements adopted pursuant
733 to this part and 33 U.S.C. s. 1344. In developing such plans,
734 the districts shall utilize sound ecosystem management practices
735 to address significant water resource needs and shall focus on
736 activities of the Department of Environmental Protection and the
737 water management districts, such as surface water improvement
738 and management (SWIM) projects and lands identified for
739 potential acquisition for preservation, restoration or
740 enhancement, and the control of invasive and exotic plants in
741 wetlands and other surface waters, to the extent that such
742 activities comply with the mitigation requirements adopted under
743 this part and 33 U.S.C. s. 1344. In determining the activities
744 to be included in such plans, the districts shall also consider
745 the purchase of credits from public or private mitigation banks
746 permitted under s. 373.4136 and associated federal authorization
747 and shall include such purchase as a part of the mitigation plan
748 when such purchase would offset the impact of the transportation
749 project, provide equal benefits to the water resources than
750 other mitigation options being considered, and provide the most
751 cost-effective mitigation option. The mitigation plan shall be
752 submitted to the water management district governing board, or
753 its designee, for review and approval. At least 14 days prior to
754 approval, the water management district shall provide a copy of

16-01615A-11

20111966__

755 the draft mitigation plan to any person who has requested a
756 copy.

757 (a) For each transportation project with a funding request
758 for the next fiscal year, the mitigation plan must include a
759 brief explanation of why a mitigation bank was or was not chosen
760 as a mitigation option, including an estimation of identifiable
761 costs of the mitigation bank and nonbank options to the extent
762 practicable.

763 (b) Specific projects may be excluded from the mitigation
764 plan, in whole or in part, and are ~~shall~~ not ~~be~~ subject to this
765 section upon the election agreement of the Department of
766 Transportation, ~~or a transportation authority,~~ if applicable, or
767 ~~and the appropriate water management district that the inclusion~~
768 ~~of such projects would hamper the efficiency or timeliness of~~
769 ~~the mitigation planning and permitting process. The water~~
770 ~~management district may choose to exclude a project in whole or~~
771 ~~in part if the district is unable to identify mitigation that~~
772 ~~would offset impacts of the project.~~

773 (5) The water management district shall ensure ~~be~~
774 ~~responsible for ensuring~~ that mitigation requirements pursuant
775 to 33 U.S.C. s. 1344 are met for the impacts identified in the
776 environmental impact inventory described in subsection (2), by
777 implementation of the approved plan described in subsection (4)
778 to the extent funding is provided by the Department of
779 Transportation, or a transportation authority established
780 pursuant to chapter 348 or chapter 349, if applicable. During
781 the federal permitting process, the water management district
782 may deviate from the approved mitigation plan in order to comply
783 with federal permitting requirements.

16-01615A-11

20111966__

784 Section 13. Paragraph (c) of subsection (1) of section
785 374.976, Florida Statutes, is amended to read:

786 374.976 Authority to address impacts of waterway
787 development projects.-

788 (1) Each inland navigation district is empowered and
789 authorized to undertake programs intended to alleviate the
790 problems associated with its waterway or waterways, including,
791 but not limited to, the following:

792 (c) The district is authorized to aid and cooperate with
793 the Federal Government; state; member counties; nonmember
794 counties that contain any part of the intracoastal waterway
795 within their boundaries; navigation districts; the seaports of
796 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm
797 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,
798 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and
799 Fernandina; and local governments within the district in
800 planning and carrying out public navigation, local and regional
801 anchorage management, beach renourishment, public recreation,
802 inlet management, environmental education, and boating safety
803 projects, directly related to the waterways. The district is
804 also authorized to enter into cooperative agreements with the
805 United States Army Corps of Engineers, state, and member
806 counties, and to covenant in any such cooperative agreement to
807 pay part of the costs of acquisition, planning, development,
808 construction, reconstruction, extension, improvement, operation,
809 and maintenance of such projects.

810 Section 14. Subsection (9) of section 403.021, Florida
811 Statutes, is amended to read:

812 403.021 Legislative declaration; public policy.-

16-01615A-11

20111966__

813 (9) (a) The Legislature finds and declares that it is
814 essential to preserve and maintain authorized water depth in the
815 existing navigation channels, port harbors, turning basins, and
816 harbor berths of this state in order to provide for the
817 continued safe navigation of deepwater shipping commerce. The
818 department shall recognize that maintenance of authorized water
819 depths consistent with port master plans developed pursuant to
820 s. 163.3178(2) (k) is an ongoing, continuous, beneficial, and
821 necessary activity that is in the public interest; and it shall
822 develop a regulatory process that shall enable the ports of this
823 state to conduct such activities in an environmentally sound,
824 safe, expeditious, and cost-efficient manner. It is the further
825 intent of the Legislature that the permitting and enforcement of
826 dredging, dredged-material management, and other related
827 activities for Florida's deepwater ports pursuant to this
828 chapter and chapters 161, 253, and 373 shall be consolidated
829 within the department's Division of Water Resource Management
830 and, with the concurrence of the affected deepwater port or
831 ports, may be administered by a district office of the
832 department or delegated to an approved local environmental
833 program.

834 (b) The provisions of paragraph (a) apply only to the port
835 waters, dredged-material management sites, port harbors,
836 navigation channels, turning basins, and harbor berths used for
837 deepwater commercial navigation in the ports of Jacksonville,
838 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.
839 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.
840 Petersburg, Pensacola, Fernandina, and Key West.

841 Section 15. Subsection (26) of section 403.061, Florida

16-01615A-11

20111966__

842 Statutes, is amended to read:

843 403.061 Department; powers and duties.—The department shall
844 have the power and the duty to control and prohibit pollution of
845 air and water in accordance with the law and rules adopted and
846 promulgated by it and, for this purpose, to:

847 (26) (a) Develop standards and criteria for waters used for
848 deepwater shipping which standards and criteria consider
849 existing water quality; appropriate mixing zones and other
850 requirements for maintenance dredging in previously constructed
851 deepwater navigation channels, port harbors, turning basins, or
852 harbor berths; and appropriate mixing zones for disposal of
853 spoil material from dredging and, where necessary, develop a
854 separate classification for such waters. Such classification,
855 standards, and criteria shall recognize that the present
856 dedicated use of these waters is for deepwater commercial
857 navigation.

858 (b) The provisions of paragraph (a) apply only to the port
859 waters, spoil disposal sites, port harbors, navigation channels,
860 turning basins, and harbor berths used for deepwater commercial
861 navigation in the ports of Jacksonville, Tampa, Port Everglades,
862 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port
863 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,
864 Florida Power Corporation's Crystal River Canal, Boca Grande,
865 Green Cove Springs, and Pensacola.

866

867 The department shall implement such programs in conjunction with
868 its other powers and duties and shall place special emphasis on
869 reducing and eliminating contamination that presents a threat to
870 humans, animals or plants, or to the environment.

16-01615A-11

20111966__

871 Section 16. Subsection (3) of section 403.813, Florida
872 Statutes, is amended to read:

873 403.813 Permits issued at district centers; exceptions.—

874 (3) For maintenance dredging conducted under this section
875 by the seaports of Jacksonville, Port Canaveral, Port Citrus,
876 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,
877 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key
878 West, and Fernandina or by inland navigation districts:

879 (a) A mixing zone for turbidity is granted within a 150-
880 meter radius from the point of dredging while dredging is
881 ongoing, except that the mixing zone may not extend into areas
882 supporting wetland communities, submerged aquatic vegetation, or
883 hardbottom communities.

884 (b) The discharge of the return water from the site used
885 for the disposal of dredged material shall be allowed only if
886 such discharge does not result in a violation of water quality
887 standards in the receiving waters. The return-water discharge
888 into receiving waters shall be granted a mixing zone for
889 turbidity within a 150-meter radius from the point of discharge
890 during and immediately after the dredging, except that the
891 mixing zone may not extend into areas supporting wetland
892 communities, submerged aquatic vegetation, or hardbottom
893 communities.

894 (c) The state may not exact a charge for material that this
895 subsection allows a public port or an inland navigation district
896 to remove.

897 (d) The use of flocculants at the site used for disposal of
898 the dredged material is allowed if the use, including supporting
899 documentation, is coordinated in advance with the department and

16-01615A-11

20111966__

900 the department has determined that the use is not harmful to
901 water resources.

902 (e) This subsection does not prohibit maintenance dredging
903 of areas where the loss of original design function and
904 constructed configuration has been caused by a storm event,
905 provided that the dredging is performed as soon as practical
906 after the storm event. Maintenance dredging that commences
907 within 3 years after the storm event shall be presumed to
908 satisfy this provision. If more than 3 years are needed to
909 commence the maintenance dredging after the storm event, a
910 request for a specific time extension to perform the maintenance
911 dredging shall be submitted to the department, prior to the end
912 of the 3-year period, accompanied by a statement, including
913 supporting documentation, demonstrating that contractors are not
914 available or that additional time is needed to obtain
915 authorization for the maintenance dredging from the United
916 States Army Corps of Engineers.

917 Section 17. Section 403.816, Florida Statutes, is amended
918 to read:

919 403.816 Permits for maintenance dredging of deepwater ports
920 and beach restoration projects.—

921 (1) The department shall establish a permit system under
922 this chapter and chapter 253 which provides for the performance,
923 for up to 25 years from the issuance of the original permit, of
924 maintenance dredging of permitted navigation channels, port
925 harbors, turning basins, harbor berths, and beach restoration
926 projects approved pursuant to chapter 161. However, permits
927 issued for dredging river channels which are not a part of a
928 deepwater port shall be valid for no more than five years. No

16-01615A-11

20111966__

929 charge shall be exacted by the state for material removed during
930 such maintenance dredging by a public port authority.

931 (2) The provisions of s. 253.77 do not apply to a permit
932 for maintenance dredging and spoil site approval when there is
933 no change in the size or location of the spoil disposal site and
934 when the applicant provides documentation to the department that
935 the appropriate lease, easement, or consent of use for the
936 project site issued pursuant to chapter 253 is recorded in the
937 county where the project is located.

938 (3) The provisions of this section relating to ports apply
939 only to the port waters, spoil disposal sites, port harbors,
940 navigation channels, turning basins, and harbor berths used for
941 deepwater commercial navigation in the ports of Jacksonville,
942 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.
943 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.
944 Petersburg, Port Bartow, Florida Power Corporation's Crystal
945 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

946 Section 18. This act shall take effect July 1, 2011.