

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 11.45, F.S.; removing a provision for
4 audits of certain transportation corporations by the
5 Auditor General; amending s. 20.23, F.S.; revising
6 provisions relating to functions of the Florida
7 Transportation Commission to add certain monitoring of
8 the Mid-Bay Bridge Authority; removing Secretary of
9 Transportation review of the expenses of the Florida
10 Statewide Passenger Rail Commission; revising the
11 administrative support requirement for the Florida
12 Statewide Passenger Rail Commission; designating an
13 executive director and assistant executive director of
14 the statewide passenger rail commission; amending s.
15 110.205, F.S., relating to career service exempt
16 positions; revising the title of an existing
17 department position; amending s. 316.530, F.S.,
18 relating to towing requirements; removing a provision
19 that prohibits assessment of a penalty for the
20 combined weights of a disabled vehicle and a wrecker
21 or tow truck; amending s. 316.545, F.S.; revising the
22 maximum amount the gross vehicle weight may be reduced
23 for calculation of a penalty for excess weight when an
24 auxiliary power units is installed on a commercial
25 motor vehicle; amending s. 331.360, F.S., relating to
26 aerospace facilities; removing provisions for a
27 spaceport master plan; directing Space Florida to
28 develop a spaceport system plan for certain purposes;

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29 providing for content of the plan; directing Space
30 Florida to submit the plan to metropolitan planning
31 organizations for review of intermodal impact and to
32 the department; authorizing the department to include
33 relevant portions in the 5-year work program; revising
34 responsibilities of the department relating to
35 aerospace facilities; authorizing the department to
36 administratively house its space transportation
37 responsibilities within an existing division or
38 office; authorizing the department to enter into an
39 agreement with Space Florida for specified purposes;
40 authorizing the department to allocate certain funds
41 under specified conditions; requiring Space Florida to
42 provide certain information to the department before
43 an agreement is executed; amending s. 332.007, F.S.;
44 authorizing the department to fund strategic airport
45 investment projects that meet specified criteria;
46 amending s. 334.044, F.S.; prohibiting the department
47 from entering into any lease-purchase agreement with
48 any expressway authority, regional transportation
49 authority, or other entity; providing the prohibition
50 does not invalidate existing specified lease-purchase
51 agreements or limit the department's authority
52 relating to certain public-private transportation
53 facilities; amending s. 335.055, F.S.; authorizing the
54 department to enter into contracts with community
55 development districts to perform routine maintenance
56 work on the State Highway System; limiting liability;

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57 | amending s. 335.06, F.S.; authorizing the department
58 | to improve and maintain any road that is part of a
59 | county road system or city street system that provides
60 | access to property within the state park system;
61 | requiring the county or city to maintain such road if
62 | the department does not; amending s. 337.11, F.S.;
63 | removing the requirement that a contractor provide a
64 | notarized affidavit as proof of motor vehicle
65 | registration; amending s. 337.14, F.S.; revising
66 | requirements for a person desiring to bid for the
67 | performance of certain department construction
68 | contracts to be prequalified; amending s. 337.168,
69 | F.S., relating to confidentiality of bid information;
70 | providing that a document that reveals the identity of
71 | a person who has requested or received certain
72 | information before a certain time is a public record;
73 | amending s. 337.25, F.S.; revising provisions for
74 | disposition of property by the department; authorizing
75 | the department to contract for auction services for
76 | conveyance of property; revising requirements for an
77 | inventory of property; amending s. 337.251, F.S.;
78 | revising provisions for lease of property; requiring
79 | the department to publish a notice of receipt of a
80 | proposal for lease of particular department property
81 | and accept other proposals; revising notice
82 | procedures; requiring the department to establish by
83 | rule an application fee for lease proposals;
84 | authorizing the department to engage the services of

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85 private consultants to assist in evaluating proposals;
86 requiring the department to make specified
87 determinations before approving a proposed lease;
88 amending s. 337.408, F.S.; authorizing the
89 installation of parking meters or other parking time
90 limit devices within the right-of-way limits of a
91 state road when permitted by the department; requiring
92 counties and municipalities to remit a portion of the
93 proceeds from new or existing devices to the
94 department; providing for use of such funds received;
95 amending s. 338.161, F.S.; revising provisions for the
96 department to enter into agreements for certain
97 purposes with public or private transportation
98 facility owners whose systems become interoperable
99 with the department's systems; amending s. 338.165,
100 F.S.; removing references to certain facilities from
101 the list of facilities the department is authorized to
102 request bond issuance secured by facility revenues
103 amending s. 338.26, F.S.; revising the uses of fees
104 generated from tolls to include the design and
105 construction of a fire station that may be used by
106 certain local governments in accordance with a
107 specified memorandum; removing a provision that
108 authorizes a district to issue bonds or notes;
109 amending s. 339.09, F.S.; providing that the
110 department is not required to fund certain noise
111 mitigation projects; amending s. 339.175, F.S.;

112 revising provisions for designation of metropolitan

113 | planning organizations and provisions for voting
114 | membership; revising the criteria that qualify a local
115 | government for participation in a metropolitan
116 | planning organization; providing that certain counties
117 | shall be designated separate metropolitan planning
118 | organizations; revising the criteria to determine
119 | voting membership of a metropolitan planning
120 | organization; providing that each metropolitan
121 | planning organization shall review its membership and
122 | reapportion it as necessary; providing criteria;
123 | removing the requirement that the Governor review and
124 | apportion the voting membership among the various
125 | governmental entities within the metropolitan planning
126 | area; repealing ss. 339.401-339.421, F.S., relating to
127 | the Florida Transportation Corporation Act,
128 | definitions, legislative findings and purpose,
129 | authorization of corporations, type and structure and
130 | income of corporation, contract between the department
131 | and the corporation, articles of incorporation, boards
132 | of directors and advisory directors, bylaws, meetings
133 | and records, amendment of articles of incorporation,
134 | powers of corporations, use of state property,
135 | exemption from taxation, authority to alter or
136 | dissolve corporation, dissolution upon completion of
137 | purposes, transfer of funds and property upon
138 | dissolution, department rules, construction of
139 | provisions, and issuance of debt; amending s. 339.55,
140 | F.S.; providing for the state-funded infrastructure

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141 bank to lend capital costs or provide credit
142 enhancements for projects that provide intermodal
143 connectivity with spaceports and to make emergency
144 loans for damages to public-use spaceports; revising
145 criteria the department may consider for evaluation of
146 projects for assistance from the bank; amending s.
147 341.031, F.S.; revising the definition of the term
148 "intercity bus service," as used in the Florida Public
149 Transit Act; amending s. 341.053, F.S.; revising
150 provisions for use of Intermodal Development Program
151 funds; amending s. 341.302, F.S.; revising the
152 department's authority with respect to rail corridors;
153 authorizing the department to undertake ancillary
154 development as a source of revenue for the
155 establishment, construction, operation, or maintenance
156 of any rail corridor owned by the state; providing
157 requirements for such developments; amending ss.
158 343.82 and 343.922, F.S.; removing reference to
159 advances from the Toll Facilities Revolving Trust Fund
160 as a source of funding for certain projects by an
161 authority; amending s. 348.754, F.S.; revising the
162 term limitation for leases that the Orlando-Orange
163 County Expressway Authority may enter into; amending
164 s. 373.406, F.S.; exempting specified ponds, ditches,
165 and wetlands from surface water management and storage
166 requirements; amending s. 373.4137, F.S.; revising
167 provisions relating to mitigation requirements for
168 certain transportation projects; revising legislative

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169 intent; revising requirements and procedures for
170 determination and payment of mitigation costs;
171 revising provisions for an environmental impact
172 inventory; providing for transportation projects to
173 include mitigation options that meet state and federal
174 requirements; providing for the use of the Uniform
175 Mitigation Assessment Method to determine the amount
176 of mitigation needed for transportation projects;
177 requiring consideration of mitigation banks in the
178 Department of Transportation inventories before
179 transportation projects can be submitted for inclusion
180 in a water management district mitigation plan;
181 providing that the department may purchase credits
182 directly from mitigation banks, mitigation services
183 from the Department of Environmental Protection, or
184 other mitigation services; removing a requirement for
185 the Department of Transportation to establish an
186 escrow account; requiring funding for the identified
187 mitigation option be included in the department's work
188 program; removing impact acre cost as the basis for
189 mitigation payments; revising provisions for
190 determination of cost as the basis for mitigation
191 payments; providing for the Department of
192 Transportation and certain transportation authorities
193 to program amounts based on an estimated cost of
194 credits; providing for periodic adjustment of the
195 estimated cost of credits; providing for alternative
196 use of funds associated with a project excluded from a

197 mitigation plan; providing for continuing
 198 responsibility upon final payment for a mitigation
 199 project; revising procedures for payments; providing
 200 transition procedures; revising requirements for water
 201 management district mitigation plans; providing for
 202 the exclusion of projects from a mitigation plan upon
 203 the election of one or more agencies; amending s.
 204 810.011, F.S.; providing that specified provisions
 205 apply to entry upon certain rails or roadbeds under
 206 certain circumstances whether or not the property is
 207 posted; amending s. 810.09, F.S., relating to
 208 trespass; providing an exception for certain hunters
 209 who enter on railroad property; providing penalties
 210 for trespassing on railroad property; reenacting s.
 211 260.0125(5)(b), F.S., relating to limitation on
 212 liability of private landowners whose property is
 213 designated as part of the statewide system of
 214 greenways and trails; providing an effective date.

215
 216 Be It Enacted by the Legislature of the State of Florida:

217
 218 Section 1. Paragraph (m) of subsection (3) of section
 219 11.45, Florida Statutes, is amended, and present paragraphs (n)
 220 through (x) are redesignated as paragraphs (m) through (w),
 221 respectively, to read:

222 11.45 Definitions; duties; authorities; reports; rules.—

223 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 224 Auditor General may, pursuant to his or her own authority, or at

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225 the direction of the Legislative Auditing Committee, conduct
226 audits or other engagements as determined appropriate by the
227 Auditor General of:

228 ~~(m) The transportation corporations under contract with~~
229 ~~the Department of Transportation that are acting on behalf of~~
230 ~~the state to secure and obtain rights-of-way for urgently needed~~
231 ~~transportation systems and to assist in the planning and design~~
232 ~~of such systems pursuant to ss. 339.401-339.421.~~

233 Section 2. Paragraph (b) of subsection (2) and paragraph
234 (d) of subsection (3) of section 20.23, Florida Statutes, are
235 amended to read:

236 20.23 Department of Transportation.—There is created a
237 Department of Transportation which shall be a decentralized
238 agency.

239 (2)

240 (b) The commission shall have the primary functions to:

241 1. Recommend major transportation policies for the
242 Governor's approval, and assure that approved policies and any
243 revisions thereto are properly executed.

244 2. Periodically review the status of the state
245 transportation system including highway, transit, rail, seaport,
246 intermodal development, and aviation components of the system
247 and recommend improvements therein to the Governor and the
248 Legislature.

249 3. Perform an in-depth evaluation of the annual department
250 budget request, the Florida Transportation Plan, and the
251 tentative work program for compliance with all applicable laws
252 and established departmental policies. Except as specifically

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253 provided in s. 339.135(4)(c)2., (d), and (f), the commission may
254 not consider individual construction projects, but shall
255 consider methods of accomplishing the goals of the department in
256 the most effective, efficient, and businesslike manner.

257 4. Monitor the financial status of the department on a
258 regular basis to assure that the department is managing revenue
259 and bond proceeds responsibly and in accordance with law and
260 established policy.

261 5. Monitor on at least a quarterly basis, the efficiency,
262 productivity, and management of the department, using
263 performance and production standards developed by the commission
264 pursuant to s. 334.045.

265 6. Perform an in-depth evaluation of the factors causing
266 disruption of project schedules in the adopted work program and
267 recommend to the Legislature and the Governor methods to
268 eliminate or reduce the disruptive effects of these factors.

269 7. Recommend to the Governor and the Legislature
270 improvements to the department's organization in order to
271 streamline and optimize the efficiency of the department. In
272 reviewing the department's organization, the commission shall
273 determine if the current district organizational structure is
274 responsive to Florida's changing economic and demographic
275 development patterns. The initial report by the commission must
276 be delivered to the Governor and Legislature by December 15,
277 2000, and each year thereafter, as appropriate. The commission
278 may retain such experts as are reasonably necessary to
279 effectuate this subparagraph, and the department shall pay the
280 expenses of such experts.

281 8. Monitor the efficiency, productivity, and management of
 282 the authorities created under chapters 348 and 349, including
 283 any authority formed using the provisions of part I of chapter
 284 348; the Mid-Bay Bridge Authority created pursuant to chapter
 285 2000-411, Laws of Florida; and any authority formed under
 286 chapter 343 which is not monitored under subsection (3). The
 287 commission shall also conduct periodic reviews of each
 288 authority's operations and budget, acquisition of property,
 289 management of revenue and bond proceeds, and compliance with
 290 applicable laws and generally accepted accounting principles.

291 (3) There is created the Florida Statewide Passenger Rail
 292 Commission.

293 (d) The commission is assigned to the Office of the
 294 Secretary of the Department of Transportation for administrative
 295 and fiscal accountability purposes, but it shall otherwise
 296 function independently of the control and direction of the
 297 department ~~except that reasonable expenses of the commission~~
 298 ~~shall be subject to approval by the Secretary of Transportation.~~
 299 ~~The department shall provide administrative support and service~~
 300 ~~to the commission.~~ The executive director and assistant
 301 executive director of the Florida Transportation Commission
 302 shall serve as the executive director and assistant executive
 303 director of the Florida Statewide Passenger Rail Commission. The
 304 staff of the Florida Transportation Commission shall provide
 305 administrative support and service to the Florida Statewide
 306 Passenger Rail Commission.

307 Section 3. Paragraph (j) of subsection (2) of section
 308 110.205, Florida Statutes, is amended to read:

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309 110.205 Career service; exemptions.—
 310 (2) EXEMPT POSITIONS.—The exempt positions that are not
 311 covered by this part include the following:
 312 (j) The appointed secretaries and the State Surgeon
 313 General, assistant secretaries, deputy secretaries, and deputy
 314 assistant secretaries of all departments; the executive
 315 directors, assistant executive directors, deputy executive
 316 directors, and deputy assistant executive directors of all
 317 departments; the directors of all divisions and those positions
 318 determined by the department to have managerial responsibilities
 319 comparable to such positions, which positions include, but are
 320 not limited to, program directors, assistant program directors,
 321 district administrators, deputy district administrators, the
 322 Director of Central Operations Services of the Department of
 323 Children and Family Services, the State Transportation
 324 Development Administrator, State Freight and Logistics ~~Public~~
 325 ~~Transportation and Modal~~ Administrator, district secretaries,
 326 district directors of transportation development, transportation
 327 operations, transportation support, and the managers of the
 328 offices specified in s. 20.23(4)(b), of the Department of
 329 Transportation. Unless otherwise fixed by law, the department
 330 shall set the salary and benefits of these positions in
 331 accordance with the rules of the Senior Management Service; and
 332 the county health department directors and county health
 333 department administrators of the Department of Health.
 334 Section 4. Subsections (3) and (4) of section 316.530,
 335 Florida Statutes, are amended to read:
 336 316.530 Towing requirements.—

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337 ~~(3) Whenever a motor vehicle becomes disabled upon the~~
338 ~~highways of this state and a wrecker or tow truck is required to~~
339 ~~remove it to a repair shop or other appropriate location, if the~~
340 ~~combined weights of those two vehicles and the loads thereon~~
341 ~~exceed the maximum allowable weights as established by s.~~
342 ~~316.535, no penalty shall be assessed either vehicle or driver.~~
343 ~~However, this exception shall not apply to the load limits for~~
344 ~~bridges and culverts established by the department as provided~~
345 ~~in s. 316.555.~~

346 (3)~~(4)~~ A violation of this section is a noncriminal
347 traffic infraction, punishable as a moving violation as provided
348 in chapter 318.

349 Section 5. Paragraph (c) of subsection (3) of section
350 316.545, Florida Statutes, is amended to read:

351 316.545 Weight and load unlawful; special fuel and motor
352 fuel tax enforcement; inspection; penalty; review.—

353 (3) Any person who violates the overloading provisions of
354 this chapter shall be conclusively presumed to have damaged the
355 highways of this state by reason of such overloading, which
356 damage is hereby fixed as follows:

357 (c) For a vehicle equipped with fully functional idle-
358 reduction technology, any penalty shall be calculated by
359 reducing the actual gross vehicle weight or the internal bridge
360 weight by the certified weight of the idle-reduction technology
361 or by 550 ~~400~~ pounds, whichever is less. The vehicle operator
362 must present written certification of the weight of the idle-
363 reduction technology and must demonstrate or certify that the
364 idle-reduction technology is fully functional at all times. This

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365 calculation is not allowed for vehicles described in s.

366 316.535(6);

367 Section 6. Section 331.360, Florida Statutes, is amended to
368 read:

369 331.360 Spaceport system ~~Joint participation agreement or~~
370 ~~assistance; spaceport master plan.-~~

371 ~~(1) It shall be the duty, function, and responsibility of~~
372 ~~the Department of Transportation to promote the further~~
373 ~~development and improvement of aerospace transportation~~
374 ~~facilities; to address intermodal requirements and impacts of~~
375 ~~the launch ranges, spaceports, and other space transportation~~
376 ~~facilities; to assist in the development of joint-use facilities~~
377 ~~and technology that support aviation and aerospace operations;~~
378 ~~to coordinate and cooperate in the development of spaceport~~
379 ~~infrastructure and related transportation facilities contained~~
380 ~~in the Strategic Intermodal System Plan; to encourage, where~~
381 ~~appropriate, the cooperation and integration of airports and~~
382 ~~spaceports in order to meet transportation-related needs; and to~~
383 ~~facilitate and promote cooperative efforts between federal and~~
384 ~~state government entities to improve space transportation~~
385 ~~capacity and efficiency. In carrying out this duty and~~
386 ~~responsibility, the department may assist and advise, cooperate~~
387 ~~with, and coordinate with federal, state, local, or private~~
388 ~~organizations and individuals. The department may~~
389 ~~administratively house its space transportation responsibilities~~
390 ~~within an existing division or office.~~

391 ~~(2) Notwithstanding any other provision of law, the~~
392 ~~Department of Transportation may enter into a joint~~

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393 ~~participation agreement with, or otherwise assist, Space Florida~~
394 ~~as necessary to effectuate the provisions of this chapter and~~
395 ~~may allocate funds for such purposes in its 5-year work program.~~
396 ~~However, the department may not fund the administrative or~~
397 ~~operational costs of Space Florida.~~

398 (1) ~~(3)~~ Space Florida shall develop a spaceport system
399 ~~master plan that addresses statewide spaceport goals and the~~
400 need for expansion and modernization of space transportation
401 facilities within spaceport territories as defined in s.
402 331.303. The plan shall contain recommended projects to meet
403 current and future commercial, national, and state space
404 transportation requirements. Space Florida shall submit the plan
405 to all any appropriate metropolitan planning organizations
406 ~~organization~~ for review of intermodal impacts. Space Florida
407 shall submit the spaceport system ~~master~~ plan to the Department
408 of Transportation, which may include those portions of the
409 system plan relevant to the department's mission and such plan
410 ~~may be included~~ within the department's 5-year work program of
411 qualifying projects ~~aerospace discretionary capacity improvement~~
412 ~~under subsection (4)~~. The plan shall identify appropriate
413 funding levels for each project ~~and include recommendations on~~
414 ~~appropriate sources of revenue that may be developed to~~
415 ~~contribute to the State Transportation Trust Fund.~~

416 (2) The Department of Transportation shall promote the
417 further development and improvement of aerospace transportation
418 facilities; address intermodal requirements and impacts of the
419 launch ranges, spaceports, and other space transportation
420 facilities; assist in the development of joint-use facilities

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421 and technology that support aviation and aerospace operations;
422 coordinate and cooperate in the development of spaceport
423 infrastructure and related transportation facilities contained
424 in the Strategic Intermodal System Plan; encourage, where
425 appropriate, the cooperation and integration of airports and
426 spaceports in order to meet transportation-related needs; and
427 facilitate and promote cooperative efforts between federal and
428 state government entities to improve space transportation
429 capacity and efficiency. In carrying out such duties and
430 responsibilities, the department may assist and advise,
431 cooperate with, and coordinate with federal, state, local, or
432 private entities and individuals. The department may
433 administratively house its space transportation responsibilities
434 within an existing division or office.

435 (3) Notwithstanding any other provision of law, the
436 Department of Transportation may enter into an agreement with,
437 or otherwise assist, Space Florida as necessary to effectuate
438 the provisions of this chapter and may allocate funds for such
439 purposes in its 5-year work program. However, the department may
440 not fund the administrative or operational costs of Space
441 Florida.

442 (4) (a) Beginning in fiscal year 2013-2014, a minimum of
443 \$15 million annually may be made available from the State
444 Transportation Trust Fund to fund space transportation projects.
445 The funds for this initiative shall be from the funds dedicated
446 to public transportation projects pursuant to s. 206.46(3)
447 ~~Subject to the availability of appropriated funds, the~~
448 ~~department may participate in the capital cost of eligible~~

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449 ~~spaceport discretionary capacity improvement projects. The~~
450 ~~annual legislative budget request shall be based on the proposed~~
451 ~~funding requested for approved spaceport discretionary capacity~~
452 ~~improvement projects.~~

453 (b) Before executing an agreement, Space Florida must
454 provide project-specific information to the Department of
455 Transportation in order to demonstrate that the project includes
456 transportation and aerospace benefits. Project information to be
457 provided includes, but is not limited to:

- 458 1. Project description, characteristics, and scope.
459 2. Project funding sources and costs.
460 3. Project financing considerations with emphasis on
461 federal, local, and private participation.
462 4. Financial feasibility and risk analysis, including
463 efforts to protect the state's investment and ensure project
464 goals are realized.
465 5. Demonstration that the project will encourage, enhance,
466 or create economic benefits.

467 (c) The Department of Transportation is authorized to fund
468 up to 50 percent of eligible project costs. The department may
469 fund up to 100 percent of eligible project costs if the project:

- 470 1. Provides important access and on-spaceport capacity
471 improvements;
472 2. Provides capital improvements to strategically position
473 the state to maximize opportunities in the aerospace industry or
474 foster growth and development of a sustainable and world-leading
475 aerospace industry in the state;

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476 3. Meets state goals of an integrated intermodal
477 transportation system; and

478 4. Demonstrates the feasibility and availability of
479 matching funds through federal, local, or private partners.

480 Section 7. Subsection (11) is added to section 332.007,
481 Florida Statutes, to read:

482 332.007 Administration and financing of aviation and
483 airport programs and projects; state plan.—

484 (11) (a) The department is authorized to fund strategic
485 airport investment projects that:

486 1. Provide important access and on-airport capacity
487 improvements;

488 2. Provide capital improvements to strategically position
489 the state to maximize opportunities in international trade,
490 logistics, and the aviation industry;

491 3. Achieve state goals of an integrated intermodal
492 transportation system; and

493 4. Demonstrate the feasibility and availability of
494 matching funds through federal, local, or private partners.

495 (b) Strategic airport investment projects may be funded at
496 up to 100 percent of the project's cost.

497 Section 8. Subsection (16) of section 334.044, Florida
498 Statutes, is amended to read:

499 334.044 Department; powers and duties.—The department
500 shall have the following general powers and duties:

501 (16) To plan, acquire, lease, construct, maintain, and
502 operate toll facilities; to authorize the issuance and refunding
503 of bonds; and to fix and collect tolls or other charges for

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504 travel on any such facilities. Effective July 1, 2013, and
505 notwithstanding any other law to the contrary, the department
506 may not enter into any lease-purchase agreement with any
507 expressway authority, regional transportation authority, or
508 other entity. This provision does not invalidate any lease-
509 purchase agreement authorized under chapter 348 or chapter 2000-
510 411, Laws of Florida, and existing as of July 1, 2013, and does
511 not limit the department's authority under s. 334.30.

512 Section 9. Section 335.055, Florida Statutes, is amended
513 to read:

514 335.055 Routine maintenance contracts.—

515 (1) The Department of Transportation may enter into
516 contracts with counties, ~~and~~ municipalities, and community
517 development districts to perform routine maintenance work on the
518 State Highway System within the appropriate boundaries.

519 (2) Each county, ~~or~~ municipality, or community development
520 district that ~~which~~ completes the work described in subsection
521 (1) shall be relieved from any tort liability arising after
522 completion of such work if the completed project conforms to the
523 standards of the contract as agreed to by the department.

524 (3) Each county, ~~or~~ municipality, or community development
525 district shall be entitled to receive payment or reimbursement
526 from the department, in accordance with the contract, if the
527 work is completed to the standards of the contract as agreed to
528 by the department.

529 (4) Nothing contained in this section shall impair,
530 suspend, contract, enlarge, extend, or affect in any manner the
531 powers and duties of the department.

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532 Section 10. Section 335.06, Florida Statutes, is amended
 533 to read:

534 335.06 Access roads to the state park system.—Any road
 535 which provides access to property within the state park system
 536 shall be maintained by the department if the road is a part of
 537 the State Highway System and may be improved and maintained by
 538 the department if the road is part of a county road system or
 539 city street system. If the department does not maintain a county
 540 or city road that provides access to the state park system, the
 541 road ~~or~~ shall be maintained by the appropriate county or
 542 municipality ~~if the road is a part of the county road system or~~
 543 ~~the city street system.~~

544 Section 11. Subsection (13) of section 337.11, Florida
 545 Statutes, is amended to read:

546 337.11 Contracting authority of department; bids;
 547 emergency repairs, supplemental agreements, and change orders;
 548 combined design and construction contracts; progress payments;
 549 records; requirements of vehicle registration.—

550 (13) Each contract let by the department for the
 551 performance of road or bridge construction or maintenance work
 552 shall require ~~contain a provision requiring the contractor to~~
 553 ~~provide proof to the department, in the form of a notarized~~
 554 ~~affidavit from the contractor, that all motor vehicles that~~ the
 555 contractor ~~he or she~~ operates or causes to be operated in this
 556 state to be ~~are~~ registered in compliance with chapter 320.

557 Section 12. Subsection (1) of section 337.14, Florida
 558 Statutes, is amended to read:

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559 337.14 Application for qualification; certificate of
560 qualification; restrictions; request for hearing.—

561 (1) Any person desiring to bid for the performance of any
562 construction contract with a proposed budget estimate in excess
563 of \$250,000 which the department proposes to let must first be
564 certified by the department as qualified pursuant to this
565 section and rules of the department. The rules of the department
566 shall address the qualification of persons to bid on
567 construction contracts with proposed budget estimates in excess
568 of \$250,000 and shall include requirements with respect to the
569 equipment, past record, experience, financial resources, and
570 organizational personnel of the applicant necessary to perform
571 the specific class of work for which the person seeks
572 certification. The department may limit the dollar amount of any
573 contract upon which a person is qualified to bid or the
574 aggregate total dollar volume of contracts such person is
575 allowed to have under contract at any one time. Each applicant
576 seeking qualification to bid on construction contracts with
577 proposed budget estimates in excess of \$250,000 shall furnish
578 the department a statement under oath, on such forms as the
579 department may prescribe, setting forth detailed information as
580 required on the application. Each application for certification
581 shall be accompanied by the latest annual financial statement of
582 the applicant completed within the last 12 months. If the
583 application or the annual financial statement shows the
584 financial condition of the applicant more than 4 months before
585 ~~prior to~~ the date on which the application is received by the
586 department, then an interim financial statement must be

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587 submitted and be accompanied by an updated application. The
588 interim financial statement must cover the period from the end
589 date of the annual statement and must show the financial
590 condition of the applicant no more than 4 months before ~~prior to~~
591 the date the interim financial statement is received by the
592 department. However, upon request by the applicant, an
593 application and accompanying annual or interim financial
594 statement received by the department within 15 days after either
595 4-month period under this subsection shall be considered timely.
596 Each required annual or interim financial statement must be
597 audited and accompanied by the opinion of a certified public
598 accountant. An applicant desiring to bid exclusively for the
599 performance of construction contracts with proposed budget
600 estimates of less than \$1 million may submit reviewed annual or
601 reviewed interim financial statements prepared by a certified
602 public accountant. The information required by this subsection
603 is confidential and exempt from the provisions of s. 119.07(1).
604 The department shall act upon the application for qualification
605 within 30 days after the department determines that the
606 application is complete. The department may waive the
607 requirements of this subsection for projects having a contract
608 price of \$500,000 or less if the department determines that the
609 project is of a noncritical nature and the waiver will not
610 endanger public health, safety, or property.

611 Section 13. Subsection (2) of section 337.168, Florida
612 Statutes, is amended to read:

613 337.168 Confidentiality of official estimates, identities
614 of potential bidders, and bid analysis and monitoring system.—

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615 (2) A document that reveals ~~revealing~~ the identity of a
616 person who has ~~persons who have~~ requested or obtained a bid
617 package, plan ~~packages, plans,~~ or specifications pertaining to
618 any project to be let by the department is confidential and
619 exempt from the provisions of s. 119.07(1) for the period that
620 ~~which~~ begins 2 working days before ~~prior to~~ the deadline for
621 obtaining bid packages, plans, or specifications and ends with
622 the letting of the bid. A document that reveals the identity of
623 a person who has requested or obtained a bid package, plan, or
624 specifications pertaining to any project to be let by the
625 department before the 2 working days before the deadline for
626 obtaining bid packages, plans, or specifications remains a
627 public record subject to the provisions of s. 119.07(1).

628 Section 14. Section 337.25, Florida Statutes, is amended
629 to read:

630 337.25 Acquisition, lease, and disposal of real and
631 personal property.—

632 (1) (a) The department may purchase, lease, exchange, or
633 otherwise acquire any land, property interests, or buildings or
634 other improvements, including personal property within such
635 buildings or on such lands, necessary to secure or utilize
636 transportation rights-of-way for existing, proposed, or
637 anticipated transportation facilities on the State Highway
638 System, on the State Park Road System, in a rail corridor, or in
639 a transportation corridor designated by the department. Such
640 property shall be held in the name of the state.

641 (b) The department may accept donations of any land or
642 buildings or other improvements, including personal property

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643 within such buildings or on such lands with or without such
644 conditions, reservations, or reverter provisions as are
645 acceptable to the department. Such donations may be used as
646 transportation rights-of-way or to secure or utilize
647 transportation rights-of-way for existing, proposed, or
648 anticipated transportation facilities on the State Highway
649 System, on the State Park Road System, or in a transportation
650 corridor designated by the department.

651 (c) When lands, buildings, or other improvements are
652 needed for transportation purposes, but are held by a federal,
653 state, or local governmental entity and utilized for public
654 purposes other than transportation, the department may
655 compensate the entity for such properties by providing
656 functionally equivalent replacement facilities. The providing of
657 replacement facilities under this subsection may only be
658 undertaken with the agreement of the governmental entity
659 affected.

660 (d) The department may contract pursuant to s. 287.055 for
661 auction services used in the conveyance of real or personal
662 property or the conveyance of leasehold interests under the
663 provisions of subsections (4) and (5). The contract may allow
664 for the contractor to retain a portion of the proceeds as
665 compensation for its services.

666 (2) A complete inventory shall be made of all real or
667 personal property immediately upon possession or acquisition.
668 Such inventory shall include a statement of the location or site
669 of each piece of realty, structure, or severable item ~~an~~
670 ~~itemized listing of all appliances, fixtures, and other~~

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671 ~~severable items; a statement of the location or site of each~~
672 ~~piece of realty, structure, or severable item; and the serial~~
673 ~~number assigned to each.~~ Copies of each inventory shall be filed
674 in the district office in which the property is located. Such
675 inventory shall be carried forward to show the final disposition
676 of each item of property, both real and personal.

677 (3) The inventory of real property which was acquired by
678 the state after December 31, 1988, which has been owned by the
679 state for 10 or more years, and which is not within a
680 transportation corridor or within the right-of-way of a
681 transportation facility shall be evaluated to determine the
682 necessity for retaining the property. If the property is not
683 needed for the construction, operation, and maintenance of a
684 transportation facility, or is not located within a
685 transportation corridor, the department may dispose of the
686 property pursuant to subsection (4).

687 (4) The department may convey ~~sell~~, in the name of the
688 state, any land, building, or other property, real or personal,
689 which was acquired under the provisions of subsection (1) and
690 which the department has determined is not needed for the
691 construction, operation, and maintenance of a transportation
692 facility. ~~With the exception of any parcel governed by paragraph~~
693 ~~(c), paragraph (d), paragraph (f), paragraph (g), or paragraph~~
694 ~~(i), the department shall afford first right of refusal to the~~
695 ~~local government in the jurisdiction of which the parcel is~~
696 ~~situated.~~ When such a determination has been made, property may
697 be disposed of through negotiation, sealed competitive bid,
698 auction, or any other means the department deems to be in its

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699 best interest. A sale may not occur at a price less than the
700 department's current estimate of value except as provided in
701 paragraphs (a)-(d). The department may afford the right of first
702 refusal to the local government or other political subdivision
703 in the jurisdiction in which the parcel is situated, except in
704 conveyances transacted under paragraphs (a), (c), or (e). ~~in the~~
705 following manner:

706 (a) If ~~a~~ ~~the value of the~~ property ~~has been~~ donated to the
707 state for transportation purposes, the facility has not been
708 constructed for a period of at least 5 years, no plans have been
709 prepared for the construction of such facility, and the property
710 is not located in a transportation corridor, the governmental
711 entity may authorize reconveyance of the donated property for no
712 consideration to the original donor or the donor's heirs,
713 successors, assigns, or representatives ~~is \$10,000 or less as~~
714 determined by department estimate, ~~the department may negotiate~~
715 the sale.

716 (b) If ~~the value of the~~ property ~~is to be used for a~~
717 public purpose, the property may be conveyed to a governmental
718 entity without consideration ~~exceeds \$10,000 as determined by~~
719 department estimate, ~~such property may be sold to the highest~~
720 bidder through receipt of sealed competitive bids, after due
721 advertisement, ~~or by public auction held at the site of the~~
722 improvement which is being sold.

723 (c) If ~~the~~ property was originally acquired specifically
724 to provide replacement housing for persons displaced by
725 transportation projects, the department may negotiate for the
726 sale of such property as replacement housing. As compensation,

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727 the state shall receive no less than its investment in such
728 properties or the department's current estimate of value,
729 whichever is lower. It is expressly intended that this benefit
730 be extended only to those persons actually displaced by such
731 project. Disposition to any other person must be for no less
732 than the department's current estimate of value, ~~in the~~
733 ~~discretion of the department, public sale would be inequitable,~~
734 ~~properties may be sold by negotiation to the owner holding title~~
735 ~~to the property abutting the property to be sold, provided such~~
736 ~~sale is at a negotiated price not less than fair market value as~~
737 ~~determined by an independent appraisal, the cost of which shall~~
738 ~~be paid by the owner of the abutting land. If negotiations do~~
739 ~~not result in the sale of the property to the owner of the~~
740 ~~abutting land and the property is sold to someone else, the cost~~
741 ~~of the independent appraisal shall be borne by the purchaser;~~
742 ~~and the owner of the abutting land shall have the cost of the~~
743 ~~appraisal refunded to him or her. If, however, no purchase takes~~
744 ~~place, the owner of the abutting land shall forfeit the sum paid~~
745 ~~by him or her for the independent appraisal. If, due to action~~
746 ~~of the department, the property is removed from eligibility for~~
747 ~~sale, the cost of any appraisal prepared shall be refunded to~~
748 ~~the owner of the abutting land.~~

749 (d) If the department determines that the property will
750 require significant costs to be incurred or that continued
751 ownership of the property exposes the department to significant
752 liability risks, the department may use the projected
753 maintenance costs over the next 10 years to offset the
754 property's value in establishing a value for disposal of the

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755 property, even if that value is zero ~~property acquired for use~~
756 ~~as a borrow pit is no longer needed, the department may sell~~
757 ~~such property to the owner of the parcel of abutting land from~~
758 ~~which the borrow pit was originally acquired, provided the sale~~
759 ~~is at a negotiated price not less than fair market value as~~
760 ~~determined by an independent appraisal, the cost of which shall~~
761 ~~be paid by the owner of such abutting land.~~

762 (e) If, in the discretion of the department, a sale to
763 anyone other than an abutting property owner would be
764 inequitable, the property may be sold to the abutting owner for
765 the department's current estimate of value ~~the department begins~~
766 ~~the process for disposing of the property on its own initiative,~~
767 ~~either by negotiation under the provisions of paragraph (a),~~
768 ~~paragraph (c), paragraph (d), or paragraph (i), or by receipt of~~
769 ~~sealed competitive bids or public auction under the provisions~~
770 ~~of paragraph (b) or paragraph (i), a department staff appraiser~~
771 ~~may determine the fair market value of the property by an~~
772 ~~appraisal.~~

773 (f) ~~Any property which was acquired by a county or by the~~
774 ~~department using constitutional gas tax funds for the purpose of~~
775 ~~a right-of-way or borrow pit for a road on the State Highway~~
776 ~~System, State Park Road System, or county road system and which~~
777 ~~is no longer used or needed by the department may be conveyed~~
778 ~~without consideration to that county. The county may then sell~~
779 ~~such surplus property upon receipt of competitive bids in the~~
780 ~~same manner prescribed in this section.~~

781 (g) ~~If a property has been donated to the state for~~
782 ~~transportation purposes and the facility has not been~~

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783 ~~constructed for a period of at least 5 years and no plans have~~
784 ~~been prepared for the construction of such facility and the~~
785 ~~property is not located in a transportation corridor, the~~
786 ~~governmental entity may authorize reconveyance of the donated~~
787 ~~property for no consideration to the original donor or the~~
788 ~~donor's heirs, successors, assigns, or representatives.~~

789 ~~(h) If property is to be used for a public purpose, the~~
790 ~~property may be conveyed without consideration to a governmental~~
791 ~~entity.~~

792 ~~(i) If property was originally acquired specifically to~~
793 ~~provide replacement housing for persons displaced by~~
794 ~~transportation projects, the department may negotiate for the~~
795 ~~sale of such property as replacement housing. As compensation,~~
796 ~~the state shall receive no less than its investment in such~~
797 ~~properties or fair market value, whichever is lower. It is~~
798 ~~expressly intended that this benefit be extended only to those~~
799 ~~persons actually displaced by such project. Dispositions to any~~
800 ~~other persons must be for fair market value.~~

801 ~~(j) If the department determines that the property will~~
802 ~~require significant costs to be incurred or that continued~~
803 ~~ownership of the property exposes the department to significant~~
804 ~~liability risks, the department may use the projected~~
805 ~~maintenance costs over the next 5 years to offset the market~~
806 ~~value in establishing a value for disposal of the property, even~~
807 ~~if that value is zero.~~

808 (5) The department may convey a leasehold interest for
809 commercial or other purposes, in the name of the state, to any
810 land, building, or other property, real or personal, which was

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811 | acquired under the provisions of subsection (1). A lease may not
812 | occur at a price less than the department's current estimate of
813 | value.

814 | (a) All leases shall be entered into by negotiation,
815 | sealed competitive bid, auction, or any other means the
816 | department deems to be in its best interest. ~~The department may~~
817 | ~~negotiate such a lease at the prevailing market value with the~~
818 | ~~owner from whom the property was acquired; with the holders of~~
819 | ~~leasehold estates existing at the time of the department's~~
820 | ~~acquisition; or, if public bidding would be inequitable, with~~
821 | ~~the owner holding title to privately owned abutting property, if~~
822 | ~~reasonable notice is provided to all other owners of abutting~~
823 | ~~property.~~ The department may allow an outdoor advertising sign
824 | to remain on the property acquired, or be relocated on
825 | department property, and such sign shall not be considered a
826 | nonconforming sign pursuant to chapter 479.

827 | (b) If, in the discretion of the department, a lease to
828 | anyone other than an abutting property owner or a tenant with a
829 | leasehold interest in the abutting property would be
830 | inequitable, the property may be leased to the abutting owner or
831 | tenant for no less than the department's current estimate of
832 | value ~~All other leases shall be by competitive bid.~~

833 | (c) A ~~No~~ lease signed pursuant to paragraph (a) may not ~~or~~
834 | ~~paragraph (b)~~ shall be for a period of more than 5 years;
835 | however, the department may renegotiate or extend such a lease
836 | for an additional term of 5 years as the department deems
837 | appropriate ~~without rebidding.~~

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838 (d) Each lease shall provide that unless otherwise
839 directed by the lessor, any improvements made to the property
840 during the term of the lease shall be removed at the lessee's
841 expense.

842 (e) If property is to be used for a public purpose,
843 ~~including a fair, art show, or other educational, cultural, or~~
844 ~~fundraising activity~~, the property may be leased without
845 consideration to a governmental entity ~~or school board~~. Any
846 public-purpose lease is exempt from the term limits provided in
847 paragraph (c).

848 (f) Paragraphs (c) and (e) ~~(d)~~ do not apply to leases
849 entered into pursuant to s. 260.0161(3), except as provided in
850 such a lease.

851 (g) No lease executed under this subsection may be
852 utilized by the lessee to establish the ~~4 years'~~ standing
853 required by s. 73.071(3)(b) if the business had not been
854 established for the specified number of 4 years on the date
855 title passed to the department.

856 (h) The department may enter into a long-term lease
857 without compensation with a public port listed in s.
858 403.021(9)(b) for rail corridors used for the operation of a
859 short-line railroad to the port.

860 (6) Nothing in this chapter prevents the joint use of
861 right-of-way for alternative modes of transportation; provided
862 that the joint use does not impair the integrity and safety of
863 the transportation facility.

864 (7) The department's estimate of value, as required in
865 subsections (4) and (5), shall be prepared in accordance with

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866 department procedures, guidelines, and rules for valuation of
867 real property. If the value of the property exceeds \$50,000 as
868 determined by department estimate, the sale will be at a
869 negotiated price not less than fair market value as determined
870 by an independent appraisal prepared in accordance with
871 department procedures, guidelines, and rules for valuation of
872 real property, the cost of which shall be paid by the party
873 seeking the purchase of the property ~~appraisal required by~~
874 ~~paragraphs (4) (c) and (d) shall be prepared in accordance with~~
875 ~~department guidelines and rules by an independent appraiser who~~
876 ~~has been certified by the department. If federal funds were used~~
877 ~~in the acquisition of the property, the appraisal shall also be~~
878 ~~subject to the approval of the Federal Highway Administration.~~

879 ~~(8) A "due advertisement" under this section is an~~
880 ~~advertisement in a newspaper of general circulation in the area~~
881 ~~of the improvements of not less than 14 calendar days prior to~~
882 ~~the date of the receipt of bids or the date on which a public~~
883 ~~auction is to be held.~~

884 (8) ~~(9)~~ The department, with the approval of the Chief
885 Financial Officer, is authorized to disburse state funds for
886 real estate closings in a manner consistent with good business
887 practices and in a manner minimizing costs and risks to the
888 state.

889 (9) ~~(10)~~ The department is authorized to purchase title
890 insurance in those instances where it is determined that such
891 insurance is necessary to protect the public's investment in
892 property being acquired for transportation purposes. The
893 department shall adopt procedures to be followed in making the

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894 determination to purchase title insurance for a particular
 895 parcel or group of parcels which, at a minimum, shall set forth
 896 criteria which the parcels shall ~~must~~ meet.

897 (10) This section does not modify the requirements of s.
 898 73.013.

899 Section 15. Subsection (2) of section 337.251, Florida
 900 Statutes, is amended to read:

901 337.251 Lease of property for joint public-private
 902 development and areas above or below department property.-

903 (2) The department may request proposals for the lease of
 904 such property or, if the department receives a proposal for ~~to~~
 905 negotiate a lease of particular department property that the
 906 department desires to consider, it shall publish a notice in a
 907 newspaper of general circulation at least once a week for 2
 908 weeks, stating that it has received the proposal and will
 909 accept, for 120 ~~60~~ days after the date of publication, other
 910 proposals for lease of the particular property ~~use of the space~~.
 911 A copy of the notice must be mailed to each local government in
 912 the affected area. The department shall adopt rules establishing
 913 an application fee for the submission of proposals under this
 914 section. The fee must be sufficient to pay the anticipated costs
 915 of evaluating the proposals. The department may engage the
 916 services of private consultants to assist in the evaluation.
 917 Before approval, the department must determine that the proposed
 918 lease:

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

920 (b) Would not require state funds to be used; and

921 (c) Would have adequate safeguards in place to ensure that
 922 no additional costs or service disruptions would be realized by
 923 the traveling public and residents of the state in the event of
 924 default by the private lessee or upon termination or expiration
 925 of the lease.

926 Section 16. Subsection (8) of section 337.408, Florida
 927 Statutes, is renumbered as subsection (9) and a new subsection
 928 (8) is added to that section to read:

929 337.408 Regulation of bus stops, benches, transit
 930 shelters, street light poles, parking meters, parking spaces,
 931 waste disposal receptacles, and modular news racks within
 932 rights-of-way.—

933 (8) Parking meters or such other parking time limit
 934 devices that regulate designated parking spaces may be installed
 935 within the right-of-way limits of a state road when permitted by
 936 the department. Counties and municipalities shall promptly remit
 937 to the department 50 percent of the revenue generated from any
 938 fees collected by meter or such other parking time limit device
 939 installed or already existing within the right-of-way limits of
 940 a state road under the department's jurisdiction. Funds received
 941 by the department shall be deposited into the State
 942 Transportation Trust Fund and used in accordance with s. 339.08.

943 Section 17. Subsection (5) of section 338.161, Florida
 944 Statutes, is amended to read:

945 338.161 Authority of department or toll agencies to
 946 advertise and promote electronic toll collection; expanded uses
 947 of electronic toll collection system; authority of department to
 948 collect tolls, fares, and fees for private and public entities.—

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949 (5) If the department finds that it can increase nontoll
950 revenues or add convenience or other value for its customers,
951 and if a public or private transportation facility owner agrees
952 that its facility will become interoperable with the
953 department's electronic toll collection and video billing
954 systems, the department is authorized to enter into an agreement
955 with the owner of such facility under which the department uses
956 ~~private or public entities for the department's use of its~~
957 electronic toll collection and video billing systems to collect
958 and enforce for the owner tolls, fares, administrative fees, and
959 other applicable charges due imposed in connection with use of
960 the owner's facility ~~transportation facilities of the private or~~
961 ~~public entities that become interoperable with the department's~~
962 ~~electronic toll collection system.~~ The department may modify its
963 rules regarding toll collection procedures and the imposition of
964 administrative charges to be applicable to toll facilities that
965 are not part of the turnpike system or otherwise owned by the
966 department. This subsection may not be construed to limit the
967 authority of the department under any other provision of law or
968 under any agreement entered into before ~~prior to~~ July 1, 2012.

969 Section 18. Subsection (4) of section 338.165, Florida
970 Statutes, is amended to read:

971 338.165 Continuation of tolls.—

972 (4) Notwithstanding any other law to the contrary,
973 pursuant to s. 11, Art. VII of the State Constitution, and
974 subject to the requirements of subsection (2), the Department of
975 Transportation may request the Division of Bond Finance to issue
976 bonds secured by toll revenues collected on the Alligator Alley,

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977 the Sunshine Skyway Bridge, ~~the Beeline East Expressway, the~~
 978 ~~Navarre Bridge,~~ and the Pinellas Bayway to fund transportation
 979 projects located within the county or counties in which the
 980 project is located and contained in the adopted work program of
 981 the department.

982 Section 19. Subsections (3) and (4) of section 338.26,
 983 Florida Statutes, are amended to read:

984 338.26 Alligator Alley toll road.—

985 (3) Fees generated from tolls shall be deposited in the
 986 State Transportation Trust Fund, and any amount of funds
 987 generated annually in excess of that required to reimburse
 988 outstanding contractual obligations, to operate and maintain the
 989 highway and toll facilities, including reconstruction and
 990 restoration, to pay for those projects that are funded with
 991 Alligator Alley toll revenues and that are contained in the
 992 1993-1994 adopted work program or the 1994-1995 tentative work
 993 program submitted to the Legislature on February 22, 1994, and
 994 to design and construct ~~develop and operate~~ a fire station at
 995 mile marker 63 on Alligator Alley, which may be used by Collier
 996 County or other appropriate local governmental entity to provide
 997 fire, rescue, and emergency management services ~~to the adjacent~~
 998 ~~counties~~ along Alligator Alley, may be transferred to the
 999 Everglades Fund of the South Florida Water Management District
 1000 in accordance with the memorandum of understanding of June 30,
 1001 1997, between the district and the department. The South Florida
 1002 Water Management District shall deposit funds for projects
 1003 undertaken pursuant to s. 373.4592 in the Everglades Trust Fund
 1004 pursuant to s. 373.45926(4)(a). Any funds remaining in the

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1005 Everglades Fund may be used for environmental projects to
 1006 restore the natural values of the Everglades, subject to
 1007 compliance with any applicable federal laws and regulations.
 1008 Projects must ~~shall~~ be limited to:

1009 (a) Highway redesign to allow for improved sheet flow of
 1010 water across the southern Everglades.

1011 (b) Water conveyance projects to enable more water
 1012 resources to reach Florida Bay to replenish marine estuary
 1013 functions.

1014 (c) Engineering design plans for wastewater treatment
 1015 facilities as recommended in the Water Quality Protection
 1016 Program Document for the Florida Keys National Marine Sanctuary.

1017 (d) Acquisition of lands to move STA 3/4 out of the Toe of
 1018 the Boot, provided such lands are located within 1 mile of the
 1019 northern border of STA 3/4.

1020 (e) Other Everglades Construction Projects as described in
 1021 the February 15, 1994, conceptual design document.

1022 ~~(4) The district may issue revenue bonds or notes under s.~~
 1023 ~~373.584 and pledge the revenue from the transfers from the~~
 1024 ~~Alligator Alley toll revenues as security for such bonds or~~
 1025 ~~notes. The proceeds from such revenue bonds or notes shall be~~
 1026 ~~used for environmental projects; at least 50 percent of said~~
 1027 ~~proceeds must be used for projects that benefit Florida Bay, as~~
 1028 ~~described in this section subject to resolutions approving such~~
 1029 ~~activity by the Board of Trustees of the Internal Improvement~~
 1030 ~~Trust Fund and the governing board of the South Florida Water~~
 1031 ~~Management District and the remaining proceeds must be used for~~
 1032 ~~restoration activities in the Everglades Protection Area.~~

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1033 Section 20. Subsection (1) of section 339.09, Florida
 1034 Statutes, is amended to read:

1035 339.09 Use of transportation tax revenues; restrictions.—

1036 (1) Funds available to the department shall not be used
 1037 for any nontransportation purpose. However, the department shall
 1038 construct and maintain roads, parking areas, and other
 1039 transportation facilities adjacent to and within the grounds of
 1040 state institutions, public community colleges, farmers' markets,
 1041 and wayside parks upon request of the proper authorities. The
 1042 department is encouraged and permitted to use funds to construct
 1043 and maintain noise mitigation facilities or walls upon request
 1044 of the proper authorities; however, the department is not
 1045 required to fund noise mitigation projects adjacent to existing
 1046 transportation facilities where the department is not
 1047 constructing capacity improvements.

1048 Section 21. Paragraph (a) of subsection (2) and
 1049 subsections (3) and (4) of section 339.175, Florida Statutes,
 1050 are amended, and paragraph (f) is added to subsection (2) of
 1051 that section, to read:

1052 339.175 Metropolitan planning organization.—

1053 (2) DESIGNATION.—

1054 (a)1. An M.P.O. shall be designated for each urbanized
 1055 area of the state; however, this does not require that an
 1056 individual M.P.O. be designated for each such area. The M.P.O.
 1057 ~~Such~~ designation shall be accomplished by agreement between the
 1058 Governor and units of general-purpose local government that
 1059 together represent ~~representing~~ at least 75 percent of the
 1060 population, including the largest incorporated municipality,

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1061 based on population, ~~of the urbanized area; however, the unit of~~
 1062 ~~general-purpose local government that represents the central~~
 1063 ~~city or cities within the M.P.O. jurisdiction,~~ as named defined
 1064 by the United States Bureau of the Census, ~~must be a party to~~
 1065 ~~such agreement.~~

1066 2. To the extent possible, only one M.P.O. shall be
 1067 designated for each urbanized area or group of contiguous
 1068 urbanized areas. More than one M.P.O. may be designated within
 1069 an existing urbanized area only if the Governor and the existing
 1070 M.P.O. determine that the size and complexity of the existing
 1071 urbanized area makes the designation of more than one M.P.O. for
 1072 the area appropriate.

1073 (f) Notwithstanding any other provision of this section,
 1074 any county operating under a home rule charter adopted pursuant
 1075 to s. 11, Art. VIII of the Constitution of 1885, as preserved by
 1076 s. 6(e), Art. VIII of the Constitution of 1968, shall be
 1077 designated a separate M.P.O. coterminous with the boundaries of
 1078 such county.

1079
 1080 Each M.P.O. required under this section must be fully operative
 1081 no later than 6 months following its designation.

1082 (3) VOTING MEMBERSHIP.—

1083 (a) The voting membership of an M.P.O. shall consist of
 1084 not fewer than 5 or more than 19 apportioned members, the exact
 1085 number to be determined on an equitable geographic-population
 1086 ratio ~~basis by the Governor,~~ based on an agreement among the
 1087 affected units of general-purpose local government and the
 1088 Governor as required by federal ~~rules and~~ regulations. The

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1089 | limitation of the maximum number of voting members shall not
 1090 | apply to an M.P.O. redesignated after the effective date of this
 1091 | act as a result of the expansion of an M.P.O. to include a new
 1092 | urbanized area or the consolidation of two or more M.P.O.s. The
 1093 | Governor, in accordance with 23 U.S.C. s. 134, may also provide
 1094 | for M.P.O. members who represent municipalities to alternate
 1095 | with representatives from other municipalities within the
 1096 | metropolitan planning area that do not have members on the
 1097 | M.P.O. County commission members shall compose not less than
 1098 | one-third of the M.P.O. membership, except for an M.P.O. with
 1099 | more than 15 members located in a county with a 5-member county
 1100 | commission or an M.P.O. with 19 members located in a county with
 1101 | no more than 6 county commissioners, in which case county
 1102 | commission members may compose less than one-third percent of
 1103 | the M.P.O. membership, but all county commissioners must be
 1104 | members. All voting members shall be elected officials of
 1105 | general-purpose local governments, except that an M.P.O. may
 1106 | include, as part of its apportioned voting members, a member of
 1107 | a statutorily authorized planning board, an official of an
 1108 | agency that operates or administers a major mode of
 1109 | transportation, or an official of Space Florida. As used in this
 1110 | section, the term "elected officials of a general-purpose local
 1111 | government" excludes ~~shall exclude~~ constitutional officers,
 1112 | including sheriffs, tax collectors, supervisors of elections,
 1113 | property appraisers, clerks of the court, and similar types of
 1114 | officials. County commissioners shall compose not less than 20
 1115 | percent of the M.P.O. membership if an official of an agency

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1116 | that operates or administers a major mode of transportation has
 1117 | been appointed to an M.P.O.

1118 | (b) In metropolitan areas in which authorities or other
 1119 | agencies have been or may be created by law to perform
 1120 | transportation functions and are performing transportation
 1121 | functions that are not under the jurisdiction of a general-
 1122 | purpose local government represented on the M.P.O., they may
 1123 | ~~shall~~ be provided voting membership on the M.P.O. In all other
 1124 | M.P.O.'s where transportation authorities or agencies are to be
 1125 | represented by elected officials from general-purpose local
 1126 | governments, the M.P.O. shall establish a process by which the
 1127 | collective interests of such authorities or other agencies are
 1128 | expressed and conveyed.

1129 | (c) Any other provision of this section to the contrary
 1130 | notwithstanding, a chartered county with a population of more
 1131 | than ~~over~~ 1 million ~~population~~ may elect to reapportion the
 1132 | membership of an M.P.O. whose jurisdiction is wholly within the
 1133 | county. The charter county may exercise the provisions of this
 1134 | paragraph if:

1135 | 1. The M.P.O. approves the reapportionment plan by a
 1136 | three-fourths vote of its membership;

1137 | 2. The M.P.O. and the charter county determine that the
 1138 | reapportionment plan is needed to fulfill specific goals and
 1139 | policies applicable to that metropolitan planning area; and

1140 | 3. The charter county determines the reapportionment plan
 1141 | otherwise complies with all federal requirements pertaining to
 1142 | M.P.O. membership.

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1144 | A ~~Any~~ charter county that elects to exercise the provisions of
 1145 | this paragraph shall notify the Governor in writing.

1146 | (d) Any other provision of this section to the contrary
 1147 | notwithstanding, a ~~any~~ county chartered under s. 6(e), Art. VIII
 1148 | of the State Constitution may elect to have its county
 1149 | commission serve as the M.P.O., if the M.P.O. jurisdiction is
 1150 | wholly contained within the county. A ~~Any~~ charter county that
 1151 | elects to exercise the provisions of this paragraph shall so
 1152 | notify the Governor in writing. Upon receipt of the ~~such~~
 1153 | notification, the Governor must designate the county commission
 1154 | as the M.P.O. The Governor must appoint four additional voting
 1155 | members to the M.P.O., one of whom must be an elected official
 1156 | representing a municipality within the county, one of whom must
 1157 | be an expressway authority member, one of whom must be a person
 1158 | who does not hold elected public office and who resides in the
 1159 | unincorporated portion of the county, and one of whom must be a
 1160 | school board member.

1161 | (4) APPORTIONMENT.—

1162 | (a) Each metropolitan planning organization shall review
 1163 | the composition of its membership in conjunction with the
 1164 | decennial census, as prepared by the United States Department of
 1165 | Commerce, Bureau of the Census, and, with the agreement of the
 1166 | affected units of general-purpose local government and the
 1167 | Governor, reapportion the membership as necessary to comply with
 1168 | subsection (3) ~~The Governor shall, with the agreement of the~~
 1169 | ~~affected units of general-purpose local government as required~~
 1170 | ~~by federal rules and regulations, apportion the membership on~~

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1171 ~~the applicable M.P.O. among the various governmental entities~~
1172 ~~within the area.~~

1173 **(b)** At the request of a majority of the affected units of
1174 general-purpose local government comprising an M.P.O., the
1175 Governor and a majority of units of general-purpose local
1176 government serving on an M.P.O. shall cooperatively agree upon
1177 and prescribe who may serve as an alternate member and a method
1178 for appointing alternate members who may vote at any M.P.O.
1179 meeting that an alternate member attends in place of a regular
1180 member. The method must ~~shall~~ be set forth as a part of the
1181 interlocal agreement describing the M.P.O.'s membership or in
1182 the M.P.O.'s operating procedures and bylaws. The governmental
1183 entity so designated shall appoint the appropriate number of
1184 members to the M.P.O. from eligible officials. Representatives
1185 of the department shall serve as nonvoting advisers to the
1186 M.P.O. governing board. Additional nonvoting advisers may be
1187 appointed by the M.P.O. as deemed necessary; however, to the
1188 maximum extent feasible, each M.P.O. shall seek to appoint
1189 nonvoting representatives of various multimodal forms of
1190 transportation not otherwise represented by voting members of
1191 the M.P.O. An M.P.O. shall appoint nonvoting advisers
1192 representing major military installations located within the
1193 jurisdictional boundaries of the M.P.O. upon the request of the
1194 aforesaid major military installations and subject to the
1195 agreement of the M.P.O. All nonvoting advisers may attend and
1196 participate fully in governing board meetings but may not vote
1197 or be members of the governing board. ~~The Governor shall review~~
1198 ~~the composition of the M.P.O. membership in conjunction with the~~

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1199 ~~decennial census as prepared by the United States Department of~~
 1200 ~~Commerce, Bureau of the Census, and reapportion it as necessary~~
 1201 ~~to comply with subsection (3).~~

1202 (c) ~~(b)~~ Except for members who represent municipalities on
 1203 the basis of alternating with representatives from other
 1204 municipalities that do not have members on the M.P.O. as
 1205 provided in paragraph (3) (a), the members of an M.P.O. shall
 1206 serve 4-year terms. Members who represent municipalities on the
 1207 basis of alternating with representatives from other
 1208 municipalities that do not have members on the M.P.O. as
 1209 provided in paragraph (3) (a) may serve terms of up to 4 years as
 1210 further provided in the interlocal agreement described in
 1211 paragraph (2) (b). The membership of a member who is a public
 1212 official automatically terminates upon the member's leaving his
 1213 or her elective or appointive office for any reason, or may be
 1214 terminated by a majority vote of the total membership of the
 1215 entity's governing board represented by the member. A vacancy
 1216 shall be filled by the original appointing entity. A member must
 1217 ~~may~~ be reappointed for one or more additional 4-year terms.

1218 (d) ~~(e)~~ If a governmental entity fails to fill an assigned
 1219 appointment to an M.P.O. within 60 days after notification by
 1220 the Governor of its duty to appoint, that appointment shall be
 1221 made by the Governor from the eligible representatives of that
 1222 governmental entity.

1223 Section 22. Sections 339.401, 339.402, 339.403, 339.404,
 1224 339.405, 339.406, 339.407, 339.408, 339.409, 339.410, 339.411,
 1225 339.412, 339.414, 339.415, 339.416, 339.417, 339.418, 339.419,
 1226 339.420, and 339.421, Florida Statutes, are repealed.

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1227 Section 23. Subsection (2) and paragraph (i) of subsection
 1228 (7) of section 339.55, Florida Statutes, are amended to read:

1229 339.55 State-funded infrastructure bank.—

1230 (2) The bank may lend capital costs or provide credit
 1231 enhancements for:

1232 (a) A transportation facility project that is on the State
 1233 Highway System or that provides for increased mobility on the
 1234 state's transportation system or provides intermodal
 1235 connectivity with airports, seaports, spaceports, rail
 1236 facilities, and other transportation terminals, pursuant to s.
 1237 341.053, for the movement of people and goods.

1238 (b) Projects of the Transportation Regional Incentive
 1239 Program which are identified pursuant to s. 339.2819(4).

1240 (c)1. Emergency loans for damages incurred to public-use
 1241 commercial deepwater seaports, public-use airports, public-use
 1242 spaceports, and other public-use transit and intermodal
 1243 facilities that are within an area that is part of an official
 1244 state declaration of emergency pursuant to chapter 252 and all
 1245 other applicable laws. Such loans:

1246 a. May not exceed 24 months in duration except in extreme
 1247 circumstances, for which the Secretary of Transportation may
 1248 grant up to 36 months upon making written findings specifying
 1249 the conditions requiring a 36-month term.

1250 b. Require application from the recipient to the
 1251 department that includes documentation of damage claims filed
 1252 with the Federal Emergency Management Agency or an applicable
 1253 insurance carrier and documentation of the recipient's overall
 1254 financial condition.

1255 c. Are subject to approval by the Secretary of
 1256 Transportation and the Legislative Budget Commission.

1257 2. Loans provided under this paragraph must be repaid upon
 1258 receipt by the recipient of eligible program funding for damages
 1259 in accordance with the claims filed with the Federal Emergency
 1260 Management Agency or an applicable insurance carrier, but no
 1261 later than the duration of the loan.

1262 (7) The department may consider, but is not limited to,
 1263 the following criteria for evaluation of projects for assistance
 1264 from the bank:

1265 (i) The extent to which the project will provide for
 1266 connectivity between the State Highway System and airports,
 1267 seaports, spaceports, rail facilities, and other transportation
 1268 terminals and intermodal options pursuant to s. 341.053 for the
 1269 increased accessibility and movement of people and goods.

1270 Section 24. Subsection (11) of section 341.031, Florida
 1271 Statutes, is amended to read:

1272 341.031 Definitions relating to Florida Public Transit
 1273 Act.—As used in ss. 341.011-341.061, the term:

1274 (11) "Intercity bus service" means regularly scheduled bus
 1275 service for the general public which operates with limited stops
 1276 over fixed routes connecting two or more urban areas not in
 1277 close proximity; has the capacity for transporting baggage
 1278 carried by passengers; and makes meaningful connections with
 1279 scheduled intercity bus service to more distant points, if such
 1280 service is available; ~~maintains scheduled information in the~~
 1281 ~~National Official Bus Guide; and provides package express~~
 1282 ~~service incidental to passenger transportation.~~

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1283 Section 25. Section 341.053, Florida Statutes, is amended
 1284 to read:

1285 341.053 Intermodal Development Program; administration;
 1286 eligible projects; limitations.—

1287 (1) There is created within the Department of
 1288 Transportation an Intermodal Development Program to provide for
 1289 major capital investments in fixed-guideway transportation
 1290 systems, access to seaports, airports, spaceports, and other
 1291 transportation terminals, providing for the construction of
 1292 intermodal or multimodal terminals; and to plan or fund
 1293 construction of airport, spaceport, seaport, transit, and rail
 1294 projects that ~~otherwise~~ facilitate the intermodal or multimodal
 1295 movement of people and goods.

1296 (2) The Intermodal Development Program shall be used for
 1297 projects that support statewide goals as outlined in the Florida
 1298 Transportation Plan, the Strategic Intermodal System Plan, the
 1299 Freight Mobility and Trade Plan, or the appropriate department
 1300 modal plan. ~~In recognition of the department's role in the~~
 1301 ~~economic development of this state, the department shall develop~~
 1302 ~~a proposed intermodal development plan to connect Florida's~~
 1303 ~~airports, deepwater seaports, rail systems serving both~~
 1304 ~~passenger and freight, and major intermodal connectors to the~~
 1305 ~~Strategic Intermodal System highway corridors as the primary~~
 1306 ~~system for the movement of people and freight in this state in~~
 1307 ~~order to make the intermodal development plan a fully integrated~~
 1308 ~~and interconnected system. The intermodal development plan must:~~

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1309 ~~(a) Define and assess the state's freight intermodal~~
1310 ~~network, including airports, seaports, rail lines and terminals,~~
1311 ~~intercity bus lines and terminals, and connecting highways.~~

1312 ~~(b) Prioritize statewide infrastructure investments,~~
1313 ~~including the acceleration of current projects, which are found~~
1314 ~~by the Freight Stakeholders Task Force to be priority projects~~
1315 ~~for the efficient movement of people and freight.~~

1316 ~~(c) Be developed in a manner that will assure maximum use~~
1317 ~~of existing facilities and optimum integration and coordination~~
1318 ~~of the various modes of transportation, including both~~
1319 ~~government-owned and privately owned resources, in the most~~
1320 ~~cost-effective manner possible.~~

1321 (3) The Intermodal Development Program shall be
1322 administered by the department.

1323 (4) The department shall review funding requests from a
1324 rail authority created pursuant to chapter 343. The department
1325 may include projects of the authorities, including planning and
1326 design, in the tentative work program.

1327 ~~(5) No single transportation authority operating a fixed-~~
1328 ~~guideway transportation system, or single fixed-guideway~~
1329 ~~transportation system not administered by a transportation~~
1330 ~~authority, receiving funds under the Intermodal Development~~
1331 ~~Program shall receive more than 33 1/3 percent of the total~~
1332 ~~intermodal development funds appropriated between July 1, 1990,~~
1333 ~~and June 30, 2015. In determining the distribution of funds~~
1334 ~~under the Intermodal Development Program in any fiscal year, the~~
1335 ~~department shall assume that future appropriation levels will be~~
1336 ~~equal to the current appropriation level.~~

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1337 ~~(5)-(6)~~ The department is authorized to fund projects
1338 within the Intermodal Development Program, which are consistent,
1339 to the maximum extent feasible, with approved local government
1340 comprehensive plans of the units of local government in which
1341 the project is located. Projects that are eligible for funding
1342 under this program include planning studies, major capital
1343 investments in public rail, and fixed-guideway transportation or
1344 freight facilities and systems that ~~which~~ provide intermodal
1345 access; road, rail, intercity bus service, or fixed-guideway
1346 access to, from, or between seaports, airports, spaceports,
1347 intermodal logistics centers, and other transportation
1348 terminals; construction of intermodal or multimodal terminals,
1349 including projects on airports, spaceports, intermodal logistics
1350 centers or seaports that assist in the movement or transfer of
1351 people or goods; development and construction of dedicated bus
1352 lanes; and projects that ~~which~~ otherwise facilitate the
1353 intermodal or multimodal movement of people and goods.

1354 Section 26. Paragraph (d) is added to subsection (17) of
1355 section 341.302, Florida Statutes, to read:

1356 341.302 Rail program; duties and responsibilities of the
1357 department.—The department, in conjunction with other
1358 governmental entities, including the rail enterprise and the
1359 private sector, shall develop and implement a rail program of
1360 statewide application designed to ensure the proper maintenance,
1361 safety, revitalization, and expansion of the rail system to
1362 assure its continued and increased availability to respond to
1363 statewide mobility needs. Within the resources provided pursuant

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1364 to chapter 216, and as authorized under federal law, the
1365 department shall:

1366 (17) In conjunction with the acquisition, ownership,
1367 construction, operation, maintenance, and management of a rail
1368 corridor, have the authority to:

1369 (d) Undertake any ancillary development that the
1370 department determines to be appropriate as a source of revenue
1371 for the establishment, construction, operation, or maintenance
1372 of any rail corridor owned by the state. Such ancillary
1373 development must be consistent, to the extent feasible, with
1374 applicable local government comprehensive plans and local land
1375 development regulations and otherwise be in compliance with ss.
1376 341.302-341.303.

1377
1378 Neither the assumption by contract to protect, defend,
1379 indemnify, and hold harmless; the purchase of insurance; nor the
1380 establishment of a self-insurance retention fund shall be deemed
1381 to be a waiver of any defense of sovereign immunity for torts
1382 nor deemed to increase the limits of the department's or the
1383 governmental entity's liability for torts as provided in s.
1384 768.28. The requirements of s. 287.022(1) shall not apply to the
1385 purchase of any insurance under this subsection. The provisions
1386 of this subsection shall apply and inure fully as to any other
1387 governmental entity providing commuter rail service and
1388 constructing, operating, maintaining, or managing a rail
1389 corridor on publicly owned right-of-way under contract by the
1390 governmental entity with the department or a governmental entity
1391 designated by the department. Notwithstanding any law to the

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1392 | contrary, procurement for the construction, operation,
 1393 | maintenance, and management of any rail corridor described in
 1394 | this subsection, whether by the department, a governmental
 1395 | entity under contract with the department, or a governmental
 1396 | entity designated by the department, shall be pursuant to s.
 1397 | 287.057 and shall include, but not be limited to, criteria for
 1398 | the consideration of qualifications, technical aspects of the
 1399 | proposal, and price. Further, any such contract for design-build
 1400 | shall be procured pursuant to the criteria in s. 337.11(7).

1401 | Section 27. Paragraph (d) of subsection (3) of section
 1402 | 343.82, Florida Statutes, is amended to read:

1403 | 343.82 Purposes and powers.—

1404 | (3)

1405 | (d) The authority may undertake projects or other
 1406 | improvements in the master plan in phases as particular projects
 1407 | or segments thereof become feasible, as determined by the
 1408 | authority. In carrying out its purposes and powers, the
 1409 | authority may request funding and technical assistance from the
 1410 | department and appropriate federal and local agencies,
 1411 | including, but not limited to, state infrastructure bank loans,
 1412 | ~~advances from the Toll Facilities Revolving Trust Fund,~~ and from
 1413 | any other sources.

1414 | Section 28. Subsection (4) of section 343.922, Florida
 1415 | Statutes, is amended to read:

1416 | 343.922 Powers and duties.—

1417 | (4) The authority may undertake projects or other
 1418 | improvements in the master plan in phases as particular projects
 1419 | or segments become feasible, as determined by the authority. The

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1420 authority shall coordinate project planning, development, and
 1421 implementation with the applicable local governments. The
 1422 authority's projects that are transportation oriented shall be
 1423 consistent to the maximum extent feasible with the adopted local
 1424 government comprehensive plans at the time they are funded for
 1425 construction. Authority projects that are not transportation
 1426 oriented and meet the definition of development pursuant to s.
 1427 380.04 shall be consistent with the local comprehensive plans.
 1428 In carrying out its purposes and powers, the authority may
 1429 request funding and technical assistance from the department and
 1430 appropriate federal and local agencies, including, but not
 1431 limited to, state infrastructure bank loans, ~~advances from the~~
 1432 ~~Toll Facilities Revolving Trust Fund,~~ and funding and technical
 1433 assistance from any other source.

1434 Section 29. Paragraph (d) of subsection (2) of section
 1435 348.754, Florida Statutes, is amended to read:

1436 348.754 Purposes and powers.—

1437 (2) The authority is hereby granted, and shall have and
 1438 may exercise all powers necessary, appurtenant, convenient or
 1439 incidental to the carrying out of the aforesaid purposes,
 1440 including, but without being limited to, the following rights
 1441 and powers:

1442 (d) To enter into and make leases for terms not exceeding
 1443 99 ~~40~~ years, as either lessee or lessor, in order to carry out
 1444 the right to lease as set forth in this part.

1445 Section 30. Subsections (13) and (14) are added to section
 1446 373.406, Florida Statutes, to read:

1447 373.406 Exemptions.—The following exemptions shall apply:

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1448 (13) Nothing in this part or in any rule, regulation, or
1449 order adopted pursuant to this part applies to construction,
1450 operation, maintenance, or alteration of any wholly owned,
1451 manmade ponds constructed entirely in uplands or drainage
1452 ditches constructed in uplands, except for the discharge of
1453 dredged or fill material into waters of the United States,
1454 including wetlands, subject to federal jurisdiction under
1455 section 404 of the Clean Water Act, 33 U.S.C. s. 1344.

1456 (14) Nothing in this part, or in any rule, regulation, or
1457 order adopted pursuant to this part, may require a permit for
1458 activities affecting wetlands created solely by the unreasonable
1459 and negligent flooding or interference with the natural flow of
1460 surface water caused by an adjoining landowner, except for the
1461 discharge of dredged or fill material into waters of the United
1462 States, including wetlands, subject to federal jurisdiction
1463 under section 404 of the Clean Water Act, 33 U.S.C. s. 1344.

1464 Section 31. Section 373.4137, Florida Statutes, is amended
1465 to read:

1466 373.4137 Mitigation requirements for specified
1467 transportation projects.—

1468 (1) The Legislature finds that environmental mitigation
1469 for the impact of transportation projects proposed by the
1470 Department of Transportation or a transportation authority
1471 established pursuant to chapter 348 or chapter 349 can be more
1472 effectively achieved by regional, long-range mitigation planning
1473 rather than on a project-by-project basis. It is the intent of
1474 the Legislature that mitigation to offset the adverse effects of
1475 these transportation projects be funded by the Department of

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1476 Transportation and be carried out by the use of mitigation banks
1477 and any other mitigation options that satisfy state and federal
1478 requirements in a manner that promotes efficiency, timeliness in
1479 project delivery, and cost-effectiveness.

1480 (2) Environmental impact inventories for transportation
1481 projects proposed by the Department of Transportation or a
1482 transportation authority established pursuant to chapter 348 or
1483 chapter 349 shall be developed as follows:

1484 (a) By July 1 of each year, the Department of
1485 Transportation, or a transportation authority established
1486 pursuant to chapter 348 or chapter 349 which chooses to
1487 participate in the program, shall submit to the water management
1488 districts a list of its projects in the adopted work program and
1489 an environmental impact inventory of habitat impacts and the
1490 anticipated amount of mitigation needed to offset impacts. The
1491 environmental impact inventory shall be based on ~~habitats~~
1492 addressed in the rules adopted pursuant to this part, and s. 404
1493 of the Clean Water Act, 33 U.S.C. s. 1344, and the Department of
1494 Transportation's which may be impacted by its plan of
1495 construction for transportation projects in the next 3 years of
1496 the tentative work program. The Department of Transportation or
1497 a transportation authority established pursuant to chapter 348
1498 or chapter 349 may also include in its environmental impact
1499 inventory the habitat impacts and anticipated amount of
1500 mitigation needed for ~~of~~ any future transportation project. The
1501 Department of Transportation and each transportation authority
1502 established pursuant to chapter 348 or chapter 349 may fund any

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1503 mitigation activities for future projects using current year
1504 funds.

1505 (b) The environmental impact inventory shall include a
1506 description of ~~these~~ habitat impacts, including ~~their~~ location,
1507 acreage, and type; the anticipated amount of mitigation needed
1508 based on the functional loss as determined through the Uniform
1509 Mitigation Assessment Method (UMAM) adopted in chapter 62-345,
1510 Florida Administrative Code; identification of the proposed
1511 mitigation option; state water quality classification of
1512 impacted wetlands and other surface waters; any other state or
1513 regional designations for these habitats; and a list of
1514 threatened species, endangered species, and species of special
1515 concern affected by the proposed project.

1516 (c) Before projects are identified for inclusion in a
1517 water management district mitigation plan pursuant to subsection
1518 (4), the Department of Transportation must consider using
1519 credits from a permitted mitigation bank. The Department of
1520 Transportation must consider the availability of suitable and
1521 sufficient mitigation bank credits within the transportation
1522 project's area, its ability to satisfy commitments to regulatory
1523 and resource agencies, the availability of suitable and
1524 sufficient mitigation purchased or developed through this
1525 section, its ability to complete existing water management
1526 district or Department of Environmental Protection suitable
1527 mitigation sites initiated with Department of Transportation
1528 mitigation funds, and the ability to satisfy state and federal
1529 requirements including long-term maintenance and liability.

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1530 (3) (a) To implement the mitigation option ~~fund development~~
1531 ~~and implementation of the mitigation plan for the projected~~
1532 ~~impacts~~ identified in the environmental impact inventory
1533 ~~described in subsection (2)~~, the Department of Transportation
1534 may purchase credits for current and future use directly from a
1535 mitigation bank, purchase mitigation services through the water
1536 management districts, purchase mitigation services from the
1537 Department of Environmental Protection for mitigation on state
1538 lands, conduct its own mitigation, or purchase other mitigation
1539 services that meet state and federal requirements. Funding for
1540 the identified mitigation option as described in the
1541 environmental impact inventory shall be included in ~~shall~~
1542 ~~identify funds quarterly in an escrow account within the State~~
1543 ~~Transportation Trust Fund for the environmental mitigation phase~~
1544 ~~of projects budgeted by the Department of~~ Transportation's work
1545 program developed pursuant to s. 339.135 ~~Transportation for the~~
1546 ~~current fiscal year. The escrow account shall be maintained by~~
1547 ~~the Department of Transportation for the benefit of the water~~
1548 ~~management districts. Any interest earnings from the escrow~~
1549 ~~account shall remain with the Department of Transportation.~~

1550 (b) Each transportation authority established pursuant to
1551 chapter 348 or chapter 349 that chooses to participate in this
1552 program shall create an escrow account within its financial
1553 structure and deposit funds in the account to pay for the
1554 environmental mitigation phase of projects budgeted for the
1555 current fiscal year. The escrow account shall be maintained by
1556 the authority for the benefit of the water management districts.

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1557 Any interest earnings from the escrow account shall remain with
1558 the authority.

1559 (c) For mitigation implemented by the water management
1560 district or the Department of Environmental Protection, as
1561 appropriate, the amount paid each year shall be based on
1562 mitigation services provided by the water management districts
1563 or the Department of Environmental Protection pursuant to an
1564 approved water management district mitigation plan, as described
1565 in subsection (4). ~~Except for current mitigation projects in the~~
1566 ~~monitoring and maintenance phase and except as allowed by~~
1567 ~~paragraph (d),~~ The water management districts or the Department
1568 of Environmental Protection, as appropriate, may request payment
1569 ~~a transfer of funds from an escrow account~~ no sooner than 30
1570 days before the date the funds are needed to pay for activities
1571 associated with development or implementation of permitted
1572 mitigation meeting the requirements pursuant to this part, 33
1573 U.S.C. s. 1344, and 33 C.F.R. part 332, in the approved
1574 mitigation plan described in subsection (4) for the current
1575 fiscal year, ~~including, but not limited to, design, engineering,~~
1576 ~~production, and staff support.~~ ~~Actual conceptual plan~~
1577 ~~preparation costs incurred before plan approval may be submitted~~
1578 ~~to the Department of Transportation or the appropriate~~
1579 ~~transportation authority each year with the plan. The conceptual~~
1580 ~~plan preparation costs of each water management district will be~~
1581 ~~paid from mitigation funds associated with the environmental~~
1582 ~~impact inventory for the current year.~~ The amount programmed
1583 ~~transferred to the escrow accounts~~ each year by the Department
1584 of Transportation and participating transportation authorities

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1585 established pursuant to chapter 348 or chapter 349 shall
1586 correspond to an estimated a cost per credit ~~acre~~ of \$150,000
1587 ~~\$75,000~~ multiplied by the projected number of credits ~~acres of~~
1588 ~~impact~~ identified in the environmental impact inventory
1589 described in subsection (2). This estimated cost per credit will
1590 be adjusted every 2 years by the Department of Transportation
1591 based on the average cost per UMAM credit paid pursuant to this
1592 section. However, the \$75,000 cost per acre does not constitute
1593 ~~an admission against interest by the state or its subdivisions~~
1594 ~~and is not admissible as evidence of full compensation for any~~
1595 ~~property acquired by eminent domain or through inverse~~
1596 ~~condemnation. Each July 1, the cost per acre shall be adjusted~~
1597 ~~by the percentage change in the average of the Consumer Price~~
1598 ~~Index issued by the United States Department of Labor for the~~
1599 ~~most recent 12-month period ending September 30, compared to the~~
1600 ~~base year average, which is the average for the 12-month period~~
1601 ~~ending September 30, 1996. Each quarter, the projected amount of~~
1602 mitigation ~~acreage of impact~~ shall be reconciled with the actual
1603 amount of mitigation needed for ~~acreage of impact of~~ projects as
1604 permitted, including permit modifications, pursuant to this part
1605 and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The
1606 subject year's programming ~~transfer~~ of funds shall be adjusted
1607 ~~accordingly~~ to reflect the mitigation ~~acreage of impacts~~ as
1608 permitted. If the water management district excludes a project
1609 from an approved mitigation plan, the district cannot timely
1610 permit a mitigation site, or the proposed mitigation does not
1611 meet state and federal requirements, the Department of
1612 Transportation may use the associated funds for the purchase of

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1613 mitigation bank credits or any other mitigation option that
1614 satisfies state and federal requirements. ~~The Department of~~
1615 ~~Transportation and participating transportation authorities~~
1616 ~~established pursuant to chapter 348 or chapter 349 are~~
1617 ~~authorized to transfer such funds from the escrow accounts to~~
1618 ~~the water management districts to carry out the mitigation~~
1619 ~~programs. Environmental mitigation funds that are identified for~~
1620 ~~or maintained in an escrow account for the benefit of a water~~
1621 ~~management district may be released if the associated~~
1622 ~~transportation project is excluded in whole or part from the~~
1623 ~~mitigation plan. For a mitigation project that is in the~~
1624 ~~maintenance and monitoring phase, the water management district~~
1625 ~~may request and receive a one-time payment based on the~~
1626 ~~project's expected future maintenance and monitoring costs. Upon~~
1627 final disbursement of the final maintenance and monitoring
1628 payment for mitigation of a transportation project as permitted,
1629 the obligation of the Department of Transportation or the
1630 participating transportation authority is satisfied and the
1631 water management district or the Department of Environmental
1632 Protection, as appropriate, will have continuing responsibility
1633 for the mitigation project, ~~the escrow account for the project~~
1634 ~~established by the Department of Transportation or the~~
1635 ~~participating transportation authority may be closed. Any~~
1636 ~~interest earned on these disbursed funds shall remain with the~~
1637 ~~water management district and must be used as authorized under~~
1638 ~~this section.~~

1639 (d) Beginning with the March 2014 water management
1640 district mitigation plans ~~in the 2005-2006 fiscal year,~~ each

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1641 water management district or the Department of Environmental
1642 Protection, as appropriate, shall invoice the Department of
1643 Transportation for mitigation services rendered in planning and
1644 implementing the mitigation sites, including planning, design,
1645 construction, maintenance, monitoring, and other costs necessary
1646 to meet requirements pursuant to this section, 33 U.S.C. s.
1647 1344, and 33 C.F.R. 332. When the water management district
1648 identifies the use of mitigation bank credits as part of the
1649 mitigation plan, the water management district must exclude that
1650 purchase from the mitigation plan and the Department of
1651 Transportation must purchase the identified mitigation bank
1652 credits. ~~be paid a lump-sum amount of \$75,000 per acre, adjusted~~
1653 ~~as provided under paragraph (c), for federally funded~~
1654 ~~transportation projects that are included on the environmental~~
1655 ~~impact inventory and that have an approved mitigation plan.~~
1656 ~~Beginning in the 2009-2010 fiscal year, each water management~~
1657 ~~district shall be paid a lump-sum amount of \$75,000 per acre,~~
1658 ~~adjusted as provided under paragraph (c), for federally funded~~
1659 ~~and nonfederally funded transportation projects that have an~~
1660 ~~approved mitigation plan. All mitigation costs, including, but~~
1661 ~~not limited to, the costs of preparing conceptual plans and the~~
1662 ~~costs of design, construction, staff support, future~~
1663 ~~maintenance, and monitoring the mitigated acres shall be funded~~
1664 ~~through these lump-sum amounts.~~

1665 (e) For purposes of preparing and implementing the
1666 mitigation plans to be adopted by the water management districts
1667 before March 1, 2013, for transportation impacts based on the
1668 July 1, 2012, environmental impact inventory, the funds

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1669 identified in the Department of Transportation's work program or
1670 participating transportation authorities' escrow accounts shall
1671 correspond to a cost per acre of \$75,000 multiplied by the
1672 projected acres of impact as identified in the environmental
1673 impact inventory. The cost per acre shall be adjusted by the
1674 percentage change in the average of the Consumer Price Index
1675 issued by the United States Department of Labor for the most
1676 recent 12-month period ending September 30, compared to the base
1677 year average, which is the average for the 12-month period
1678 ending September 30, 1996. Payment as provided under this
1679 paragraph is limited to mitigation activities that are
1680 identified in the first year of the 2013 mitigation plan and for
1681 which the transportation project is permitted and is in the
1682 Department of Transportation's adopted work program, or
1683 equivalent for a transportation authority. When implementing the
1684 mitigation activities necessary to offset the permitted
1685 transportation impacts as provided in the approved mitigation
1686 plan, the water management district shall maintain records of
1687 the costs incurred in implementing the mitigation. These costs
1688 shall include, but not be limited to, conceptual planning, land
1689 acquisition, design, construction, staff support, long-term
1690 maintenance and monitoring of the mitigation site, and other
1691 costs necessary to meet the requirements of 33 U.S.C. s. 1344
1692 and 33 C.F.R. part 332. To the extent moneys paid to a water
1693 management district by the Department of Transportation or a
1694 participating transportation authority exceed the amount
1695 expended by the water management districts in implementing the
1696 mitigation to offset the permitted transportation impacts, these

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1697 funds shall be refunded to the Department of Transportation or
 1698 participating transportation authority. This paragraph expires
 1699 June 30, 2014.

1700 (4) Before March 1 of each year, each water management
 1701 district, in consultation with the Department of Environmental
 1702 Protection, the United States Army Corps of Engineers, the
 1703 Department of Transportation, participating transportation
 1704 authorities established pursuant to chapter 348 or chapter 349,
 1705 and other appropriate federal, state, and local governments, and
 1706 other interested parties, including entities operating
 1707 mitigation banks, shall develop a plan for the primary purpose
 1708 of complying with the mitigation requirements adopted pursuant
 1709 to this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. part 332. In
 1710 developing such plans, the districts shall use sound ecosystem
 1711 management practices to address significant water resource needs
 1712 and consider ~~shall focus on~~ activities of the Department of
 1713 Environmental Protection and the water management districts,
 1714 such as surface water improvement and management (SWIM) projects
 1715 and lands identified for potential acquisition for preservation,
 1716 restoration, or enhancement, and the control of invasive and
 1717 exotic plants in wetlands and other surface waters, to the
 1718 extent that the activities comply with the mitigation
 1719 requirements adopted under this part, ~~and~~ 33 U.S.C. s. 1344, and
 1720 33 C.F.R. part 332. For transportation projects in the
 1721 environmental impact inventory for which a water management
 1722 district is implementing mitigation, the mitigation plan shall
 1723 identify the site where the water management district will
 1724 mitigate for the transportation project, the scope of the

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1725 mitigation activities at each mitigation site, the Functional
1726 Gain at each mitigation site as determined through the Uniform
1727 Mitigation Assessment Method per chapter 62-345, Florida
1728 Administrative Code, describe how the mitigation offsets the
1729 impacts of each transportation project as permitted, and a
1730 schedule for the mitigation activities. The water management
1731 districts shall maintain records of costs incurred and payments
1732 received for implementing mitigation activities to offset
1733 impacts of permitted transportation projects. Records shall
1734 include, but not be limited to, conceptual planning, land
1735 acquisition, design, construction, staff support, long-term
1736 maintenance and monitoring of the mitigation site, and other
1737 costs necessary to meet the requirements of 33 U.S.C. s. 1344,
1738 and 33 C.F.R. part 332. To the extent moneys paid to a water
1739 management district by the Department of Transportation or a
1740 participating transportation authority exceed the amount
1741 expended by the water management districts in implementing the
1742 mitigation to offset the permitted transportation impacts, these
1743 funds shall be refunded to the Department of Transportation or
1744 participating transportation authority ~~In determining the~~
1745 ~~activities to be included in the plans, the districts shall~~
1746 ~~consider the purchase of credits from public or private~~
1747 ~~mitigation banks permitted under s. 373.4136 and associated~~
1748 ~~federal authorization and shall include the purchase as a part~~
1749 ~~of the mitigation plan when the purchase would offset the impact~~
1750 ~~of the transportation project, provide equal benefits to the~~
1751 ~~water resources than other mitigation options being considered,~~
1752 ~~and provide the most cost-effective mitigation option. The~~

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1753 mitigation plan shall be submitted to the water management
1754 district governing board, or its designee, for review and
1755 approval. At least 14 days before approval by the governing
1756 board, the water management district shall provide a copy of the
1757 draft mitigation plan to the Department of Environmental
1758 Protection and any person who has requested a copy. Subsequent
1759 to governing board approval the mitigation plan must be
1760 submitted to the Department of Environmental Protection for
1761 approval. The plan may not be implemented until it is submitted
1762 to and approved, in part or in its entirety, by the Department
1763 of Environmental Protection.

1764 ~~(a) For each transportation project with a funding request~~
1765 ~~for the next fiscal year, the mitigation plan must include a~~
1766 ~~brief explanation of why a mitigation bank was or was not chosen~~
1767 ~~as a mitigation option, including an estimation of identifiable~~
1768 ~~costs of the mitigation bank and nonbank options and other~~
1769 ~~factors such as time saved, liability for success of the~~
1770 ~~mitigation, and long-term maintenance.~~

1771 (a)(b) Specific projects may be excluded from the
1772 mitigation plan, in whole or in part, and are not subject to
1773 this section upon the election of the Department of
1774 Transportation, a transportation authority if applicable, or the
1775 appropriate water management district. Neither the Department of
1776 Transportation nor a participating transportation authority
1777 shall exclude a transportation project from the mitigation plan
1778 when mitigation is scheduled for implementation by the water
1779 management district in the current fiscal year, except when the
1780 transportation project is removed from the Department of

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1781 Transportation's work program or transportation authority
 1782 funding plan, the mitigation cannot be timely permitted, or the
 1783 proposed mitigation does not meet state and federal
 1784 requirements. If a project is removed from the work program or
 1785 the mitigation plan, costs expended by the water management
 1786 districts before removal are eligible for reimbursement by the
 1787 Department of Transportation or participating transportation
 1788 authority.

1789 (b) ~~(e)~~ When determining which projects to include in or
 1790 exclude from the mitigation plan, the Department of
 1791 Transportation shall investigate using credits from a permitted
 1792 mitigation bank before those projects are submitted for
 1793 inclusion in a water management district ~~the~~ plan. The
 1794 Department of Transportation shall exclude a project from the
 1795 mitigation plan when the investigation undertaken pursuant to
 1796 this paragraph results in the conclusion that the use of credits
 1797 from a permitted mitigation bank promotes efficiency, timeliness
 1798 in project delivery, and cost-effectiveness and transfers
 1799 responsibility for success and long-term maintenance
 1800 investigation shall consider the cost-effectiveness of
 1801 mitigation bank credits, including, but not limited to, factors
 1802 such as time saved, transfer of liability for success of the
 1803 mitigation, and long-term maintenance.

1804 (5) The water management district shall ensure that
 1805 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33
 1806 C.F.R. part 332 are met for the impacts identified in the
 1807 environmental impact inventory described in subsection (2), by
 1808 implementation of the approved mitigation plan described in

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1809 subsection (4) to the extent funding is provided by the
1810 Department of Transportation, or a transportation authority
1811 established pursuant to chapter 348 or chapter 349, if
1812 applicable. In developing and implementing the mitigation plan,
1813 the water management district shall comply with federal
1814 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33
1815 C.F.R. part 332. During the federal permitting process, the
1816 water management district may deviate from the approved
1817 mitigation plan in order to comply with federal permitting
1818 requirements upon notice and coordination with the Department of
1819 Transportation or participating transportation authority.

1820 (6) The water management district mitigation plans shall
1821 be updated annually to reflect the most current Department of
1822 Transportation work program and project list of a transportation
1823 authority established pursuant to chapter 348 or chapter 349, if
1824 applicable, and may be amended throughout the year to anticipate
1825 schedule changes or additional projects which may arise. Before
1826 amending the mitigation plan to include new projects, the
1827 Department of Transportation shall consider mitigation banks and
1828 other available mitigation options that meet state and federal
1829 requirements. Each update and amendment of the mitigation plan
1830 shall be submitted to the governing board of the water
1831 management district or its designee for approval. However, such
1832 approval shall not be applicable to a deviation as described in
1833 subsection (5).

1834 (7) Upon approval by the governing board of the water
1835 management district and the Department of Environmental
1836 Protection ~~or its designee~~, the mitigation plan shall be deemed

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1837 to satisfy the mitigation requirements under this part for
1838 impacts specifically identified in the environmental impact
1839 inventory described in subsection (2) and any other mitigation
1840 requirements imposed by local, regional, and state agencies for
1841 these same impacts. The approval of the governing board of the
1842 water management district and the Department of Environmental
1843 Protection ~~or its designee~~ shall authorize the activities
1844 proposed in the mitigation plan, and no other state, regional,
1845 or local permit or approval shall be necessary.

1846 (8) This section shall not be construed to eliminate the
1847 need for the Department of Transportation or a transportation
1848 authority established pursuant to chapter 348 or chapter 349 to
1849 comply with the requirement to implement practicable design
1850 modifications, including realignment of transportation projects,
1851 to reduce or eliminate the impacts of its transportation
1852 projects on wetlands and other surface waters as required by
1853 rules adopted pursuant to this part, or to diminish the
1854 authority under this part to regulate other impacts, including
1855 water quantity or water quality impacts, or impacts regulated
1856 under this part that are not identified in the environmental
1857 impact inventory described in subsection (2).

1858 ~~(9) The process for environmental mitigation for the~~
1859 ~~impact of transportation projects under this section shall be~~
1860 ~~available to an expressway, bridge, or transportation authority~~
1861 ~~established under chapter 348 or chapter 349. Use of this~~
1862 ~~process may be initiated by an authority depositing the~~
1863 ~~requisite funds into an escrow account set up by the authority~~
1864 ~~and filing an environmental impact inventory with the~~

1865 ~~appropriate water management district. An authority that~~
 1866 ~~initiates the environmental mitigation process established by~~
 1867 ~~this section shall comply with subsection (6) by timely~~
 1868 ~~providing the appropriate water management district with the~~
 1869 ~~requisite work program information. A water management district~~
 1870 ~~may draw down funds from the escrow account as provided in this~~
 1871 ~~section.~~

1872 Section 32. Subsection (5) of section 810.011, Florida
 1873 Statutes, is amended to read:

1874 810.011 Definitions.—As used in this chapter:

1875 (5) (a) "Posted land" is that land upon which:

1876 1. Signs are placed not more than 500 feet apart along,
 1877 and at each corner of, the boundaries of the land, upon which
 1878 signs there appears prominently, in letters of not less than 2
 1879 inches in height, the words "no trespassing" and in addition
 1880 thereto the name of the owner, lessee, or occupant of said land.
 1881 The said signs shall be placed along the boundary line of posted
 1882 land in a manner and in such position as to be clearly
 1883 noticeable from outside the boundary line; or

1884 2.a. Conspicuous no trespassing notice is painted on trees
 1885 or posts on the property, provided that the notice is:

1886 (I) Painted in an international orange color and
 1887 displaying the stenciled words "No Trespassing" in letters no
 1888 less than 2 inches high and 1 inch wide either vertically or
 1889 horizontally;

1890 (II) Placed so that the bottom of the painted notice is
 1891 not less than 3 feet from the ground or more than 5 feet from
 1892 the ground; and

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1893 (III) Placed at locations that are readily visible to any
 1894 person approaching the property and no more than 500 feet apart
 1895 on agricultural land.

1896 b. Beginning October 1, 2013, if October 1, 2007, when a
 1897 landowner uses the painted no trespassing posting to identify a
 1898 "no trespassing" area, those painted notices shall be
 1899 accompanied by signs complying with subparagraph 1. and placed
 1900 conspicuously at all places where entry to the property is
 1901 normally expected or known to occur.

1902 (b) It is ~~shall~~ not be necessary to give notice by posting
 1903 on any enclosed land or place not exceeding 5 acres in area on
 1904 which there is a dwelling house in order for ~~to obtain the~~
 1905 ~~benefits of~~ ss. 810.09 and 810.12 to apply pertaining to
 1906 ~~trespass on enclosed lands.~~

1907 (c) Notwithstanding paragraph (a), if a person enters upon
 1908 stationary rails or roadbeds that are owned or leased by a
 1909 railroad or railway company, and such rails or roadbeds are
 1910 readily recognizable to a reasonable person as being the
 1911 property of a railroad or railway company or identified by
 1912 conspicuous fencing or signs indicating that the property is
 1913 owned or leased by a railroad or railway company, then ss.
 1914 810.09 and 810.12 shall apply, regardless of any failure to give
 1915 notice by posting.

1916 (d) This subsection does not apply to or in any way
 1917 diminish, obstruct, or impede currently existing rights of
 1918 access and egress to pertinent facilities and right-of-way by
 1919 officers or representatives of labor organizations to perform
 1920 duties or activities protected under the Railway Labor Act or

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1921 | the National Labor Relations Act.

1922 | Section 33. Subsection (2) of section 810.09, Florida
1923 | Statutes, is amended to read:

1924 | 810.09 Trespass on property other than structure or
1925 | conveyance.—

1926 | (2) (a) Except as provided in this subsection, trespass on
1927 | property other than a structure or conveyance is a misdemeanor
1928 | of the first degree, punishable as provided in s. 775.082 or s.
1929 | 775.083.

1930 | (b) If the offender defies an order to leave, personally
1931 | communicated to the offender by the owner of the premises or by
1932 | an authorized person, or if the offender willfully opens any
1933 | door, fence, or gate or does any act that exposes animals,
1934 | crops, or other property to waste, destruction, or freedom;
1935 | unlawfully dumps litter on property; or trespasses on property
1936 | other than a structure or conveyance, the offender commits a
1937 | misdemeanor of the first degree, punishable as provided in s.
1938 | 775.082 or s. 775.083.

1939 | (c) 1. If the offender is armed with a firearm or other
1940 | dangerous weapon during the commission of the offense of
1941 | trespass on property other than a structure or conveyance, he or
1942 | she commits ~~is guilty of~~ a felony of the third degree,
1943 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
1944 | except as provided in this paragraph. Any owner or person
1945 | authorized by the owner may, for prosecution purposes, take into
1946 | custody and detain, in a reasonable manner, for a reasonable
1947 | length of time, any person when he or she reasonably believes
1948 | that a violation of this paragraph has been or is being

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1949 committed, and that the person to be taken into custody and
1950 detained has committed or is committing the violation. If a
1951 person is taken into custody, a law enforcement officer shall be
1952 called as soon as is practicable after the person has been taken
1953 into custody. The taking into custody and detention in
1954 compliance with the requirements of this paragraph does not
1955 result in criminal or civil liability for false arrest, false
1956 imprisonment, or unlawful detention.

1957 2. If a person is engaged in a lawful hunting activity and
1958 enters upon stationary rails or roadbeds that are owned or
1959 leased by a railroad or railway company where notice of posting
1960 is not provided, he or she does not commit a violation of this
1961 section for a temporary entry upon such railroad or railway
1962 company property in the course of lawful hunting activities.

1963 (d) The offender commits a felony of the third degree,
1964 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
1965 if the property trespassed is a construction site that is:

1966 1. Greater than 1 acre in area and is legally posted and
1967 identified in substantially the following manner: "THIS AREA IS
1968 A DESIGNATED CONSTRUCTION SITE, AND ANYONE WHO TRESPASSES ON
1969 THIS PROPERTY COMMITS A FELONY."; or

1970 2. One acre or less in area and is identified as such with
1971 a sign that appears prominently, in letters of not less than 2
1972 inches in height, and reads in substantially the following
1973 manner: "THIS AREA IS A DESIGNATED CONSTRUCTION SITE, AND ANYONE
1974 WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY." The sign
1975 shall be placed at the location on the property where the
1976 permits for construction are located. For construction sites of

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1977 | 1 acre or less as provided in this subparagraph, it shall not be
 1978 | necessary to give notice by posting as defined in s. 810.011(5).

1979 | (e) The offender commits a felony of the third degree,
 1980 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 1981 | if the property trespassed upon is commercial horticulture
 1982 | property and the property is legally posted and identified in
 1983 | substantially the following manner: "THIS AREA IS DESIGNATED
 1984 | COMMERCIAL PROPERTY FOR HORTICULTURE PRODUCTS, AND ANYONE WHO
 1985 | TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

1986 | (f) The offender commits a felony of the third degree,
 1987 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 1988 | if the property trespassed upon is an agricultural site for
 1989 | testing or research purposes that is legally posted and
 1990 | identified in substantially the following manner: "THIS AREA IS
 1991 | A DESIGNATED AGRICULTURAL SITE FOR TESTING OR RESEARCH PURPOSES,
 1992 | AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

1993 | (g) The offender commits a felony of the third degree,
 1994 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 1995 | if the property trespassed upon is a domestic violence center
 1996 | certified under s. 39.905 which is legally posted and identified
 1997 | in substantially the following manner: "THIS AREA IS A
 1998 | DESIGNATED RESTRICTED SITE AND ANYONE WHO TRESPASSES ON THIS
 1999 | PROPERTY COMMITS A FELONY."

2000 | (h) Any person who in taking or attempting to take any
 2001 | animal described in s. 379.101(19) or (20), or in killing,
 2002 | attempting to kill, or endangering any animal described in s.
 2003 | 585.01(13) knowingly propels or causes to be propelled any
 2004 | potentially lethal projectile over or across private land

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2005 without authorization commits trespass, a felony of the third
 2006 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 2007 775.084. For purposes of this paragraph, the term "potentially
 2008 lethal projectile" includes any projectile launched from any
 2009 firearm, bow, crossbow, or similar tensile device. This section
 2010 does not apply to any governmental agent or employee acting
 2011 within the scope of his or her official duties.

2012 (i) The offender commits a felony of the third degree,
 2013 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 2014 if the property trespassed upon is an agricultural chemicals
 2015 manufacturing facility that is legally posted and identified in
 2016 substantially the following manner: "THIS AREA IS A DESIGNATED
 2017 AGRICULTURAL CHEMICALS MANUFACTURING FACILITY, AND ANYONE WHO
 2018 TRESPASSES ON THIS PROPERTY COMMITS A FELONY."

2019 (j) If the offender commits trespass on stationary rails
 2020 or roadbeds that are owned or leased by a railroad or railway
 2021 company where notice of posting is not provided and the offender
 2022 is not engaged in any other unlawful activity, the following
 2023 penalties shall apply:

2024 1. For a first offense a civil citation pursuant to s.
 2025 985.12 may be issued.

2026 2. For a second or subsequent offense, the offender
 2027 commits a misdemeanor of the first degree punishable as provided
 2028 in s. 775.082 or s. 775.083.

2029 Section 34. For the purpose of incorporating the amendment
 2030 made by this act to section 810.011, Florida Statutes, in a
 2031 reference thereto, paragraph (b) of subsection (5) of section
 2032 260.0125, Florida Statutes, is reenacted to read:

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2033 | 260.0125 Limitation on liability of private landowners
2034 | whose property is designated as part of the statewide system of
2035 | greenways and trails.—

2036 | (5)

2037 | (b) Such notices must comply with s. 810.011(5) and shall
2038 | constitute a warning to unauthorized persons to remain off the
2039 | private property and not to depart from the designated greenway
2040 | or trail. Any person who commits such an unauthorized entry
2041 | commits a trespass as provided in s. 810.09.

2042 | Section 35. This act shall take effect July 1, 2013.